

**ASSEMBLY BILL**

**No. 1549**

---

---

**Introduced by Assembly Member Sher**

February 24, 1995

---

---

An act to amend Section 8670.3 of the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 1549, as introduced, Sher. Oil spills: small craft refueling docks.

Under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, a small craft refueling dock, as defined, is not a marine facility subject to the act. However, the administrator for oil spill response is required to develop an outreach program, as specified, to provide assistance to the operators of small craft refueling docks, and each small craft refueling dock is required to register with the administrator.

The act also defines a "small marine fueling facility" for purposes of the act and provides that such a facility does not include a system that dispenses small amounts of nonpersistent lubrication oil from protected containers that are capable of being readily contained.

This bill would likewise provide that a small craft refueling dock does not include a system that dispenses small amounts of nonpersistent lubrication oil from protected containers that are capable of being readily contained.

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 8670.3 of the Government Code  
2 is amended to read:

3 8670.3. Unless the context requires otherwise, the  
4 following definitions shall govern the construction of this  
5 chapter:

6 (a) “Administrator” means the administrator for oil  
7 spill response appointed by the Governor pursuant to  
8 Section 8670.4.

9 (b) “Barges” means any vessel that carries oil in  
10 commercial quantities as cargo but is not equipped with  
11 a means of self-propulsion.

12 (c) (1) “Best achievable protection” means that the  
13 highest level of protection which can be achieved  
14 through both the use of the best achievable technology  
15 and those manpower levels, training procedures, and  
16 operational methods which provide the greatest degree  
17 of protection achievable. The administrator’s  
18 determination of best achievable protection shall be  
19 guided by the critical need to protect valuable coastal  
20 resources and marine waters, while also considering (1)  
21 the protection provided by the measures, (2) the  
22 technological achievability of the measures, and (3) the  
23 cost of the measures.

24 (2) It is not the intent of the Legislature that the  
25 administrator use a cost-benefit or cost-effectiveness  
26 analysis or any particular method of analysis in  
27 determining which measures to require. Instead, it is the  
28 intent of the Legislature that the administrator give  
29 reasonable consideration to the protection provided by  
30 the measures, the technological achievability of the  
31 measures, and the cost of the measures when establishing  
32 the requirements to provide the best achievable  
33 protection for coastal and marine resources.

34 (d) “Best achievable technology” means that  
35 technology which provides the greatest degree of  
36 protection taking into consideration (1) processes which  
37 are being developed, or could feasibly be developed  
38 anywhere in the world, given overall reasonable



1 expenditures on research and development, and (2)  
2 processes which are currently in use anywhere in the  
3 world. In determining what is best achievable  
4 technology, the administrator shall consider the  
5 effectiveness and engineering feasibility of the  
6 technology.

7 (e) “Local government” means any chartered or  
8 general law city, chartered or general law county, or any  
9 city and county.

10 (f) “Marine facility” means any facility of any kind,  
11 other than a vessel, which is or was used for the purposes  
12 of exploring for, drilling for, producing, storing, handling,  
13 transferring, processing, refining, or transporting oil and  
14 is located in marine waters, or is located where a  
15 discharge could impact marine waters unless the facility  
16 (1) is subject to Chapter 6.67 (commencing with Section  
17 25270) or Chapter 6.75 (commencing with Section  
18 25299.10) of Division 20 of the Health and Safety Code or  
19 (2) is placed on a farm, nursery, logging site, or  
20 construction site and does not exceed 20,000 gallons in a  
21 single storage tank. For the purposes of this chapter, a  
22 drill ship, semisubmersible drilling platform, jack-up type  
23 drilling rig, or any other floating or temporary drilling  
24 platform is a “marine facility.” For the purposes of this  
25 chapter, a small craft refueling dock is not a “marine  
26 facility.”

27 (g) “Marine terminal” means any marine facility used  
28 for transferring oil to or from tankers or barges. For the  
29 purposes of this section, a marine terminal includes all  
30 piping not integrally connected to a tank facility as  
31 defined in subdivision (k) of Section 25270.2 of the Health  
32 and Safety Code.

33 (h) “Marine waters” means those waters subject to  
34 tidal influence, except for waters in the Sacramento-San  
35 Joaquin Delta upstream from a line running north and  
36 south through the point where Contra Costa,  
37 Sacramento, and Solano Counties meet.

38 (i) “Nonpersistent oil” means a petroleum-based oil,  
39 such as gasoline, diesel, or jet fuel, which evaporates  
40 relatively quickly. Specifically, it is an oil with



1 hydrocarbon fractions, at least 50 percent of which, by  
2 volume, distills at a temperature of 645° Fahrenheit, and  
3 at least 95 percent of which, by volume, distills at a  
4 temperature of 700° Fahrenheit.

