

HR6 GIVES CHEMICAL PRODUCER FREE RIDE

The House version of the Energy Bill (HR 6) reverses a longstanding EPA principle of “polluter pays” in order to grant a special “safe harbor” to MTBE manufacturers whose product has contaminated more than 153,000 water supplies across the United States rendering them undrinkable.

MTBE IS A POSSIBLE CARCINOGEN

MTBE Is In The Water Supply Of 15 Million People. MTBE is in 1,515 public water systems in the United States, and impacts more than 15 million people. [[Portland Herald Press](#), 11/10/03]

- **A Few Drops Of MTBE Can Make An Olympic Size Swimming Pool Undrinkable.** Only a few drops of it can make an Olympic size swimming pool completely undrinkable. [[New Jersey State Law Journal](#), 10/20/03]
- **MTBE Gives Water A Foul Odor And Taste Making It Undrinkable.** At relatively low levels, MTBE can create a foul taste and odor in water - making it virtually undrinkable. But the Environmental Protection Agency has indicated that there is little likelihood of MTBE causing adverse health effects at concentrations less than 20 ppb. The average level in Massachusetts is 4.6 ppb. [[The Boston Globe](#), 10/19/03]

ENERGY BILL GIVES A FREE RIDE TO MTBE PRODUCERS

The Energy Bill Will Create A Liability Waiver For MTBE Producers Nullifying Lawsuits Filed After September 5, 2003. Title XV Section 1502 of the Energy Policy Act establishes a “safe harbor” for MTBE producers by removing all lawsuits by cities, states and other entities seeking compensation for groundwater contamination filed after September 5, 2003. [HR 6 Title XV Sec. 1502 p. 21.]

- **Waiver Estimated To Be A \$29-Billion Industry Giveaway.** The MTBE liability waiver included in the Energy Policy Act of 2003 is estimated to protect MTBE producers from an estimated \$29 billion that they would have to pay to cleanup contaminated sites across the United States according to the Environmental Working Group. [www.ewg.org, Accessed 12/15/03]

Safe Harbor Provision of Energy Bill Would Set Dangerous Product Liability Precedent. Section 1502 of H.R.6, the Energy Bill, ensures that no motor vehicle fuel containing MTBE can be considered defective. This section of the bill establishes a dangerous precedent whereby other manufacturers would seek similar protections for their products even if they are considered harmful to public health and safety. [[New Jersey State Law Journal](#), 10/20/03]

LIABILITY WAIVER ELIMINATES MTBE LAWSUITS

Energy Bill Will Virtually Eliminate All MTBE Suits. Since the energy bill conference report now makes the MTBE liability waiver retroactive to September 5, 2003 it would mean that practically all MTBE lawsuits currently pending in the court systems across the United States would be null and void. [[Associated Press](#), 11/15/03]

- **MTBE Waiver Impacts More Than 130 Communities With Pending Lawsuits.** There are currently 130 communities across the United States that would have to pass the costs of MTBE cleanup on to taxpayers if the waiver is passed as part of the Energy Policy Act. [<http://www.ewg.org/issues/MTBE/20031117/liabilitywaiver.php>, Accessed 12/12/03]
- **The Number Of MTBE Suits Continue To Rise.** The number of MTBE related lawsuits rose rapidly in while the energy bill was being negotiated in conference committee. In September, about 60 MTBE lawsuits were filed nationally. Experts estimate that the total would rise above 100 within a couple of months. [[Hartford Current](#), 10/17/03]