

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1112**

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**Introduced by Assembly Member Huffman**  
**(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley,**  
**Dickinson, Gatto, Gordon, Monning, and Williams)**

February 18, 2011

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An act to amend Sections ~~8670.39, 8670.40, 8670.40~~ and 8670.42 of, and to add *and repeal* Section 8670.32 ~~to of~~, the Government Code, and to add and repeal Section 6226 of the Public Resources Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 1112, as amended, Huffman. Oil spill prevention and administration fee: State Lands Commission.

(1) 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 drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. The act requires the

administrator to periodically carry out announced and unannounced drills to test response and cleanup operations, equipment, contingency plans, and procedures.

This bill would require the administrator to develop and implement a screening mechanism and a comprehensive risk-based monitoring program for inspecting the bunkering and lightering operations of vessels at anchor and alongside a dock. The bill also would require that the administrator identify bunkering and lightering operations that pose the highest risk of a pollution incident and coordinate with the United States Coast Guard to routinely monitor and inspect those operations. The bill would require the administrator to establish regulations to provide for the best achievable protection during bunkering and lightering operations in the marine environment. *The bill would repeal these provisions on January 1, 2015.*

(2) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement oil spill prevention activities, but not to exceed \$0.05 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill would, beginning January 1, 2012, revise that fee to an amount not to exceed \$0.065 per barrel of crude oil or petroleum products and, beginning ~~July 1, 2014,~~ *January 1, 2015*, to an amount not to exceed ~~\$0.0675~~ *\$0.05*. ~~The bill would also authorize the administrator to adjust the maximum fee annually for inflation, as measured by the California Consumer Price Index.~~

(3) Existing law requires the Department of Fish and Game to contract with the Department of Finance to prepare and submit to the Governor and the Legislature, on or before January 1, 2005, a detailed report on the financial basis and programmatic effectiveness of the state's oil spill prevention, response, and preparedness program.

This bill would require the Department of Fish and Game and the State Lands Commission, independently, to contract with the Department of Finance to prepare and submit that report to the Governor and the Legislature, on or before January 1, 2013, and no less than once every 4 years thereafter.

(4) Under existing law, the State Lands Commission has jurisdiction over state lands and ungranted tidelands and submerged lands owned by the state.

This bill would require the State Lands Commission, on or before March 1, 2012, in consultation with the Department of Conservation, to report to the Legislature on regulatory action, pending or already taken, and statutory recommendations for the Legislature to ensure maximum safety and prevention of harm during offshore oil drilling. This provision would be repealed on January 1, 2016.

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. Section 8670.32 is added to the Government  
2 Code, to read:

3 8670.32. (a) To reduce the risk of an oil spill as a result of  
4 fuel, cargo, and lube oil transfers, the administrator shall develop  
5 and implement a screening mechanism and a comprehensive  
6 risk-based monitoring program for inspecting the bunkering and  
7 lightering operations of vessels at anchor and alongside a dock.  
8 This program shall identify those bunkering and lightering  
9 operations that pose the highest risk of a pollution incident.

10 (b) The administrator shall ensure that all bunkering and  
11 lightering operations that, pursuant to subdivision (a), pose the  
12 highest risk of a pollution incident are routinely monitored and  
13 inspected. The administrator shall coordinate the monitoring and  
14 inspection program with the United States Coast Guard.

15 (c) The administrator shall establish regulations to provide for  
16 the best achievable protection during bunkering and lightering  
17 operations in the marine environment.

18 (d) *This section shall remain in effect only until January 1, 2015,*  
19 *and as of that date is repealed, unless a later enacted statute, that*  
20 *is enacted before January 1, 2015, deletes or extends that date.*

21 ~~SEC. 2. Section 8670.39 of the Government Code is amended~~  
22 ~~to read:~~

23 ~~8670.39. (a) The administrator shall administer the fund in~~  
24 ~~accordance with this article.~~

1 ~~(b) The administrator may develop and adopt any rules,~~  
2 ~~regulations, and guidelines determined to be necessary to carry~~  
3 ~~out and enforce this article.~~

4 ~~SEC. 3.~~

5 *SEC. 2.* Section 8670.40 of the Government Code, as added  
6 by Section 63 of Chapter 133 of the Statutes of 2011, is amended  
7 to read:

