



Ohio Revised Code

Section 3737.89 Liability for costs of corrective or enforcement action.

Effective: July 11, 1989

Legislation: House Bill 421 - 118th General Assembly

(A) Except when a responsible person can prove that a release of petroleum was caused solely by any one or a combination of an act of God, an act of war, or an act or omission of a third party without regard to whether any such act or omission was or was not negligent, a responsible person, notwithstanding any other provision of the Revised Code or common law of this state, is strictly liable to the state for any costs incurred for any corrective or enforcement action undertaken by the fire marshal under section 3737.882 of the Revised Code and for any costs incurred for any enforcement action undertaken by the attorney general under this section or section 3737.882 of the Revised Code with respect to a release of petroleum.

The attorney general, upon the request of the fire marshal, shall bring a civil action to recover those costs in the court of common pleas of the county in which the corrective or enforcement action was undertaken.

(B) If a responsible person alleges that a release of petroleum was caused solely by an act or omission of a third party or was caused solely by such an act or omission in combination with an act of God or an act of war, the responsible person shall pay to the state the cost of any corrective or enforcement action undertaken by the fire marshal under section 3737.882 of the Revised Code and any enforcement action undertaken by the attorney general under this section or section 3737.882 of the Revised Code with respect to the release and is entitled by subrogation to all rights of the state to recover those costs from the third party under division (C) of this section. The attorney general, upon the request of the fire marshal, shall bring a civil action to recover payment from the responsible party for those costs in the court of common pleas of the county in which the corrective or enforcement action was undertaken.

(C) If the responsible person proves that a release of petroleum was caused solely by an act or omission of a third party or by such an act or omission in combination with an act of God or an act of war, the third party, notwithstanding any other provision of the Revised Code or common law of this state, is strictly liable to the state for any costs incurred for any corrective or enforcement action



undertaken by the fire marshal under section 3737.882 of the Revised Code and for any enforcement action undertaken by the attorney general under this section or section 3737.882 of the Revised Code with respect to the release. The attorney general, upon the request of the fire marshal or any person entitled by subrogation to the rights of the state under division (B) of this section, may bring a civil action to recover those costs in the court of common pleas of the county in which the corrective or enforcement action was undertaken.

(D) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the responsible person, or from any other person who may be liable under division (C) of this section, to another person the liability imposed by this section. Nothing in this division bars either of the following:

(1) Any agreement to insure, hold harmless, or indemnify a party to such an agreement for any liability under this section;

(2) A cause of action that any person has or would have against any other person by reason of subrogation or otherwise.

(E) Nothing in this section limits the duty of a responsible person under section 3737.882 of the Revised Code and rules adopted under it to notify the fire marshal and to take action with respect to a release of petroleum.

(F) Nothing in this section limits the right of the federal government to recover from the responsible person any federal money expended for any corrective or enforcement action as a result of a release of petroleum.