

AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1549**

**Introduced by Assembly Member Sher**

February 24, 1995

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1549, as amended, Sher. Oil spills: ~~small craft refueling docks definitions.~~

~~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~~

~~Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, defines a "small craft refueling dock" and 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~~ *revise those definitions and make related changes. The bill would, in this connection, revise the definition of small marine fueling facility to include a mobile transfer unit, as defined, to permit dispensing of small amounts of persistent oil, as described, and to delete a provision that such a facility does not include a system that dispenses small amounts of nonpersistent lubrication oil, as prescribed. The bill would make related changes.*

*The bill would also define “vessels carrying oil as secondary cargo” for purposes of the act.*

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.



1 (2) It is not the intent of the Legislature that the  
2 administrator use a cost-benefit or cost-effectiveness  
3 analysis or any particular method of analysis in  
4 determining which measures to require. Instead, it is the  
5 intent of the Legislature that the administrator give  
6 reasonable consideration to the protection provided by  
7 the measures, the technological achievability of the  
8 measures, and the cost of the measures when establishing  
9 the requirements to provide the best achievable  
10 protection for coastal and marine resources.

11 (d) “Best achievable technology” means that  
12 technology which provides the greatest degree of  
13 protection taking into consideration (1) processes which  
14 are being developed, or could feasibly be developed  
15 anywhere in the world, given overall reasonable  
16 expenditures on research and development, and (2)  
17 processes which are currently in use anywhere in the  
18 world. In determining what is best achievable  
19 technology, the administrator shall consider the  
20 effectiveness and engineering feasibility of the  
21 technology.

22 (e) “Local government” means any chartered or  
23 general law city, chartered or general law county, or any  
24 city and county.

25 (f) “Marine facility” means any facility of any kind,  
26 other than a vessel, which is or was used for the purposes  
27 of exploring for, drilling for, producing, storing, handling,  
28 transferring, processing, refining, or transporting oil and  
29 is located in marine waters, or is located where a  
30 discharge could impact marine waters unless the facility  
31 (1) is subject to Chapter 6.67 (commencing with Section  
32 25270) or Chapter 6.75 (commencing with Section  
33 25299.10) of Division 20 of the Health and Safety Code or  
34 (2) is placed on a farm, nursery, logging site, or  
35 construction site and does not exceed 20,000 gallons in a  
36 single storage tank. For the purposes of this chapter, a  
37 drill ship, semisubmersible drilling platform, jack-up type  
38 drilling rig, or any other floating or temporary drilling  
39 platform is a “marine facility.” For the purposes of this



1 chapter, a small craft refueling dock is not a “marine  
2 facility.”

3 (g) “Marine terminal” means any marine facility used  
4 for transferring oil to or from tankers or barges. For the  
5 purposes of this section, a marine terminal includes all  
6 piping not integrally connected to a tank facility as  
7 defined in subdivision (k) of Section 25270.2 of the Health  
8 and Safety Code.

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

14 (i) *“Mobile transfer unit” means a small marine*  
15 *fueling facility that is a vehicle, truck, or trailer, including*  
16 *all connecting hoses and piping, used for the transferring*  
17 *of oil at a location where a discharge could impact marine*  
18 *waters.*

19 (j) “Nonpersistent oil” means a petroleum-based oil,  
20 such as gasoline, diesel, or jet fuel, which evaporates  
21 relatively quickly. Specifically, it is an oil with  
22 hydrocarbon fractions, at least 50 percent of which, by  
23 volume, distills at a temperature of 645° Fahrenheit, and  
24 at least 95 percent of which, by volume, distills at a  
25 temperature of 700° Fahrenheit.

26 ~~(j)~~  
27 (k) “Oil” means any kind of petroleum, liquid  
28 hydrocarbons, or petroleum products or any fraction or  
29 residues therefrom, including, but not limited to, crude  
30 oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil  
31 sludge, oil refuse, oil mixed with waste, and liquid  
32 distillates from unprocessed natural gas.

33 ~~(k)~~  
34 (l) “Onshore facility” means any facility of any kind  
35 which is located entirely on lands not covered by marine  
36 waters.

37 ~~(l)~~  
38 (m) (1) “Owner” or “operator” means any of the  
39 following:



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

4 (B) In the case of a marine facility, any person who  
5 owns, has an ownership interest in, or operates the  
6 marine facility.

