

THE AMERICAN WATERWAYS OPERATORS * CHAMBER OF SHIPPING OF AMERICA
INTERTANKO * INTERNATIONAL CHAMBER OF SHIPPING
INTERNATIONAL GROUP OF PROTECTION AND INDEMNITY CLUBS

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CONTACT: Anne Burns

or Nicole deSibour, (703) 841-9300

Summary Judgment Sought Against Massachusetts 2009 Oil Spill Law

WASHINGTON, D.C. – The American Waterways Operators (AWO), the International Association of Independent Tanker Owners (INTERTANKO), the Chamber of Shipping of America, the International Chamber of Shipping, and the International Group of Protection & Indemnity Clubs filed a Motion for Summary Judgment on Friday, January 28 in U.S. District Court for the District of Massachusetts against a 2009 Massachusetts oil spill law. The plaintiffs also requested that the judge issue a Permanent Injunction to enjoin its enforcement. The Motion charges that the spill law is unconstitutional and undermines marine safety and environmental protection.

The state law being challenged compels vessel operators to comply with state – not Federal – requirements for transit through Buzzards Bay. The plaintiffs assert that this violates the Supremacy clause of the U.S. Constitution, which holds that the Federal government’s authority overrules state and local authority regarding vessel operations.

Specifically, the Massachusetts law compels adherence to “voluntary” requirements of 24-hour notification of intent to transit Buzzards Bay, the acceptance of a state pilot on board for transit, and the presence of an escort tug to shadow vessels carrying 6,000 or more gallons of fuel through the levying of triple damages on non-compliant vessels in the event of a spill. However, regulation of vessel manning and operations is reserved to the Federal Government and its agent, the U.S. Coast Guard, as reaffirmed by the U.S. Supreme Court in *Ray v. Atlantic Richfield Co.*, 435 U.S. 218 (1978) and *Intertanko v. Locke*, 529 U.S. 89 (2000).

The triple fines imposed on operators in the event of an oil spill begin at \$750,000 per day. The magnitude of these fines has coerced vessel operators to submit to the unconstitutional Massachusetts standards since January 21, 2010, rather than risk the extreme penalties. Affidavits sworn by members of the plaintiffs’ operations assert that the plaintiffs incur additional costs and safety risks by altering their normal vessel operations to comply with Massachusetts rules that contradict the Federal rules put in place by the Coast Guard.

The maritime industry, which operates internationally and across state boundaries, argues that a patchwork of individual state regulations, rather than a consistent Federal regulatory regime, creates confusion and a lack of uniformity that threatens marine safety and environmental protection.

AWO President Thomas A. Allegretti said, “We are hopeful that the Court will rule to protect interstate commerce, the marine environment and the U.S. Constitution by finding the Massachusetts statute unlawful.”

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