

AMENDED IN ASSEMBLY JUNE 19, 2008
AMENDED IN ASSEMBLY JUNE 12, 2008
AMENDED IN SENATE MAY 20, 2008
AMENDED IN SENATE APRIL 29, 2008
AMENDED IN SENATE APRIL 22, 2008
AMENDED IN SENATE MARCH 25, 2008

SENATE BILL

No. 1582

Introduced by Senators Simitian and Maldonado
(Coauthors: Assembly Members Evans and Lieber)

February 22, 2008

An act to add Section 410.15 to the Code of Civil Procedure, to add Section 780 to the Penal Code, and to add and repeal Chapter 4.5 (commencing with Section 72435) of Division 38 of the Public Resources Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1582, as amended, Simitian. Ocean resources: ocean rangers.

(1) Existing law prohibits a large passenger vessel from releasing specified waste streams into the marine waters of the state and requires the owner or operator of the vessel to maintain specified records.

This bill would, until January 1, 2015, require an owner or operator of a large passenger vessel, on and after July 1, 2009, or a later specified date, to have onboard an ocean ranger, as defined, to monitor the vessel's compliance with the above prohibition, to observe the maintenance and operational procedures for the onboard waste treatment systems, and to assist in criminal investigations, subject to the availability of funding

to place an ocean ranger onboard. The owner or operator would be required to provide specified records for inspection by the ocean ranger, upon request. The ocean ranger would be authorized to observe maintenance and operational procedures for onboard waste treatment systems, and would be authorized to, among other things, assist the passengers and crew in reporting and investigating alleged crimes onboard while in the marine waters of the state, and act as a liaison with the state and the federal Department of Homeland Security. The ocean ranger would have the responsibility of reporting incidences of alleged criminal activities to, and coordinating law enforcement activities with, the local or federal law enforcement agency with jurisdiction. The bill would require the Attorney General to negotiate, with specified jurisdictions, memoranda of understanding establishing terms and conditions of access to, and egress from, large passenger vessels for the ocean rangers from ports in those jurisdictions. If an owner or operator of a large passenger vessel denies access to a large passenger vessel by an ocean ranger authorized to be onboard, the bill would subject the owner or operator to trebled damages for any violation of the state's water quality laws occurring during the period that access to the vessel has been denied. The bill would, subject to the limitations of applicable federal law, provide to a citizen or resident of the state who is a victim of a serious crime occurring onboard a large passenger vessel and who has embarked or disembarked in a California port a cause of action for treble damages.

The bill would require the Department of Justice, beginning March 1, 2009, and biennially thereafter, to publish on its Internet Web site a statistical analysis of crimes committed, investigated, and resolved onboard a large passenger vessel making port in California. The department would be required to assess on the owner or operator of a vessel a fee of \$1.50 per passenger who embarks on a cruise, or who ends a cruise and disembarks, at a port of call in California. The Department of Justice, would be required, beginning January 1, 2011, to revise annually the fee pursuant to a specified procedure to ensure that the fee generates sufficient revenues only to cover the costs of implementing this act, plus a prudent reserve. The bill would require the Department of Finance to complete a commercial impact report for any passenger fee increase that is greater than the cost-of-living adjustment as determined by the United States Bureau of Labor Statistics annual index and to make a necessity determination on the amount of increase beyond the cost-of-living adjustment. The bill would require

the State Board of Equalization to collect and deposit the fee into the Ocean Ranger Program Fund, which the bill would establish in the State Treasury, and, upon appropriation by the Legislature, the collected fee would be used for specified purposes.

~~If an owner or operator of a large passenger vessel denies access to a large passenger vessel by an ocean ranger authorized to be onboard, the bill would subject the owner or operator to a civil fine of \$25,000 per violation in an action brought by the Attorney General to enforce this act. The fine collected would be deposited into the~~

The bill would create the Penalty Account, which is hereby created in the Ocean Ranger Program Fund; and, upon authorize the Attorney General to collect related civil fines to be deposited into the account. Upon appropriation by the Legislature, the funds in the Penalty Account would be disbursed to the Ports of San Francisco, Long Beach, Los Angeles, San Diego, and Catalina Island to mitigate any impacts caused by the large passenger vessels on the port facilities.

