

104TH CONGRESS
2D SESSION

H.R. 3656

To amend the Safe Drinking Water Act to require persons contributing to drinking water contamination to reimburse public water systems for the costs of decontamination.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1996

Mr. TORRICELLI (for himself and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determine by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Safe Drinking Water Act to require persons contributing to drinking water contamination to reimburse public water systems for the costs of decontamination.

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. DRINKING WATER SYSTEM RATEPAYER PRO-**
4 **TECTION.**

5 Title XIV of the Public Health Service Act (the Safe
6 Drinking Water Act) is amended by adding the following
7 after section 1432:

1 **“SEC. 1433. RATEPAYER PROTECTION CAUSE OF ACTION.**

2 “(a) CAUSE OF ACTION.—Whenever any public water
3 system has incurred costs for treatment or monitoring, or
4 both, with respect to any contaminant that is present in
5 the source water used by such public water system, the
6 owner or operator of the public water system may bring
7 an action in the appropriate United States district court
8 against any person whose negligence caused, or contrib-
9 uted to, the presence of such contaminant in such source
10 waters in which such contaminant is found at levels which
11 require treatment or monitoring under the provisions of
12 this title. Any such court shall require such person to re-
13 imburse the owner or operator for the portion of costs of
14 the treatment or monitoring, or both, that is attributable
15 to the contamination caused or contributed by such per-
16 son.

17 “(b) PESTICIDE MANUFACTURER LIABILITY.—
18 Whenever any public water system has incurred costs for
19 treatment or monitoring, or both, with respect to any sub-
20 stance regulated under Federal Insecticide, Fungicide,
21 and Rodenticide Act that is present in the source water
22 used by such public water system at levels which require
23 treatment or monitoring under the provisions of this title,
24 the owner or operator of the public water system may
25 bring an action in the appropriate United States district
26 court against any manufacturer or importer of such sub-

1 stance. Any such court shall require such manufacturer
2 or importer to reimburse the owner or operator for the
3 portion of costs of the treatment or monitoring, or both,
4 that is attributable to such substance.

5 “(c) PERMITTED RELEASES; PESTICIDE AND FER-
6 TILIZER APPLICATION.—

7 “(1) PERMITTED RELEASES.—No person shall
8 be liable under this section with respect to the re-
9 lease of any contaminant that is pursuant to a Fed-
10 erally permitted release (as defined in section 101 of
11 the Comprehensive Environmental Response, Com-
12 pensation, and Liability Act of 1980) if the permit
13 concerned specifically considers the impact of the
14 use of the contaminant on drinking water sources.

15 “(2) PESTICIDES, ETC.—No person engaged in
16 the normal application of a substance regulated
17 under Federal Insecticide, Fungicide, and
18 Rodenticide Act shall be liable under this section for
19 such application if such substance is handled and
20 applied in accordance with the applicable require-
21 ments of such Act (including a manufacturer’s or
22 distributor’s labeling) and any manufacturer’s or
23 distributor’s instructions.

24 “(3) FERTILIZER.—No person shall be liable
25 under this section for the normal application of a

1 fertilizer to the extent that such application was in
2 accordance with the manufacturer's or distributor's
3 instructions and not in violation of Federal or State
4 law.

5 “(d) MONITORING THRESHOLD.—No person shall be
6 liable under this section for any monitoring costs for a
7 contaminant if such contaminant is found at levels reliably
8 and consistently below the maximum contaminant level.

9 “(d) EFFECTIVE DATE.—This section shall take ef-
10 fect with respect to acts or omissions that occur after the
11 date of enactment of this section.

12 “(e) SMALL AMOUNTS.—No person shall be liable
13 under this section with respect to any contaminant present
14 in the source water of a public water system if the court
15 finds that such person caused or contributed only a small
16 portion of the total amount of such contaminant.

17 “(f) EFFECT ON OTHER LAW.—Nothing in this sec-
18 tion shall be construed to preempt or otherwise affect the
19 right of any public water system to recover the costs of
20 monitoring or treatment from any person under any other
21 authority of law. The amount of any such costs recover-
22 able under this section shall be reduced by the amount
23 recovered under any such other authority of law.”.

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