

ASSEMBLY BILL

No. 881

Introduced by Assembly Member Chesbro

February 22, 2013

An act to amend Sections 8670.40 and 8670.41 of, and to add Section 8670.43 to, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 881, as introduced, Chesbro. Oil spill prevention and administrative fee.

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed, until January 1, 2015, \$0.065 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, including to cover the costs incurred by the Oiled Wildlife Care Network for training and field collection and search and rescue activities.

This bill would increase the maximum annual assessment from \$0.065 to \$0.08 per barrel of crude oil or petroleum products and would allow the administrator to adjust the maximum fee annually based on the percentage increase in the California Consumer Price Index, as specified.

Existing law permits the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing oil spill prevention relating to nontank vessels.

This bill would require the fee not to exceed \$3,500 per nontank vessel but would give the administrator discretion to reduce the fee for nontank vessels that pose a reduced risk of pollution and would allow the administrator to adjust the maximum fee annually based on the percentage increase in the California Consumer Price Index, as specified.

This bill would transfer \$0.003 of the per barrel of crude oil or petroleum products fee collected, and \$250 of the per nontank vessel fee collected, to fund specified activities the Oiled Wildlife Care Network.

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 8670.40 of the Government Code is
 2 amended to read:
 3 8670.40. (a) The State Board of Equalization shall collect a
 4 fee in an amount determined by the administrator to be sufficient
 5 to carry out the purposes set forth in subdivision (e), and a
 6 reasonable reserve for contingencies. The annual assessment shall
 7 not exceed ~~six and one-half cents (\$0.065) per barrel of crude oil~~
 8 ~~or petroleum products. Beginning January 1, 2015, the annual~~
 9 ~~assessment shall not exceed five cents (\$0.05) per barrel of crude~~
 10 ~~oil or petroleum products~~ *eight cents (\$0.08) per barrel of crude*
 11 *oil or petroleum products. The administrator may adjust the*
 12 *maximum fee annually based on the percentage increase in the*
 13 *California Consumer Price Index as determined pursuant to*
 14 *Section 2212 of the Revenue and Taxation Code.*
 15 (b) (1) The oil spill prevention and administration fee shall be
 16 imposed upon a person owning crude oil at the time that crude oil
 17 is received at a marine terminal from within or outside the state,
 18 and upon a person who owns petroleum products at the time that
 19 those petroleum products are received at a marine terminal from
 20 outside this state. The fee shall be collected by the marine terminal
 21 operator from the owner of the crude oil or petroleum products
 22 based on each barrel of crude oil or petroleum products so received
 23 by means of a vessel operating in, through, or across the marine
 24 waters of the state. In addition, an operator of a pipeline shall pay
 25 the oil spill prevention and administration fee for each barrel of
 26 crude oil originating from a production facility in marine waters

1 and transported in the state by means of a pipeline operating across,
2 under, or through the marine waters of the state. The fees shall be
3 remitted to the board by the terminal or pipeline operator on the
4 25th day of the month based upon the number of barrels of crude
5 oil or petroleum products received at a marine terminal or
6 transported by pipeline during the preceding month. A fee shall
7 not be imposed pursuant to this section with respect to crude oil
8 or petroleum products if the person who would be liable for that
9 fee, or responsible for its collection, establishes that the fee has
10 been collected by a terminal operator registered under this chapter
11 or paid to the board with respect to the crude oil or petroleum
12 product.

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

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

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

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

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

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

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

- 1 (3) To finance environmental and economic studies relating to
 2 the effects of oil spills.
- 3 (4) To implement, install, and maintain emergency programs,
 4 equipment, and facilities to respond to, contain, and clean up oil
 5 spills and to ensure that those operations will be carried out as
 6 intended.
- 7 (5) To respond to an imminent threat of a spill in accordance
 8 with the provisions of Section 8670.62 pertaining to threatened
 9 discharges. The cumulative amount of an expenditure for this
 10 purpose shall not exceed the amount of one hundred thousand
 11 dollars (\$100,000) in a fiscal year unless the administrator receives
 12 the approval of the Director of Finance and notification is given
 13 to the Joint Legislative Budget Committee. Commencing with the
 14 1993–94 fiscal year, and each fiscal year thereafter, it is the intent
 15 of the Legislature that the annual Budget Act contain an
 16 appropriation of one hundred thousand dollars (\$100,000) from
 17 the fund for the purpose of allowing the administrator to respond
 18 to threatened oil spills.
- 19 (6) To reimburse the board for costs incurred to implement this
 20 chapter and to carry out Part 24 (commencing with Section 46001)
 21 of Division 2 of the Revenue and Taxation Code.
- 22 (7) To cover *annual* costs incurred by the Oiled Wildlife Care
 23 Network established by Section 8670.37.5, *including costs* for
 24 training and field collection, and search and rescue activities,
 25 pursuant to subdivision (g) of Section 8670.37.5.
- 26 (f) The moneys deposited in the fund shall not be used for
 27 responding to an oil spill.
- 28 (g) The moneys deposited in the fund shall not be used to
 29 provide a loan to any other fund.
- 30 (h) This section shall become operative on January 1, 2012.
- 31 SEC. 2. Section 8670.41 of the Government Code is amended
 32 to read:
- 33 8670.41. (a) The administrator shall charge a nontank vessel
 34 owner or operator a reasonable fee, to be collected with each
 35 application to obtain a certificate of financial responsibility, in an
 36 amount ~~that is based upon~~ *not to exceed three thousand five*
 37 *hundred dollars (\$3,500) per nontank vessel for the administrator's*
 38 *costs in implementing this chapter relating to nontank vessels.*
 39 ~~Before January 1, 2005, the fee shall be two thousand five hundred~~
 40 ~~dollars (\$2,500), or less per vessel~~ *The administrator may adjust*

1 *the maximum fee annually based on the percentage increase in*
2 *the California Consumer Price Index as determined pursuant to*
3 *Section 2212 of the Revenue and Taxation Code.*

4 (b) ~~The~~ *Notwithstanding subdivision (a), the administrator may*
5 *charge a reduced fee under this section for nontank vessels*
6 *determined by the administrator to pose a reduced risk of pollution,*
7 *including, but not limited to, vessels used for research or training*
8 *and vessels that are moored permanently or rarely move.*

9 (c) *The administrator shall deposit all revenue derived from the*
10 *fees imposed under this section in the Oil Spill Prevention and*
11 *Administration Fund established in the State Treasury under*
12 *Section 8670.38.*

13 (d) *Revenue derived from the fees imposed under this section*
14 *may be spent for the purposes listed in subdivision (e) of Section*
15 *8670.40, and may not be used for responding to an oil spill.*

16 SEC. 3. *Section 8670.43 is added to the Government Code, to*
17 *read:*

18 8670.43. *Three mills (\$0.003) of the per barrel of crude oil or*
19 *petroleum products fee collected pursuant to subdivision (a) of*
20 *Section 8670.40 and two hundred fifty dollars (\$250) of the per*
21 *nontank vessel fee collected pursuant to Section 8670.41 shall be*
22 *transferred from the Oil Spill Prevention and Administration Fund*
23 *to the Oil Spill Response Trust Fund and, upon appropriation by*
24 *the Legislature, used for covering the annual costs of the Oiled*
25 *Wildlife Care Network described in paragraph (7) of subdivision*
26 *(e) of Section 8670.40.*

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