



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 524

Environment - Multidefendant Oil and Hazardous Substance Pollution Cases - Effect of Settlement

Date: February 26, 2021

Position: Support

To: Senate Judicial Proceedings Committee

From: Jon Mueller, Vice President of Litigation

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 524 which would ensure more complete accountability for hazardous material cleanup costs and natural resource damage restoration following unlawful discharge of hazardous oil compounds. A fair and full assignment of liability assures that the public is not saddled with the costs of cleanup left incomplete by responsible parties.

Fair and full assignment of liability for oil discharge allows for more equitable apportionment of costs and protects the public from additional clean-up costs

This bill allows assignment of proportionate shares of liability to various individuals and entities with fault for a hazardous oil release. Without this legislation, the State is limited in its ability to pursue the appropriate share of costs and damages from the responsible parties. That is, the state may be unable to recover the proportionate amount from those with a higher degree of culpability. Moreover, under current law, some parties with limited liability can be held to pay more than their fair share. Such scenarios can lead to incomplete recovery thereby requiring the State to pay more in response and restoration costs.

The proposed legislation will allow for more speedy response actions thereby preventing increased harm and expense.

Oil discharges can include the release of petroleum, sludge containing oil, crude oil, gasoline, asphalt and other contaminants harmful to humans and natural resources. As these contaminants come into contact with water, they can spread over large distances. The Exxon Valdez and BP Deepwater Horizon disasters are sad reminders of the harm oil pollution can cause. Damages from such discharges either underground to drinking water or to surface waters can be extensive. Prompt cleanup actions are essential to prevent pollutants from spreading far from the discharge point and causing further harm. In the Bay watershed, even a small oil spill could devastate the blue crab population by killing its larvae. It would also poison and debilitate oysters, fish, seabirds, marine mammals, and other wildlife. Underground releases can contaminate drinking water supplies for thousands of people. Laws that clearly articulate the State's authority to fully and fairly apportion the costs and damages among the responsible parties will improve response time and more fairly allocate expenses.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403
Phone (410) 268-8816 • Fax (410) 280-3513

The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

Clarity in liability promotes good governance and expedites final determinations needed for complete environmental restoration

An oil discharge case will often involve assets owned by multiple parties. For example, a spill may emanate from an underground tank. Several parties may be responsible for such a discharge – the tank owner, the tank installer, a demolition team, or a third-party construction crew. Each of those parties may have varying degrees of responsibility for the discharge. However, as the law stands today, the State and the courts are unable to fairly apportion that liability. This can result in parties with limited liability shouldering more of the costs than those who are more directly responsible. The proposed legislation rectifies this inequity allowing the State to more fully recover the response costs and damages to natural resources associated with a discharge.

CBF urges the Committee's FAVORABLE report on SB 524. For more information, contact Robin Jessica Clark, Maryland Staff Attorney, at rclark@cbf.org or 443.995.8753.