The department would be required, in cooperation with the Commission on Peace Officer Standards and Training, to develop an appropriate course of training for ocean rangers. The department would be required to develop and periodically update specified training for, and to contract with a qualified entity to provide training for, an ocean ranger who would conduct environmental compliance activities. The department would be required to contract with an entity to provide personnel qualified as ocean rangers to conduct environmental compliance activities.

The bill would provide that the department would implement this act in conformity with the requirements of international and federal law.

This bill would provide that the above requirements would be repealed on January 1, 2015.

(2) Existing law authorizes the courts of the state to exercise jurisdiction ~~consistent~~ *not inconsistent* with the Constitution of the state and of the United States.

This bill would specifically provide that the courts of the state may exercise jurisdiction over acts or omissions occurring onboard large passenger vessels, as defined, under specified circumstances, *and would state that these provisions do not limit or expand this existing jurisdiction of the courts of the state.*

(3) Existing state law generally regulates large passenger vessels while they operate in the marine waters of California.

This bill would create a special maritime criminal jurisdiction of California that extends to acts or omissions onboard a ship outside of California under specified circumstances. The bill would provide that an act or omission against the person or property of another that is punishable by law when committed within California shall be punishable in the same manner when committed within the special maritime criminal jurisdiction of this state, as specified. The bill would require the Attorney General to take all measures necessary to ensure that California law enforcement officers and prosecutors respect certain principles in applying the provisions of the bill.

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. The Legislature finds and declares all of the
2 following:
- 3 (a) The cruise industry provides significant economic benefits
4 to California's cruise ports and their communities. In 2008,
5 California cruise ports will welcome 628 cruise ship visits carrying
6 nearly 2.2 million passengers. According to California cruise ports,
7 economic benefit from passengers in California is estimated to be
8 four hundred fifty million dollars (\$450,000,000) in 2008 with
9 continued growth anticipated annually. California cruise ports are
10 committed to enhancing the experience of each and every passenger
11 and to ensuring that such passengers continue to return to California
12 cruise ports year after year.
- 13 (b) More cruise ships are calling upon California ports of call
14 every year. The cruise ship fleet is increasing in size and carrying
15 capacity and producing increasing volumes of solid and liquid
16 waste.
- 17 (c) Improperly treated wastes released into the environment can
18 significantly impact California's aquatic ecosystems and the people
19 and industries that depend upon them.
- 20 (d) The cruise ship industry has a poor record on self-policing
21 environmental practices.
- 22 (e) California's zero-discharge law for cruise ships does not
23 provide independent oversight of the industry or verification of
24 the zero-discharge requirement.

1 (f) Millions of American citizens travel on cruise ships every
2 year and numerous documented cases exist of serious crimes
3 against passengers by other passengers and crew members.

4 (g) The physical safety of the passengers and crew should be
5 the highest priority of the cruise line industry. The industry, through
6 its trade organization has appeared before the United States
7 Congress and the Legislature and asserted that there is no crime
8 problem onboard large passenger vessels. The industry testified
9 that the Federal Bureau of Investigation supports the industry claim
10 that the incidence of violent crime onboard large passenger vessels
11 is .01 percent. The Federal Bureau of Investigation directly refutes
12 this number and clarifies that .01 percent is what is reported to
13 them by the cruise line industry.

14 (h) Independent crime statistics presented before the United
15 States Congress show that one has a 50 percent greater chance of
16 sexual assault on a large passenger vessel as compared to the
17 United States generally. The rate of sexual assault in the United
18 States is 32 per 100,000 population. The rate of sexual assault on
19 large passenger vessels was 48 per 100,000 in 2007. That rate was
20 17.6 per 100,000 from 2003 to 2005, inclusive. This is more than
21 a 170 percent increase in the sexual assault rate on large passenger
22 vessels between 2005 and 2007.

