

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 28, 2008

AMENDED IN ASSEMBLY APRIL 22, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1960

Introduced by Assembly Member Nava

February 13, 2008

An act to amend Section 8670.64 of the Government Code, and to amend ~~Section 3236.5 of Sections 3009, 3200, 3201, 3202, 3236.5, 3401, 3402, 3403, and 3419 of~~ to add Section 3014.5 to, and to add Article ~~4.3~~ 4.4 (commencing with Section ~~3260~~ 3270) to Chapter 1 of Division 3 of, the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1960, as amended, Nava. Public resources: oil production facilities and oil spills.

(1) Existing law generally regulates the drilling, operation, maintenance, and abandonment of oil and gas wells. Existing law authorizes the State Oil and Gas Supervisor or district deputy to order the plugging and abandonment of a well that has been deserted, and specifies the circumstances in which a rebuttable presumption of desertion arises. A violation of these provisions of law is a crime. A violation of existing law and regulations regulating the drilling, operation, maintenance, and abandonment of oil and gas wells is punishable by a maximum civil penalty of \$5,000.

Existing law regulates the disposition of oil and gas wells, and imposes a charge upon a person operating or owning an interest with respect to production from an oil or gas well based on the production of oil or gas from the well for the support and maintenance of the Division of Oil, Gas, and Geothermal Resources.

This bill would require the Division of Oil, Gas, and Geothermal Resources to prescribe, by ~~regulations~~ *regulation*, minimum facility maintenance standards for oil production facilities, including oil wells. The bill would require a person proposing to construct, maintain, alter, or decommission an oil production facility to comply with these standards and ~~obtain a permit from the division~~. The bill would require the division to inspect an oil production facility to ensure compliance with the standards and would authorize the division to charge a fee on the oil production facility operator in an amount sufficient to reimburse the division for the costs of implementing these requirements. The supervisor would be authorized to issue a cease and desist order to an oil production facility operator if the supervisor determines that the oil production facility is operated in violation of the prescribed standards. The division would be authorized to impose a life-of-well or life-of-facility bond requirement on an oil production facility operator that has a history of violating regulations related to an oil production facility or has outstanding liabilities to the state. Because a violation of these provisions is a crime, this bill would impose a state-mandated local program. The bill would increase the maximum civil penalty for a violation of laws and regulations related to oil and gas wells to \$25,000.

This bill would also extend the regulations related to the disposition of oil and gas wells and the imposition of the charge to persons operating or owning an interest in the production from defined oil and gas production facilities located in an oilfield.

(2) The Lempert-Keene-Seastrand Oil Spill Prevention Act requires a person responsible for a discharge or a threatened discharge of oil in marine waters to immediately report the discharge to the Office of Emergency Services. A person who fails to notify the Office of Emergency Services, upon conviction, is subject to a fine of not less than \$2,500 or more than \$250,000 for a first violation and a fine of not less than \$5,000 or more than \$500,000 for a 2nd or subsequent violation, or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. *That act also imposes specified minimum criminal fines for specified violations.*

This bill would provide that a person who knowingly makes a false or misleading marine oil spill report to the Office of Emergency Services, upon conviction, is subject to a fine of not ~~less than \$50,000~~ or more than \$1,000,000. By creating a new crime, this bill would impose a state-mandated local program. *The bill would eliminate the specified minimum criminal fines.*

(3) Existing law requires a person who handles hazardous materials, upon discovery, to immediately report a release or a threatened release of a hazardous substance to the Office of Emergency Services.

This bill would subject, upon conviction, a person who knowingly makes a false or misleading report on an oil spill in waters of the state other than marine waters to the Office of Emergency Services to a fine of not more than \$50,000. By creating a new crime, this bill would impose a state-mandated local program.

(4) 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.

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

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

1 SECTION 1. Section 8670.64 of the Government Code is
2 amended to read:

3 8670.64. (a) A person who commits any of the following acts,
4 shall, upon conviction, be punished by imprisonment in a county
5 jail for not more than one year or by imprisonment in the state
6 prison:

7 (1) Except as provided in Section 8670.27, knowingly fails to
8 follow the direction or orders of the administrator in connection
9 with an oil spill.

10 (2) Knowingly fails to notify the Coast Guard that a vessel is
11 disabled within one hour of the disability and the vessel, while
12 disabled, causes a discharge of oil which enters marine waters.
13 For the purposes of this paragraph, "vessel" means a vessel, as
14 defined in Section 21 of the Harbors and Navigation Code, of 300
15 gross registered tons or more.

