



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 17, 2001

H.R. 1831

Small Business Liability Protection Act

*As ordered reported by the House Committee on Transportation and Infrastructure
on May 16, 2001*

SUMMARY

H.R. 1831 would establish two new exemptions from liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, commonly known as the Superfund Act, which governs the cleanup of sites contaminated with hazardous substances. A “de micromis” liability exemption would apply to those who generate or transport very small volumes of waste; the second new exemption would apply to certain small businesses and organizations that dispose of municipal solid waste. A “de minimus” settlement under CERCLA refers to a settlement between the Environmental Protection Agency (EPA) and parties who are responsible for only a comparatively small amount and comparatively low toxicity of hazardous substances at a Superfund site. “De micromis” settlements are a subset of de minimus settlements that may be available to parties who are responsible for a minuscule amount of waste at a Superfund site.

CBO estimates that enacting H.R. 1831 would result in no significant impact on the federal budget. Because enactment of this bill could affect offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply, but CBO estimates that any such effects would not be significant.

H.R. 1831 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

MAJOR PROVISIONS

Under the de minimis exemption that would be established under the bill, those who generate or transport less than 200 pounds of waste, or 110 gallons of material containing hazardous waste disposed of at a National Priorities List (NPL) site before April 1, 2001, would be released from Superfund liability. This exemption would not apply to those whose waste could significantly contribute to cleanup costs or natural resource damages, those who fail to comply with government requests or subpoenas for information, those who impede cleanup work at the site, or anyone who has been convicted of a criminal violation related to waste disposal activities at the site.

Under the municipal solid waste exemption that would be established under the bill, households, and businesses or nonprofit organizations with not more than 100 employees would be released from Superfund liability for generating municipal solid waste (which includes household waste and other waste containing little or no hazardous substances) disposed of at a NPL site. This exemption would not apply to those whose waste could significantly contribute to cleanup costs or natural resource damages, those who fail to comply with government requests or subpoenas for information, or those who impede cleanup work at the site. Unlike the de minimis exemption, this exemption would apply regardless of when the waste was generated.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The Environmental Protection Agency's enforcement program attempts to recover any costs the agency incurs at Superfund cleanup projects that are the responsibility of private parties (known as potentially responsible parties, or PRPs). Under H.R. 1831, CBO estimates that such future cost recoveries could be reduced because the Superfund liability of some PRPs would be eliminated. PRPs who have generated or transported small volumes of waste or who have generated municipal solid waste, however, are rarely pursued to recover cleanup expenses under EPA's current enforcement practices. EPA does not consider the pursuit of these types of PRPs to be consistent with the intent of CERCLA, nor a cost-effective use of government enforcement resources.

Based on information from EPA, CBO estimates that only a negligible amount of funds are recovered by EPA each year from generators of municipal solid waste who seek settlements with EPA under CERCLA. Under EPA's current policy, such PRPs seeking settlements with EPA can pay \$5.30 per ton of municipal solid waste disposed of at the site to the agency and be relieved of any future liability. Enacting this bill would eliminate the need for some PRPs to seek such a settlement. However, because there are so few of these settlements and

because EPA does not pursue the recovery of costs from PRPs who generate or transport very small amounts of waste disposed of at a site, CBO estimates that any reduction in the amount of funds recovered for the Treasury would be less than \$500,000 each year. Furthermore, to the extent EPA could recover the exempted PRP's share of the costs from any other remaining PRPs at a particular site, there would be no reduction in costs recovered.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting H.R. 1831 could affect direct spending, however, CBO estimates any additional costs would be negligible.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 1831 contains no intergovernmental mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments. The bill would amend current law concerning the liability under CERCLA of persons generating or transporting small amounts of waste. These changes in liability are not preemptions of state law. They could make it more difficult for any states that currently rely on CERCLA to recover costs and damages under their own cleanup programs from parties whose liability now would be eliminated by the bill. However, these changes could benefit state, local, and tribal governments if their liability would be eliminated. On balance, because EPA's current policy under CERCLA is not to pursue the small parties affected by this bill, such effects would not be significant.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no new private-sector mandates as defined in UMRA.

PREVIOUS CBO ESTIMATE

On May 17, 2001, CBO transmitted a cost estimate for H.R. 1831, the Small Business Liability Protection Act, as ordered reported by the House Committee on Energy and Commerce on May 17, 2001. The two versions of H.R. 1831 are identical, as are the cost estimates.

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