

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 457

Introduced by Senator Monning

February 21, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, 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~~ *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~~ *may* 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~~ *up to* 5 fiscal years following the date of the failure to submit an accident report. *The bill would require the department to use reasonable means to obtain from the public agency a complete report for any boating accident to which it responds or for which it receives a report. The bill would further require the department to use reasonable means to notify the public agency of the failure to submit a report prior to the department's determination that the public agency is ineligible to receive future grant funds.*

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 that assistance that is practicable and
8 necessary in order to save them from, or minimize any, danger
9 caused by the collision, accident, or other casualty.
10 (b) Any person who complies with subdivision (a) or Section
11 656.1, 656.2, or 656.3 or who gratuitously and in good faith renders
12 assistance at the scene of a vessel collision, accident, or other
13 casualty without objection by any person assisted, shall not be held
14 liable for any civil damages sought as a result of the rendering of
15 assistance or for any act or omission in providing or arranging
16 salvage, towage, medical treatment, or other assistance, if the
17 assisting person has acted as an ordinary, reasonably prudent person
18 would have acted under the same or similar circumstances.
19 (c) (1) An individual employee of a public entity engaged in
20 rescue pursuant to this code shall not be a proper party defendant
21 and shall be dismissed on motion, unless the employee has violated
22 a statute other than a statute creating a general obligation to rescue
23 or is guilty of oppression, fraud, malice, or the conscious disregard
24 of the safety of others.

1 (2) The public entity employing such an individual shall be
2 liable in civil damages if the individual employee has failed to act
3 as a reasonably prudent person would have acted under the same
4 or similar circumstances.

5 (3) If a public entity has given a reasonable printed, electronic,
6 or verbal warning of the danger causing the distress that created
7 the necessity for the rescue, and there has been a reasonable
8 opportunity for the party in distress to receive the warning, the
9 public entity is liable only for acts or omissions of its employee
10 that were taken in a grossly negligent manner.

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

26 (1) A public agency that is under contract with the department
27 to receive law enforcement grant funds from the department shall,
28 pursuant to regulations adopted by the department, complete and
29 submit to the department a report for any boating accident to which
30 it responds or for which it receives a report.

31 (2) A public agency that has received any law enforcement grant
32 funds from the department that does not submit an accident report
33 as required under paragraph (1) ~~shall~~ *may be determined by the*
34 *department to be ineligible to receive future grant funds for at least*
35 *up to five fiscal years following the date of the failure to submit*
36 *a report.*

37 (3) *The department shall use reasonable means to do both of*
38 *the following:*

39 (A) *Obtain from a public agency any complete report required*
40 *to be submitted pursuant to paragraph (1).*

1 (B) Notify a public agency of the failure to submit a report
2 required under paragraph (1) before taking action pursuant to
3 paragraph (2).

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

8 (f) All required accident reports, and supplemental reports, shall
9 be without prejudice to the individual so reporting and shall be for
10 the confidential use of the department and any peace officer
11 actually engaged in the enforcement of this chapter, except that
12 the department shall disclose the names and addresses of persons
13 involved in, or witnesses to, an accident, the registration numbers
14 and descriptions of vessels involved, and the date, time, and
15 location of an accident to any person who may have a proper
16 interest in that information, including the operator involved or the
17 legal guardian of that operator, the parent of a minor operator, the
18 authorized representative of an operator, or any person injured,
19 and the owners of vessels or property damaged, in the accident.

20 (g) This section applies to foreign vessels, military or public
21 recreational-type vessels, vessels owned by a state or subdivision
22 of a state, and ship's lifeboats otherwise exempted from this chapter
23 pursuant to Section 650.1.