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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 864

Introduced by Assembly Members Williams and Burke

(Principal coauthor: Senator Jackson)

**(Coauthors: Assembly Members Chiu, Rendon, Mark Stone, Ting,
and Wood)**

February 26, 2015

An act to amend Sections 8670.28.5 and 8670.29 of, *and to add Section 51013.1 to*, the Government Code, relating to oil spill response.

LEGISLATIVE COUNSEL'S DIGEST

AB 864, as amended, Williams. Oil spill response: environmentally and ecologically sensitive areas.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires owners or operators of various facilities, including pipelines, while operating in the waters of the state or where a spill from the pipelines could impact state waters, to have an oil spill contingency plan submitted to, and approved by, the administrator for oil spill response to ensure prompt and adequate response and removal action in case of a spill. The act requires the operator to maintain a level

of readiness that will allow effective implementation of the applicable contingency plan.

This bill would require, *by July 1, 2018*, the operators of ~~pipelines in an interstate pipeline near environmentally and ecologically sensitive areas of state waters or along the coasts of those areas, as provided~~, to use the best achievable technologies to reduce the amount of oil released in an oil spill to protect the state waters and wildlife, and to include a description of the use of those technologies in their oil spill contingency plans. *The bill would require the Office of Spill Prevention and Response to consult with the Office of the State Fire Marshal for technical expertise, and would authorize the office to enter into a memorandum of understanding, as provided, for purposes of implementing the above provisions.*

The Elder California Pipeline Safety Act of 1981, among other things, requires the State Fire Marshal to adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety. The act requires any new pipeline constructed after January 1, 1984, and which normally operates under conditions of constant flow and pressure, to be designed and constructed in accordance with specified federal regulations, and have a means of leak detection and cathodic protection that the State Fire Marshal determines is acceptable. A violation of the act is a crime. Except as provided, the act defines “pipeline” as including every intrastate pipeline used to transport hazardous liquid substances or highly volatile liquid substances, as provided.

This bill would require any new or replacement pipeline near environmentally and ecologically sensitive areas in the coastal zone to use best achievable technologies to reduce the amount of oil released in an oil spill to protect state waters and wildlife. The bill would require, by July 1, 2018, an operator of the above-described pipeline to submit a plan to retrofit existing pipelines, as provided. By creating a new crime, the bill would impose a state-mandated local program. The bill would require the State Fire Marshal to adopt regulations relating to the above provisions by July 1, 2017.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 8670.28.5 of the Government Code is
2 amended to read:

3 8670.28.5. (a) An operator shall maintain a level of readiness
4 that will allow effective implementation of the applicable
5 contingency plans.

6 (b) ~~An~~ *(1) By July 1, 2018, an operator of a an interstate*
7 *pipeline in subject to Part 195 of Title 49 of the Code of Federal*
8 *Regulations near environmentally and ecologically sensitive areas*
9 *of state waters and along the coasts of those areas in the coastal*
10 *zone shall use best achievable technology, including, but not*
11 *limited to, the installation of leak detection technology, automatic*
12 *shutoff valves, systems, or remote controlled sectionalized block*
13 *valves, or any combination of these technologies, based on a risk*
14 *analysis conducted by the operator, to reduce the amount of oil*
15 *released in an oil spill to protect state waters and wildlife.*

16 *(2) For purposes of implementing this subdivision, the Office*
17 *of Spill Prevention and Response shall consult with the Office of*
18 *the State Fire Marshal for technological expertise and may enter*
19 *into a memorandum of understanding to clarify roles and*
20 *responsibilities.*

21 *(3) By July 1, 2017, the administrator shall develop guidelines*
22 *to assess the adequacy of the operator's risk analysis.*

23 SEC. 2. Section 8670.29 of the Government Code is amended
24 to read:

25 8670.29. (a) In accordance with the rules, regulations, and
26 policies established by the administrator pursuant to Section
27 8670.28, an owner or operator of a facility, small marine fueling
28 facility, or mobile transfer unit, or an owner or operator of a tank
29 vessel, nontank vessel, or vessel carrying oil as secondary cargo,
30 while operating in the waters of the state or where a spill could
31 impact waters of the state, shall have an oil spill contingency plan
32 that has been submitted to, and approved by, the administrator
33 pursuant to Section 8670.31. An oil spill contingency plan shall
34 ensure the undertaking of prompt and adequate response and
35 removal action in case of a spill, shall be consistent with the

1 California oil spill contingency plan, and shall not conflict with
2 the National Oil and Hazardous Substances Pollution Contingency
3 Plan (NCP).

