



Environmental Professionals' Organization of Connecticut

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Public Hearing – March 9, 2010

Commerce Committee

Senator LeBeau, Representative Berger and members of Commerce Committee

Testimony submitted by Seth Molofsky, Executive Director

Environmental Professionals' Organization of Connecticut (EPOC)

Raised Senate Bill No. 5436 AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY

I am submitting this testimony on behalf of the Environmental Professionals' Organization of Connecticut (EPOC). EPOC was formed in 1996 to represent the interests of Connecticut's Licensed Environmental Professionals (LEPs) by providing information, training and updates regarding the LEP program in Connecticut. The organization has approximately 500 members representing numerous technical disciplines all working in the area of investigation and cleanup of environmentally-impacted sites in Connecticut.

EPOC is concerned about the potential liabilities that this proposed legislation may cause for Licensed Environmental Professionals (LEPs) and their firms. The specific concern is associated with how Section (b) interacts with new Sections (f) through (o). Section (b) generally states that a person, firm or corporation rendering assistance or advice in mitigating or attempting to mitigate pollution shall *not* (emphasis added) be held liable for any cost for investigation and remediation, or civil damages, except for acts or omissions amounting to "gross negligence or willful or wanton misconduct". However, the additional wording in line 48 "unless [he] such person, firm or corporation is compensated for such assistance or advice for more than actual expenses" could be interpreted to mean that the exclusion allowed for under Section (b) is completely negated if a person, firm or corporation is compensated for such assistance or advice for more than actual expenses, which would be the case for an LEP and/or their firm. Therefore an LEP could be brought in as a potentially responsible party under new Sections (f) through (o).

EPOC recommends that the phrase "unless [he] such person, firm or corporation is compensated for such assistance or advice for more than actual expenses" be deleted to make clear a party that assists in a cleanup, no matter whether doing so for profit or not, is not liable for any costs thereof (excepting gross negligence or willful/wanton misconduct).

Thank you for the opportunity to present EPOC's views on Raised Senate Bill No. 119. If you have any questions, please contact me at (860) 537-0337, or Ted Sailer, Chair of EPOC Legislative Committee at (203) 245-7744.