

**ASSEMBLY BILL**

**No. 121**

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**Introduced by Assembly Member Simitian**

January 15, 2003

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An act to add Division 38 (commencing with Section 72400) to the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 121, as introduced, Simitian. Large passenger vessels: water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

Existing law, which by its own terms will be repealed on July 1, 2003, requires an owner or operator of a large passenger vessel operated in the marine waters of the state to submit a report to the State Water Resources Control Board of any release of graywater or sewage that occurred during a specified time in the marine waters of the state.

Federal law prohibits a state from prohibiting vessels from discharging sewage or graywater, unless the state applies to, and receives approval from, the United States Environmental Protection Agency.

This bill would require an owner or operator of a large passenger vessel, as defined, not later than 10 days from the close of a calendar quarter in which the vessel has operated in the marine waters of the state, to submit to the board a report itemizing the offloading or release of waste material from that vessel that occurred during the previous

calendar quarter while the vessel was located in the marine waters of the state. The bill would require the owner or operator of a large passenger vessel, for the time during any calendar quarter in which that vessel is operated in the marine waters of the state, to record, or cause to be recorded, information required for the preparation of the report. The bill would exempt from these requirements vessels that operate in the marine waters of the state solely in innocent passage. The bill would define various terms.

The bill would direct the board to apply to the Administrator of the United States Environmental Protection Agency to authorize the state to prohibit the discharge of both sewage and graywater by large passenger vessels operating in the marine waters of the state. The bill would prohibit those discharges if the administrator approves the applications. The bill would authorize the board to board and inspect a vessel in the marine waters of the state for the purposes of carrying out the bill’s provisions. The bill would authorize the board to adopt regulations to carry out the bill’s provisions.

The bill would provide that its provisions are severable.

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. Division 38 (commencing with Section 72400)  
2 is added to the Public Resources Code, to read:

3  
4 DIVISION 38. LARGE PASSENGER VESSELS

5  
6 72400. (a) Unless the context otherwise requires, the  
7 definitions set forth in this section govern the construction of this  
8 division.

9 (b) “Board” means the State Water Resources Control Board.

10 (c) “Calendar quarter” or “quarter” means the three month  
11 periods ending March 30, June 30, September 30, and December  
12 31.

13 (d) “Graywater” means galley, bath, and shower waters.

14 (e) “Hazardous waste” means “hazardous waste,” as defined  
15 in Section 25117 of the Health and Safety Code.



1 (f) “Large passenger vessel” or “vessel” means a vessel of 300  
2 gross registered tons or greater that is engaged in the carrying of  
3 passengers for hire, excluding all of the following vessels:

4 (1) Vessels without berths or overnight accommodations for  
5 passengers.

6 (2) Noncommercial vessels, warships, vessels operated by  
7 nonprofit entities as determined by the Internal Revenue Service,  
8 and vessels operated by the state, the United States, or a foreign  
9 government.

10 (g) “Marine waters of the state” means “coastal waters” as  
11 defined in Section 13181 of the Water Code.

12 (h) “Medical waste” means medical waste subject to  
13 regulation pursuant to Part 14 (commencing with Section 117600)  
14 of Division 104 of the Health and Safety Code.

15 (i) “Offloading” means the removal of waste material onto or  
16 into a controlled storage, processing, or disposal facility or  
17 treatment works.

18 (j) “Oil” has the meaning set forth in Section 8750.

19 (k) “Operator” has the meaning set forth in Section 651 of the  
20 Harbors and Navigation Code.

21 (l) “Owner” has the meaning set forth in Section 651 of the  
22 Harbors and Navigation Code.

23 (m) “Release” means spilling, leaking, pumping, pouring,  
24 emitting, emptying, discharging, injecting, escaping, leaching,  
25 dumping, placing, or disposing of waste material into the  
26 environment, including the abandonment or discarding of bags,  
27 containers, and other receptacles containing waste material, and  
28 without regard to whether the waste material left the vessel  
29 through a discrete conveyance or nonpoint source.

