

**Senate Bill No. 1480**

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Passed the Senate August 26, 2004

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*Secretary of the Senate*

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Passed the Assembly August 24, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 8670.17.2 of the Government Code, relating to harbors and navigation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1480, Sher. Harbors and navigation: tugboat escorts.

The existing Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires the administrator for oil spill response to adopt regulations governing tugboat escorts for tank ships and tank barges entering, leaving, or navigating in the harbors of the state, to ensure the best achievable protection of the public health and safety and the environment. A knowing violation of a regulation adopted under the act is a crime. The act requires the administrator to establish harbor safety committees for specified harbors of the state.

This bill would authorize the administrator, in consultation with those harbor safety committees, to adopt regulations governing tugboat escorts for other vessels, as defined, that are entering, leaving, or navigating in the harbors of the state, and carrying hazardous material, as defined, in a sufficient quantity that a release of the hazardous material into the waters of the state or the atmosphere, as specified, would pose a risk to public health and safety or to the environment. The bill would authorize the administrator to exempt a vessel with a double hull, as defined, if the vessel meets other specified requirements, and to exempt a vessel already subject to specified tugboat escort requirements. This bill would require the administrator to charge the owner or operator of a vessel subject to the regulations a reasonable fee in an amount that does not exceed the administrator's costs for implementing the regulations. Because a knowing violation of the regulations would be a crime, the bill would impose a state-mandated local program.

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 8670.17.2 of the Government Code is amended to read:

8670.17.2. (a) The administrator shall adopt regulations governing tugboat escorts for tank ships and tank barges entering, leaving, or navigating in the harbors of the state. The regulations shall be adopted, and thereafter periodically revised, to ensure the best achievable protection of the public health and safety and the environment.

(b) (1) The administrator, in consultation with the harbor safety committees established pursuant to Section 8670.23, may adopt regulations governing tugboat escorts for other vessels that are entering, leaving, or navigating in the harbors of the state, and are carrying hazardous material in a sufficient quantity that a release of the hazardous material into the waters of the state or the atmosphere, as a result of a vessel collision, a vessel running aground, or a terrorist or other criminal act, would pose a risk to public health and safety, or to the environment.

(2) The administrator may exempt both of the following from the regulations adopted pursuant to paragraph (1):

(A) A vessel with a double hull, that has fully redundant steering and propulsion systems and an integrated navigation system.

(B) A vessel already subject to tugboat escort requirements pursuant to existing United States Coast Guard regulations and requirements.

(3) The administrator shall charge the owner or operator of a vessel that is subject to the regulations adopted under paragraph (1) a reasonable fee in an amount that does not exceed the administrator's costs for implementing the regulations.

(4) Funds deposited in the Oil Spill Prevention and Administration Fund from the fee imposed pursuant to Section 8670.40 shall not be used to support or implement this subdivision.

(5) As used in this subdivision, the following terms have the following meanings:

(A) "Double hull" has the meaning set forth in Section 157.03 of Title 33 of the Code of Federal Regulations.

(B) "Hazardous material" includes, but is not limited to, anhydrous ammonia, ammonium nitrate, and liquefied gas. The



administrator may consult with the Department of Toxic Substances Control to determine whether other explosive material, poisonous material, or poisonous gas listed in Section 66261.111 of Title 22 of the California Code of Regulations, is also a hazardous material for purposes of regulations adopted under paragraph (1).

(c) The regulations adopted pursuant to subdivision (a) shall include, but not be limited to, a determination of the circumstances under which tank ships and tank barges are required to be accompanied by a tugboat or tugboats of sufficient size, horsepower, and pull capability while entering, leaving, or navigating in the harbors of the state. In making that determination, the administrator shall be guided by the recommendations of the harbor safety committees established pursuant to Section 8670.23.

(d) The administrator may adopt regulations pursuant to subdivision (a) that differ from the recommendations of the harbor safety committees only after a public hearing. If the administrator proposes to adopt regulations that require the use of tugboat escorts in fewer instances in the Harbors of San Francisco, San Pablo, and Suisun Bays than that which is recommended by the Harbor Safety Committee for San Francisco, San Pablo, and Suisun Bays, the administrator shall, in a public hearing, adopt findings, based on substantial evidence, that the proposed regulations provide adequate protection and are consistent with the purposes of this chapter.

(e) A public hearing held in accordance with Section 11346.8 satisfies the public hearing requirement of subdivision (d).

(f) The Legislature hereby finds and declares that the appropriate use of tugboat escorts can improve vessel safety, particularly in the Harbors of San Francisco, San Pablo, and Suisun Bays, and that the regulations concerning tugboat escorts in those harbors shall be adopted as quickly as practicable and may be adopted before the adoption of all other regulations required by this section.

SEC. 2. 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

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*Governor*

