

Assembly Bill No. 1408

Passed the Assembly August 25, 2004

Chief Clerk of the Assembly

Passed the Senate August 17, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 8670.25.5 and 51018 of the Government Code, relating to oil and hazardous liquids.

LEGISLATIVE COUNSEL'S DIGEST

AB 1408, Wolk. Oil discharges: hazardous liquid pipelines: conditions.

(1) Existing law requires a party responsible for the discharge or threatened discharge of oil in marine waters to report the discharge to the Office of Emergency Services, as specified. Failure to comply with this reporting requirement is punishable as a misdemeanor for a 1st offense, and as a misdemeanor or a felony for a 2nd or subsequent offense.

This bill would require the party to report the discharge immediately. The bill thereby would establish a state-mandated local program by changing the definition of an existing crime.

(2) Existing law requires the State Fire Marshal to exercise exclusive safety regulatory and enforcement authority over intrastate hazardous liquid pipelines and, among other things, requires the State Fire Marshal to issue a report, every 5th year, identifying pipeline leak incident rate trends, reviewing current regulatory effectiveness with regard to pipeline safety, and recommending any necessary changes to the Legislature.

This bill would additionally require the report to include an assessment of the condition of each pipeline.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 8670.25.5 of the Government Code is amended to read:

8670.25.5. (a) Without regard to intent or negligence, any party responsible for the discharge or threatened discharge of oil



in marine waters shall report the discharge immediately to the Office of Emergency Services pursuant to Section 25507 of the Health and Safety Code.

(b) Immediately upon receiving notification pursuant to subdivision (a), the Office of Emergency Services shall notify the administrator, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil, and take the actions required by subdivision (d) of Section 8589.7. If the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the Office of Emergency Services shall notify that commission. Each public agency specified in this subdivision shall adopt an internal protocol over communications regarding the discharge of oil and file the internal protocol with the Office of Emergency Services.

(c) The 24-hour emergency telephone number of the Office of Emergency Services shall be posted at every terminal, at the area of control of every marine facility, and on the bridge of every tank ship in marine waters.

(d) This section does not apply to discharges, or potential discharges, of less than one barrel (42 gallons) of oil unless a more restrictive reporting standard is adopted in the California oil spill contingency plan prepared pursuant to Section 8574.1.

(e) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

SEC. 2. Section 51018 of the Government Code is amended to read:

51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported by the pipeline operator to the fire department having fire suppression responsibilities and to the Office of Emergency Services. In addition, the pipeline operator shall, within 30 days of the rupture, explosion, or fire, file a report with the State Fire Marshal containing all the information that the State Fire Marshal may reasonably require to prepare the report required pursuant to subdivision (d).



(b) (1) The Office of Emergency Services shall immediately notify the State Fire Marshal of the incident, who shall immediately dispatch his or her employees to the scene. The State Fire Marshal or his or her employees, upon arrival, shall provide technical expertise and advise the operator and all public agencies on activities needed to mitigate the hazard.

(2) For purposes of this subdivision, the Legislature does not intend to hinder or disrupt the workings of the “incident commander system,” but does intend to establish a recognized element of expertise and direction for the incident command to consult and acknowledge as an authority on the subject of pipeline incident mitigation. Furthermore, it is expected that the State Fire Marshal will recognize the expertise of the pipeline operator and any other emergency agency personnel who may be familiar with the particular location of the incident and respect their knowledgeable input regarding the mitigation of the incident.

(c) For purposes of this section, “rupture” includes every unintentional liquid leak, including any leak that occurs during hydrostatic testing, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil or petroleum product leak in any in-plant piping system of less than five barrels, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(d) The State Fire Marshal shall, every fifth year commencing in 1999, issue a report identifying pipeline leak incident rate trends, reviewing current regulatory effectiveness with regard to pipeline safety, and recommending any necessary changes to the Legislature. This report shall include an assessment of the condition of each pipeline and shall include all of the following: total length of regulated pipelines, total length of regulated piggable pipeline, total number of line sections, average length of each section, number of leaks during study period, average spill size, average damage per incident, average age of leak pipe, average diameter of leak pipe, injuries during study period, cause of the leak or spill, fatalities during study period, and other information as deemed appropriate by the State Fire Marshal.

(e) This section does not preempt any other applicable federal or state reporting requirement.



(f) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

(g) This section does not apply to pipeline ruptures involving nonreportable crude oil spills under Section 3233 of the Public Resources Code, unless the spill involves a fire or explosion.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

