

AMENDED IN SENATE APRIL 2, 2008

**SENATE BILL**

**No. 1056**

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**Introduced by Senators Migden, Florez, and Steinberg  
(Coauthors: Senators Alquist, *Corbett*, *Romero*, and Wiggins)**

January 7, 2008

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An act to amend Sections ~~8670.25.5~~ 8589.7, 8670.25.5, and 8670.28 of the Government Code, relating to oil spills, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1056, as amended, Migden. Oil spill prevention and response.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government.

Existing law requires, without regard to intent or negligence, a party responsible for the discharge or threatened discharge of oil in marine waters to report the discharge immediately to the Office of Emergency Services, which then is required to 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. 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. Existing law requires each public agency receiving notice to adopt an internal protocol over communications regarding the

discharge of oil and file the internal protocol with the Office of Emergency Services.

This bill would also require the Office of Emergency Services, if the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, to notify the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco. By requiring these local entities that receive notice to adopt and file an internal protocol over communications regarding the discharge of oil, the bill would create a state-mandated local program.

Existing law requires the administrator to adopt and implement regulations and guidelines governing the adequacy of oil spill contingency plans. The regulations shall, at a minimum, among other things, ensure that standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state.

This bill would also require that, if the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the standards set for response at the scene of the oil spill shall not exceed 2 hours.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 8589.7 of the Government Code is  
2     amended to read:  
3     8589.7. (a) In carrying out its responsibilities pursuant to  
4     subdivision (b) of Section 8574.17, the Office of Emergency  
5     Services shall serve as the central point in state government for  
6     the emergency reporting of spills, unauthorized releases, or other

1 accidental releases of hazardous materials and shall coordinate the  
2 notification of the appropriate state and local administering  
3 agencies that may be required to respond to those spills,  
4 unauthorized releases, or other accidental releases. The Office of  
5 Emergency Services is the only state agency required to make the  
6 notification required by subdivision (b).

7 (b) Upon receipt of a report concerning a spill, unauthorized  
8 release, or other accidental release involving hazardous materials,  
9 as defined in Section 25501 of the Health and Safety Code, or  
10 concerning a rupture of, or an explosion or fire involving, a pipeline  
11 reportable pursuant to Section 51018, the Office of Emergency  
12 Services shall immediately inform the following agencies of the  
13 incident:

14 (1) For an oil spill reportable pursuant to Section 8670.25.5, the  
15 Office of Emergency Services shall inform the administrator for  
16 oil spill response, the State Lands Commission, the California  
17 Coastal Commission, and the California regional water quality  
18 control board having jurisdiction over the location of the discharged  
19 oil. *If the spill has occurred within the jurisdiction of the San*  
20 *Francisco Bay Conservation and Development Commission, the*  
21 *Office of Emergency Services shall notify that commission, the*  
22 *Counties of Alameda, Contra Costa, Marin, Napa, San Mateo,*  
23 *Santa Clara, Solano, and Sonoma, and the City and County of San*  
24 *Francisco.*

25 (2) For a rupture, explosion, or fire involving a pipeline  
26 reportable pursuant to Section 51018, the Office of Emergency  
27 Services shall inform the State Fire Marshal.

28 (3) For a discharge in or on any waters of the state of a  
29 hazardous substance or sewage reportable pursuant to Section  
30 13271 of the Water Code, the Office of Emergency Services shall  
31 inform the appropriate California regional water quality control  
32 board.

33 (4) For a spill or other release of petroleum reportable pursuant  
34 to Section 25270.8 of the Health and Safety Code, the Office of  
35 Emergency Services shall inform the local administering agency  
36 that has jurisdiction over the spill or release.

37 (5) For a crude oil spill reportable pursuant to Section 3233 of  
38 the Public Resources Code, the Office of Emergency Services shall  
39 inform the Division of Oil, Gas, and Geothermal Resources and  
40 the appropriate California regional water quality control board.

1 (c) This section does not relieve a person who is responsible  
2 for an incident specified in subdivision (b) from the duty to make  
3 an emergency notification to a local agency, or the 911 emergency  
4 system, under any other law.

