

111TH CONGRESS  
2D SESSION

# S. 3375

To amend the Oil Pollution Act of 1990 to increase the cap on liability for economic damages resulting from an oil spill, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 13, 2010

Mr. VITTER (for himself, Mr. SESSIONS, Mr. WICKER, and Mr. LEMIEUX) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Oil Pollution Act of 1990 to increase the cap on liability for economic damages resulting from an oil spill, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Oil Spill Response and Assistance Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

### TITLE I—COMPENSATION

Sec. 101. Emergency preparedness.

Sec. 102. Oil pollution liability and compensation.

Sec. 103. Effective date.

TITLE II—REPORTS

Sec. 201. Reports regarding Gulf of Mexico oil spill.

1           **TITLE I—COMPENSATION**

2   **SEC. 101. EMERGENCY PREPAREDNESS.**

3           (a) IN GENERAL.—Title IV of the Oil Pollution Act  
4 of 1990 (Public Law 101–380; 104 Stat. 509) is amended  
5 by adding at the end the following:

6                   **“Subtitle D—Emergency**  
7                   **Preparedness for Discharges**

8   **“SEC. 4401. EMERGENCY PREPAREDNESS.**

9           “(a) IN GENERAL.—Not later than 2 years after the  
10 date of enactment of this subtitle, the Secretary shall by  
11 regulation require the development and deployment of cer-  
12 tain technology for use in the event of a breach or explo-  
13 sion at, or a significant discharge of oil from, a deepwater  
14 port, offshore facility, or tank vessel (referred to in this  
15 section as a ‘covered event’).

16           “(b) REQUIREMENTS.—The regulations shall re-  
17 quire—

18                   “(1)(A) the development, for use in capping un-  
19 derwater oil wells affected by a covered event, tech-  
20 nology that is—

21                           “(i) capable of funneling discharges of oil  
22                           from an underwater oil well to a containment  
23                           vessel at the ocean surface; and

1           “(ii) effective at water depths at least  
2           2,000 feet deeper than the limits of oil and gas  
3           production on the outer Continental Shelf as of  
4           the date of enactment of this subtitle; and

5           “(B) the purchase and deployment by the Sec-  
6           retary of those engineered capping technologies in  
7           such number of locations throughout the United  
8           States (including the navigable waters), to be deter-  
9           mined by the Secretary, as would permit deployment  
10          and use of the domes to respond to a covered event  
11          not later than 24 hours after the time at which the  
12          covered event occurred;

13          “(2)(A) the development of flame-proof booms  
14          capable of functioning in the open ocean with waves  
15          of not more than 6 feet in height; and

16          “(B) the purchase and deployment by the Sec-  
17          retary of those booms at such locations and in such  
18          lengths or quantities as would permit, as determined  
19          by the Secretary—

20                 “(i) the use of the booms in response to a  
21                 covered event not later than 24 hours after the  
22                 time at which the covered event occurred; and

23                 “(ii) the complete surrounding of 100  
24                 square miles of open ocean within that period  
25                 of time; and

1           “(3) the development, and purchase and deploy-  
2           ment by the Secretary, of remote operated vehicles  
3           for use in the open ocean that are—

4                   “(A) equipped with acoustic technology;

5                   “(B) capable of welding and cutting or  
6           torching below 15,000 feet of water; and

7                   “(C) stationed at such locations, as deter-  
8           mined by the Secretary, as would enable the re-  
9           mote operated vehicles to be available for use in  
10          an area affected by a covered event not later  
11          than 24 hours after the time at which the cov-  
12          ered event occurred.”.

13          (b) TABLE OF CONTENTS.—The table of contents for  
14          the Oil Pollution Act of 1990 (33 U.S.C. prec. 2701) is  
15          amended by inserting at the end of the items relating to  
16          title IV the following:

                  “Subtitle D—Emergency Preparedness for Discharges of Oil

                  “Sec. 4401. Emergency preparedness.”.

