

Introduced by Senator MonningFebruary 21, 2013

An act to amend Section 656 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as introduced, Monning. Vessels: collisions and accidents.

Existing law regulates the operation and equipment of vessels subject to the jurisdiction of this state. Existing law specifies that it is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to his or her own vessel, crew, and passengers, to render assistance to other persons affected by the collision, accident, or other casualty as may be practicable and necessary to save those persons from, or minimize any, danger caused by the collision, accident, or other casualty. Existing law further requires the owner, operator or other person on board a vessel involved in a casualty or accident to report the casualty or accident in accordance with regulations adopted by the Department of Boating and Waterways.

This bill would require that the other person required to report a casualty or accident on board the vessel be at least 18 years of age and physically capable of making the report. The bill would require that any public agency that is under contract with the department to receive law enforcement grant funds from the department, pursuant to regulations adopted by the department, complete and submit to the department a report for any boating accident to which it responds or for which it receives a report, and would make any public agency that fails to comply with that reporting requirement ineligible to receive any

future law enforcement grant funds from the department for at least 5 fiscal years following the date of the failure to submit an accident report.

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 656 of the Harbors and Navigation Code
 2 is amended to read:
 3 656. (a) It is the duty of the operator of a vessel involved in a
 4 collision, accident, or other casualty, so far as the operator can do
 5 so without serious danger to his or her own vessel, crew, and
 6 passengers, to render to other persons affected by the collision,
 7 accident, or other casualty ~~such that assistance as may be~~ *that is*
 8 practicable and ~~as may be~~ necessary in order to save them from,
 9 or minimize any, danger caused by the collision, accident, or other
 10 casualty.
 11 (b) Any person who complies with subdivision (a) or Section
 12 656.1, 656.2, or 656.3 or who gratuitously and in good faith renders
 13 assistance at the scene of a vessel collision, accident, or other
 14 casualty without objection by any person assisted, shall not be held
 15 liable for any civil damages sought as a result of the rendering of
 16 assistance or for any act or omission in providing or arranging
 17 salvage, towage, medical treatment, or other assistance, ~~where if~~
 18 the assisting person has acted as an ordinary, reasonably prudent
 19 person would have acted under the same or similar circumstances.
 20 (c) (1) An individual employee of a public entity engaged in
 21 rescue pursuant to this code shall not be a proper party defendant
 22 and shall be dismissed on motion, unless the employee has violated
 23 a statute other than a statute creating a general obligation to rescue
 24 or is guilty of oppression, fraud, malice, or the conscious disregard
 25 of the safety of others.
 26 (2) The public entity employing such an individual shall be
 27 liable in civil damages ~~where if~~ the individual employee has failed
 28 to act as a reasonably prudent person would have acted under the
 29 same or similar circumstances.
 30 (3) ~~Where~~ *If* a public entity has given a reasonable printed,
 31 electronic, or verbal warning of the danger causing the distress
 32 ~~which that~~ created the necessity for the rescue, and there has been
 33 a reasonable opportunity for the party in distress to receive the

1 warning, the public entity ~~shall be~~ *is* liable only for acts or
2 omissions of its employee ~~which that~~ were taken in a grossly
3 negligent manner.

4 (d) The owner, operator, or other person *who is at least 18 years*
5 *of age and physically capable* on board a vessel involved in a
6 casualty or accident shall report the casualty or accident in
7 accordance with regulations adopted by the department. The
8 department shall adopt regulations to maintain a uniform casualty
9 and accident reporting system for vessels subject to this code in
10 conformity with federal casualty and accident reporting regulations
11 promulgated by the United States Coast Guard or any successor
12 ~~thereto~~ *to those regulations*. Consistent with Public Law 92-75
13 and the federal regulations contained in Part 173 of Title 33 of the
14 Code of Federal Regulations, a peace officer or harbor policeman,
15 upon receiving an initial report of a casualty involving the death
16 or disappearance of a person as a result of a boating accident, shall
17 immediately forward the report, by quickest means available, to
18 the department.

19 (1) *A public agency that is under contract with the department*
20 *to receive law enforcement grant funds from the department shall,*
21 *pursuant to regulations adopted by the department, complete and*
22 *submit to the department a report for any boating accident to which*
23 *it responds or for which it receives a report.*

24 (2) *A public agency that has received any law enforcement grant*
25 *funds from the department that does not submit an accident report*
26 *as required under paragraph (1) shall be ineligible to receive*
27 *future grant funds for at least five fiscal years following the date*
28 *of the failure to submit a report.*

29 (e) Neither the report required by this section nor any action
30 taken by the department with regard to the report shall be referred
31 to in any way, or be any evidence of negligence or due care of any
32 party, at the trial of any action at law to recover damages.

33 (f) All required accident reports, and supplemental reports, shall
34 be without prejudice to the individual so reporting and shall be for
35 the confidential use of the department and any peace officer
36 actually engaged in the enforcement of this chapter, except that
37 the department shall disclose the names and addresses of persons
38 involved in, or witnesses to, an accident, the registration numbers
39 and descriptions of vessels involved, and the date, time, and
40 location of an accident to any person who may have a proper

1 interest ~~therein~~ *in that information*, including the ~~operators~~ *operator*
2 involved or the legal guardian ~~thereof~~ *of that operator*, the parent
3 of a minor operator, the authorized representative of an operator,
4 or any person injured ~~therein~~, and the owners of vessels or property
5 damaged ~~thereby~~, *in the accident*.

6 (g) This section applies to foreign vessels, military or public
7 recreational-type vessels, vessels owned by a state or subdivision
8 ~~thereof~~ *of a state*, and ship's lifeboats otherwise exempted from
9 this chapter pursuant to Section 650.1.

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