

Assembly Bill No. 1112

CHAPTER 583

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

[Approved by Governor October 8, 2011. Filed with
Secretary of State October 8, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1112, 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 January 1, 2015, to an amount not to exceed \$0.05.

(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.

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

SECTION 1. Section 8670.32 is added to the Government Code, to read:

8670.32. (a) To reduce the risk of an oil spill as a result of fuel, cargo, and lube oil transfers, the administrator shall 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. This program shall identify those bunkering and lightering operations that pose the highest risk of a pollution incident.

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

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

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

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

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment shall not exceed six and one-half cents (\$0.065) per barrel of crude oil or petroleum products. Beginning January 1, 2015, the annual assessment shall not exceed five cents (\$0.05) per barrel of crude oil or petroleum products.

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

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

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

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

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

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

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

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

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

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

(5) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars (\$100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars (\$100,000) from the fund for the purpose of allowing the administrator to respond to threatened oil spills.

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

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

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

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

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

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

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

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

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

6226. (a) On or before March 1, 2012, the commission, in consultation with the Department of Conservation, shall 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. The report shall include, but not be limited to, all of the following:

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

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

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

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

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

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

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

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