

SENATE No. 991

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to hazardous materials response..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (a) of section 5 of Chapter 21K as appearing in the 2006 Official
2 Edition, is hereby amended by adding after the word “release” in each instance it appears, the
3 following words:- “or threat of release”

4 SECTION 2. Subsection (f) of Section 5 of Chapter 21K as so appearing, is further
5 amended by striking said section in its entirety and inserting in its place, the following section:-

6 (f) Any person who owns or rents and occupies a family residence that is an
7 emergency response site at which the department has incurred emergency mitigation responses
8 costs for the release or threat of release or oil or hazardous materials, shall not be liable to the
9 department for those costs if he can establish by a preponderance of the evidence that: (1) he is
10 not a person described in clauses (3) or (4) of subsection (a); (2) the site was being used
11 exclusively by him as a family residence at the time of the release or threat of release; and (3) the
12 owner or renter of the family residence did not unlawfully possess, store or use such oil or
13 hazardous materials in violation of law; and (4) said owner or occupants conduct was not grossly
14 negligent in causing the release or threat of release of oil or hazardous materials and; (5) said

- 15 owner or occupant immediately notified the local fire department of the release or threat of
- 16 release of oil or hazardous materials as soon as he had knowledge of it.