5 (d) A person who is subject to Section 25507 of the Health and  
6 Safety Code shall immediately report all releases or threatened  
7 releases pursuant to that section to the appropriate local  
8 administering agency and each local administering agency shall  
9 notify the Office of Emergency Services and businesses in their  
10 jurisdiction of the appropriate emergency telephone number that  
11 can be used for emergency notification to the administering agency  
12 on a 24-hour basis. The administering agency shall notify other  
13 local agencies of releases or threatened releases within their  
14 jurisdiction, as appropriate.

15 (e) No facility, owner, operator, or other person required to  
16 report an incident specified in subdivision (b) to the Office of  
17 Emergency Services shall be liable for any failure of the Office of  
18 Emergency Services to make a notification required by this section  
19 or to accurately transmit the information reported.

20 **SECTION 1.**

21 *SEC. 2.* Section 8670.25.5 of the Government Code is amended  
22 to read:

23 8670.25.5. (a) Without regard to intent or negligence, any  
24 party responsible for the discharge or threatened discharge of oil  
25 in marine waters shall report the discharge immediately to the  
26 Office of Emergency Services pursuant to Section 25507 of the  
27 Health and Safety Code.

28 (b) Immediately upon receiving notification pursuant to  
29 subdivision (a), the Office of Emergency Services shall notify the  
30 administrator, the State Lands Commission, the California Coastal  
31 Commission, and the California regional water quality control  
32 board having jurisdiction over the location of the discharged oil,  
33 and take the actions required by subdivision (d) of Section 8589.7.  
34 If the spill has occurred within the jurisdiction of the San Francisco  
35 Bay Conservation and Development Commission, the Office of  
36 Emergency Services shall notify that commission, the Counties of  
37 Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara,  
38 Solano, and Sonoma, and the City and County of San Francisco.  
39 Each public agency specified in this subdivision shall adopt an  
40 internal protocol over communications regarding the discharge of

1 oil and file the internal protocol with the Office of Emergency  
2 Services.

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

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

11 (e) Except as otherwise provided in this section and Section  
12 8589.7, a notification made pursuant to this section shall satisfy  
13 any immediate notification requirement contained in any permit  
14 issued by a permitting agency.

15 ~~SEC. 2.~~

16 *SEC. 3.* Section 8670.28 of the Government Code is amended  
17 to read:

18 8670.28. (a) The administrator, taking into consideration the  
19 marine facility or vessel contingency plan requirements of the  
20 national and California contingency plans, the State Lands  
21 Commission, the State Fire Marshal, and the California Coastal  
22 Commission shall adopt and implement regulations governing the  
23 adequacy of oil spill contingency plans to be prepared and  
24 implemented under this article. All regulations shall be developed  
25 in consultation with the State Interagency Oil Spill Committee,  
26 and the Oil Spill Technical Advisory Committee, and shall be  
27 consistent with the California oil spill contingency plan and not  
28 in conflict with the National Contingency Plan. The regulations  
29 shall provide for the best achievable protection of coastal and  
30 marine resources. The regulations shall permit the development,  
31 application, and use of an oil spill contingency plan for similar  
32 vessels, pipelines, terminals, and facilities within a single company  
33 or organization, and across companies and organizations. The  
34 regulations shall, at a minimum, ensure all of the following:

35 (1) All areas of the marine waters of the state are at all times  
36 protected by prevention, response, containment, and cleanup  
37 equipment and operations. For the purposes of this section, “marine  
38 waters” includes the waterways used for waterborne commercial  
39 vessel traffic to the Port of Stockton and the Port of Sacramento.

1 (2) Standards set for response, containment, and cleanup  
2 equipment and operations are maintained and regularly improved  
3 to protect the resources of the state. If the spill has occurred within  
4 the jurisdiction of the San Francisco Bay Conservation and  
5 Development Commission, the standards set for response at the  
6 scene of the oil spill shall not exceed two hours.