1 (3) Knowingly engages in or causes the discharge or spill of oil
 2 into marine waters, or a person who reasonably should have known
 3 that he or she was engaging in or causing the discharge or spill of
 4 oil into marine waters, unless the discharge is authorized by the
 5 United States, the state, or another agency with appropriate
 6 jurisdiction.

7 (4) Knowingly fails to begin cleanup, abatement, or removal of
 8 spilled oil as required in Section 8670.25.

9 (b) The court shall also impose upon a person convicted of
 10 violating subdivision (a), a fine of not ~~less than five thousand~~
 11 ~~dollars (\$5,000)~~ or more than five hundred thousand dollars
 12 (\$500,000) for each violation. For purposes of this subdivision,
 13 each day or partial day that a violation occurs is a separate
 14 violation.

15 (c) (1) A person who knowingly does any of the acts specified
 16 in paragraph (2) shall, upon conviction, be punished by a fine of
 17 not ~~less than two thousand five hundred dollars (\$2,500)~~ or more
 18 than two hundred fifty thousand dollars (\$250,000), or by
 19 imprisonment in a county jail for not more than one year, or by
 20 both the fine and imprisonment. Each day or partial day that a
 21 violation occurs is a separate violation. If the conviction is for a
 22 second or subsequent violation of this subdivision, the person shall
 23 be punished by imprisonment in the state prison or in a county jail
 24 for not more than one year, or by a fine of not less than five
 25 thousand dollars (\$5,000) or more than five hundred thousand
 26 dollars (\$500,000), or by both the fine and imprisonment:

27 (2) The acts subject to this subdivision are all of the following:

28 (A) Failing to notify the Office of Emergency Services in
 29 violation of Section 8670.25.5.

30 (B) Continuing operations for which an oil spill contingency
 31 plan is required without an oil spill contingency plan approved
 32 pursuant to Article 5 (commencing with Section 8670.28).

33 (C) Except as provided in Section 8670.27, knowingly failing
 34 to follow the material provisions of an applicable oil spill
 35 contingency plan.

36 (d) (1) A person who knowingly makes a false or misleading
 37 marine oil spill report to the Office of Emergency Services shall,
 38 upon conviction, be punished by a fine of not ~~less than fifty~~
 39 ~~thousand dollars (\$50,000)~~ or more than one million dollars
 40 (\$1,000,000).

1 (2) A person who knowingly makes a false or misleading report
2 on an oil spill occurring in waters of the state other than marine
3 waters shall, upon conviction, be punished by a fine of not more
4 than fifty thousand dollars (\$50,000).

5 *SEC. 2. Section 3009 of the Public Resources Code is amended*
6 *to read:*

7 3009. “Operator” means—~~any~~ a person who, by virtue of
8 ownership, or under the authority of a lease or any other agreement,
9 has the right to drill, operate, maintain, or control a well *or oil and*
10 *gas production facility located in an oilfield.*

11 *SEC. 3. Section 3014.5 is added to the Public Resources Code,*
12 *to read:*

13 3014.5. “Oil and gas production facility” includes tanks, flow
14 lines, headers, gathering lines, wellheads, heater treaters, pumps,
15 valves, compressors, pipelines that are not under the jurisdiction
16 of the State Fire Marshal pursuant to Section 51010 of the
17 Government Code, and any other facilities or equipment that the
18 State Oil and Gas Supervisor determines warrant oversight for
19 the purposes of protecting and conserving natural resources, the
20 environment, and the public.

21 *SEC. 4. Section 3200 of the Public Resources Code is amended*
22 *to read:*

23 3200. ~~Every~~ An owner or operator of—~~any~~ a well *or oil and gas*
24 *production facility located in an oilfield* shall designate an agent,
25 giving his or her address, who resides in this state, to receive and
26 accept service of all orders, notices, and processes of the supervisor
27 or—~~any~~ a court of law. Every person so appointing an agent shall,
28 within five days after the termination of the agency, notify the
29 supervisor, in writing, of the termination, and unless operations
30 are discontinued, shall appoint a new agent.

