

AMENDED IN SENATE AUGUST 20, 2002

AMENDED IN SENATE AUGUST 8, 2002

AMENDED IN SENATE AUGUST 5, 2002

AMENDED IN SENATE JUNE 17, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

AMENDED IN ASSEMBLY APRIL 10, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2083

**Introduced by Assembly Member Jackson
(Principal coauthor: Assembly Member Koretz)
(Coauthors: Assembly Members Alquist, Cohn, and Simitian)**

February 19, 2002

An act to amend Section 8670.40 of the Government Code, and to add and repeal Division 7.9 (commencing with Section 8780) of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2083, as amended, Jackson. Public resources: oil spill prevention and response.

Existing law establishes oil spill prevention, inspection, response, containment, and cleanup programs.

This bill would require the State Lands Commission to develop a form that is to be completed by the responsible party, as defined, engaged in the internal shipment of oil. The form would be designed to enable the commission to obtain and track the amount and type of oil

transported, as well as the name of the vessel, the vessel’s route, and air emissions relating to the internal shipment of that oil.

The bill would require the commission, on or before April 1 of each year, for the calendar years 2004 to 2009, inclusive, to file a report with the Legislature summarizing certain information and transmit a copy of the report to any interested agency or member of the public, upon request.

The bill would require the commission to consult with the administrator for oil spill response, other state agencies, and agencies of the federal government, including the United States Coast Guard and the federal Department of Transportation, to the maximum extent feasible, before undertaking actions under these provisions.

~~The bill would authorize the commission to charge a fee to responsible parties who are engaged in the internal shipment of oil, in an amount sufficient to cover the expenses of developing the form, verifying and processing the information, and reporting on the trends, as required under these provisions. Funds received by the commission under this provision would be deposited in~~ *require the administrator to reimburse the commission for the costs of administering these provisions from the Oil Spill Prevention and Administration Fund, and would be available, upon appropriation, to cover the costs incurred by the commission in implementing these provisions.*

These provisions would be repealed on January 1, 2010.

The bill would incorporate additional changes to Section 8670.40 of the Government Code proposed by SB 849, to be operative only if SB 849 and this bill are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 8670.40 of the Government Code is*
- 2 *amended to read:*
- 3 8670.40. (a) The State Board of Equalization shall collect a
- 4 fee in an amount determined by the administrator to be sufficient
- 5 to carry out the purposes set forth in subdivision (e), and a
- 6 reasonable reserve for contingencies. The amount of the annual
- 7 assessment shall not exceed four cents (\$0.04) per barrel of crude
- 8 oil or petroleum products.



1 (b) (1) The oil spill prevention and administration fee shall be
2 imposed upon every person owning crude oil at the time that the
3 crude oil is received at a marine terminal from within or outside
4 the state, and upon every person owning petroleum products at the
5 time that those petroleum products are received at a marine
6 terminal from outside this state. The fee shall be collected by the
7 marine terminal operator from the owner of the crude oil or
8 petroleum products based on each barrel of crude oil or petroleum
9 products so received by means of a vessel operating in, through,
10 or across the marine waters of the state. In addition, every operator
11 of a pipeline shall pay the oil spill prevention and administration
12 fee for each barrel of crude oil originating from a production
13 facility in marine waters and transported in the state by means of
14 a pipeline operating across, under, or through the marine waters of
15 the state. The fees shall be remitted to the board by the terminal or
16 pipeline operator on the 25th day of the month based upon the
17 number of barrels of crude oil or petroleum products received at
18 a marine terminal or transported by pipeline during the preceding
19 month. No fee shall be imposed pursuant to this section with
20 respect to any crude oil or petroleum products if the person who
21 would be liable for that fee, or responsible for its collection,
22 establishes that the fee has been collected by a terminal operator
23 registered under this chapter or paid to the board with respect to
24 the crude oil or petroleum product.

