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To authorize the Secretary of the department in which the Coast Guard is operating to act, without liability for certain damages, to prevent and respond to the threat of damage from pollution of the sea by crude oil, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

Mr. NELSON introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize the Secretary of the department in which the Coast Guard is operating to act, without liability for certain damages, to prevent and respond to the threat of damage from pollution of the sea by crude oil, 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.**

4 This Act may be cited as the “Caribbean Oil Spill
5 Intervention, Prevention, and Preparedness Act”.

TITLE I—INTERVENTION AUTHORITY

SEC. 101. DEFINITION OF VESSEL.

For the purposes of this title, the term “vessel” means every description of watercraft or other artificial contrivance used or capable of being used, whether such capability is practical or not, as a means of transportation on water, and includes structures, fixed or floating, which dynamically hold position or are attached to the seabed or subsoil and are capable of exploring for, drilling for, developing, or producing crude oil or natural gas.

SEC. 102. GRAVE AND IMMINENT DANGER TO WATERS, COASTLINE, OR RELATED INTERESTS OF THE UNITED STATES.

(a) IN GENERAL.—Whenever an incident, activity, or occurrence involving a vessel in waters beyond the territorial jurisdiction of the United States creates a grave and imminent threat, as determined by the Secretary of the department in which the Coast Guard is operating, of damage to the waters, coastline, or related interests of the United States from pollution of the sea by crude oil, the Secretary of the department in which the Coast Guard is operating may, without liability for any damage to the owner, operator, crew, or underwriter of the vessel, or any

1 other interested party, act in such waters to prevent or
2 respond to that threat.

3 (b) CRITERIA.—In determining whether there is a
4 grave and imminent threat of damage to the waters, coast-
5 line, or related interests of the United States under sub-
6 section (a), the Secretary of the department in which the
7 Coast Guard is operating shall consider the interests of
8 the United States directly threatened or affected, includ-
9 ing impacts on—

- 10 (1) the health of coastal communities;
- 11 (2) finfish, shellfish, marine mammals, and
- 12 other living marine resources;
- 13 (3) coastal zone and estuarine activities;
- 14 (4) public and private shorelines and beaches;
- 15 and
- 16 (5) boating, tourism, fishing, and other aspects
- 17 of coastal economies.

18 **SEC. 103. INTERVENTION ACTIONS.**

19 Upon a determination under section 102 of this Act
20 of a grave and imminent threat of damage to the waters,
21 coastline, or related interests of the United States, the
22 Secretary of the department in which the Coast Guard is
23 operating is authorized—

1 (1) to coordinate and direct all public and pri-
2 vate actions to prevent or respond to the the pollu-
3 tion or threat of pollution of the sea by crude oil;

4 (2) to directly or indirectly undertake the whole
5 or any part of any action required or directed under
6 paragraph (1) of this section.

7 **SEC. 104. CONSULTATION PROCEDURE.**

8 Except as provided in section 105, before taking any
9 action under section 103 of this Act, the Secretary of the
10 department in which the Coast Guard is operating shall—

11 (1) consult, through the Secretary of State,
12 with the flag country of any vessel involved and
13 other affected countries;

14 (2) notify without delay other departments and
15 agencies of the Federal Government likely to be af-
16 fected by any proposed actions; and

17 (3) consider any views submitted in response to
18 the consultation or notification required by para-
19 graphs (1) and (2) of this section.

20 **SEC. 105. EMERGENCY AUTHORITY.**

21 In a case of extreme urgency requiring immediate ac-
22 tion, the Secretary of the department in which the Coast
23 Guard is operating may act as necessary based on the ur-
24 gency of the situation without the prior consultation or
25 notification required by section 104 of this Act or without

1 continuing any consultations previously initiated under
2 that section.

3 **SEC. 106. REASONABLE ACTIONS; CONSIDERATIONS.**

4 (a) REASONABLE ACTIONS.—Any action coordinated,
5 directed, or conducted under this Act shall be propor-
6 tionate to the threat of damage to the waters, coastline,
7 or related interests of the United States and may not go
8 beyond what is reasonably necessary to prevent or respond
9 to that threat.

