

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 881

**Introduced by Assembly Member Chesbro
(Coauthors: Assembly Members Williams and Yamada)**

February 22, 2013

An act to amend, repeal, and add 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 amended, 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 and thereafter the fee is not to exceed \$0.05 per barrel. 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, instead, on and after January 1, 2015, increase the maximum annual assessment to ~~\$0.08~~ \$0.07 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, on and after January 1, 2015, 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 allow the administrator to transfer up to \$2,000,000 in funds from the Oil Spill Prevention and Administration Fund to the Oil Spill Response Trust Fund, as described, to fund specified activities of 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.
 9 (b) (1) The oil spill prevention and administration fee shall be
 10 imposed upon a person owning crude oil at the time that crude oil
 11 is received at a marine terminal from within or outside the state,
 12 and upon a person who owns petroleum products at the time that
 13 those petroleum products are received at a marine terminal from
 14 outside this state. The fee shall be collected by the marine terminal
 15 operator from the owner of the crude oil or petroleum products
 16 based on each barrel of crude oil or petroleum products so received
 17 by means of a vessel operating in, through, or across the marine

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

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

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

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

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

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

- 1 (1) To implement oil spill prevention programs through rules,
2 regulations, leasing policies, guidelines, and inspections and to
3 implement research into prevention and control technology.
- 4 (2) To carry out studies that may lead to improved oil spill
5 prevention and response.
- 6 (3) To finance environmental and economic studies relating to
7 the effects of oil spills.
- 8 (4) To implement, install, and maintain emergency programs,
9 equipment, and facilities to respond to, contain, and clean up oil
10 spills and to ensure that those operations will be carried out as
11 intended.
- 12 (5) To respond to an imminent threat of a spill in accordance
13 with the provisions of Section 8670.62 pertaining to threatened
14 discharges. The cumulative amount of an expenditure for this
15 purpose shall not exceed the amount of one hundred thousand
16 dollars (\$100,000) in a fiscal year unless the administrator receives
17 the approval of the Director of Finance and notification is given
18 to the Joint Legislative Budget Committee. Commencing with the
19 1993–94 fiscal year, and each fiscal year thereafter, it is the intent
20 of the Legislature that the annual Budget Act contain an
21 appropriation of one hundred thousand dollars (\$100,000) from
22 the fund for the purpose of allowing the administrator to respond
23 to threatened oil spills.
- 24 (6) To reimburse the board for costs incurred to implement this
25 chapter and to carry out Part 24 (commencing with Section 46001)
26 of Division 2 of the Revenue and Taxation Code.
- 27 (7) To cover costs incurred by the Oiled Wildlife Care Network
28 established by Section 8670.37.5 for training and field collection,
29 and search and rescue activities, pursuant to subdivision (g) of
30 Section 8670.37.5.
- 31 (f) The moneys deposited in the fund shall not be used for
32 responding to an oil spill.
- 33 (g) The moneys deposited in the fund shall not be used to
34 provide a loan to any other fund.
- 35 (h) This section shall remain in effect only until January 1, 2015,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2015, deletes or extends that date.
- 38 SEC. 2. Section 8670.40 is added to the Government Code, to
39 read:

1 8670.40. (a) The State Board of Equalization shall collect a
2 fee in an amount determined by the administrator to be sufficient
3 to carry out the purposes set forth in subdivision (e), and a
4 reasonable reserve for contingencies. The annual assessment shall
5 not exceed ~~eight~~ *seven* cents ~~(\$0.08)~~ *(\$0.07)* per barrel of crude
6 oil or petroleum products. ~~The administrator may adjust the~~
7 ~~maximum fee annually based on the percentage increase in the~~
8 ~~California Consumer Price Index as determined pursuant to Section~~
9 ~~2212 of the Revenue and Taxation Code.~~

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

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

38 (3) On or before January 20, the administrator shall annually
39 prepare a plan that projects revenues and expenses over three fiscal
40 years, including the current year. Based on the plan, the

1 administrator shall set the fee so that projected revenues, including
2 any interest, are equivalent to expenses as reflected in the current
3 Budget Act and in the proposed budget submitted by the Governor.
4 In setting the fee, the administrator may allow for a surplus if the
5 administrator finds that revenues will be exhausted during the
6 period covered by the plan or that the surplus is necessary to cover
7 possible contingencies. The administrator shall notify the board
8 of the adjusted fee rate, which shall be rounded to no more than
9 four decimal places, to be effective the first day of the month
10 beginning not less than 30 days from the date of the notification.