25 (2) Every owner of crude oil or petroleum products is liable for
26 the fee until it has been paid to the board, except that payment to
27 a marine terminal operator registered under this chapter is
28 sufficient to relieve the owner from further liability for the fee.

29 (3) On or before January 15, the administrator shall annually
30 prepare a plan that projects revenues and expenses over three fiscal
31 years, including the current year. Based on the plan, the
32 administrator shall set the fee so that projected revenues, including
33 any interest, are equivalent to expenses as reflected in the current
34 Budget Act and in the proposed budget submitted by the Governor.
35 In setting the fee, the administrator may allow for a surplus if the
36 administrator finds that revenues will be exhausted during the
37 period covered by the plan or that the surplus is necessary to cover
38 possible contingencies.

39 (c) The moneys collected pursuant to subdivision (a) shall be
40 deposited into the fund.



1 (d) The board shall collect the fee and adopt regulations for
2 implementing the fee collection program.

3 (e) The fee described in this section shall be collected solely for
4 all of the following purposes:

5 (1) To implement oil spill prevention programs through rules,
6 regulations, leasing policies, guidelines, and inspections and to
7 implement research into prevention and control technology.

8 (2) To carry out studies which may lead to improved oil spill
9 prevention and response.

10 (3) To finance environmental and economic studies relating to
11 the effects of oil spills.

12 (4) To reimburse the member agencies of the State Interagency
13 Oil Spill Committee for costs arising from implementation of this
14 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter
15 7, and Division 7.8 (commencing with Section 8750) of the Public
16 Resources Code.

17 (5) To implement, install, and maintain emergency programs,
18 equipment, and facilities to respond to, contain, and clean up oil
19 spills and to ensure that those operations will be carried out as
20 intended.

21 (6) To respond to an imminent threat of a spill in accordance
22 with the provisions of Section 8670.62 pertaining to threatened
23 discharges. The cumulative amount of any expenditure for this
24 purpose shall not exceed the amount of one hundred thousand
25 dollars (\$100,000) in any fiscal year unless the administrator
26 receives the approval of the Director of Finance and notification
27 is given to the Joint Legislative Budget Committee. Commencing
28 with the 1993–94 fiscal year, and each fiscal year thereafter, it is
29 the intent of the Legislature that the annual Budget Act contain an
30 appropriation of one hundred thousand dollars (\$100,000) from
31 the fund for the purpose of allowing the administrator to respond
32 to threatened oil spills.

33 (7) To reimburse the board for costs incurred to implement this
34 chapter and to carry out the provisions of Part 24 (commencing
35 with Section 46001) of Division 2 of the Revenue and Taxation
36 Code.

37 (8) *To reimburse the costs incurred by the State Lands*
38 *Commission in implementing the Oil Transfer and Transportation*
39 *Emission and Risk Reduction Act of 2002 (Division 9*
40 *(commencing with Section 8780) of the Public Resources Code).*



1 (f) The moneys deposited in the fund shall not be used for
2 responding to an oil spill.

3 *SEC. 1.5. Section 8670.40 of the Government Code is*
4 *amended to read:*

5 8670.40. (a) The State Board of Equalization shall collect a
6 fee in an amount determined by the administrator to be sufficient
7 to carry out the purposes set forth in subdivision (e), and a
8 reasonable reserve for contingencies. The ~~amount of the annual~~
9 ~~assessment shall~~ may not exceed ~~four~~ five cents ~~(\$0.04)~~ (\$0.05) per
10 barrel of crude oil or petroleum products.

