

109TH CONGRESS
1ST SESSION

H. R. 1412

To amend the Ports and Waterways Safety Act to require notification of the Coast Guard regarding obstructions to navigation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. LOBIONDO (for himself, Mr. SAXTON, Mr. ANDREWS, Mr. CASTLE, and Ms. SCHWARTZ of Pennsylvania) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Ports and Waterways Safety Act to require notification of the Coast Guard regarding obstructions to navigation, 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 “Delaware River Protec-
5 tion Act of 2005”.

1 **SEC. 2. REQUIREMENT TO NOTIFY COAST GUARD OF RE-**
2 **LEASE OF OBJECTS INTO THE NAVIGABLE**
3 **WATERS OF THE UNITED STATES.**

4 The Ports and Waterways Safety Act (33 U.S.C.
5 1221 et seq.) is amended by adding at the end the fol-
6 lowing:

7 **“SEC. 15. REQUIREMENT TO NOTIFY COAST GUARD OF RE-**
8 **LEASE OF OBJECTS INTO THE NAVIGABLE**
9 **WATERS OF THE UNITED STATES.**

10 “(a) REQUIREMENT.—As soon as a person has
11 knowledge of any release from a vessel or facility into the
12 navigable waters of the United States of any object that
13 creates an obstruction prohibited under section 10 of the
14 Act of March 3, 1899, popularly known as the Rivers and
15 Harbors Appropriations Act of 1899 (chapter 425; 33
16 U.S.C. 403), such person shall notify the Secretary and
17 the Secretary of the Army of such release.

18 “(b) RESTRICTION ON USE OF NOTIFICATION.—Any
19 notification provided by an individual in accordance with
20 subsection (a) shall not be used against such individual
21 in any criminal case, except a prosecution for perjury or
22 for giving a false statement.”.

23 **SEC. 3. SENSE OF CONGRESS REGARDING THE DETECTION**
24 **OF SUBMERGED OBSTRUCTIONS.**

25 It is the sense of the Congress that the Secretary of
26 the Army should—

1 (1) place a high priority on enhancing the Army
2 Corps of Engineers' capabilities to detect submerged
3 obstructions in the navigable waterways of the
4 United States through the use of advanced sonar
5 and other technologies; and

6 (2) enter into contracts and agreements with
7 other Federal agencies, State governments, local
8 governments, and private entities to accomplish such
9 enhancements.

10 **SEC. 4. AUTHORITY TO REMOVE OBSTRUCTIONS IN DELA-**
11 **WARE RIVER.**

12 (a) IN GENERAL.—The Secretary of the Army, acting
13 through the Chief of Engineers, may remove from the tidal
14 waters of the Delaware River any object that creates an
15 obstruction prohibited under section 10 of the Act of
16 March 3, 1899, popularly known as the Rivers and Har-
17 bors Appropriations Act of 1899 (chapter 425; 33 U.S.C.
18 403).

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Secretary \$5,000,000
21 for each of fiscal years 2006, 2007, and 2008 to carry
22 out activities authorized in this section.

23 **SEC. 5. LIMITS ON LIABILITY.**

24 (a) ADJUSTMENT OF LIABILITY LIMITS.—

1 (1) TANK VESSELS.—Section 1004(a)(1) of the
2 Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is
3 amended—

4 (A) by redesignating subparagraph (B) as
5 subparagraph (C);

6 (B) by striking subparagraph (A) and in-
7 serting the following:

8 “(A) with respect to a single-hull vessel,
9 including a single-hull vessel fitted with double
10 sides only or a double bottom only—

11 “(i) \$1,550 per gross ton for an inci-
12 dent that occurs in 2005;

13 “(ii) \$1,900 per gross ton for an inci-
14 dent that occurs in 2006; or

15 “(iii) \$2,250 per gross ton for an inci-
16 dent that occurs in 2007 or in any year
17 thereafter; or

18 “(B) with respect to a double-hull vessel
19 (other than any vessel referred to in subpara-
20 graph (A))—

21 “(i) \$1,350 per gross ton for an inci-
22 dent that occurs in 2005;

23 “(ii) \$1,500 per gross ton for an inci-
24 dent that occurs in 2006; and

1 “(iii) \$1,700 per gross ton for any in-
2 cident that occurs in 2007 or in any year
3 thereafter; or”; and

4 (C) in subparagraph (C), as redesignated
5 by subparagraph (A) of this paragraph—

6 (i) in clause (i) by striking
7 “\$10,000,000” and inserting
8 “\$14,000,000”; and

9 (ii) in clause (ii) by striking
10 “\$2,000,000” and inserting “\$2,500,000”.

