

Senate Bill No. 457

CHAPTER 165

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

[Approved by Governor August 27, 2013. Filed with Secretary of State August 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 457, 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. The bill 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.

The people of the State of California do enact as follows:

SECTION 1. Section 656 of the Harbors and Navigation Code is amended to read:

656. (a) 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 to other persons affected by the collision, accident, or other casualty that assistance that is practicable and necessary in order to save them from, or minimize any, danger caused by the collision, accident, or other casualty.

(b) Any person who complies with subdivision (a) or Section 656.1, 656.2, or 656.3 or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection by any person assisted, shall not be held liable for any civil damages sought as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, if the assisting person has acted as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

(c) (1) An individual employee of a public entity engaged in rescue pursuant to this code shall not be a proper party defendant and shall be dismissed on motion, unless the employee has violated a statute other than a statute creating a general obligation to rescue or is guilty of oppression, fraud, malice, or the conscious disregard of the safety of others.

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

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

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

(1) A public agency that is under contract with the department to receive law enforcement grant funds from the department shall, 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.

(2) A public agency that has received any law enforcement grant funds from the department that does not submit an accident report as required under paragraph (1) shall be determined by the department to be ineligible

to receive future grant funds for up to five fiscal years following the date of the failure to submit a report, except upon a showing of good cause by that public agency.

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

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

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

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

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

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