4 (b) An oil spill contingency plan shall, at a minimum, meet all
5 of the following requirements:

6 (1) Be a written document, reviewed for feasibility and
7 executability, and signed by the owner or operator, or his or her
8 designee.

9 (2) Provide for the use of an incident command system to be
10 used during a spill.

11 (3) Provide procedures for reporting oil spills to local, state,
12 and federal agencies, and include a list of contacts to call in the
13 event of a drill, threatened spill, or spill.

14 (4) Describe the communication plans to be used during a spill,
15 if different from those used by a recognized incident command
16 system.

17 (5) Describe the strategies for the protection of environmentally
18 sensitive areas.

19 (6) Identify at least one rated OSRO for each rating level
20 established pursuant to Section 8670.30. Each identified rated
21 OSRO shall be directly responsible by contract, agreement, or
22 other approved means to provide oil spill response activities
23 pursuant to the oil spill contingency plan. A rated OSRO may
24 provide oil spill response activities individually, or in combination
25 with another rated OSRO, for a particular owner or operator.

26 (7) Identify a qualified individual.

27 (8) Provide the name, address, and telephone and facsimile
28 numbers for an agent for service of process, located within the
29 state and designated to receive legal documents on behalf of the
30 owner or operator.

31 (9) Provide for training and drills on elements of the plan at
32 least annually, with all elements of the plan subject to a drill at
33 least once every three years.

34 (c) An oil spill contingency plan for a vessel shall also include,
35 but is not limited to, all of the following requirements:

36 (1) The plan shall be submitted to the administrator at least
37 seven days prior to the vessel entering waters of the state.

38 (2) The plan shall provide evidence of compliance with the
39 International Safety Management Code, established by the
40 International Maritime Organization, as applicable.

- 1 (3) If the oil spill contingency plan is for a tank vessel, the plan
2 shall include both of the following:
- 3 (A) The plan shall specify oil and petroleum cargo capacity.
4 (B) The plan shall specify the types of oil and petroleum cargo
5 carried.
- 6 (4) If the oil spill contingency plan is for a nontank vessel, the
7 plan shall include both of the following:
- 8 (A) The plan shall specify the type and total amount of fuel
9 carried.
- 10 (B) The plan shall specify the capacity of the largest fuel tank.
- 11 (d) An oil spill contingency plan for a facility shall also include,
12 but is not limited to, all of the following provisions, as appropriate:
- 13 (1) Provisions for site security and control.
14 (2) Provisions for emergency medical treatment and first aid.
15 (3) Provisions for safety training, as required by state and federal
16 safety laws for all personnel likely to be engaged in oil spill
17 response.
- 18 (4) Provisions detailing site layout and locations of
19 environmentally sensitive areas requiring special protection.
- 20 (5) Provisions for vessels that are in the operational control of
21 the facility for loading and unloading.
- 22 (e) Unless preempted by federal law or regulations, an oil spill
23 contingency plan for a railroad also shall include, but is not limited
24 to, all of the following:
- 25 (1) A list of the types of train cars that may make up the consist.
26 (2) A list of the types of oil and petroleum products that may
27 be transported.
- 28 (3) A map of track routes and facilities.
29 (4) A list, description, and map of any prestaged spill response
30 equipment and personnel for deployment of the equipment.
- 31 (f) An oil spill contingency plan for ~~a pipeline in an interstate~~
32 *pipeline subject to Part 195 of Title 49 of the Code of Federal*
33 *Regulations near environmentally and ecologically sensitive areas*
34 ~~of state waters or along the coasts of those areas in the coastal~~
35 ~~zone subject to the requirements of subdivision (b) of Section~~
36 *8670.28.5 shall include a description of how the operators are*
37 *using the best achievable technology, including, but not limited*
38 *to, installation of leak detection technologies, automatic shutoff*
39 ~~valves, systems, or remote controlled sectionalized block valves,~~
40 *or any combination of these technologies, based on a risk analysis*

1 *conducted by the operator*, to reduce the amount of oil released in
2 an oil spill to protect state waters and wildlife.