23 SEC. 2. Section 410.15 is added to the Code of Civil Procedure,
24 to read:

25 410.15. (a) A court of this state may exercise jurisdiction over
26 an act or omission occurring outside the state onboard a large
27 passenger vessel under any of the following circumstances:

28 (1) The act or omission has a significant impact on California.

29 (2) The owner or operator of a large passenger vessel has
30 substantial contacts with the state, including, but not limited to,
31 any of the following:

32 (A) Having offices in the state.

33 (B) Advertising for passengers, or employees, or both passengers
34 and employees.

35 (C) Embarking or disembarking passengers in the state.

36 (D) Disposing of solid and liquid waste in the state, generated
37 outside of the state.

38 (3) There are victims of crime or witnesses to criminal or civil
39 violations on the large passenger vessel who are residents or

1 citizens of the state or a state that consents to the jurisdiction of
2 this state.

3 (4) The state in whose territory the act or omission occurred
4 requests the exercise of jurisdiction by this state.

5 (5) The act or omission occurred during a voyage on which over
6 half of the feepaying passengers onboard the large passenger vessel
7 originally embarked and finally disembarked in this state, without
8 regard to intermediate stopovers.

9 (b) For the purposes of this section, “large passenger vessel”
10 has the same meaning as that set forth in Section 72410 of the
11 Public Resources Code.

12 (c) This section does not limit or enlarge the jurisdiction
13 provided pursuant to Section 410.10.

14 SEC. 3. Section 780 is added to the Penal Code, to read:

15 780. (a) The Legislature finds and declares all of the following:

16 (1) California is a major center for international travel and trade
17 by sea.

18 (2) California has an interest in ensuring the protection of
19 persons traveling to or from California by sea.

20 (3) California has an interest in cooperating with the masters of
21 ships and the governments of the United States and other states in
22 the maintenance of law and order onboard ships.

23 (4) The interests of California do not, in principle, require a
24 general assertion of primary jurisdiction over acts or omissions at
25 sea that would duplicate or conflict with the execution of any law
26 enforcement responsibility of any other jurisdiction.

27 (5) California should establish special maritime criminal
28 jurisdiction extending to acts or omissions onboard ships outside
29 of the state under the circumstances described in this section.

30 (b) As used in this section, the following definitions apply:

31 (1) “Flag state” means the state under whose laws a ship is
32 registered.

33 (2) “Ship” means any watercraft or other conveyance used,
34 capable of being used, or intended to be used as a means of
35 transportation on water.

36 (3) “State” means any foreign state, the United States or any
37 state, territory, possession, or commonwealth thereof, or the District
38 of Columbia.

1 (c) The special maritime criminal jurisdiction of California
2 extends to acts or omissions onboard a ship outside of California
3 under any of the following circumstances:

4 (1) There is a suspect onboard the ship who is a resident of
5 California or of a state that consents to the jurisdiction of
6 California.

7 (2) The master of the ship or an official of the flag state commits
8 a suspect onboard the ship to the custody of a law enforcement
9 officer acting under the authority of California.

10 (3) The state in whose territory the act or omission occurred
11 requests the exercise of jurisdiction by California.

12 (4) The act or omission occurs during a voyage where over half
13 of the revenue passengers onboard the ship originally embarked
14 and plan to finally disembark in California, without regard to
15 intermediate stopovers.

16 (5) The victim is a California law enforcement officer onboard
17 the ship performing his or her official duties.

18 (6) The act or omission constitutes an attempt or conspiracy to
19 cause a substantial effect in California that is an element of the
20 offense charged.

21 (7) The act or omission is one over which a state may exercise
22 criminal jurisdiction under international law or treaty.