10 (b) CONSIDERATIONS.—In considering whether an
11 action is proportionate to the threat of damage the Sec-
12 retary of the department in which the Coast Guard is op-
13 erating shall consider, among other things—

14 (1) the extent and probability of imminent dam-
15 age if that action is not taken;

16 (2) the likelihood of effectiveness of that action;
17 and

18 (3) the extent of any damage that may be
19 caused by that action.

20 **SEC. 107. PERSONAL, FLAG STATE, AND FOREIGN STATE**
21 **CONSIDERATIONS.**

22 In the coordination, direction, and conduct of an ac-
23 tion under this Act the Secretary of the department in
24 which the Coast Guard is operating shall—

1 (1) avoid risk to human life to the extent pos-
2 sible;

3 (2) render all possible aid to distressed persons,
4 including facilitating repatriation of vessel crew; and

5 (3) not unnecessarily interfere with rights and
6 interests of others, including the flag state of any
7 vessel involved, any foreign state in whose waters an
8 action must be taken, other foreign states threat-
9 ened by damage, and persons otherwise concerned.

10 **SEC. 108. OIL SPILL LIABILITY TRUST FUND.**

11 The Oil Spill Liability Trust Fund established by sec-
12 tion 9509 of the Internal Revenue Code of 1986 shall be
13 available to the Secretary of the department in which the
14 Coast Guard is operating for actions taken under sections
15 102, 103, and 105 of this Act.

16 **TITLE II—FOREIGN OIL SPILL**
17 **PREVENTION AND PRE-**
18 **PAREDNESS**

19 **SEC. 201. CUBAN OIL POLLUTION PREVENTION AND RE-**
20 **SPONSE.**

21 (a) STRAITS OF FLORIDA OCEAN CURRENT
22 MODEL.—As soon as practicable after the date of enact-
23 ment of this Act, the Administrator of the National Oce-
24 anic and Atmospheric Administration shall develop and

1 apply hydrodynamic modeling of the ocean currents and
 2 meteorological modeling of the Straits of Florida.

3 (b) PROTECTION OF NATIONAL MARINE SANC-
 4 TUARIES IN THE GULF OF MEXICO AND STRAITS OF
 5 FLORIDA.—Section 305(b) of the National Marine Sanc-
 6 tuaries Act (16 U.S.C. 1435(b)) is amended by striking
 7 “established.” and inserting “established, including with
 8 Mexico, Cuba, and the Bahamas, to negotiate oil pollution
 9 prevention and response and protection of the marine re-
 10 sources of the Gulf of Mexico and Straits of Florida.”

11 **SEC. 202. REQUIREMENTS FOR CERTAIN DUAL LESSEES.**

12 Section 8(a) of the Outer Continental Shelf Lands
 13 Act (43 U.S.C. 1337(a)) is amended by adding at the end
 14 the following:

15 “(9) If a bidder for an oil or gas lease under
 16 this subsection is conducting oil or gas operations in
 17 the territorial sea, on the continental shelf, or within
 18 the exclusive economic zone of Cuba, the Secretary
 19 shall not grant an oil or gas lease to the bidder un-
 20 less the bidder submits to the Secretary—

21 “(A) an oil spill response plan for the oil
 22 and gas operations in the territorial sea, on the
 23 continental shelf, or within the exclusive eco-
 24 nomic zone of Cuba, that includes 1 or more
 25 worst-case-scenario oil discharge plans; and

1 “(B) evidence that the bidder has suffi-
 2 cient financial resources and other resources
 3 necessary for removal, response costs, and dam-
 4 ages, as determined by the Secretary, to re-
 5 spond to a worst-case-scenario oil discharge in
 6 the territorial sea, on the continental shelf, or
 7 within the exclusive economic zone of Cuba that
 8 occurs in, or that poses a substantial threat to
 9 enter, the marine environment of the United
 10 States.”.