11 (2) LIMITATION ON APPLICATION.—In the case
12 of an incident occurring before the date of the enact-
13 ment of this Act, section 1004(a)(1) of the Oil Pol-
14 lution Act of 1990 (33 U.S.C. 2704(a)(1)) shall
15 apply as in effect immediately before the effective
16 date of this subsection.

17 (b) ADJUSTMENT TO REFLECT CONSUMER PRICE
18 INDEX.—Section 1004(d)(4) of the Oil Pollution Act of
19 1990 (33 U.S.C. 2704(d)(4)) is amended to read as fol-
20 lows:

21 “(4) ADJUSTMENT TO REFLECT CONSUMER
22 PRICE INDEX.—The President shall, by regulations
23 issued no later than 3 years after the date of the en-
24 actment of the Delaware River Protection Act of
25 2005 and no less than every 3 years thereafter, ad-

1 just the limits on liability specified in subsection (a)
2 to reflect significant increases in the Consumer Price
3 Index.”.

4 **SEC. 6. REQUIREMENT TO UPDATE PHILADELPHIA AREA**
5 **CONTINGENCY PLAN.**

6 The Philadelphia Area Committee established under
7 section 311(j)(4) of the Federal Water Pollution Control
8 Act (33 U.S.C. 1321(j)(4)) shall, by not later than 12
9 months after the date of the enactment of this Act and
10 not less than annually thereafter, review and revise the
11 Philadelphia Area Contingency Plan to include available
12 data and biological information on environmentally sen-
13 sitive areas of the Delaware River and Delaware Bay that
14 has been collected by Federal and State surveys.

15 **SEC. 7. SUBMERGED OIL REMOVAL.**

16 (a) AMENDMENTS.—Title VII of the Oil Pollution
17 Act of 1990 is amended—

18 (1) in section 7001(e)(4)(B) (33 U.S.C.
19 2761(e)(4)(B)) by striking “RIVERA,” and insert-
20 ing “RIVERA and the T/V ATHOS I;”; and

21 (2) by adding at the end the following:

22 **“SEC. 7002. SUBMERGED OIL PROGRAM.**

23 “(a) PROGRAM.—

24 “(1) ESTABLISHMENT.—The Undersecretary of
25 Commerce for Oceans and Atmosphere, in conjunc-

1 tion with the Commandant of the Coast Guard, shall
2 establish a program to monitor and evaluate the en-
3 vironmental effects of submerged oil. Such program
4 shall include the following elements:

5 “(A) The development of methods to re-
6 move, disperse or otherwise diminish the per-
7 sistence of submerged oil.

8 “(B) The development of improved models
9 and capacities for predicting the environmental
10 fate, transport, and effects of submerged oil.

11 “(2) REPORT.—The Secretary of Commerce
12 shall, no later than 3 years after the date of the en-
13 actment of the Delaware River Protection Act of
14 2005, submit to the Committee on Transportation
15 and Infrastructure of the House of Representatives
16 and the Committee on Commerce, Science, and
17 Transportation and the Committee on Environment
18 and Public Works of the Senate a report on the ac-
19 tivities carried out under this subsection and activi-
20 ties proposed to be carried out under this subsection.

21 “(3) FUNDING.—There is authorized to be ap-
22 propriated to the Secretary of Commerce \$1,000,000
23 for each of fiscal years 2006 through 2010 to carry
24 out this subsection.

25 “(b) DEMONSTRATION PROJECT.—

1 “(1) REMOVAL OF SUBMERGED OIL.—The
2 Commandant of the Coast Guard, in conjunction
3 with the Undersecretary of Commerce for Oceans
4 and Atmosphere, shall conduct a demonstration
5 project in the Delaware River for the purpose of de-
6 veloping and demonstrating technologies and man-
7 agement practices to remove submerged oil.

8 “(2) FUNDING.—There is authorized to be ap-
9 propriated to the Commandant of the Coast Guard
10 \$2,000,000 for each of fiscal years 2006 and 2007
11 to carry out this subsection.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 in section 2 of such Act is amended by inserting after the
14 item relating to section 7001 the following:

 “Sec. 7002. Submerged oil program.”.