11 (b) (1) The oil spill prevention and administration fee shall be
12 imposed upon every person owning crude oil at the time that the
13 crude oil is received at a marine terminal from within or outside
14 the state, and upon every person owning petroleum products at the
15 time that those petroleum products are received at a marine
16 terminal from outside this state. The fee shall be collected by the
17 marine terminal operator from the owner of the crude oil or
18 petroleum products based on each barrel of crude oil or petroleum
19 products so received by means of a vessel operating in, through,
20 or across the marine waters of the state. In addition, every operator
21 of a pipeline shall pay the oil spill prevention and administration
22 fee for each barrel of crude oil originating from a production
23 facility in marine waters and transported in the state by means of
24 a pipeline operating across, under, or through the marine waters of
25 the state. The fees shall be remitted to the board by the terminal or
26 pipeline operator on the 25th day of the month based upon the
27 number of barrels of crude oil or petroleum products received at
28 a marine terminal or transported by pipeline during the preceding
29 month. No fee shall be imposed pursuant to this section with
30 respect to any crude oil or petroleum products if the person who
31 would be liable for that fee, or responsible for its collection,
32 establishes that the fee has been collected by a terminal operator
33 registered under this chapter or paid to the board with respect to
34 the crude oil or petroleum product.

35 (2) Every owner of crude oil or petroleum products is liable for
36 the fee until it has been paid to the board, except that payment to
37 a marine terminal operator registered under this chapter is
38 sufficient to relieve the owner from further liability for the fee.

39 (3) On or before January ~~15~~ 20, the administrator shall annually
40 prepare a plan that projects revenues and expenses over three fiscal



1 years, including the current year. Based on the plan, the
2 administrator shall set the fee so that projected revenues, including
3 any interest, are equivalent to expenses as reflected in the current
4 Budget Act and in the proposed budget submitted by the Governor.
5 In setting the fee, the administrator may allow for a surplus if the
6 administrator finds that revenues will be exhausted during the
7 period covered by the plan or that the surplus is necessary to cover
8 possible contingencies.

9 (c) The moneys collected pursuant to subdivision (a) shall be
10 deposited into the fund.

11 (d) The board shall collect the fee and adopt regulations for
12 implementing the fee collection program.

13 (e) The fee described in this section shall be collected solely for
14 all of the following purposes:

15 (1) To implement oil spill prevention programs through rules,
16 regulations, leasing policies, guidelines, and inspections and to
17 implement research into prevention and control technology.

18 (2) To carry out studies ~~which~~ *that* may lead to improved oil
19 spill prevention and response.

20 (3) To finance environmental and economic studies relating to
21 the effects of oil spills.

22 (4) To reimburse the member agencies of the State Interagency
23 Oil Spill Committee for costs arising from implementation of this
24 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter
25 7, and Division 7.8 (commencing with Section 8750) of the Public
26 Resources Code.

27 (5) To implement, install, and maintain emergency programs,
28 equipment, and facilities to respond to, contain, and clean up oil
29 spills and to ensure that those operations will be carried out as
30 intended.

31 (6) To respond to an imminent threat of a spill in accordance
32 with the provisions of Section 8670.62 pertaining to threatened
33 discharges. The cumulative amount of any expenditure for this
34 purpose shall not exceed the amount of one hundred thousand
35 dollars (\$100,000) in any fiscal year unless the administrator
36 receives the approval of the Director of Finance and notification
37 is given to the Joint Legislative Budget Committee. Commencing
38 with the 1993–94 fiscal year, and each fiscal year thereafter, it is
39 the intent of the Legislature that the annual Budget Act contain an
40 appropriation of one hundred thousand dollars (\$100,000) from



1 the fund for the purpose of allowing the administrator to respond
2 to threatened oil spills.

3 (7) To reimburse the board for costs incurred to implement this
4 chapter and to carry out ~~the provisions of~~ Part 24 (commencing
5 with Section 46001) of Division 2 of the Revenue and Taxation
6 Code.

7 (8) *To reimburse the costs incurred by the State Lands
8 Commission in implementing the Oil Transfer and Transportation
9 Emission and Risk Reduction Act of 2002 (Division 9
10 (commencing with Section 8780) of the Public Resources Code).*

11 (f) The moneys deposited in the fund shall not be used for
12 responding to an oil spill.

