

(H. B. 3890)

(No. 62-2012)

(Approved March 30, 2012)

AN ACT

To amend subsection 4 of Section 32 and paragraph 8(a) of subsection B of Section 45 of Act No. 416-2004, as amended, known as the “Environmental Public Policy Act,” to clarify and correct the text according to the intent and purpose of said Act and to repeal Act No. 94-1992, as amended, known as the “Act on Limited Immunity for Removing or Eliminating Oil or Hazardous Substance Spills,” since it duplicates the identical text of Act No. 416-2004, as amended.

STATEMENT OF MOTIVES

The fuel market is an essential element for the economy of Puerto Rico. Therefore, it is necessary to clarify our legal framework for the purpose of creating certainty and stability in commercial transactions that involve oil products. We believe that the responsibilities under said legal framework must be clearly defined and consistent with federal laws where applicable. In order to achieve these objectives, this Act incorporates technical amendments to Act No. 416-2004, as amended, known as the “Environmental Public Policy Act” (henceforth Act No. 416), for the purpose of correcting textual errors and conforming certain provisions thereof to the federal law.

Specifically, we noted that Sections 45B and 32 of Act No. 416 required clarification due to inconsistencies and errors in both their wording and translation from the analogous federal law. Section 45B contains provisions related to remediation activities to be carried out according to the federal “National Oil and Hazardous Substances Pollution Contingency Plan” established pursuant to the “Oil Pollution Act”, 33 USC §§ 2701 *et seq.* (hereinafter referred to as the OPA).

This section is a copy of Act No. 94-1992, as amended (hereinafter referred to as Act No. 94), whose express purpose is to conform the public policy of Puerto Rico to the federal OPA. Although said Section was to be an exact copy of the text contained in the federal law, we noted that the translation of the definition of the term “vessels,” which is used to determine who the “responsible party” is under said law, was not done correctly. This resulted in the omission of the term “demise charter”, which appears in the OPA and is also a widely used maritime term. To correct this omission, this Act amends the aforementioned Section 45 to include the term “demise charter.” Furthermore, this Act introduces the latest amendments made to the OPA, which were adopted by the U.S. Congress on October 15, 2010.

On the other hand, subsection 4 of Section 32, which defines “responsible person” within the context of an environmental emergency, also contains ambiguities which must be clarified, as well as grammatical errors. To address this situation, this Act amends subsection 4 of Section 32 of Act No. 416 for the purpose of correcting the typographical and grammatical errors in said Act, and to clarify any ambiguities in a manner consistent with the remaining provisions of the aforementioned Act.

Act No. 94 is hereby repealed because its provisions are included in Act No. 416-2004; therefore, it is considered duplicative. We reassert the intent of this Legislative Assembly, which is to conform this provision and other analogous provisions of Act No. 416 to the OPA, so as to be interpreted and implemented consistently with the OPA.

In summary, this Legislative Assembly deems that the amendments made to this Act shall create a legal framework that is clearer, and shall result in greater stability and certainty in our commercial transactions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection 4 of Section 32 in Act 416-2004 is hereby amended to read as follows:

“Section 32.- Definitions.

1. ...

...

4. Responsible person. Means any natural or juridical person or group of private or public persons, including agencies, government instrumentalities, municipalities, and quasi-public corporations, that exercises dominion or supervision or ownership, or holds, or exercises partial or total control over establishments, transfer or final disposal stations, facilities or services that generate, store or transport, distribute or otherwise handle hazardous or radioactive substances, pollutants or waste or hydrocarbons or their by-products, and which person, through his/her action or omission, has caused an environmental emergency.

5. ...

...”

Section 2.- Paragraph 8(a) of subsection B of Section 45 of Act No. 416-2004 is hereby amended to read as follows:

“Section 45.- Definitions.

A. ...

B. For purposes of the provisions of Section 46 of this Act, the words and phrases stated below shall have the following meaning:

1. ...

8. Responsible Party.- This includes the following:

(a) Vessels.- Means any person owning, operating, or demise chartering a vessel. This term shall also include the owners of oil being transported in a tank vessel with a single hull after December 31, 2010.

(b) ...

...”

Section 3.- Act No. 94-1992, as amended, known as the “Act on Limited Immunity for Removing or Eliminating Oil or Hazardous Substance Spills,” is hereby repealed.

Section 4.- Effectiveness.

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 62-2012 (H. B. 3890)** of the **7th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to amend subsection 4 of Section 32 and paragraph 8(a) of subsection B of Section 45 of Act No. 416-2004, as amended, known as the “Environmental Public Policy Act,” to clarify and correct the text according to the intent and purpose of said Act and to repeal Act No. 94-1992, as amended, known as the “Act on Limited Immunity for Removing or Eliminating Oil or Hazardous Substance Spills,” since it duplicates the identical text of Act No. 416-2004, as amended.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 21st day of August, 2015.

Juan Luis Martínez Martínez
Acting Director