23 (d) An act or omission against the person or property of another
24 that is punishable by law when committed within California shall
25 be punishable in the same manner when committed within the
26 special maritime criminal jurisdiction of California, provided that
27 the criminal laws of the United States prohibit substantially the
28 same act or omission onboard ships of the United States registry
29 outside of the territory of the United States. Except for the
30 circumstances that are within the purview of paragraph (6) or (7)
31 of subdivision (c), it shall be an affirmative defense that the act or
32 omission was authorized by the master of the ship or an officer of
33 the flag state in accordance with the laws of the flag state and
34 international law. No person shall be tried under this section if that
35 person has been tried by another state for substantially the same
36 act or omission.

37 (e) The Attorney General shall take all measures necessary to
38 ensure that California law enforcement officers and prosecutors
39 conform their actions to the following principles in applying the
40 provisions of this section:

1 (1) This section is not intended to assert priority over or
2 otherwise interfere with the exercise of criminal jurisdiction by
3 the United States, the flag state, or the state in whose territory an
4 act or omission occurs.

5 (2) This section shall be administered in a manner consistent
6 with international law, with the primary responsibility of the flag
7 state for the maintenance of order onboard ship, and with the
8 responsibilities of the federal government under the Constitution,
9 treaties, and laws of the United States.

10 (3) This section shall be applied with the cooperation of the flag
11 state and the master of the ship where feasible.

12 (f) This section does not do any of the following:

13 (1) Authorize the boarding, search, or detention of a ship or of
14 persons or property onboard a ship without the consent of the flag
15 state or the master of the ship, if the ship is located outside of
16 California or if the necessary law enforcement activities are
17 otherwise beyond the jurisdiction of California or the United States.

18 (2) Restrict the application or enforcement of other laws of
19 California or of the duty of law enforcement officers to protect
20 human life, property, or the marine environment from imminent
21 harm.

22 (3) Constitute an assertion of jurisdiction over acts or omissions
23 of military or law enforcement officers authorized by a state in
24 accordance with international laws.

25 (4) Prohibit the operation of gaming, games of chance, or other
26 gaming activities otherwise allowable outside the territorial waters
27 of the State of California.

28 SEC. 4. Chapter 4.5 (commencing with Section 72435) is added
29 to Division 38 of the Public Resources Code, to read:

30

31

CHAPTER 4.5. OCEAN RANGERS

32

33 72435. (a) Unless the content otherwise requires, the
34 definitions set forth in this section govern this chapter.

35 (b) "Department" means the Department of Justice.

36 (c) "Environmental marine ranger" means a person who is a
37 United States Coast Guard licensed merchant marine officer with
38 at least 720 days of shipboard employment within the past five
39 years in the capacity of a second assistant engineer (any
40 horsepower) or a second mate (unlimited), or a higher shipboard

1 position, with a valid certificate issued pursuant to the Standards
2 of Training and Certification and Watchkeeping (STCW) for
3 Seafarers, 1978, as amended.

4 (d) “Fund” means the Ocean Ranger Program Fund established
5 pursuant to Section 72435.7.

6 (e) “Ocean ranger” means either of the following:

7 (1) An investigator specified in subdivision (b) of Section 830.1
8 of the Penal Code or a peace officer of a public law enforcement
9 agency in the state if the department entered into a contract with
10 the public law enforcement agency for the provision of this
11 personnel.

12 (2) An environmental marine ranger provided by an entity
13 pursuant to a contract with the department under Section 72435.2.

14 (f) “Passenger” means a person who, for a fee, hires a large
15 passenger vessel for transportation.

16 72435.1. (a) (1) The department shall, in cooperation with
17 the Commission on Peace Officer Standards and Training, develop
18 and periodically update an appropriate training course for the ocean
19 ranger specified in paragraph (1) of subdivision (e) of Section
20 72435.

21 (2) An investigator serving as an ocean ranger pursuant to
22 paragraph (1) of subdivision (e) of Section 72435 shall complete
23 the course developed pursuant to paragraph (1) before being
24 assigned to a large passenger vessel.

