

ACTS OR OMISSIONS TAKEN IN THE COURSE OF RENDERING CARE, ASSISTANCE, OR ADVICE IN ACCORDANCE WITH THIS SUBTITLE, UNLESS:

(1) THE PERSON IS A PERSON RESPONSIBLE FOR THE DISCHARGE UNDER § 4-401(E) OF THIS SUBTITLE; OR

(2) IT IS SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT THE DAMAGE TO PERSONS, PROPERTY, OR THE ENVIRONMENT IS SIGNIFICANTLY INCREASED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE PERSON REMOVING, MITIGATING, CONTROLLING, OR RECTIFYING AN OIL DISCHARGE.

(B) A PERSON WHO RESPONDS TO A REQUEST INITIATED BY THE DEPARTMENT FOR ASSISTANCE IN CLEANING UP AN OIL DISCHARGE, AND WHO RENDERS CARE, ASSISTANCE, OR ADVICE IN ACCORDANCE WITH THIS SUBTITLE WITHOUT COMPENSATION, SHALL ONLY BE RESPONSIBLE FOR DAMAGES CAUSED BY WILLFUL OR INTENTIONAL ACTS OR OMISSIONS OR GROSS NEGLIGENCE.

(C) NOTHING IN SUBSECTION (A) OR (B) OF THIS SECTION SHALL BE CONSTRUED TO AFFECT OR LIMIT ANY CAUSE OF ACTION FOR PERSONAL INJURY OR WRONGFUL DEATH ARISING FROM AN ACT OR OMISSION OF A PERSON RESPONDING TO A DISCHARGE.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved April 24, 1990.

CHAPTER 67

(Senate Bill 376)

AN ACT concerning

Underground Storage Tanks – Enforcement and Financial Responsibility

FOR the purpose of requiring the Department of the Environment to adopt regulations to require the owners of certain underground oil storage tanks to provide certain