8 8670.40. (a) The State Board of Equalization shall collect a  
9 fee in an amount determined by the administrator to be sufficient  
10 to carry out the purposes set forth in subdivision (e), and a  
11 reasonable reserve for contingencies. The annual assessment shall  
12 not exceed six and one-half cents (\$0.065) per barrel of crude oil  
13 or petroleum products. ~~Beginning July 1, 2014,~~ *January 1, 2015,*  
14 ~~the annual assessment shall not exceed six and three-quarters cents~~  
15 ~~(\$0.0675)~~ *five cents (\$0.05)* per barrel of crude oil or petroleum  
16 products. ~~The administrator may adjust the maximum fee annually~~  
17 ~~for inflation, as measured by the California Consumer Price Index.~~

18 (b) (1) The oil spill prevention and administration fee shall be  
19 imposed upon a person owning crude oil at the time that crude oil  
20 is received at a marine terminal from within or outside the state,  
21 and upon a person who owns petroleum products at the time that  
22 those petroleum products are received at a marine terminal from  
23 outside this state. The fee shall be collected by the marine terminal  
24 operator from the owner of the crude oil or petroleum products  
25 based on each barrel of crude oil or petroleum products so received  
26 by means of a vessel operating in, through, or across the marine  
27 waters of the state. In addition, an operator of a pipeline shall pay  
28 the oil spill prevention and administration fee for each barrel of  
29 crude oil originating from a production facility in marine waters  
30 and transported in the state by means of a pipeline operating across,  
31 under, or through the marine waters of the state. The fees shall be  
32 remitted to the board by the terminal or pipeline operator on the  
33 25th day of the month based upon the number of barrels of crude  
34 oil or petroleum products received at a marine terminal or  
35 transported by pipeline during the preceding month. A fee shall  
36 not be imposed pursuant to this section with respect to crude oil  
37 or petroleum products if the person who would be liable for that  
38 fee, or responsible for its collection, establishes that the fee has  
39 been collected by a terminal operator registered under this chapter

1 or paid to the board with respect to the crude oil or petroleum  
2 product.

3 (2) An owner of crude oil or petroleum products is liable for  
4 the fee until it has been paid to the board, except that payment to  
5 a marine terminal operator registered under this chapter is sufficient  
6 to relieve the owner from further liability for the fee.

7 (3) On or before January 20, the administrator shall annually  
8 prepare a plan that projects revenues and expenses over three fiscal  
9 years, including the current year. Based on the plan, the  
10 administrator shall set the fee so that projected revenues, including  
11 any interest, are equivalent to expenses as reflected in the current  
12 Budget Act and in the proposed budget submitted by the Governor.  
13 In setting the fee, the administrator may allow for a surplus if the  
14 administrator finds that revenues will be exhausted during the  
15 period covered by the plan or that the surplus is necessary to cover  
16 possible contingencies. The administrator shall notify the board  
17 of the adjusted fee rate, which shall be rounded to no more than  
18 four decimal places, to be effective the first day of the month  
19 beginning not less than 30 days from the date of the notification.

20 (c) The moneys collected pursuant to subdivision (a) shall be  
21 deposited into the fund.

22 (d) The board shall collect the fee and adopt regulations for  
23 implementing the fee collection program.

24 (e) The fee described in this section shall be collected solely  
25 for all of the following purposes:

26 (1) To implement oil spill prevention programs through rules,  
27 regulations, leasing policies, guidelines, and inspections and to  
28 implement research into prevention and control technology.

29 (2) To carry out studies that may lead to improved oil spill  
30 prevention and response.

31 (3) To finance environmental and economic studies relating to  
32 the effects of oil spills.

33 (4) To implement, install, and maintain emergency programs,  
34 equipment, and facilities to respond to, contain, and clean up oil  
35 spills and to ensure that those operations will be carried out as  
36 intended.

