

65-6203. Discharges detrimental to water or soil; allocation of responsibility. (a) It shall be the duty of any person responsible for an accidental release or discharge of materials detrimental to the quality of the waters or soil of the state to: (1) Compensate the owner of the property where the release or discharge occurred for actual damages incurred as the result of the release or discharge, or as the result of corrective action taken or access to take corrective action, if the release or discharge occurred without any contribution to the contamination and without any causal connection to the release or discharge by any action of the owner or owner-permitted occupant of the property; and (2) comply with all existing rules and regulations and requirements of the secretary of health and environment designed to ensure the prompt correction of any such release or discharge for the protection of the public health and environment.

(b) Any owner or subsequent purchaser of land, upon which there has occurred an accidental release or discharge of materials detrimental to the quality of the waters or soil of the state, which occurred without any contribution to the contamination and without any causal connection to the release or discharge by any action of the owner or the owner-permitted occupant of the property, shall not be liable for any costs of subsequent remedial action required as a result of changes in standards adopted after the time of such accident, if such owner or purchaser can demonstrate that: (1) The persons responsible for the correction of the release or discharge were allowed timely and adequate access to perform the duty imposed by subsection (a)(2), upon reasonable prior assurance that any actual damages incurred as the result of allowing access will be promptly reimbursed, and the secretary of health and environment, or the secretary's agents, were allowed timely and adequate access to oversee the corrective action; and (2) the secretary of health and environment has approved the corrective action and certified that the action taken has met all requirements and rules and regulations of the secretary, or conditions of administrative orders or agreements which were in effect at the time of the accidental release or discharge. The provisions of this section shall apply to both releases and discharges and remedial actions taken prior to the effective date of this act and releases and discharges and remedial actions taken hereafter.

(c) The secretary of health and environment is hereby authorized to adopt rules and regulations necessary for the administration of the provisions of this section.

(d) Neither the state, nor any officer, employee or department of the state, shall incur any liability by reason of approval of any corrective action plan or any certification pursuant to this section.

(e) The provisions of this section shall not apply to any release or discharge under the jurisdiction of the state corporation commission.

History: L. 1996, ch. 189, § 2; Jan. 1, 1997.