

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2005**

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**Introduced by Assembly Member Garrick**

February 23, 2012

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~~An act to amend Section 8670.28 of the Government Code, relating to oil spills. An act to add Section 8670.5.1 to the Government Code, relating to oil spills.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2005, as amended, Garrick. Oil spills: *nontank vessels*: contingency plans *and financial responsibility*.

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. ~~Under the act, the administrator for oil spill response is required to adopt and implement regulations and guidelines governing the adequacy of oil spill contingency plans. The act requires a nontank vessel to submit to the administrator specified documents and evidence of financial responsibility.~~

*This bill would specifically require an operator of a nontank vessel that is not used for commercial purposes to have, and submit to the administrator, evidence of financial responsibility before the arrival of the vessel in the waters of the state and to submit other required documents within 14 days after the arrival of the vessel.*

~~This bill would make technical, nonsubstantive changes to those provisions:~~

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

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

1     SECTION 1. Section 8670.5.1 is added to the Government  
2 Code, to read:

3     8670.5.1. Notwithstanding other provisions of this chapter or  
4 other law, an operator of a nontank vessel that is not used for  
5 commercial purposes shall have, and submit to the administrator,  
6 evidence of financial responsibility required pursuant to Section  
7 8670.37.58 prior to the arrival of the vessel in the waters of the  
8 state, and shall submit other documents required by this chapter  
9 within 14 days after the arrival of the vessel.

10    ~~SECTION 1. Section 8670.28 of the Government Code is~~  
11 ~~amended to read:~~

12    ~~8670.28. (a) The administrator, taking into consideration the~~  
13 ~~marine facility or vessel contingency plan requirements of the~~  
14 ~~national and California contingency plans, the State Lands~~  
15 ~~Commission, the State Fire Marshal, and the California Coastal~~  
16 ~~Commission shall adopt and implement regulations governing the~~  
17 ~~adequacy of oil spill contingency plans to be prepared and~~  
18 ~~implemented under this article. All regulations shall be developed~~  
19 ~~in consultation with the Oil Spill Technical Advisory Committee,~~  
20 ~~and shall be consistent with the California oil spill contingency~~  
21 ~~plan and not in conflict with the National Contingency Plan. The~~  
22 ~~regulations shall provide for the best achievable protection of~~  
23 ~~coastal and marine resources. The regulations shall permit the~~  
24 ~~development, application, and use of an oil spill contingency plan~~  
25 ~~for similar vessels, pipelines, terminals, and facilities within a~~  
26 ~~single company or organization, and across companies and~~  
27 ~~organizations. The regulations shall, at a minimum, ensure all of~~  
28 ~~the following:~~

29    ~~(1) All areas of the marine waters of the state are at all times~~  
30 ~~protected by prevention, response, containment, and cleanup~~  
31 ~~equipment and operations. For the purposes of this section, "marine~~  
32 ~~waters" includes the waterways used for waterborne commercial~~  
33 ~~vessel traffic to the Port of Stockton and the Port of Sacramento.~~

34    ~~(2) Standards set for response, containment, and cleanup~~  
35 ~~equipment and operations are maintained and regularly improved~~  
36 ~~to protect the resources of the state.~~

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

4 ~~(4) Each oil spill contingency plan provides for appropriate~~  
5 ~~financial or contractual arrangements for all necessary equipment~~  
6 ~~and services, for the response, containment, and cleanup of a~~  
7 ~~reasonable worst case oil spill scenario for each part of the coast~~  
8 ~~the plan addresses.~~

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

17 ~~(6) Each oil spill contingency plan identifies the types of~~  
18 ~~equipment that can be used, the location of the equipment, and the~~  
19 ~~time taken to deliver the equipment.~~

20 ~~(7) Each marine facility conducts a hazard and operability study~~  
21 ~~to identify the hazards associated with the operation of the facility,~~  
22 ~~including the use of the facility by vessels, due to operating error,~~  
23 ~~equipment failure, and external events. For the hazards identified~~  
24 ~~in the hazard and operability studies, the facility shall conduct an~~  
25 ~~offsite consequence analysis that, for the most likely hazards,~~  
26 ~~assumes pessimistic water and air dispersion and other adverse~~  
27 ~~environmental conditions.~~

28 ~~(8) Each oil spill contingency plan contains a list of contacts to~~  
29 ~~call in the event of a drill, threatened discharge of oil, or discharge~~  
30 ~~of oil.~~

31 ~~(9) Each oil spill contingency plan identifies the measures to~~  
32 ~~be taken to protect the recreational and environmentally sensitive~~  
33 ~~areas that would be threatened by a reasonable worst case oil spill~~  
34 ~~scenario.~~

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

36 ~~(11) Each oil spill contingency plan includes a timetable for~~  
37 ~~implementing the plan.~~

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

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

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

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

21 ~~(e) The regulations adopted pursuant to subdivision (d) shall be~~  
22 ~~exempt from review by the Office of Administrative Law.~~  
23 ~~Subsequent amendments and changes to the regulations shall not~~  
24 ~~be exempt from Office of Administrative Law review.~~

25 ~~(f) This section shall become effective on January 1, 2012.~~