

ASSEMBLY BILL

No. 681

Introduced by Assembly Member Wieckowski

February 17, 2011

An act to amend Section 13009.6 of the Health and Safety Code, relating to emergency response.

LEGISLATIVE COUNSEL'S DIGEST

AB 681, as introduced, Wieckowski. Emergency response: hazardous substances: costs.

Existing law provides that the expense of a public agency's emergency response to the release, escape, or burning of hazardous substances is a charge against the person whose negligence caused the incident, if the incident necessitated an evacuation beyond the property of origin or results in the spread of hazardous substances or fire beyond the property of origin. Existing law defines "hazardous substance" for purposes of these provisions.

This bill would instead provide that these expenses are a charge against the person whose negligence caused the incident if the incident necessitated an evacuation from the building, structure, property, or public right-of-way where the incident originates, or the incident results in the spread of hazardous substances or fire beyond the building, structure, property, or public right-of-way where the incident originates. The bill would also revise the definition of "hazardous substance" for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13009.6 of the Health and Safety Code
2 is amended to read:

3 13009.6. (a) (1) Those expenses of an emergency response
4 necessary to protect the public from a real and imminent threat to
5 health and safety by a public agency to confine, prevent, or mitigate
6 the release, escape, or burning of hazardous substances described
7 in subdivision (c) are a charge against any person whose negligence
8 causes the incident, if either of the following occurs:

9 (A) Evacuation ~~beyond~~ *from the building, structure, property,*
10 *or public right-of-way* where the incident originates is necessary
11 to prevent loss of life or injury.

12 (B) The incident results in the spread of hazardous substances
13 or fire posing a real and imminent threat to public health and safety
14 beyond the *building, structure, property* ~~of origin,~~ *or public*
15 *right-of-way where the incident originates.*

16 (2) Expenses reimbursable to a public agency under this section
17 are a debt of the person liable therefor, and shall be collectible in
18 the same manner as in the case of an obligation under contract,
19 express or implied.

20 (3) The charge created against the person by this subdivision is
21 also a charge against the person's employer if the negligence
22 causing the incident occurs in the course of the person's
23 employment.

24 (4) The public agencies participating in an emergency response
25 meeting the requirements of paragraph (1) of this subdivision may
26 designate one or more of the participating agencies to bring an
27 action to recover the expenses incurred by all of the designating
28 agencies which are reimbursable under this section.

29 (5) An action to recover expenses under this section may be
30 joined with any civil action for penalties, fines, injunctive, or other
31 relief brought against the responsible person or employer, or both,
32 arising out of the same incident.

33 (b) There shall be deducted from any amount otherwise
34 recoverable under this section, the amount of any reimbursement
35 for eligible costs received by a public agency pursuant to Chapter
36 6.8 (commencing with Section 25300) of Division 20. The amount
37 so reimbursed may be recovered as provided in Section 25360.

1 (c) As used in this section, “hazardous substance” means any
2 hazardous substance listed in Section 25316 *or subdivision (q) of*
3 *Section 25501* of this code, or in Section 6382 of the Labor Code.

4 (d) As used in this section, “mitigate” includes actions by a
5 public agency to monitor or model ambient levels of airborne
6 hazardous substances for the purpose of determining or assisting
7 in the determination of whether or not to evacuate areas around
8 the property where the incident originates, or to determine or assist
9 in the determination of which areas around the property where the
10 incident originates should be evacuated.

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