13 SEC. 2. Division 7.9 (commencing with Section 8780) is
14 added to the Public Resources Code, to read:

15

16 DIVISION 7.9. OIL TRANSFER AND TRANSPORTATION
17 EMISSION AND RISK REDUCTION ACT OF 2002

18

19 8780. This division shall be known and may be cited as the Oil
20 Transfer and Transportation Emission and Risk Reduction Act of
21 2002.

22 8781. The Legislature finds and declares all of the following:

23 (a) Thirty years ago the people of California passed the
24 California Coastal Zone and Conservation Act of 1972 after a
25 disastrous oil spill that affected hundreds of miles of coast and
26 severely affected the coastal economy.

27 (b) A clean and healthy coastal environment is critical to
28 maintaining a vibrant coastal economy, including opportunities
29 for sustainable fisheries, flourishing tourism, and healthy
30 recreation.

31 (c) The coastal communities contribute billions of dollars and
32 hundreds of thousands of jobs to the state economy.

33 ~~(d) Offshore oil production along the California coast could
34 increase dramatically in the near future, which could result in
35 increased internal shipment of oil along California's coast.~~

36 ~~(e)~~

37 (d) Much of the oil extracted off California's coast is highly
38 viscous, the refining of which results in heavy byproducts such as
39 fuel oil and coke, which tend to be shipped to overseas markets.



1 The storage and shipment of such byproducts will also have air
2 quality impacts.

3 ~~(f)~~

4 (e) There is significant internal shipment of oil by vessel
5 between the San Francisco Bay area and the Los Angeles area.

6 ~~(g)~~

7 (f) Although vessels transporting oil are eventually required to
8 be double hulled, this will not be completed until January 1, 2015.

9 ~~(h)~~

10 (g) The thousands of sea birds that have been injured or killed
11 in 2001 and 2002 by oil leaking from a freighter that sank off
12 California's coast in 1953 are a strong reminder of the serious
13 consequences of vessel mishaps.

14 ~~(i)~~

15 (h) One of the results of vessel traffic along the central coast
16 and into the ports of the Los Angeles and San Francisco areas is
17 tons of oxides of nitrogen emitted into the air each day, which
18 could negate efforts made on land to meet federal ozone standards
19 and other public health air quality goals.

20 ~~(j)~~

21 (i) Current, accessible and accurate data regarding oil
22 transportation is critical to having adequate information of the
23 potential environmental quality, public health, and environmental
24 justice consequences that must be analyzed by state and local
25 agencies for environmental impact reports and statements,
26 emergency response planning, permit issuance, and air quality
27 mitigation efforts.

28 ~~(k)~~

29 (j) Tracking trends in internal shipment of oil is necessary to
30 promote public safety, health, and welfare, and to protect public
31 and private property, wildlife, marine fisheries, and other ocean
32 resources, and the natural environment in order to protect and to
33 preserve the ecological balance of California's coastal zone,
34 coastal waters, and coastal economy.

35 8782. Unless the context requires otherwise, the following
36 definitions govern the construction of this division:

37 (a) "Administrator" means the administrator for oil spill
38 response appointed by the Governor under Section 8670.4 of the
39 Government Code.



1 (b) "Barge" means any vessel that carries oil in commercial
2 quantities as cargo but is not equipped with a means of
3 self-propulsion.

4 (c) "Commission" means the State Lands Commission.

5 (d) "Internal shipment of oil" means the loading, transporting
6 by vessel, and offloading of oil that originates and terminates at the
7 San Francisco Bay area and the Los Angeles and Long Beach area,
8 or points in between. Internal shipment of oil does not include
9 lightering, as defined in paragraph (4) of subdivision (l) of Section
10 790 of Title 14 of the California Code of Regulations.