25 (b) (1) For the training of the ocean ranger specified in
26 paragraph (2) of subdivision (e) of Section 72435 for work on a
27 large passenger vessel pursuant to this chapter, the department
28 shall contract with a training facility that provides a course
29 established subsequent to 2006 and updated annually. The training
30 course shall include, at a minimum, all of the following:

31 (A) Applicable international, federal, state, and local
32 environmental laws and regulations.

33 (B) Records and sampling of all regulated waste streams and
34 discharges.

35 (C) Reporting requirements.

36 (D) Spill and environmental response plans.

37 (E) Prohibited activities.

38 (F) Shipboard security plans.

39 (G) Any other subjects that the department deems appropriate.

1 (2) A person serving as an ocean ranger pursuant to paragraph
2 (2) of subdivision (e) of Section 72435 shall complete the training
3 course specified in paragraph (1) before being assigned to a large
4 passenger vessel.

5 72435.2. (a) The department shall contract with an entity to
6 provide for qualified environmental marine rangers to serve as
7 ocean rangers.

8 (b) (1) A contract entered into pursuant to subdivision (a) shall
9 require the contracting entity to reimburse to the operator of a
10 vessel for providing room and board to an ocean ranger assigned
11 to the vessel pursuant to this chapter.

12 (2) Calculations for the ocean ranger's room and board shall be
13 based on providing a single, inside room on the vessel in the lowest
14 price category.

15 72435.3. (a) (1) The Attorney General shall, *with the consent*
16 *of the United States Congress*, negotiate a memorandum of
17 understanding with appropriate state, national, provincial
18 authorities from Alaska, Washington, Hawaii, and, as applicable
19 under international and federal law, Canada and Baja California.
20 The memorandum of understanding shall establish terms and
21 conditions of access to, and egress from, large passenger vessels
22 for the ocean ranger from ports in those jurisdictions pursuant to
23 this chapter or for equivalent law enforcement and environmental
24 enforcement personnel from those foreign jurisdictions. The
25 memorandum of understanding shall require the ocean ranger or
26 the specified equivalent law and marine enforcement personnel to
27 board the large passenger vessel at the last port of call made by
28 the vessel before the vessel enters into the marine waters of the
29 state.

30 (2) In implementing this chapter, the Attorney General shall, to
31 the greatest extent feasible, pursue the goal of having the ocean
32 rangers specified in paragraph (1) of subdivision (e) of Section
33 72435 be cross-deputized with the United States Coast Guard, the
34 Federal Bureau of Investigation, and other state, federal, and
35 international law enforcement agencies.

36 (b) (1) Not later than January 1, 2010, the Attorney General
37 shall place an ocean ranger onboard large passenger vessels as
38 soon as practicable considering the requirements of this chapter.

39 (2) An ocean ranger shall be onboard a large passenger vessel
40 if the Attorney General has a memorandum of understanding with

1 the jurisdiction of the last port of call or the next port of call of
2 that vessel, and sufficient funds are available to place an ocean
3 ranger onboard.

4 (3) If there is no memorandum of understanding with the
5 applicable jurisdiction on or before January 1, 2010, an ocean
6 ranger shall be on the vessel three months after a memorandum of
7 understanding has been entered into between the Attorney General
8 and the applicable jurisdiction, and sufficient funds are available
9 to place an ocean ranger onboard.

10 (4) All ocean rangers hired or contracted for by the Attorney
11 General and all program costs resulting from the implementation
12 of this chapter shall be funded through fees raised pursuant to this
13 chapter and shall not be taken from existing funds utilized by police
14 agencies, nor shall existing law enforcement personnel be diverted
15 for the implementation of this chapter absent additional funding
16 to pay the costs of the diversion.