3 (g) The oil spill contingency plan shall be available to response
4 personnel and to relevant state and federal agencies for inspection
5 and review.

6 (h) The oil spill contingency plan shall be reviewed periodically
7 and updated as necessary. All updates shall be submitted to the
8 administrator pursuant to this article.

9 (i) In addition to the regulations adopted pursuant to Section
10 8670.28, the administrator shall adopt regulations and guidelines
11 to implement this section. The regulations and guidelines shall
12 provide for the best achievable protection of waters and natural
13 resources of the state. The administrator may establish additional
14 oil spill contingency plan requirements, including, but not limited
15 to, requirements based on the different geographic regions of the
16 state. All regulations and guidelines shall be developed in
17 consultation with the Oil Spill Technical Advisory Committee.

18 (j) Notwithstanding subdivision (a) and paragraph (6) of
19 subdivision (b), a vessel or facility operating where a spill could
20 impact state waters that are not tidally influenced shall identify a
21 rated OSRO in the contingency plan no later than January 1, 2016.

22 *SEC. 3. Section 51013.1 is added to the Government Code, to*
23 *read:*

24 *51013.1. (a) Any new or replacement pipeline near*
25 *environmentally and ecologically sensitive areas in the coastal*
26 *zone shall use best achievable technology, including, but not*
27 *limited to, the installation of leak detection technology, automatic*
28 *shutoff systems, or remote controlled sectionalized block valves,*
29 *or any combination of these technologies, based on a risk analysis*
30 *conducted by the operator, to reduce the amount of oil released*
31 *in an oil spill to protect state waters and wildlife.*

32 *(b) By July 1, 2018, an operator of a pipeline near*
33 *environmentally and ecologically sensitive areas in the coastal*
34 *zone shall submit a plan to retrofit existing pipelines near*
35 *environmentally and ecologically sensitive areas in the coastal*
36 *zone with the best achievable technology, including, but not limited*
37 *to, installation of leak detection technologies, automatic shutoff*
38 *systems, or remote controlled sectionalized block valves, or any*
39 *combination of these technologies, based on a risk analysis*

1 *conducted by the operator to reduce the amount of oil released in*
2 *an oil spill to protect state waters and wildlife.*

3 *(c) The State Fire Marshal shall adopt regulations pursuant to*
4 *this section, including a definition of automatic shutoff systems,*
5 *by July 1, 2017.*

6 *(d) An operator of a pipeline near environmentally and*
7 *ecologically sensitive areas in the coastal zone shall notify the*
8 *Office of the State Fire Marshal of any new construction or retrofit*
9 *of pipeline in these waters.*

10 *(e) For purposes of implementing this section, the State Fire*
11 *Marshal shall consult with the Office of Spill Prevention and*
12 *Response about the potential impacts to state water and wildlife.*

13 *(f) For purposes of this section, “environmentally and*
14 *ecologically sensitive areas” is the same term as described in*
15 *subdivision (d) of Section 8574.7.*

16 *(e) For purposes of this section, “best achievable technology”*
17 *has the same meaning as in subdivision (c) of Section 8670.3.*

18 *SEC. 4. The provisions of this act are severable. If any*
19 *provision of this act or its application is held invalid, that invalidity*
20 *shall not affect other provisions or applications that can be given*
21 *effect without the invalid provision or application.*

22 *SEC. 5. No reimbursement is required by this act pursuant to*
23 *Section 6 of Article XIII B of the California Constitution because*
24 *the only costs that may be incurred by a local agency or school*
25 *district will be incurred because this act creates a new crime or*
26 *infraction, eliminates a crime or infraction, or changes the penalty*
27 *for a crime or infraction, within the meaning of Section 17556 of*
28 *the Government Code, or changes the definition of a crime within*
29 *the meaning of Section 6 of Article XIII B of the California*
30 *Constitution.*