7 (3) All appropriate personnel employed by operators required  
8 to have a contingency plan receive training in oil spill response  
9 and cleanup equipment usage and operations.

10 (4) Each oil spill contingency plan provides for appropriate  
11 financial or contractual arrangements for all necessary equipment  
12 and services, for the response, containment, and cleanup of a  
13 reasonable worst case oil spill scenario for each part of the coast  
14 the plan addresses.

15 (5) Each oil spill contingency plan demonstrates that all  
16 protection measures are being taken to reduce the possibility of  
17 an oil spill occurring as a result of the operation of the marine  
18 facility or vessel. The protection measures shall include, but not  
19 be limited to, response to disabled vessels and an identification of  
20 those measures taken to comply with the requirements of Division  
21 7.8 (commencing with Section 8750) of the Public Resources  
22 Code.

23 (6) Each oil spill contingency plan identifies the types of  
24 equipment that can be used, the location of the equipment, and the  
25 time taken to deliver the equipment.

26 (7) Each marine facility conducts a hazard and operability study  
27 to identify the hazards associated with the operation of the facility,  
28 including the use of the facility by vessels, due to operating error,  
29 equipment failure, and external events. For the hazards identified  
30 in the hazard and operability studies, the facility shall conduct an  
31 offsite consequence analysis which, for the most likely hazards,  
32 assumes pessimistic water and air dispersion and other adverse  
33 environmental conditions.

34 (8) Each oil spill contingency plan contains a list of contacts to  
35 call in the event of a drill, threatened discharge of oil, or discharge  
36 of oil.

37 (9) Each oil spill contingency plan identifies the measures to  
38 be taken to protect the recreational and environmentally sensitive  
39 areas that would be threatened by a reasonable worst case oil spill  
40 scenario.

1 (10) Standards for determining a reasonable worst case oil spill.

2 (11) Each oil spill contingency plan includes a timetable for  
3 implementing the plan.

4 (12) Each oil spill contingency plan specifies an agent for service  
5 of process. The agent shall be located in this state.

6 (b) The regulations and guidelines adopted pursuant to this  
7 section shall also include provisions to provide public review and  
8 comment on submitted oil spill contingency plans prior to approval.

9 (c) The regulations adopted pursuant to this section shall  
10 specifically address the types of equipment that will be necessary,  
11 the maximum time that will be allowed for deployment, the  
12 maximum distance to cooperating response entities, the amounts  
13 of dispersant, and the maximum time required for application,  
14 should the use of dispersants be approved. Upon a determination  
15 by the administrator that booming is appropriate at the site and  
16 necessary to provide best achievable protection, the regulations  
17 shall require that vessels engaged in lightering operations be  
18 boomed prior to the commencement of operations.

19 (d) The administrator shall adopt regulations and guidelines for  
20 oil spill contingency plans with regard to mobile transfer units,  
21 small marine fueling facilities, and vessels carrying oil as secondary  
22 cargo that acknowledge the reduced risk of damage from oil spills  
23 from those units, facilities, and vessels while maintaining the best  
24 achievable protection for the public health and safety and the  
25 environment.

26 (e) The regulations adopted pursuant to subdivision (d) shall be  
27 exempt from review by the Office of Administrative Law.  
28 Subsequent amendments and changes to the regulations shall not  
29 be exempt from Office of Administrative Law review.

30 ~~SEC. 3.~~

31 *SEC. 4.* If the Commission on State Mandates determines that  
32 this act contains costs mandated by the state, reimbursement to  
33 local agencies and school districts for those costs shall be made  
34 pursuant to Part 7 (commencing with Section 17500) of Division  
35 4 of Title 2 of the Government Code.

36 ~~SEC. 4.~~

37 *SEC. 5.* This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety within  
39 the meaning of Article IV of the Constitution and shall go into  
40 immediate effect. The facts constituting the necessity are:

- 1 In order to protect the public health and safety from oil spills by
- 2 improving notification procedures and response times at the earliest
- 3 possible time , it is necessary that this act take effect immediately.

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