

106TH CONGRESS
1ST SESSION

H. R. 2247

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“Superfund”) to exempt small business concerns from certain liability under that Act.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1999

Mr. SHIMKUS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“Superfund”) to exempt small business concerns from certain liability under that Act.

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.**

4 This Act may be cited as the “Small Business Super-
5 fund Fairness Act”.

1 **SEC. 2. LIABILITY RELIEF FOR SMALL BUSINESS.**

2 (a) LIMITATION ON LIABILITY FOR SMALL BUSI-
3 NESSES.—Section 107 of the Comprehensive Environ-
4 mental Response, Compensation, and Liability Act of
5 1980 (commonly known as “Superfund”) (42 U.S.C. 9601
6 and following) is amended by adding the following new
7 subsection at the end thereof:

8 “(o) LIMITATION ON LIABILITY FOR SMALL BUSI-
9 NESSES.—

10 “(1) IN GENERAL.—No small business concern
11 shall be liable under this section for response costs
12 or damages at a facility or vessel on the National
13 Priorities List under subsection (a)(3) or (a)(4) to
14 the extent that the materials that the concern ar-
15 ranged or transported for disposal at the facility or
16 vessel consist of (A) municipal solid waste or (B)
17 other materials that do not or would not contribute
18 significantly to the cost of the response action with
19 respect to the vessel or facility concerned.

20 “(2) SMALL BUSINESS CONCERN DEFINED.—In
21 this subsection, the term ‘small business concern’
22 means a business entity that on average over the
23 previous 3 years has no more than 100 full-time em-
24 ployees or the equivalent thereof.”.

25 “(3) MUNICIPAL SOLID WASTE DEFINED.—The
26 term ‘municipal solid waste’ means all waste mate-

1 rials generated by households, including single and
2 multi-family residences, and hotels and motels. The
3 term also includes waste materials generated by
4 commercial, institutional, and industrial sources, to
5 the extent such wastes (i) are essentially the same
6 as waste normally generated by households, or (ii)
7 are collected and disposed of with other municipal
8 solid waste or sewage sludge as part of normal mu-
9 nicipal solid waste collection services, and, regardless
10 of when generated, would be considered conditionally
11 exempt small quantity generator waste under regula-
12 tion issued pursuant to section 3001(d) of the Solid
13 Waste Disposal Act (42 U.S.C. 6921(d)).”.

14 (b) **EFFECTIVE DATE.**—The amendment made by
15 subsection (a) shall apply to all actions brought under the
16 Comprehensive Environmental Response, Compensation,
17 and Liability Act of 1980 after the date of the enactment
18 of this Act and to all such actions brought on or before
19 such date of enactment in which there was no final judg-
20 ment before such date of enactment.

21 **SEC. 2. EXPEDITED FINAL SETTLEMENTS.**

22 Section 122(a) of the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980 (42
24 U.S.C. 9622) is amended by adding the following new
25 paragraph at the end thereof:

1 “(7)(A) The President shall, as promptly as possible,
2 offer to reach a final administrative or judicial settlement
3 with potentially responsible parties who are small business
4 concerns as defined in section 107(o) that can dem-
5 onstrate that the concern does not have the ability to pay
6 response costs.

7 “(B) In the case of a small business, the term ‘ability
8 to pay’ means the President’s reasonable expectation of
9 the ability of the small business to pay its total settlement
10 amount and still maintain its basic business operations.
11 Such consideration shall include the business’s overall fi-
12 nancial condition and demonstrable constraints on its abil-
13 ity to raise revenues. Any business requesting such consid-
14 eration shall promptly provide the President with all rel-
15 evant information needed to determine the business’s abil-
16 ity to pay. The business shall demonstrate the amount of
17 its ability to pay.

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