37 (5) To respond to an imminent threat of a spill in accordance  
38 with the provisions of Section 8670.62 pertaining to threatened  
39 discharges. The cumulative amount of an expenditure for this  
40 purpose shall not exceed the amount of one hundred thousand

1 dollars (\$100,000) in a fiscal year unless the administrator receives  
 2 the approval of the Director of Finance and notification is given  
 3 to the Joint Legislative Budget Committee. Commencing with the  
 4 1993–94 fiscal year, and each fiscal year thereafter, it is the intent  
 5 of the Legislature that the annual Budget Act contain an  
 6 appropriation of one hundred thousand dollars (\$100,000) from  
 7 the fund for the purpose of allowing the administrator to respond  
 8 to threatened oil spills.

9 (6) To reimburse the board for costs incurred to implement this  
 10 chapter and to carry out Part 24 (commencing with Section 46001)  
 11 of Division 2 of the Revenue and Taxation Code.

12 (7) To cover costs incurred by the Oiled Wildlife Care Network  
 13 established by Section 8670.37.5 for training and field collection,  
 14 and search and rescue activities, pursuant to subdivision (g) of  
 15 Section 8670.37.5.

16 (f) The moneys deposited in the fund shall not be used for  
 17 responding to an oil spill.

18 (g) The moneys deposited in the fund shall not be used to  
 19 provide a loan to any other fund.

20 (h) This section shall become operative on January 1, 2012.

21 ~~SEC. 4.~~

22 *SEC. 3.* Section 8670.42 of the Government Code is amended  
 23 to read:

24 8670.42. (a) The Department of Fish and Game and the State  
 25 Lands Commission, independently, shall contract with the  
 26 Department of Finance for the preparation of a detailed report that  
 27 shall be submitted on or before January 1, 2013, and no less than  
 28 once every four years thereafter, to the Governor and the  
 29 Legislature on the financial basis and programmatic effectiveness  
 30 of the state’s oil spill prevention, response, and preparedness  
 31 program. This report shall include an analysis of all of the oil spill  
 32 prevention, response, and preparedness program’s major  
 33 expenditures, fees and fines collected, staffing and equipment  
 34 levels, spills responded to, and other relevant issues. The report  
 35 shall recommend measures to improve the efficiency and  
 36 effectiveness of the state’s oil spill prevention, response, and  
 37 preparedness program, including, but not limited to, measures to  
 38 modify existing contingency plan requirements, to improve  
 39 protection of sensitive shoreline sites, and to ensure adequate and

1 equitable funding for the state’s oil spill prevention, response, and  
2 preparedness program.

3 (b) A report to be submitted pursuant to subdivision (a) shall  
4 be submitted in compliance with Section 9795.

5 ~~SEC. 5.~~

6 *SEC. 4.* Section 6226 is added to the Public Resources Code,  
7 to read:

8 6226. (a) On or before March 1, 2012, the commission, in  
9 consultation with the Department of Conservation, shall report to  
10 the Legislature on regulatory action, pending or already taken, and  
11 statutory recommendations for the Legislature to ensure maximum  
12 safety and prevention of harm during offshore oil drilling. The  
13 report shall include, but not be limited to, all of the following:

14 (1) A comprehensive set of requirements for offshore oil drilling  
15 rigs operating in state waters to have fully redundant and  
16 functioning safety systems to prevent a failure of a blowout  
17 preventer from causing a major oil spill.

18 (2) A complete description of a response plan to control a  
19 blowout and manage the accompanying discharge of hydrocarbons,  
20 including both of the following:

21 (A) The technology and timeline for regaining control of a well.

22 (B) The strategy, organization, and resources necessary to avoid  
23 harm to the environment and human health from hydrocarbons.

24 (3) Requirements for the use of the best available and safest  
25 technologies and practices, if the failure of equipment would have  
26 a significant effect on safety, health, or the environment.

27 (b) A report to be submitted pursuant to subdivision (a) shall  
28 be prepared in consideration of, but not limited to, all relevant and  
29 applicable information contained in reports and investigations  
30 related to the 2010 Deepwater Horizon oil spill in the Gulf of  
31 Mexico.

32 (c) (1) A report to be submitted pursuant to subdivision (a)  
33 shall be submitted in compliance with Section 9795 of the  
34 Government Code.

35 (2) Pursuant to Section 10231.5 of the Government Code, this  
36 section is repealed on January 1, 2016.