11 ~~(e) "Marine terminal" means any marine facility used for~~
12 ~~transferring~~

13 (e) "Marine facility" means any facility of any kind, other than
14 a vessel, that is or was used for the purpose of exploring for,
15 drilling for, producing, storing, handling, transferring,
16 processing, refining, or transporting oil and is located in marine
17 waters, or is located where a discharge could impact marine
18 waters, unless the facility (1) is subject to Chapter 6.67
19 (commencing with Section 25270) or Chapter 6.75 (commencing
20 with Section 25299.10) of Division 20 of the Health and Safety
21 Code or (2) is placed on a farm, nursery, logging site, or
22 construction site and does not exceed 20,000 gallons in a single
23 storage tank. A drill ship, semisubmersible drilling platform,
24 jack-up type drilling rig, or any other floating or temporary
25 drilling platform is a "marine facility." A small craft refueling
26 dock is not a "marine facility."

27 (f) "Marine terminal" means any facility used for transferring
28 oil to or from tankers or barges. A marine terminal includes all
29 piping not integrally connected to a tank facility as defined in
30 subdivision (k) of Section 25270.2 of the Health and Safety Code.

31 ~~(f)~~

32 (g) "Oil" means any kind of petroleum, liquid hydrocarbons,
33 or petroleum products or any fraction or residues therefrom,
34 including, but not limited to, crude oil, bunker fuel, gasoline,
35 diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with
36 waste, and liquid distillates from unprocessed natural gas.

37 ~~(g)~~

38 (h) "Operator," when used in connection with a vessel means
39 any person or entity that owns, has an ownership interest in,



1 charters, leases, rents, operates, participates in the operation of, or
 2 uses, that vessel.

3 ~~(h)~~

4 (i) “Person” means an individual, trust, firm, joint stock
 5 company, or corporation, including, but not limited to, a
 6 government corporation, partnership, or association. “Person”
 7 also includes any city, county, city and county, district,
 8 commission, the state or any department, agency, or political
 9 subdivision thereof, and the federal government or any department
 10 or agency thereof to the extent permitted by law.

11 ~~(i)~~

12 (j) “Responsible party” or “party responsible” means the
 13 “Responsible party” or “Party responsible” means the owner of
 14 the oil or a person or entity who accepts responsibility for the oil
 15 for purposes of this division.

16 ~~(j)~~

17 (k) “Tanker” means any self-propelled, waterborne vessel,
 18 constructed or adapted for the carriage of oil in bulk or in
 19 commercial quantities as cargo.

20 ~~(k)~~

21 (l) “Vessel” means a tanker or barge as defined in this section.

22 8783. (a) The commission shall develop a form that is to be
 23 completed by the responsible party engaged in the internal
 24 shipment of oil. The form shall be known as the “Oil Transfer and
 25 Transportation Emission and Risk Reduction Form.” The form
 26 shall be designed to enable the commission to obtain and track the
 27 amount and type of oil transported, as well as the name of the
 28 vessel, the vessel’s route, and air emissions relating to the internal
 29 shipment of that oil .

30 (b) The form shall contain, but need not be limited to, all of the
 31 following information:

32 (1) The name, address, point of contact, and telephone number
 33 of the responsible party.

34 (2) The name of the vessel transporting the oil.

35 (3) The type and amount of oil being transported.

36 ~~(4) The source of crude oil, if the shipment of the crude oil
 37 originates or terminates in the San Francisco Bay area and is
 38 loaded, transported, and unloaded in the Los Angeles and Long
 39 Beach area.~~

40 (4) *The source of crude oil.*



1 (5) The name and location of any terminal that loaded the
2 vessel.

3 (6) The name and location of any terminal that discharged the
4 tanker or barge.

5 (7) The dates of travel and the route.

6 (8) The type of engine and fuel used to power the tanker or
7 barge-towing vessel.

8 (9) The estimated amount and type of air emissions. To the
9 extent practicable, the emissions factors developed by the United
10 States Environmental Protection Agency shall be used to estimate
11 the amount of air emissions. *The form shall be designed to ensure
12 that charter vessel air emissions are not counted more than once.*

13 (10) An indication of whether the reason for the internal
14 shipping of oil was due to a temporary shutdown or partial
15 shutdown of a key refinery facility.