5 (j) “Oil” means any kind of petroleum, liquid  
6 hydrocarbons, or petroleum products or any fraction or  
7 residues therefrom, including, but not limited to, crude  
8 oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil  
9 sludge, oil refuse, oil mixed with waste, and liquid  
10 distillates from unprocessed natural gas.

11 (k) “Onshore facility” means any facility of any kind  
12 which is located entirely on lands not covered by marine  
13 waters.

14 (l) (1) “Owner” or “operator” means any of the  
15 following:

16 (A) In the case of a vessel, any person who owns, has  
17 an ownership interest in, operates, charters by demise, or  
18 leases, the vessel.

19 (B) In the case of a marine facility, any person who  
20 owns, has an ownership interest in, or operates the  
21 marine facility.

22 (C) Except as provided in subparagraph (D), in the  
23 case of any vessel or marine facility, title or control of  
24 which was conveyed due to bankruptcy, foreclosure, tax  
25 delinquency, abandonment, or similar means to an entity  
26 of state or local government, any person who owned, held  
27 an ownership interest in, operated, or otherwise  
28 controlled activities concerning the vessel or facility  
29 immediately beforehand.

30 (D) An entity of the state or local government which  
31 acquired ownership or control of a vessel or marine  
32 facility, when the entity of the state or local government  
33 has caused or contributed to a spill or discharge or oil into  
34 marine waters.

35 (2) “Owner” or “operator” does not include a person  
36 who, without participating in the management of a vessel  
37 or marine facility, holds indicia of ownership primarily to  
38 protect his or her security interest in the vessel or marine  
39 facility.



1 (3) “Operator” does not include any person who owns  
2 the land underlying a marine facility or the facility itself  
3 if the person is not involved in the operations of the  
4 facility.

5 (m) “Person” means any individual, trust, firm, joint  
6 stock company, or corporation, including, but not limited  
7 to, a government corporation, partnership, and  
8 association. “Person” also includes any city, county, city  
9 and county, district, and the state or any department or  
10 agency thereof, and the federal government, or any  
11 department or agency thereof, to the extent permitted by  
12 law.

13 (n) “Pipeline” means any pipeline used at any time to  
14 transport oil.

15 (o) “Responsible party” or “party responsible” means  
16 any of the following:

17 (1) The owner or transporter of oil or a person or  
18 entity accepting responsibility for the oil.

19 (2) The owner, operator, or lessee of, or person who  
20 charters by demise, any vessel or marine facility, or a  
21 person or entity accepting responsibility for the vessel or  
22 marine facility.

23 (p) “Small craft” means waterborne craft, other than  
24 a tanker or barge, which is less than 20 meters in length.

25 (q) (1) “Small craft refueling dock” means a  
26 waterside operation that dispenses nonpersistent oil  
27 primarily to small craft and meets *both of* the following  
28 criteria:

29 ~~(1)–~~

30 (A) Has tank storage capacity not exceeding 20,000  
31 gallons in any single storage tank or tank compartment.

32 ~~(2)–~~

33 (B) Has a total useable tank storage capacity not  
34 exceeding 75,000 gallons.

35 (2) “*Small craft refueling dock*” *does not include a*  
36 *system that dispenses small amounts of nonpersistent*  
37 *lubrication oil from protected containers that are capable*  
38 *of being readily contained.*

39 (r) (1) “Small marine fueling facility” means either of  
40 the following:



1 (A) A truck or trailer, including all connected hoses  
2 and piping, used for transferring oil at a location where  
3 a discharge could impact marine waters.

4 (B) A fixed facility that is not a marine terminal, which  
5 dispenses nonpersistent oil, primarily to small craft, and  
6 meets all of the following criteria:

7 (i) Has tank storage capacity not exceeding 40,000  
8 gallons in any single storage tank or storage tank  
9 compartment.

10 (ii) Has total useable tank storage capacity not  
11 exceeding 75,000 gallons.

12 (iii) Had an annual throughput volume of  
13 over-the-water transfers of oil that did not exceed  
14 3,000,000 gallons during the most recent preceding  
15 12-month period.

16 (2) “Small marine fueling facility” does not include a  
17 system that dispenses small amounts of nonpersistent  
18 lubrication oil from protected containers that are capable  
19 of being readily contained.

20 (s) “Spill” or “discharge” means any release of at least  
21 one barrel (42 gallons) of oil into marine waters which is  
22 not authorized by any federal, state, or local government  
23 entity.

24 (t) “State Interagency Oil Spill Committee” means  
25 the committee established pursuant to Article 3.5  
26 (commencing with Section 8574.1) of Chapter 7.

27 (u) “State oil spill contingency plan” means the state  
28 oil spill contingency plan prepared pursuant to Article 3.5  
29 (commencing with Section 8574.1) of Chapter 7.

30 (v) “Tanker” means any self-propelled, waterborne  
31 vessel, constructed or adapted for the carriage of oil in  
32 bulk or in commercial quantities as cargo.

33 (w) “Vessel” means a tanker or barge as defined in this  
34 section.