17          **SEC. 102. OIL POLLUTION LIABILITY AND COMPENSATION.**

18          Section 1004 of the Oil Pollution Act of 1990 (33  
19          U.S.C. 2704) is amended by striking subsection (a) and  
20          inserting the following:

21                   “(a) LIMITS.—

22                   “(1) IN GENERAL.—Except as otherwise pro-  
23           vided in this section, subject to paragraph (2), the  
24           total of the liability of a responsible party under sec-

1       tion 1002 and any removal costs incurred by, or on  
2       behalf of, the responsible party, with respect to each  
3       incident shall not exceed, as indexed for United  
4       States dollar inflation from the date of enactment of  
5       the Oil Spill Response and Assistance Act (as meas-  
6       ured by the Consumer Price Index)—

7               “(A) for a tank vessel, the greater of—

8                       “(i) with respect to a single-hull ves-  
9                       sel, including a single-hull vessel fitted  
10                      with double sides only or a double bottom  
11                      only, \$6,000 per gross ton;

12                     “(ii) with respect to a vessel other  
13                     than a vessel referred to in clause (i),  
14                     \$3,800 per gross ton; or

15                     “(iii)(I) with respect to a vessel great-  
16                     er than 3,000 gross tons that is—

17                               “(aa) a vessel described in clause  
18                               (i), \$44,000,000; or

19                               “(bb) a vessel described in clause  
20                               (ii), \$32,000,000; or

21                     “(II) with respect to a vessel of 3,000  
22                     gross tons or less that is—

23                               “(aa) a vessel described in clause  
24                               (i), \$12,000,000; or

1                   “(bb) a vessel described in clause  
2                   (ii), \$8,000,000;

3                   “(B) for any other vessel, \$1,900 per gross  
4                   ton or \$1,600,000, whichever is greater;

5                   “(C) for an offshore facility except a deep-  
6                   water port, the total of all removal costs plus  
7                   \$150,000,000; and

8                   “(D) for any onshore facility and a deep-  
9                   water port, \$700,000,000.

10                  “(2) ALTERNATIVE LIMITATION.—If the aggre-  
11                  gate amount of net after-tax profits of a responsible  
12                  party generated during the 4 full financial reporting  
13                  quarters preceding the date of an incident involving  
14                  a vessel or facility described in paragraph (1) ex-  
15                  ceeds the limitation on liability for the category of  
16                  incident described in that paragraph, the total of the  
17                  liability of the responsible party under section 1002  
18                  and any removal costs incurred by, or on behalf of,  
19                  the responsible, with respect to each such incident  
20                  shall not exceed, as indexed for United States dollar  
21                  inflation from the date of enactment of the Oil Spill  
22                  Response and Assistance Act (as measured by the  
23                  Consumer Price Index), an amount equal to that ag-  
24                  gregate amount of those profits.”.

1 **SEC. 103. EFFECTIVE DATE.**

2 This title and the amendments made by this title take  
3 effect on April 15, 2010.

4 **TITLE II—REPORTS**

5 **SEC. 201. REPORTS REGARDING GULF OF MEXICO OIL**  
6 **SPILL.**

7 (a) DEFINITIONS.—In this section:

8 (1) HEAD OF AN APPROPRIATE FEDERAL AGEN-  
9 CY.—The term “head of an appropriate Federal  
10 agency” means the head of a Federal agency that  
11 has carried out an activity with respect to the oil  
12 spill.

13 (2) OIL SPILL.—The term “oil spill” means the  
14 oil spill that occurred in the Gulf of Mexico in April  
15 2010.

16 (b) STUDY.—As soon as practicable after the date of  
17 enactment of this Act, each head of an appropriate Fed-  
18 eral agency shall carry out a study—

19 (1) to examine the effectiveness of the coordina-  
20 tion of actions carried out by the Federal Govern-  
21 ment relating to the oil spill; and

22 (2) to determine the success of each action car-  
23 ried out by the Federal Government in response to  
24 the oil spill.

25 (c) REPORT.—Not later than September 1, 2010,  
26 each head of an appropriate Federal Agency shall submit

1 to the appropriate committees of Congress a report that  
2 contains a description of—

3           (1) the results of the study carried out under  
4           subsection (b); and

5           (2) the effectiveness and success of each activity  
6           carried out by the Federal Government in response  
7           to the oil spill.

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