15 **SEC. 8. DELAWARE RIVER AND BAY OIL SPILL ADVISORY**
16 **COMMITTEE.**

17 (a) ESTABLISHMENT.—There is established the Dela-
18 ware River and Bay Oil Spill Advisory Committee (in this
19 section referred to as the “Committee”).

20 (b) FUNCTIONS.—

21 (1) IN GENERAL.—The Committee shall, by not
22 later than 1 year after the date the Commandant of
23 the Coast Guard (in this section referred to as the
24 “Commandant”) completes appointment of the mem-
25 bers of the Committee, make recommendations to

1 the Commandant, the Committee on Transportation
2 and Infrastructure of the House of Representatives,
3 and the Committee on Commerce, Science, and
4 Transportation of the Senate on methods to improve
5 the prevention of and response to future oil spills in
6 the Delaware River and Delaware Bay.

7 (2) MEETINGS.—The Committee—

8 (A) shall hold its first meeting not later
9 than 60 days after the completion of the ap-
10 pointment of the members of the Committee;
11 and

12 (B) shall meet thereafter at the call of the
13 Chairman.

14 (c) MEMBERSHIP.—The Committee shall consist of
15 15 members who have particular expertise, knowledge, and
16 experience regarding the transportation, equipment, and
17 techniques that are used to ship cargo and to navigate
18 vessels in the Delaware River and Delaware Bay, as fol-
19 lows:

20 (1) Three members who are employed by port
21 authorities that oversee operations on the Delaware
22 River or have been selected to represent these enti-
23 ties, of whom—

24 (A) one member must be an employee or
25 representative of the Port of Wilmington;

1 (B) one member must be an employee or
2 representative of the South Jersey Port Cor-
3 poration; and

4 (C) one member must be an employee or
5 representative of the Philadelphia Regional Port
6 Authority.

7 (2) Two members who represent organizations
8 that operate tugs or barges that utilize the port fa-
9 cilities on the Delaware River and Delaware Bay.

10 (3) Two members who represent shipping com-
11 panies that transport cargo by vessel from ports on
12 the Delaware River and Delaware Bay.

13 (4) Two members who represent operators of oil
14 refineries on the Delaware River and Delaware Bay.

15 (5) Two members who represent environmental
16 and conservation interests.

17 (6) Two members who represent State-licensed
18 pilots who work on the Delaware River and Dela-
19 ware Bay.

20 (7) One member who represents labor organiza-
21 tions that load and unload cargo at ports on the
22 Delaware River and Delaware Bay.

23 (8) One member who represents the general
24 public.

1 (d) APPOINTMENT OF MEMBERS.—The Commandant
2 shall appoint the members of the Committee, after solie-
3 iting nominations by notice published in the Federal Reg-
4 ister.

5 (e) CHAIRMAN AND VICE CHAIRMAN.—The Com-
6 mittee shall elect, by majority vote at its first meeting,
7 one of the members of the Committee as the Chairman
8 and one of the members as the Vice Chairman. The Vice
9 Chairman shall act as Chairman in the absence of or inca-
10 pacity of the Chairman, or in the event of vacancy in the
11 Office of the Chairman.

12 (f) PAY AND EXPENSES.—

13 (1) PROHIBITION ON PAY.—Members of the
14 Committee who are not officers or employees of the
15 United States shall serve without pay. Members of
16 the Committee who are officers or employees of the
17 United States shall receive no additional pay on ac-
18 count of their service on the Committee.

19 (2) EXPENSES.—While away from their homes
20 or regular places of business, members of the Com-
21 mittee may be allowed travel expenses, including per
22 diem, in lieu of subsistence, as authorized by section
23 5703 of title 5, United States Code.

1 (g) TERMINATION.—The Committee shall terminate
2 one year after the completion of the appointment of the
3 members of the Committee.

4 **SEC. 9. MARITIME FIRE AND SAFETY ACTIVITIES.**

5 The Maritime Transportation Security Act of 2002
6 (Public Law 107–295) is amended—

7 (1) in section 407—

8 (A) in the heading by striking “**LOWER**
9 **COLUMBIA RIVER**”; and

10 (B) by striking “\$987,400” and inserting
11 “\$1,500,000”; and

12 (2) in the table of contents in section 1(a) by
13 striking the item relating to section 407 and insert-
14 ing the following:

“Sec. 407. Maritime fire and safety activities.”.

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