

# Liability: Providing Aid During Hazardous Materials Accident

## 12 V.S.A. 5783

An individual who is qualified to deal with hazardous materials and who, without compensation, provides on-site emergency assistance or advice during a discharge, or imminent discharge, of hazardous materials will not be held legally responsible. They can be held legally responsible if the individual caused the discharge, provided assistance or advice not in the immediate vicinity of the discharge, or acted with extreme carelessness or intent to cause harm.

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### Hazardous materials accidents

(a) No action for damages to person or property may be maintained against a person who provides emergency assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened accidental discharge of hazardous materials, or in preventing, containing or cleaning up or in attempting to prevent, contain or clean up any such discharge. This section shall apply to assistance or advice provided at or to persons at the scene or in the immediate vicinity of the actual or threatened discharge only.

(b) Subsection (a) of this section shall not apply:

(1) to any person, or the employer or employee of any person, whose act or omission proximately caused in whole or in part the original actual or threatened discharge;

(2) to any person, or the employer or employee of any person, who receives or expects to receive compensation or remuneration, other than reimbursement for out-of-pocket expenses, for services in rendering such assistance or advice from the recipient of such assistance or advice, from a person whose act or omission caused in whole or in part the discharge, or from someone acting on behalf of such persons; or

(3) to any person who is not qualified by training, education or experience, unless the person is supervised by a

person who is so qualified.

(c) As used in this section:

(1) "Discharge" includes leakage, seepage or other release.

(2) "Hazardous materials" include all materials and substances which are now or hereafter designated or defined as hazardous by any state or federal law or by the regulations of any state or federal government agency.

(3) "Person" includes any individual, partnership, corporation, association, or other entity, including a person who coordinates or provides advice and assistance in conjunction with an emergency response program.

(d) Nothing in this section shall be construed to limit or otherwise affect the liability of any person for damages resulting from that person's gross negligence or wilful misconduct.