31 *SEC. 5. Section 3201 of the Public Resources Code is amended*
32 *to read:*

33 3201. The operator of—~~any~~ a well *or oil and gas production*
34 *facility located in an oilfield* shall notify the supervisor or the
35 district deputy, in writing, in such form as the supervisor or the
36 district deputy may direct, of the sale, assignment, transfer,
37 conveyance, exchange, or other disposition of the well by the
38 operator of the well *or oil and gas production facility located in*
39 *an oilfield* as soon as is reasonably possible, but in no event later
40 than the date that the sale, assignment, transfer, conveyance,

1 exchange, or other disposition becomes final. The operator shall
2 not be relieved of responsibility for the well until the supervisor
3 or the district deputy acknowledges the sale, assignment, transfer,
4 conveyance, exchange, or other disposition, in writing, and the
5 person acquiring the well is in compliance with Section 3202. The
6 operator's notice shall contain all of the following:

7 (a) The name and address of the person to whom the well *or oil*
8 *and gas production facility located in an oilfield* was or will be
9 sold, assigned, transferred, conveyed, exchanged, or otherwise
10 disposed.

11 (b) The name and location of the well *or oil and gas production*
12 *facility located in an oilfield*, and a description of the land upon
13 which the well is situated.

14 (c) The date that the sale, assignment, transfer, conveyance,
15 exchange, or other disposition becomes final.

16 (d) The date when possession was or will be relinquished by
17 the operator as a result of that disposition.

18 *SEC. 6. Section 3202 of the Public Resources Code is amended*
19 *to read:*

20 3202. ~~Every~~ A person who acquires the right to operate a well
21 *or oil and gas production facility located in an oilfield*, whether
22 by purchase, transfer, assignment, conveyance, exchange, or other
23 disposition, shall, as soon as it's reasonably possible, but not later
24 than the date when the acquisition of the well *or oil and gas*
25 *production facility located in an oilfield* becomes final, notify the
26 supervisor or the district deputy, in writing, of the person's
27 operation. The acquisition of a well *or oil and gas production*
28 *facility located in an oilfield* shall not be recognized as complete
29 by the supervisor or the district deputy until the new operator
30 provides all of the following material:

31 (a) The name and address of the person from whom the well *or*
32 *oil and gas production facility located in an oilfield* was acquired.

33 (b) The name and location of the well *or oil and gas production*
34 *facility located in an oilfield*, and a description of the land upon
35 which the well *or oil and gas production facility located in an*
36 *oilfield* is situated.

37 (c) The date when the acquisition becomes final.

38 (d) The date when possession was or will be acquired.

39 (e) An indemnity bond for each idle well. The bond shall be in
40 an amount as provided in Section 3204 or 3205. The conditions

1 of the bond shall be the same as the conditions stated in Section
2 3204. An operator that has provided an individual bond required
3 by this subdivision in an amount as provided in Section 3204 shall
4 not be required additionally to comply with the requirements of
5 Section 3206. An operator who has provided a blanket indemnity
6 bond in the minimum amount required in subdivision (a) or (b) of
7 Section 3205 shall additionally comply with Section 3206 for any
8 idle wells not covered by a bond provided under Section 3204.

9 ~~SEC. 2.~~

10 *SEC. 7.* Section 3236.5 of the Public Resources Code is
11 amended to read:

12 3236.5. (a) A person who violates this chapter or a regulation
13 implementing this chapter is subject to a civil penalty not to exceed
14 twenty-five thousand dollars (\$25,000) for each violation. Acts of
15 God and acts of vandalism beyond the reasonable control of the
16 operator shall not be considered a violation. The civil penalty shall
17 be imposed by an order of the supervisor upon a determination
18 that a violation has been committed by the person charged,
19 following notice to the person and an opportunity to be heard. The
20 notice shall be served by personal service or certified mail, and
21 shall inform the alleged violator of the date, time, and place of the
22 hearing, the activity that is alleged to be a violation, the statute or
23 regulation violated, and the hearing and judicial review procedures.
24 The notice shall be provided at least 30 days before the hearing.
25 The hearing shall be held before the supervisor or the supervisor's
26 designee in Sacramento or in the district in which the violation
27 occurred. The hearing is not required to be conducted pursuant to
28 Chapter 5 (commencing with Section 11500) of Part 1 of Division
29 3 of Title 2 of the Government Code. The imposition of a civil
30 penalty under this section shall be in addition to any other penalty
31 provided by law for the violation. When establishing the amount
32 of the civil penalty pursuant to this section, the supervisor shall
33 consider, in addition to other relevant circumstances, (1) the extent
34 of harm caused by the violation, (2) the persistence of the violation,
35 (3) the pervasiveness of the violation, and (4) the number of prior
36 violations by the same violator.