7 (C) Except as provided in subparagraph (D), in the  
8 case of any vessel or marine facility, title or control of  
9 which was conveyed due to bankruptcy, foreclosure, tax  
10 delinquency, abandonment, or similar means to an entity  
11 of state or local government, any person who owned, held  
12 an ownership interest in, operated, or otherwise  
13 controlled activities concerning the vessel or facility  
14 immediately beforehand.

15 (D) An entity of the state or local government which  
16 acquired ownership or control of a vessel or marine  
17 facility, when the entity of the state or local government  
18 has caused or contributed to a spill or discharge or oil into  
19 marine waters.

20 (2) “Owner” or “operator” does not include a person  
21 who, without participating in the management of a vessel  
22 or marine facility, holds indicia of ownership primarily to  
23 protect his or her security interest in the vessel or marine  
24 facility.

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

29 ~~(m)~~

30 (n) “Person” means any individual, trust, firm, joint  
31 stock company, or corporation, including, but not limited  
32 to, a government corporation, partnership, and  
33 association. “Person” also includes any city, county, city  
34 and county, district, and the state or any department or  
35 agency thereof, and the federal government, or any  
36 department or agency thereof, to the extent permitted by  
37 law.

38 ~~(n)~~

39 (o) “Pipeline” means any pipeline used at any time to  
40 transport oil.



- 1 ~~(o)~~  
2 (p) “Responsible party” or “party responsible” means  
3 any of the following:  
4 (1) The owner or transporter of oil or a person or  
5 entity accepting responsibility for the oil.  
6 (2) The owner, operator, or lessee of, or person who  
7 charters by demise, any vessel or marine facility, or a  
8 person or entity accepting responsibility for the vessel or  
9 marine facility.
- 10 ~~(p)~~  
11 (q) “Small craft” means waterborne craft, other than  
12 a tanker or barge, which is less than 20 meters in length.
- 13 ~~(q) (1)~~  
14 (r) “Small craft refueling dock” means a waterside  
15 operation that dispenses ~~nonpersistent—oil~~ *only*  
16 *nonpersistent oil in bulk and small amounts of persistent*  
17 *lubrication oil in containers* primarily to small craft and  
18 meets both of the following criteria:  
19 ~~(A)~~  
20 (1) Has tank storage capacity not exceeding 20,000  
21 gallons in any single storage tank or tank compartment.  
22 ~~(B)~~  
23 (2) Has a total useable tank storage capacity not  
24 exceeding 75,000 gallons.  
25 ~~(2) “Small craft refueling dock” does not include a~~  
26 ~~system that dispenses small amounts of nonpersistent~~  
27 ~~lubrication oil from protected containers that are capable~~  
28 ~~of being readily contained.~~
- 29 ~~(r) (1)~~  
30 (s) “Small marine fueling facility” means either of the  
31 following:  
32 ~~(A) A truck or trailer, including all connected hoses~~  
33 ~~and piping, used for transferring oil at a location where~~  
34 ~~a discharge could impact marine waters.~~  
35 (1) *A mobile transfer unit.*  
36 ~~(B)~~  
37 (2) A fixed facility that is not a marine terminal, which  
38 dispenses ~~nonpersistent—oil~~ *primarily nonpersistent oil,*  
39 *and may dispense small amounts of persistent oil,*



1 primarily to small craft, and meets all of the following  
2 criteria:

3 ~~(i)~~

4 (A) Has tank storage capacity not exceeding 40,000  
5 gallons in any single storage tank or storage tank  
6 compartment.

7 ~~(ii)~~

8 (B) Has total useable tank storage capacity not  
9 exceeding 75,000 gallons.

10 ~~(iii)~~

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

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

19 ~~(s)~~

20 (t) “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)~~

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

28 ~~(u)~~

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

32 ~~(v)~~

33 (w) “Tanker” means any self-propelled, waterborne  
34 vessel, constructed or adapted for the carriage of oil in  
35 bulk or in commercial quantities as cargo.

36 ~~(w)~~

37 (x) “Vessel” means a tanker or barge as defined in this  
38 section.



- 1 (y) *“Vessel carrying oil as secondary cargo” means a*
- 2 *tanker or barge that does not carry oil as a primary cargo,*
- 3 *but does carry oil in bulk as cargo or cargo residue.*

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