

ASSEMBLY BILL

No. 1868

Introduced by Assembly Members Katz

February 24, 1995

An act to add Section 3333.4 to the Civil Code, relating to damages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1868, as introduced, Katz. Pipeline corporations: damages.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including pipeline corporations. Existing law also sets forth the measure of damages in various situations.

This bill would require each pipeline corporation that qualifies as a public utility that transports crude oil in a public utility oil pipeline, and the pipeline owners and oil owners, as defined, of the public utility oil pipeline to be jointly, severally, and strictly liable in tort for any and all injuries or death to persons and any and all damage to property or natural resources that results from or responds to any leak, rupture, or other release of crude oil or any fraction thereof from the public utility pipeline.

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. (a) This act shall be known as the Oil
2 Pipeline Environmental Responsibility Act.
3 (b) The Legislature finds and declares that the
4 transportation of crude oil and related products through
5 public utility pipelines within the State of California is an
6 activity that is required to sustain the economic life of the
7 state but that necessarily entails hazards to the life,
8 health, safety, and property of those within proximity to
9 an oil pipeline, as well as to the natural resources of the
10 state. Public utility oil pipelines are subject to leaks and
11 ruptures from a variety of causes and these leaks can
12 result in the spillage of oil in substantial volumes. These
13 oil spills may result in degradation of the environment
14 and natural resources, significantly damage property, and
15 jeopardize the life, health, and safety of individuals in the
16 vicinity of the oil spill. In addition, substantial resources
17 must be expended to stop, contain, and clean up oil spills,
18 including the cost of extended monitoring of the damage
19 and long-term remediation of the environment.
20 (c) The Legislature further finds and declares that in
21 order to mitigate the risks and hazards of public utility oil
22 pipeline operation, and to clarify the liability and
23 responsibility for preventing, abating, and remediating
24 oil spills from pipelines, the parties engaged in the
25 transportation of crude oil or related products, including
26 the owners of the public utility oil pipeline and the
27 owners of the oil being transported in those pipelines,
28 should be strictly liable in tort for damages caused by oil
29 pipeline leaks, ruptures, or other events that result in oil
30 spills from a public utility oil pipeline.
31 (d) The Legislature also finds and declares that the
32 practice of the oil industry in California to utilize
33 extremely complex arrangements to control ownership
34 interests in oil and to arrange for the sale and
35 transportation of oil necessitates the extension of
36 responsibility for oil spills from public utility oil pipelines
37 to those parties who control the ownership of oil and oil



1 pipelines in additions to those entities specifically vested
2 with title to the oil and the pipelines.

3 SEC. 2. Section 3333.4 is added to the Civil Code, to
4 read:

5 3333.4. (a) Each pipeline corporation that qualifies
6 as a public utility within Section 216 of the Public Utilities
7 Code that transports any crude oil or any fraction thereof
8 in a public utility oil pipeline, the pipeline owners, and oil
9 owners are jointly, severally, and strictly liable in tort for
10 any and all injuries or death to persons, and any and all
11 damage to property or natural resources that results from
12 or responds to any leak, rupture, or other release of crude
13 oil or any fraction thereof from the public utility pipeline.
14 That liability shall include, but not be limited to,
15 consequential damages; damages for loss of use; the actual
16 and reasonable costs of investigating and monitoring, and
17 for performing any remediation, removal, or disposal
18 activities affecting the property or natural resources of
19 the party incurring the costs; and reasonable costs and
20 expenses, including attorneys fees, expended to enforce
21 that liability.

22 (b) For the purposes of this section, “pipeline owner”
23 means either of the following:

24 (1) Any person or corporation within the definition of
25 a pipeline corporation, as set forth in Section 228 of the
26 Public Utilities Code.

27 (2) Any person or corporation that qualifies as a
28 controlling party of a pipeline corporation within the
29 definition of Section 228 of the Public Utilities Code.

30 (c) For the purposes of this section, “oil owner” means
31 any of the following:

32 (1) Any person or corporation that owned all or any
33 part of the crude oil or any fraction thereof that was
34 present in a public utility oil pipeline at the time that the
35 pipeline sustained a leak, rupture, or other release of
36 crude oil or any fraction thereof.

37 (2) Any person or corporation that owned all or any
38 part of any crude oil or any fraction thereof immediately
39 prior to its delivery into a public utility oil pipeline if the
40 crude oil was present in a public utility oil pipeline at the



1 time that the pipeline sustained a leak, rupture, or other
2 release of crude oil or any fraction thereof.

3 (3) Any person or corporation that owned or held a
4 right to own all or any part of any crude oil or any fraction
5 thereof or immediately upon its delivery out of or
6 discharge from a public utility oil pipeline if the crude oil
7 or any fraction thereof was present in a public utility oil
8 pipeline at the time that the pipeline sustained a leak,
9 rupture, or other release of crude oil or any fraction
10 thereof.

11 (4) Any person or corporation that qualifies as a
12 controlling party of an entity that is an oil owner under
13 paragraph (1), (2), or (3).

14 (d) For the purposes of this section, the “controlling
15 party” of a pipeline corporation or an oil owner is defined
16 as any person, partnership, corporation, or other entity
17 that directly or indirectly, either individually or in
18 conjunction with agents, intermediate entities, or other
19 controlling parties, does any of the following:

20 (1) Owns or has the power to vote 10 percent or more
21 of the common stock or other evidence of equity
22 ownership of the entity.

23 (2) Guarantees, or provides commitments or
24 assurances substantially equivalent to a guarantee,
25 respecting any class or issue of debt of the entity.

26 (3) Controls or has the ability to control the operation
27 or management of the entity, either individually or in
28 conjunction with others.

29 (e) for purposes of this section, “fraction” means a
30 group of compounds collected by fractional distillation
31 that condenses within the same temperature band.