17 ~~(e) (1) If the owner or operator of a large passenger vessel~~
18 ~~denies access to an ocean ranger authorized to be onboard pursuant~~
19 ~~to this chapter, the owner or operator shall be liable for a civil fine~~
20 ~~of twenty-five thousand dollars (\$25,000) for each violation in an~~
21 ~~action brought by the Attorney General to enforce this chapter.~~

22 ~~(2) The civil fines collected pursuant to this subdivision by the~~
23 ~~Attorney General shall be deposited into the Penalty Account,~~
24 ~~which is hereby created in the fund, and, upon appropriation by~~
25 ~~the Legislature, distributed to the Ports of San Francisco, Long~~
26 ~~Beach, Los Angeles, San Diego, and Catalina Island, to be utilized~~
27 ~~to mitigate costs resulting from impacts of large passenger vessels~~
28 ~~on the port facilities.~~

29 ~~(d)~~

30 (c) (1) If the owner or operator of a large passenger vessel
31 denies access to an ocean ranger authorized to be onboard pursuant
32 to this chapter, the owner or operator shall be liable for treble
33 damages for any violation of applicable state water quality laws
34 occurring during the period that access to the vessel has been
35 denied.

36 (2) *The civil fines collected pursuant to this subdivision by the*
37 *Attorney General shall be deposited into the Penalty Account,*
38 *which is hereby created in the fund, and, upon appropriation by*
39 *the Legislature, distributed to the Ports of San Francisco, Long*
40 *Beach, Los Angeles, San Diego, and Catalina Island, to be utilized*

1 *to mitigate costs resulting from impacts of large passenger vessels*
2 *on the port facilities.*

3 ~~(e)~~

4 (d) Subject to the limitations of all applicable federal laws, if
5 the owner or operator of a large passenger vessel denies access to
6 an ocean ranger authorized to be onboard a large passenger vessel
7 pursuant to this chapter, a citizen or resident of California, who is
8 a victim of a serious crime occurring onboard the large passenger
9 vessel and has embarked or disembarked in a California port, shall
10 have a civil cause of action in the venue where the passenger
11 embarked or disembarked in California and the remedy for any
12 damages shall be trebled.

13 ~~(d)~~

14 (e) For a large passenger vessel embarking for an international
15 destination from a port in the state, and not returning to the state
16 within seven days, or making a port of call in Hawaii or Alaska,
17 arrangements shall be made between the vessel operator and the
18 department for the ocean ranger to disembark the ship or to remain
19 in the first port of call outside the state. If a memorandum of
20 understanding is not entered into with the appropriate governmental
21 authorities in Baja California for a vessel bound for Mexico,
22 arrangements shall be made between the Attorney General and the
23 vessel operator for the ocean ranger to disembark the ship.

24 ~~(e)~~

25 (f) The department shall have sole responsibility for notifying
26 the large passenger vessel operators and the local government
27 entities that regulate California ports of a large passenger vessel
28 owner or operator's compliance or noncompliance with this chapter
29 and the status of the memoranda of understanding required by this
30 section.

31 72435.4. (a) (1) An ocean ranger specified in paragraph (1)
32 of subdivision (e) of Section 72435 onboard the vessel may do
33 both of the following:

34 (A) Assist the passengers and crew, as needed, with reporting
35 alleged crimes occurring onboard and advising, where requested
36 *by a passenger or crew member*, on the proper law enforcement
37 procedures regarding the gathering of evidence from alleged crime
38 scenes ~~concerning witness identification and interviews is initiated,~~
39 *including witness identification and interviews.*

1 (B) Act as a liaison with the state and the federal Department
2 of Homeland Security, as necessary or as requested by those two
3 entities.

4 (2) When a large passenger vessel enters a port in California,
5 the ocean ranger specified in paragraph (1) of subdivision (e) of
6 Section 72435 shall report incidences of alleged criminal activities
7 occurring onboard to, and coordinate law enforcement activities
8 with, the local or federal law enforcement agency with jurisdiction.
9 Except as provided by any other provision of law, a port district
10 with jurisdiction over the port is not responsible for the reporting
11 of incidences of alleged criminal activities to, and coordination of
12 law enforcement activities with, the local or federal law
13 enforcement agency.

14 (3) On and after March 1, 2009, the department shall publish
15 on its Internet Web site a statistical analysis, broken down by large
16 passenger vessel operator and by large passenger vessel, of crimes
17 ~~committed~~ *reported*, investigated, and resolved onboard each vessel
18 making port in California. The report shall be updated, at a
19 minimum, biennially.