16 (11) On and after January 1, 2004, if Division 36 (commencing
17 with Section 71200) is repealed pursuant to Section 71271, the
18 amount of any ballast discharge and the location of the discharge.

19 (c) The form shall be filed with the commission on a quarterly
20 basis by the responsible party engaged in the internal shipment of
21 oil for the activities of the preceding quarter.

22 (d) In developing the form and the reporting process, the
23 commission shall consult with the interested parties including
24 operators, responsible parties, and the International Maritime
25 Organization.

26 8784. (a) On or before April 1 of each year, for the calendar
27 years 2004 to 2009, inclusive, the commission shall file a report
28 with the Legislature summarizing the information and including
29 all of the following:

30 (1) A description of any trends in the total number of trips by
31 oil type, amount of shipment, and source of oil.

32 (2) The number of transfers due to refinery shutdowns.

33 (3) The location of air emissions and ballast discharge, and the
34 type of vessel used during those events.

35 (4) A discussion of any other pertinent issues that the
36 commission determines should be included.

37 (b) The commission shall transmit a copy of the report to any
38 interested agency or member of the public, upon request.

39 8785. The commission shall consult with the administrator,
40 other state agencies, and agencies of the federal government,



1 including, but not limited to, the United States Coast Guard and the
2 federal Department of Transportation, to the maximum extent
3 feasible, before undertaking actions under this division.

4 ~~8786. (a) The commission may charge a fee to responsible~~
5 ~~parties who are engaged in the internal shipment of oil, in an~~
6 ~~amount sufficient to cover the expenses of developing the forms,~~
7 ~~verifying and processing the information, and reporting on the~~
8 ~~trends, as required under this division. The commission shall~~
9 ~~charge the fee in a fair and equitable manner and may not place a~~
10 ~~disproportionate financial burden on any responsible party. The~~
11 ~~commission shall establish the fee in an amount calculated to~~
12 ~~render a total aggregate amount of not more than seventy-five~~
13 ~~thousand dollars (\$75,000) per year.~~

14 ~~(b) Funds received by the commission under this section shall~~
15 ~~be deposited in the Oil Spill Prevention and Administration Fund~~
16 ~~established in the State Treasury under Section 8670.38 of the~~
17 ~~Government Code, and shall be available, upon appropriation, to~~
18 ~~cover the costs incurred by the commission in implementing this~~
19 ~~division.~~

20 *8786. The administrator shall reimburse the commission for*
21 *the costs of administering this division from the Oil Spill*
22 *Prevention and Administration Fund, pursuant to paragraph (8)*
23 *of subdivision (e) of Section 8670.40 of the Government Code.*

24 8787. This division applies to all terminals, pipelines,
25 ~~facilities~~, vessels, and activities in the state, whether on lands that
26 have been granted by the Legislature to local governments or on
27 lands that remain ungranted.

28 8788. Any information collected under this division for the
29 purpose of explaining why oil was transferred shall be kept
30 confidential and reported only in the aggregate by the commission,
31 in a manner that protects the competitive nature of the information.

32 8789. This division shall remain in effect only until January
33 1, 2010, and as of that date is repealed, unless a later enacted
34 statute, which is enacted before January 1, 2010, deletes or extends
35 that date.

36 *SEC. 3. Section 1.5 of this bill incorporates amendments to*
37 *Section 8670.40 of the Government Code proposed by both this bill*
38 *and SB 849. It shall only become operative if (1) both bills are*
39 *enacted and become effective on or before January 1, 2003, (2)*
40 *each bill amends Section 8670.40 of the Government Code, and (3)*



- 1 *this bill is enacted after SB 849, in which case Section 1 of this bill*
- 2 *shall not become operative.*

O