11 **SEC. 203. CORAL REEF CONSERVATION IN STRAITS OF**
 12 **FLORIDA.**

13 Title II of the Coral Reef Conservation Act of 2000
 14 (16 U.S.C. 6401 et seq.) is amended—

15 (1) by redesignating sections 204, 205, 206,
 16 207, 208, 209, and 210 (16 U.S.C. 6403, 6404,
 17 6405, 6406, 6407, 6408, 6409) as sections 205,
 18 206, 207, 208, 209, 210, and 211, respectively; and

19 (2) by inserting after section 203 (16 U.S.C.
 20 6402) the following:

21 **“SEC. 204. INTERNATIONAL CORAL REEF CONSERVATION.**

22 “(a) INTERNATIONAL CORAL REEF CONSERVATION
 23 ACTIVITIES.—

24 “(1) IN GENERAL.—The Secretary shall carry
 25 out international coral reef conservation activities

1 with respect to coral reef ecosystems in waters be-
2 yond the territorial jurisdiction of the United States
3 in the Straits of Florida. The Secretary shall develop
4 and implement a coral reef ecosystem strategy for
5 the Straits of Florida pursuant to subsection (b).

6 “(2) COORDINATION.—In carrying out this sub-
7 section, the Secretary shall consult with the Sec-
8 retary of State, the Administrator of the Agency for
9 International Development, the Secretary of the In-
10 terior, other relevant United States stakeholders,
11 and the Coral Reef Task Force.

12 “(b) STRAITS OF FLORIDA CORAL REEF ECOSYSTEM
13 STRATEGY.—

14 “(1) IN GENERAL.—Not later than 1 year after
15 the date of enactment of the Caribbean Oil Spill
16 Intervention, Prevention, and Preparedness Act, the
17 Secretary shall develop and submit to the Committee
18 on Commerce, Science, and Transportation of the
19 Senate and the Committee on Natural Resources of
20 the House of Representatives, and publish in the
21 Federal Register, a strategy to protect coral reef
22 ecosystems of the Straits of Florida. The Secretary
23 shall periodically review and revise the strategy as
24 necessary.

1 “(2) CONTENTS.—The strategy developed by
2 the Secretary under paragraph (1) shall—

3 “(A) identify coral reef ecosystems
4 throughout the Straits of Florida that are of
5 high value for United States marine resources
6 such as fisheries, or that support other interests
7 of the United States;

8 “(B) summarize existing activities by Fed-
9 eral agencies and stakeholders described in sub-
10 section (a)(2) to address the conservation of
11 coral reef ecosystems identified under subpara-
12 graph (A);

13 “(C) establish goals, objectives, and spe-
14 cific targets for conservation of coral reef eco-
15 systems in the Straits of Florida; and

16 “(D) describe appropriate activities to
17 achieve the goals and targets for international
18 coral reef conservation.”.

19 **SEC. 204. GULF OIL SPILL RESPONSE PLAN.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of enactment of this Act, the Secretary of the depart-
22 ment in which the Coast Guard is operating shall carry
23 out an oil spill risk analysis and planning process for the
24 development and implementation of oil spill response plans
25 for oil spills in the Straits of Florida and the Gulf of Mex-

1 ico originating in waters beyond the territorial jurisdiction
2 of the United States.

3 (b) REQUIREMENTS.—In developing plans under sub-
4 section (a), the Secretary of the department in which the
5 Coast Guard is operating shall—

6 (1) consult with the heads of other Federal
7 agencies with relevant scientific and operational ex-
8 pertise to verify that holders of oil and gas leases
9 can conduct any response and containment oper-
10 ations provided for in the plans;

11 (2) ensure that all critical information and spill
12 scenarios are included in the plans, including oil spill
13 containment and control methods to ensure that
14 holders of oil and gas leased can conduct the oper-
15 ations provided for in the plans;

16 (3) ensure that the plans include shared inter-
17 national standards for natural resource extraction
18 activities;

19 (4) in consultation with the Secretary of State,
20 to the maximum extent practicable, include rec-
21 ommendations for Congress on a joint contingency
22 plan with the countries of Mexico, Cuba, and the
23 Bahamas to ensure an adequate response to oil spills
24 located in the eastern Gulf of Mexico; and

1 (5) to the maximum extent practicable, ensure
2 that the joint contingency plan described in para-
3 graph (4) contains a description of the organization
4 and logistics of a response team for each country de-
5 scribed in that paragraph (including each applicable
6 Federal and State agency).

7 (c) VERIFICATION PROCESS.—The Secretary of the
8 department in which the Coast Guard is operating may
9 conduct a verification process to ensure that any compa-
10 nies operating in the United States that are conducting
11 drilling operations off the coast of Cuba are subject to
12 standards that are as stringent as the standards under
13 the Outer Continental Shelf Lands Act (43 U.S.C. 1331
14 et seq.).

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