20 (b) An ocean ranger specified in paragraph (2) of subdivision
21 (e) of Section 72435 onboard the vessel may do both of the
22 following:

23 (1) Monitor a large passenger vessel's compliance with the
24 requirements of Chapter 3 (commencing with Section 72420) if
25 the applicable federal agencies approve an application made
26 pursuant to subdivision (a) of Section 72440.

27 (2) Observe maintenance and operational procedures for onboard
28 vessel treatment systems.

29 72435.5. (a) The owner or operator of a large passenger vessel
30 shall make available, upon request, an applicable record on the
31 vessel's compliance with the requirements of Chapter 3
32 (commencing with Section 72420) for inspection by an ocean
33 ranger.

34 (b) To the extent allowable under international and federal laws,
35 the owner or operator of a large passenger vessel shall provide to
36 an ocean ranger access to the vessel's security plan.

37 72435.6. (a) (1) Beginning July 1, 2009, the department shall
38 assess on an owner or operator of a large passenger vessel a fee
39 of one dollar and fifty cents (\$1.50) per passenger who embarks
40 on a cruise from a port of call in California and one dollar and fifty

1 cents (\$1.50) per passenger who ends a cruise and disembarks at
2 a port of call in California.

3 (2) The fee specified in paragraph (1) shall not be assessed for
4 a passenger who does not begin or end a cruise at a port of call in
5 California.

6 (3) At the bottom of a ticket sold to a customer embarking,
7 disembarking, or both at a port in California, there shall appear
8 the following language:

9

10 “This fee is assessed on each passenger to place a licensed
11 California peace officer and a certified marine engineer onboard
12 this vessel to enhance passenger safety and increase environmental
13 protections.”

14

15 (b) The fee specified in subdivision (a) shall be revised on or
16 before January 1, 2011, and annually thereafter, pursuant to
17 subdivision (c) to ensure that the fees collected are sufficient only
18 to generate revenue to cover the costs of implementing this chapter,
19 plus a prudent reserve.

20 (c) The fee specified in subdivision (a) shall be revised as
21 follows:

22 (1) On or before March 1, 2010, and on or before March 1
23 annually thereafter, the department shall submit to the Department
24 of Finance an annual work plan. In determining the annual costs
25 of implementing the work plan, no more than 3 percent of the
26 annual cost shall include the department’s costs for overhead and
27 administration.

28 (2) On or before July 1, 2010, and on or before July 1 annually
29 thereafter, the Department of Finance shall certify that the proposed
30 work plan is feasible and that the department’s estimated costs for
31 implementing the work plan are within 25 percent of the estimate
32 determined by the Department of Finance to implement the annual
33 work plan. The Department of Finance shall establish the necessary
34 passenger fee, based on the department’s estimated costs, which
35 shall take effect beginning January 1, 2011. The Department of
36 Finance shall revise annually the passenger fee, pursuant to this
37 paragraph, which shall take effect on January 1 of each year
38 thereafter. On or before October 1, 2010, and annually thereafter,
39 the Department of Finance shall report the new fee that would be
40 effective beginning January 1, 2011, and annually thereafter.

1 (3) If the Department of Finance does not certify the
2 department's proposed work plan and the cost estimate pursuant
3 to paragraph (2), the department and the Department of Finance
4 shall meet and confer, and produce a final work plan and cost
5 estimate on or before September 1 after the date that the decision
6 not to certify the work plan and cost estimate was made.

7 (4) If, after the meet and confer conducted pursuant to paragraph
8 (3), the department and the Director of Finance fail to agree on
9 the work plan and cost estimate, this issue shall be brought before
10 the Governor for resolution.

11 (d) If the revised fee has not been settled in a timely manner
12 pursuant to subdivision (c), the existing fee shall remain in place
13 until a revised fee is established.

