

AMENDED IN SENATE APRIL 30, 2013

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, 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.

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 ~~may~~ *report*. *It 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 up to 5 fiscal years following the date of the failure to submit an accident report, *except upon a showing of good cause by that public agency*. 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.

25 (2) The public entity employing such an individual shall be  
26 liable in civil damages if the individual employee has failed to act

1 as a reasonably prudent person would have acted under the same  
2 or similar circumstances.

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

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

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

28 (2) A public agency that has received any law enforcement grant  
29 funds from the department that does not submit an accident report  
30 as required under paragraph (1) ~~may~~ shall be determined by the  
31 department to be ineligible to receive future grant funds for up to  
32 five fiscal years following the date of the failure to submit a report,  
33 *except upon a showing of good cause by that public agency.*

34 (3) The department shall use reasonable means to do both of  
35 the following:

36 (A) Obtain from a public agency any complete report required  
37 to be submitted pursuant to paragraph (1).

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

- 1 (e) Neither the report required by this section nor any action  
2 taken by the department with regard to the report shall be referred  
3 to in any way, or be any evidence of negligence or due care of any  
4 party, at the trial of any action at law to recover damages.
- 5 (f) All required accident reports, and supplemental reports, shall  
6 be without prejudice to the individual so reporting and shall be for  
7 the confidential use of the department and any peace officer  
8 actually engaged in the enforcement of this chapter, except that  
9 the department shall disclose the names and addresses of persons  
10 involved in, or witnesses to, an accident, the registration numbers  
11 and descriptions of vessels involved, and the date, time, and  
12 location of an accident to any person who may have a proper  
13 interest in that information, including the operator involved or the  
14 legal guardian of that operator, the parent of a minor operator, the  
15 authorized representative of an operator, or any person injured,  
16 and the owners of vessels or property damaged, in the accident.
- 17 (g) This section applies to foreign vessels, military or public  
18 recreational-type vessels, vessels owned by a state or subdivision  
19 of a state, and ship's lifeboats otherwise exempted from this chapter  
20 pursuant to Section 650.1.