30 (n) “Sewage” has the meaning set forth in Section 775.5 of the  
31 Harbors and Navigation Code, and also includes material that has  
32 been collected or treated through a marine sanitation device as that  
33 term is used in Section 312 of the Clean Water Act (33 U.S.C. Sec.  
34 1322).

35 (o) “Solid waste” has the meaning set forth in Section 40191.

36 (p) “Waste material” means biological materials, chemical  
37 wastes, graywater, hazardous substances, hazardous waste,  
38 industrial waste, incinerator residue, medical waste, munitions,  
39 oil, radioactive materials, sewage, sewage sludge, solid wastes,  
40 toxic wastes, and wrecked or discarded equipment, but does not



1 include ballast water, consumer products in consumer use, or, with  
2 respect to offloading, products that remain capable of being put to  
3 the beneficial use for which they were intended.

4 72401. (a) An owner or operator of a large passenger vessel  
5 shall record, or cause to be recorded, information required for the  
6 preparation of the report pursuant to Section 72403, for the time  
7 during any calendar quarter in which that vessel is operated in the  
8 marine waters of the state.

9 (b) The board may adopt regulations directing owners or  
10 operators of large passenger vessels to quantify and qualify the  
11 releases of waterborne waste material from their vessels into the  
12 marine waters of the state.

13 72402. An owner or operator subject to Section 72401 shall  
14 maintain the information collected pursuant to that section for  
15 three years from the date on which the information was collected.

16 72403. (a) (1) Not later than 10 days from the close of a  
17 calendar quarter in which the owner or operator of a large  
18 passenger vessel has operated, or caused to be operated, the vessel  
19 in the marine waters of the state, the owner or operator shall submit  
20 to the board a report itemizing, among other matters, the  
21 offloading or release of waste material from that vessel that  
22 occurred during the previous calendar quarter while the vessel was  
23 located in the marine waters of the state.

24 (2) The owner or operator shall include in the report the  
25 information required by this section. In the preparation of the  
26 report the owner or operator may refer to and include copies of  
27 other state or federal reports that require identical information.

28 (3) The board shall implement the reporting requirements in  
29 this section in a manner that is designed to coordinate those  
30 requirements with other reporting requirements that may be  
31 applicable to the same vessel.

32 (b) For each release of a waste material the report shall include  
33 a description of all of the following:

34 (1) Location of the release, including latitude and longitude.

35 (2) Date and time of the release.

36 (3) Volume or weight, type, and source of the waste material  
37 released.

38 (4) Processing or treatment used on the waste material prior to  
39 release.



1 (5) The circumstances surrounding and cause of the release,  
2 including a statement as to whether the release was intentional or  
3 accidental.

4 (6) Environmental damage caused by the release, to the extent  
5 that the damage can be reasonably identified.

6 (7) Remedial efforts taken to prevent accidental releases.

7 (c) For sewage, if released into the marine waters of the state,  
8 the report shall describe the results of regular samples of the  
9 sewage collected immediately prior to discharge from the onboard  
10 sewage treatment works, which should test for fecal coliform,  
11 biological oxygen demand (BOD), and total suspended solids  
12 (TSS).

13 (d) For graywater and other wastewater, other than sewage,  
14 released into the marine waters of the state, the report shall  
15 describe the results of regular samples of the graywater collected  
16 immediately prior to discharge, which should test for pH, oil and  
17 grease, total dissolved and suspended solids, ammonia nitrogen,  
18 phosphate, and metals.

19 (e) For waste material that was offloaded onto or into the state,  
20 except as provided in subdivision (f), the report shall include a  
21 description of all of the following:

22 (1) Location of offloading.

23 (2) Date of offloading.

24 (3) Volume or weight, type, and source of the offloaded  
25 material.

26 (4) Ultimate destination of the offloaded material.

27 (5) Treatment or processing received by the material prior to,  
28 or during, offloading.

