

SENATE No. 950

By Mr. Moore, a petition (accompanied by bill, Senate, No. 950) of the Associated Industries of Massachusetts, by Robert Ruddock, Richard T. Moore, Peter J. Larkin and other members of the General Court for legislation relative to liability for assistance provided in environmental emergencies. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO ASSISTANCE PROVIDED IN ENVIRONMENTAL
EMERGENCY PLANNING AND RESPONSE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 4 of chapter 21E of the General Laws, as
2 appearing in the 1998 Official Edition, is hereby amended by
3 adding at the end thereof the following new paragraph: —

4 Any person, company, or other organization, public or private,
5 who voluntarily provides goods, services, materials, equipment,
6 facilities or personnel for emergency response or for hazardous
7 material response planning and training, or for an actual or
8 impending hazardous materials-related emergency shall not be
9 liable, notwithstanding any other provision of law, for civil dam-
10 ages as result of any act or omission by such person, company or
11 organization except for acts or omissions with malicious purpose
12 or behavior in a manner exhibiting wanton and willful conduct to
13 cause harm.

1 SECTION 2. Section 85 of Chapter 231 of the General Laws,
2 as appearing in the 1998 Official Edition, is hereby amended by
3 adding after section 85W the following new paragraph: —

4 Section 85W½. (a) Any person, company, or other organiza-
5 tion, public or private who voluntarily provides services, mate-
6 rials, equipment, facilities or personnel for planning, training or
7 participating in or through a not-for-profit organization, as defined

8 in section 501(c) of the Internal Revenue Code, as amended and in
9 effect for the taxable year, shall be immune from civil liability
10 when providing voluntary consultative or advisory services to a
11 third party through such a not-for-profit organization unless such
12 person, company or other organization acts with criminal negli-
13 gence in providing such services, materials, equipment, facilities
14 or personnel.

15 (b) Any not-for-profit organization as defined in section 501(c)
16 of the Internal Revenue Code, as amended, or employee or agent
17 thereof, that provides consultative or advisory services on either a
18 no-cost basis or as a benefit of membership in the association
19 shall be immune from civil liability when providing such services
20 unless the employee, agent or the organization acts with criminal
21 negligence.