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

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

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

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

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

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

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

28 (5) To respond to an imminent threat of a spill in accordance
29 with the provisions of Section 8670.62 pertaining to threatened
30 discharges. The cumulative amount of an expenditure for this
31 purpose shall not exceed the amount of one hundred thousand
32 dollars (\$100,000) in a fiscal year unless the administrator receives
33 the approval of the Director of Finance and notification is given
34 to the Joint Legislative Budget Committee. Commencing with the
35 1993–94 fiscal year, and each fiscal year thereafter, it is the intent
36 of the Legislature that the annual Budget Act contain an
37 appropriation of one hundred thousand dollars (\$100,000) from
38 the fund for the purpose of allowing the administrator to respond
39 to threatened oil spills.

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

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

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

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

12 (h) This section shall become operative on January 1, 2015.

13 SEC. 3. Section 8670.41 of the Government Code is amended
14 to read:

15 8670.41. (a) The administrator shall charge a nontank vessel
16 owner or operator a reasonable fee, to be collected with each
17 application to obtain a certificate of financial responsibility, in an
18 amount that is based upon the administrator's costs in
19 implementing this chapter relating to nontank vessels. Before
20 January 1, 2005, the fee shall be two thousand five hundred dollars
21 (\$2,500), or less per vessel.

22 (b) The administrator may charge a reduced fee under this
23 section for nontank vessels determined by the administrator to
24 pose a reduced risk of pollution, including, but not limited to,
25 vessels used for research or training and vessels that are moored
26 permanently or rarely move.

27 (c) The administrator shall deposit all revenue derived from the
28 fees imposed under this section in the Oil Spill Prevention and
29 Administration Fund established in the State Treasury under
30 Section 8670.38.

31 (d) Revenue derived from the fees imposed under this section
32 may be spent for the purposes listed in subdivision (e) of Section
33 8670.40, and may not be used for responding to an oil spill.

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

37 SEC. 4. Section 8670.41 is added to the Government Code, to
38 read:

39 8670.41. (a) The administrator shall charge a nontank vessel
40 owner or operator a reasonable fee, to be collected with each

1 application to obtain a certificate of financial responsibility, in an
 2 amount not to exceed three thousand five hundred dollars (\$3,500)
 3 per nontank vessel for the administrator’s costs in implementing
 4 this chapter relating to nontank vessels. ~~The administrator may~~
 5 ~~adjust the maximum fee annually based on the percentage increase~~
 6 ~~in the California Consumer Price Index as determined pursuant to~~
 7 ~~Section 2212 of the Revenue and Taxation Code.~~

8 (b) Notwithstanding subdivision (a), the administrator may
 9 charge a reduced fee under this section for nontank vessels
 10 determined by the administrator to pose a reduced risk of pollution,
 11 including, but not limited to, vessels used for research or training
 12 and vessels that are moored permanently or rarely move.

13 (c) The administrator shall deposit all revenue derived from the
 14 fees imposed under this section in the Oil Spill Prevention and
 15 Administration Fund established in the State Treasury under
 16 Section 8670.38.

17 (d) Revenue derived from the fees imposed under this section
 18 may be spent for the purposes listed in subdivision (e) of Section
 19 8670.40, and may not be used for responding to an oil spill.

20 (e) This section shall become operative on January 1, 2015.

21 SEC. 5. Section 8670.43 is added to the Government Code, to
 22 read:

23 8670.43. To the extent that the interest earned on the Oil Spill
 24 Response Trust Fund is insufficient to meet the appropriation in
 25 subparagraph (A) of paragraph (2) of subdivision (l) of Section
 26 8670.48, the administrator may transfer up to two million dollars
 27 (\$2,000,000) in funds from the Oil Spill Prevention and
 28 Administration Fund to the Oil Spill Response Trust Fund to be
 29 used, upon appropriation by the Legislature, to cover the annual
 30 costs of the Oiled Wildlife Care Network described in paragraph
 31 (7) of subdivision (e) of Section 8670.40.

O