37 (b) Notwithstanding this chapter, an order of the supervisor
38 imposing a civil penalty shall not be reviewable pursuant to Article
39 6 (commencing with Section 3350). A person upon whom a civil
40 penalty is imposed by a final order of the supervisor may obtain

1 judicial review of that final order by seeking a writ of mandate
 2 pursuant to Section 1094.5 of the Code of Civil Procedure within
 3 30 days of the date of that final order. When the order of the
 4 supervisor has become final, and the penalty has not been paid,
 5 the supervisor may apply to the appropriate superior court for an
 6 order directing payment of the civil penalty. The supervisor may
 7 also seek from the court an order directing that production from
 8 the well operations that are the subject of the civil penalty order
 9 be discontinued until the violation has been remedied to the
 10 satisfaction of the supervisor and the civil penalty has been paid.

11 (c) Any amount collected under this section shall be deposited
 12 in the Oil, Gas, and Geothermal Administrative Fund.

13 ~~SEC. 3.~~

14 ~~SEC. 8. Article 4.3 4.4 (commencing with Section 3260) 3270)~~
 15 is added to Chapter 1 of Division 3 of the Public Resources Code,
 16 to read:

17
 18 Article ~~4.3.4.4.~~ Regulation of Oil Production Facilities

19
 20 ~~3260.~~

21 3270. (a) The division shall, by regulation, prescribe minimum
 22 facility maintenance standards for an oil production facility,
 23 including, but not limited to, an oil well, operating in the state.
 24 The regulations shall include standards for all of the following:

- 25 (1) Leak detection.
- 26 (2) Corrosion prevention and testing.
- 27 (3) Tank inspection and cleaning.
- 28 (4) Valve and gauge maintenance, and secondary containment
 29 maintenance.
- 30 (5) Other facility or equipment maintenance that the supervisor
 31 deems important for the proper maintenance of oil production
 32 operations in the state and that the supervisor determines are
 33 necessary to prevent damage to life, threats to health, property,
 34 and natural resources; damage to underground oil and gas deposits
 35 from infiltrating water and other causes; loss of oil, gas, or reservoir
 36 energy; and damage to underground and surface waters suitable
 37 for irrigation or domestic use by the infiltration of, or the addition
 38 of, detrimental substances.

1 (b) A person who constructs, maintains, alters, or decommissions
2 an oil well or oil production facility shall comply with the standards
3 prescribed pursuant to subdivision (a).

4 ~~(e) Reference to “good oilfield practice” in any provisions of~~
5 ~~law shall be to the regulations developed pursuant to subdivision~~
6 ~~(a).~~

7 ~~3260.1. (a) A person who proposes to construct, maintain,~~
8 ~~alter, or decommission an oil production facility shall obtain and~~
9 ~~maintain a current and valid permit from the department.~~

10 ~~(b) The supervisor shall establish a fee schedule for the permit~~
11 ~~that is sufficient and does not exceed the amount necessary to~~
12 ~~reimburse the department for the implementation of this article.~~
13 ~~The supervisor shall, on a biennial basis, revise the fee schedule~~
14 ~~to ensure the fees collected are sufficient to cover the division’s~~
15 ~~costs in implementing this article.~~

16 ~~3260.2.~~

17 ~~3270.1. Within three months of the acquisition of an oil~~
18 ~~production facility or the initial production at an oil production~~
19 ~~facility, the facility operator shall file with the division an oil spill~~
20 ~~contingency plan.~~

21 ~~3260.3.~~

22 ~~3270.2. The division shall inspect an oil production facility to~~
23 ~~ensure compliance with the standards prescribed pursuant to~~
24 ~~subdivision (a) of Section-3260 3270.~~

25 ~~3260.4. To the extent feasible, the division shall coordinate~~
26 ~~the permitting, inspection, and fee collection pursuant to this article~~
27 ~~with other similar regulatory activities related to the oil production~~
28 ~~facility undertaken by the division pursuant to other provisions of~~
29 ~~law.~~

30 ~~3260.5.~~

31 ~~3270.3. Upon a determination by the supervisor or the district~~
32 ~~deputy that an oil production facility is being operated in violation~~
33 ~~of the standards prescribed in subdivision (a) of Section-3260 3270,~~
34 ~~the supervisor may issue a cease and desist order to an oil~~
35 ~~production facility operator requiring the operator to cease~~
36 ~~operation until the operator demonstrates, to the satisfaction of the~~
37 ~~supervisor, that the violation has been corrected.~~

38 ~~3260.6.~~

39 ~~3270.4. (a) In addition to the bonding requirements under~~
40 ~~Article 4 (commencing with Section 3200), for an oil production~~

1 facility operator with a history of violating this chapter or that has
 2 outstanding liabilities to the state, the division may require a
 3 life-of-well or life-of-facility bond in an amount to ensure all of
 4 the following:

5 (1) The proper plugging and abandonment of the well by the
 6 state.