29 (f) For hazardous waste subject to Subchapter III (commencing  
30 with Section 6921) of Chapter 82 of Title 42 of the United States  
31 Code, the report may include a copy of the manifest prepared in  
32 accordance with that chapter instead of the information required  
33 by subdivision (e). If hazardous waste was offloaded without a  
34 manifest, the report shall include the information required by  
35 subdivision (e) and an explanation as to why the hazardous waste  
36 was offloaded without a manifest.

37 (g) For graywater, sewage, and other wastewater that was  
38 offloaded onto or into the state, the report shall state whether those  
39 waters were mixed with one another or with any waste material  
40 prior to, or during, offloading.



1 (h) To the extent permitted by federal law, the board, by  
2 regulation, may require an owner or operator to submit  
3 supplemental or additional information concerning the releases or  
4 offloading of waste material and the types and quantities of fuels  
5 and other materials combusted by large passenger vessels while  
6 they are in the marine waters of the state.

7 (i) If requested by the board, the report shall also be submitted  
8 in electronic format.

9 (j) Nothing in this section relieves an owner or operator from  
10 other reporting requirements imposed pursuant to other state or  
11 federal law.

12 72404. (a) The Legislature finds and declares that the  
13 protection and enhancement of the quality of marine waters of the  
14 state requires that the discharge of untreated and treated sewage  
15 from large passenger vessels into the marine waters of the state  
16 should be prohibited.

17 (b) The board shall apply to the Administrator of the United  
18 States Environmental Protection Agency, pursuant to subsection  
19 (f) of Section 1322 of Title 33 of the United States Code and  
20 Section 140.4 of Title 40 of the Code of Federal Regulations, to  
21 authorize the state to prohibit the discharge of untreated and  
22 treated sewage from large passenger vessels into the marine waters  
23 of the state.

24 (c) The board shall conduct any research necessary to make this  
25 application.

26 72405. If the Administrator of the United States  
27 Environmental Protection Agency approves an application made  
28 pursuant to subdivision (b) of Section 72404, an owner or operator  
29 of a large passenger vessel may not discharge, or permit anyone to  
30 discharge, any sewage, untreated or treated, from the vessel into  
31 the marine waters of the state.

32 72406. (a) The Legislature finds and declares that the  
33 protection and enhancement of the quality of the marine waters of  
34 the state requires that the discharge of graywater from large  
35 passenger vessels into the marine waters of the state should be  
36 prohibited.

37 (b) The board shall apply to the Administrator of the United  
38 States Environmental Protection Agency, pursuant to paragraph  
39 (7) of subsection (n) of Section 1322 of Title 33 of the United  
40 States Code and Section 1700.9 of Title 40 of the Code of Federal



1 Regulations, to authorize the state to prohibit the discharge of  
2 graywater into the marine waters of the state.

3 (c) The board shall conduct any research necessary to make this  
4 application.

5 72407. If the Administrator of the United States  
6 Environmental Protection Agency approves an application made  
7 pursuant to subdivision (b) of Section 72406, an owner or operator  
8 of a large passenger vessel may not discharge, or permit anyone to  
9 discharge, any graywater from the vessel into the marine waters of  
10 the state.

11 72408. The board may board and inspect a vessel in the  
12 marine waters of the state for the purposes of carrying out this  
13 division.

14 72409. (a) This division does not apply to a large passenger  
15 vessel that operates in the marine waters of the state solely in  
16 innocent passage.

17 (b) For the purposes of this section, a vessel is engaged in  
18 innocent passage if its operation in state waters would constitute  
19 innocent passage under either the Convention on the Territorial  
20 Sea and Contiguous Zone, dated April 29, 1958, or the United  
21 Nations Convention on the Law of the Sea, dated December 10,  
22 1982.

23 72410. The board may adopt regulations to carry out this  
24 division.

25 SEC. 2. The provisions of this division are severable. If any  
26 provision of this division or its application is held invalid, that  
27 invalidity shall not affect other provisions or applications that can  
28 be given effect without the invalid provision or application.

