

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

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Massachusetts Sued Over 2009 Oil Spill Law

Concerns over Unconstitutionality, Degradation of Marine Safety and Environmental Protection

WASHINGTON, D.C. – The American Waterways Operators (AWO), the International Association of Independent Tanker Owners, the Chamber of Shipping of America, the International Chamber of Shipping, and the International Group of Protection & Indemnity Clubs filed suit yesterday in U.S. District Court, District of Massachusetts, against a 2009 Massachusetts oil spill law, challenging the state statute as unconstitutional and detrimental to marine safety and environmental protection. Together, the plaintiffs represent over 35,000 tank vessels worldwide, along with their insurers, demonstrating the global objection to the 2009 Massachusetts law.

The state law being challenged compels vessel operators to “voluntarily” comply with state – not Federal – requirements for transit through Buzzards Bay, through threat of extremely punitive monetary penalties, a violation of the Federal supremacy clause of the U.S. Constitution. Just as important is the concern of the maritime industry, which operates internationally and across state boundaries, that a patchwork of individual state regulations, rather than a consistent federal regulatory regime, creates confusion and lack of uniformity that threatens marine safety and environmental protection.

The disputed Massachusetts law imposes 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. 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 (1947) and *Intertanko v. Locke*, 529 U.S. 89 (2000). The Massachusetts law also imposes triple damages in the event of an oil spill, beginning at \$750,000 per day, on any vessel operator that does not “voluntarily” comply with the regulations. This coercion has forced vessel operators to conform to the Commonwealth’s standards beginning January 21, 2010, rather than risk the ruinous impact of the penalties.

A similar unconstitutional 2004 Massachusetts law was struck down by the U.S. District Court, Massachusetts District, on March 31. To read more about that case, click on the following link: http://www.americanwaterways.com/press_room/news_releases/Massachusetts04.10.pdf.

AWO President Thomas A. Allegretti said, “We hope the Court will once again rule to protect the marine environment, those who labor in maritime commerce, and the U.S. Constitution.”

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