7 (2) The safe decommissioning of the oil production facility.

8 (3) The financing of spill and incident cleanup with limited
 9 costs to the state.

10 (b) Upon the failure of the oil production facility operator to
 11 properly plug and abandon an oil well, safely decommission an
 12 oil production facility, or perform the appropriate spill and incident
 13 cleanup, the supervisor may expend the bond for those purposes.

14 (c) The supervisor shall release the bond obligation upon the
 15 satisfactory decommissioning of the oil production facility.

16 ~~3260.7. This article does not limit a local authority's~~
 17 ~~jurisdiction to regulate an oil production facility.~~

18 *SEC. 9. Section 3401 of the Public Resources Code is amended*
 19 *to read:*

20 3401. The proceeds of charges levied, assessed, and collected
 21 pursuant to this article upon the properties of every person
 22 operating or owning ~~any~~ *an* interest in the production of ~~any~~ *a* well
 23 *or oil and gas production facility located in an oilfield* shall be
 24 used exclusively for the support and maintenance of the division
 25 of the department charged with the supervision of oil and gas, *or*
 26 *an oil and gas production facility located in an oilfield.*

27 *SEC. 10. Section 3402 of the Public Resources Code is*
 28 *amended to read:*

29 3402. There shall annually be imposed upon the person
 30 operating ~~each~~ *an* oil well *or oil and gas production facility located*
 31 *in an oilfield* in this state, or owning royalty or other interests ~~in~~
 32 *with* respect to the production from the well *or oil and gas*
 33 *production facility located in an oilfield*, a charge ~~which~~ *that* shall
 34 be payable to the Treasurer and ~~which~~ *that* shall be computed at
 35 a uniform rate per barrel of oil produced from the well *or oil and*
 36 *gas production facility located in an oilfield* for the preceding
 37 calendar year. The charge shall be apportioned among all of those
 38 persons in fractional amounts proportionate to their respective
 39 fractional interests ~~in~~ *with* respect to the production of the well *or*
 40 *oil and gas production facility located in an oilfield*, but the whole

1 of the charge shall be payable by the operator, who shall withhold
2 their respective proportionate shares of the charge from the amounts
3 otherwise payable or deliverable to the owners of royalty or other
4 interests. In the case of a penalty for late payment as provided in
5 Section 3420, no apportionment shall be made.

6 *SEC. 11. Section 3403 of the Public Resources Code is*
7 *amended to read:*

8 3403. There shall annually be imposed upon the person
9 operating ~~each~~ a gas well or oil and gas production facility located
10 in an oilfield in this state, or owning royalty or other interests with
11 respect to the production from the well or oil and gas production
12 facility located in an oilfield, a charge, ~~which that~~ shall be payable
13 to the Treasurer, based upon the amount of gas produced in the
14 preceding calendar year, other than gas ~~which that~~ is used for
15 recycling or otherwise in oil-producing operations, and ~~which that~~
16 shall be computed at a uniform rate per ten thousand cubic feet.
17 The charge shall be apportioned among all of those persons in
18 fractional amounts proportionate to their respective fractional
19 interests with respect to the production of the well or oil and gas
20 production facility located in an oilfield, but the whole of the
21 charge shall be payable by the operator, who shall withhold the
22 respective proportionate shares of the charge from the amounts
23 otherwise payable or deliverable to the owners of royalty or other
24 interests. In the case of a penalty for a late payment as provided
25 in Section 3420, no apportionment shall be made.

26 *SEC. 12. Section 3419 of the Public Resources Code is*
27 *amended to read:*

28 3419. On or before the first of July the department shall deliver
29 to the State Controller the record of assessments and charges,
30 certified to by the director, which certificate shall be substantially
31 as follows: "I, ____, Director of Conservation, do hereby certify
32 that between the first of March and the first of July, ~~19__~~, 20__.
33 I made diligent inquiry and examination to ascertain all property
34 and persons, firms, corporations and associations subject to
35 assessment as required by the provisions of this chapter, providing
36 for the assessment and collection of charges; that I have faithfully
37 complied with all the duties imposed upon me by law; that I have
38 not imposed any unjust or double assessment through malice or
39 ill will or otherwise; nor allowed any person, firm, corporation, or
40 association, or property to escape a just assessment or charge

1 through favor or regard or otherwise.” Failure to subscribe the
2 certificate to the record of assessments and charges, or any
3 certificate, shall not affect the validity of any assessment or charge.

4 ~~SEC. 4.~~

5 *SEC. 13.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.