

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1783

By: Representative Wilson

"AN ACT TO AMEND SECTION 5 OF ACT 452 OF 1985 AND SECTION 6 OF ACT 479 OF 1985 TO EXEMPT THE DEPARTMENT OF POLLUTION CONTROL AND ITS CONTRACTORS IN TAKING RESPONSE OR REMEDIAL ACTIONS UNDER THESE ACTS FROM OBTAINING PERMITS; TO AMEND SECTION 7 OF ACT 452 OF 1985 AND SECTION 8 OF ACT 479 OF 1985 TO EXEMPT PERSONS TAKING RESPONSE OR REMEDIAL ACTIONS AS CONTRACTORS FOR THE DEPARTMENT FROM LIABILITY FOR CONDUCTING REMEDIAL ACTION WORK; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 5 of Act 452 of 1985, the same being Arkansas Statute 82-4705, is hereby amended by adding a subsection (f) to read as follows:

"(f) The Department or any contractor of the Department hereunder, in taking response action pursuant to this Act, shall not be required to obtain any state or local permit for the portion of any response or remedial action conducted pursuant to this act entirely onsite, where such remedial action is otherwise carried out in compliance with the regulations of the Department."

SECTION 2. Section 7 of Act 452 of 1985, the same being Arkansas Statute 82-4707, is hereby amended by adding subsections (i), (j), and (k) to read as follows:

"(i) A person taking response action hereunder as a contractor for the Department shall not be liable under this Act or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness or loss of or damage to property or economic loss, which results from a release or threatened release of hazardous substances, except that the provisions of

this paragraph shall not apply in case of a release that is caused by the conduct of the person taking response action which is negligent, grossly negligent or which constitutes intentional misconduct.

(j) A state employee or an employee of a political subdivision who provides services relating to response action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability subject to the other provisions of this section as it is provided to the contractor under subsection (i).

(k) Nothing in subsections (i) or (j) shall affect the liability of any person under warranty under state or common law. Nothing in this subsection shall affect the liability of an employer taking response action to any employee of any such employer under any provision of law, including any provision of any law relating to Workman's Compensation."

SECTION 3. Section 6 of Act 479 of 1985, the same being Arkansas Statute 82-4717, is hereby amended by adding a subsection (d) to read as follows:

"(d) The Department, or any contractor of the Department hereunder, in taking remedial actions pursuant to this Act shall not be required to obtain any state or local permit for the portion of any response or remedial action conducted pursuant to this Act entirely onsite, where such remedial action is otherwise carried out in compliance with the regulations of the Department."

SECTION 4. Section 8 of Act 479 of 1985, the same being Arkansas Statute 82-4719, is hereby amended by adding subsections (h), (i), and (j), to read as follows:

"(h) A person taking response action hereunder as a contractor for the Department shall not be liable under this Act or under any other state law to any person for injuries, costs, damages, expenses, or other liability, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness or loss of or damage to property or economic loss, which results from a release or threatened release of hazardous substances, except that the provisions of this paragraph shall not apply in case of a release that is caused by the conduct of the person taking response action which is negligent, grossly negligent or which constitutes intentional misconduct.

(i) A state employee or an employee of a political subdivision who pro-

vides services relating to remedial action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability subject to the other provisions of this section as it is provided to the response action contractor under subsection (h).

(j) Nothing in subsections (h) or (i) shall affect the liability of any person under warranty under state or common law. Nothing in this subsection shall affect the liability of an employer taking response action to any employee of any such employer under any provision of law, including any provision of any law relating to Workman's Compensation."

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