14 (e) (1) Prior to January 1, 2011, the department shall hire or
15 contract for only the number of ocean rangers that can be fully
16 funded with the fees collected pursuant to this section.

17 (2) The department shall have the discretion to determine the
18 best method for a phased implementation of the placement of ocean
19 rangers onboard a large passenger vessel pursuant to this chapter.

20 (f) If the proposed increase in the passenger fee is greater than
21 the cost-of-living adjustment as determined by the United States
22 Bureau of Labor Statistics annual index, the Department of Finance
23 shall complete a commercial impact report analyzing how the
24 proposed increase would affect the commercial position of
25 California cruise ports and the net benefits to their passengers, and
26 shall make a determination on the necessity of the increase beyond
27 the cost-of-living adjustment.

28 72435.7. (a) Revenue generated from the fees collected
29 pursuant to this section shall be deposited into the Ocean Ranger
30 Program Fund, which is hereby created in the State Treasury. Upon
31 appropriation by the Legislature, the Controller shall disburse
32 money in the fund for all of the following purposes:

33 (1) To pay refunds to an owner or operator of a large passenger
34 vessel for the collection of excessive fees.

35 (2) To reimburse the department for the training of ocean rangers
36 and the implementation of this chapter.

37 (3) To reimburse the Controller for the costs incurred in
38 implementing this chapter.

39 (4) To reimburse the Department of Finance for the costs
40 incurred in implementing this chapter.

1 (5) To reimburse the State Board of Equalization for costs
2 incurred during the 2008–09 fiscal year in implementing this
3 chapter that were not recovered pursuant to subdivision (c).

4 (b) The State Board of Equalization shall administer and collect
5 the fee specified in Section 72435.6 in accordance with the Fee
6 Collection Procedure Law (Part 30 (commencing with Section
7 55001) of Division 2 of the Revenue and Taxation Code).

8 (c) The fee imposed pursuant to subdivision (b) of Section
9 72435.6 shall be due and payable to the State Board of Equalization
10 on or before the last day of each quarter in which a large passenger
11 vessel was docked in the state. The payments shall be accompanied
12 by a return in a form as prescribed by the State Board of
13 Equalization, including, but not limited to, electronic media.
14 Returns shall be authenticated in a form or pursuant to methods
15 as may be prescribed by the State Board of Equalization.

16 (d) After deducting the administrative costs incurred in the
17 collection of the fee, the State Board of Equalization shall deposit
18 the remaining amount into the fund.

19 (e) (1) Before January 1, 2010, upon appropriation by the
20 Legislature, the Controller shall disburse the money in the fund to
21 the department on a monthly basis to ensure that no more than 30
22 days' expenses for the implementation of this chapter are charged
23 to the General Fund.

24 (2) On and after January 1, 2010, upon appropriation by the
25 Legislature, the Controller shall disburse the money in the fund to
26 the department, on a quarterly basis, to reimburse the department
27 for the costs of implementing this chapter.

28 72435.8. On or before January 1, 2014, the department shall
29 submit to the Legislature a report that includes, but is not limited
30 to, all of the following information:

31 (a) A yearly breakdown of costs of the program.

32 (b) The total fees generated.

33 (c) The number of ocean rangers hired.

34 (d) The ongoing staffing requirements of the program.

35 (e) The number of environmental violations reported pursuant
36 to this chapter.

37 (f) The number of criminal allegations in which an ocean ranger
38 had been involved.

39 (g) The number of complaints filed by passengers and crew
40 against the ocean rangers.

1 72435.9. The department shall implement this chapter in
2 conformity with all applicable requirements of international and
3 federal law.

4 72435.10. The provisions of this chapter are severable. If any
5 provision of this chapter or its application is held invalid, that
6 invalidity shall not affect other provisions or applications that can
7 be given effect without the invalid provision or application.

8 72435.11. This chapter shall remain in effect only until January
9 1, 2015, and as of that date is repealed, unless a later enacted
10 statute, that is enacted before January 1, 2015, deletes or extends
11 that date.

O