AMENDED IN SENATE AUGUST 9, 2010

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 23, 2010

AMENDED IN SENATE JUNE 16, 2010

AMENDED IN SENATE JUNE 9, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE DECEMBER 16, 2009

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AMENDED IN SENATE JUNE 9, 2009

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AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 234

Introduced by Assembly Member Huffman

February 5, 2009

An act to amend Sections 8670.40 and 8670.41 of, and to add Section 8670.17.3 to, the Government Code, and to add ~~Section 6226 to~~ *and repeal Section 6226 of* the Public Resources Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Huffman. Oil spill prevention and response: transfer of oil: State Lands Commission.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law requires the administrator to adopt and implement regulations regarding the equipment, personnel, and operation of vessels to and from marine terminals that are used to transfer oil.

This bill would require the administrator to adopt regulations governing oil transfers that would require a transfer unit, as defined, to provide, at the point of transfer, appropriate equipment and supplies for the containment and removal of spills of oil in water adjacent to the transfer site. The regulations would require the transfer unit, prior to beginning an oil transfer, to preboom each oil transfer for the duration of the transfer, unless prebooming is determined not to be safe and effective.

(2) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed $0.05 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, money in the fund is available for specified purposes.

This bill would revise that fee to an amount not to exceed $0.06 per barrel of crude oil or petroleum products. The bill would also authorize the administrator to adjust the *maximum* fee annually as measured by the California Consumer Price Index.

(3) Existing law requires the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing certain provisions relating to nontank vessels. Revenue from the fee is deposited into the Oil Spill Prevention and Administration Fund for appropriation by the Legislature for specified purposes.

This bill would establish that fee at $3,000 per nontank vessel.

(4) Under existing law, the State Lands Commission has jurisdiction over state lands and ungranted tidelands and submerged lands owned by the state.

This bill would require the State Lands Commission, on or before ~~July 1, 2011~~ *March 1, 2011*, to report to the Legislature on regulatory action, pending or already taken, and statutory recommendations for the Legislature to ensure maximum safety and prevention of harm during offshore oil drilling. *This provision would be repealed on January 1, 2015.*

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

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

SECTION 1. Section 8670.17.3 is added to the Government Code, to read:

8670.17.3. (a) For purposes of this section, the following definitions apply:

(1) "Boom" means flotation boom or other effective barrier containment material suitable for containment of oil that is discharged onto the surface of water.

(2) "Transfer unit" means a vessel involved in a bunkering or lightering operation *with another vessel*.

(b) The administrator shall adopt regulations governing oil transfers that would require a transfer unit to provide, at the point of transfer, appropriate equipment and supplies for the containment and removal of spills of oil in water adjacent to the transfer site. These regulations shall require the transfer unit, prior to beginning an oil transfer, to preboom each oil transfer for the duration of the transfer, unless prebooming is determined not to be safe and effective according to subdivision (d). The regulations shall be adopted, and thereafter periodically revised, to ensure the best achievable protection of the public health and safety and the environment.

(c) The regulations in subdivision (b) shall include, but are not limited to, all of the following:

(1) Minimum boom amounts to which a vessel shall have access.

(2) Requirements for the transfer unit to periodically check the boom positioning and adjust as necessary throughout the duration of the transfer, and specifically during tidal changes and significant

wind or wave events, to maintain maximum containment of any oil spilled into the water.

(3) Requirements for positing of boom to provide maximum containment of any oil spilled into the water.

(4) Alternatives to prebooming when prebooming is determined not to be safe and effective pursuant to subdivision (d) including, but not limited to, minimum boom amounts and boom positioning requirements, availability of an oil spill tracking system in the event of a spill, and response preparedness requirements.

(d) The regulations in subdivision (b) shall include requirements for a transfer unit to develop thresholds for each location at which it conducts oil transfers to determine when it is safe and effective to preboom on a case-by-case basis.

(1) The thresholds shall be based on all of the following:

(A) Personnel safety.

(B) Sea state values in feet, including typical wave periods.

(C) Water current velocity.

(D) Wind speed.

(E) Other conditions such as vessel traffic, fishing activities, and other factors that influence oil transfers.

(2) The transfer unit shall develop a safe and effective determination threshold report that includes a summary of the safe and effective threshold values as well as information and analysis to support the values. The report shall be submitted to the Office of Spill Prevention and Response for review and approval.

(e) The regulations shall include a standard method for the vessel operator to communicate to the Office of Spill Prevention and Response when an operation was not preboomed, a process for reviewing the notifications, and a course of action when a vessel operator did not preboom, but the office determines it would have been safe and effective to preboom.

SEC. 2. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment ~~may~~ *shall* not exceed six cents ($0.06) per barrel of crude oil or petroleum products. The administrator may adjust the *maximum* fee annually for inflation, as measured by the California Consumer Price Index.

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that the crude oil is received at a marine terminal from within or outside the state, and upon a person owning petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, an operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state. The fees shall be remitted to the board by the terminal or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month. A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has been collected by a terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.

(2) An owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(3) On or before January 20, the administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on the plan, the administrator shall set the fee so that projected revenues, including interest, are equivalent to expenses as reflected in the current Budget Act and in the proposed budget submitted by the Governor. In setting the fee, the administrator may allow for a surplus if the administrator finds that revenues will be exhausted during the period covered by the plan or that the surplus is necessary to cover possible contingencies. *The administrator shall notify the board*

of the adjusted fee rate, which shall be rounded to no more than four decimal places, to be effective the first day of the month beginning not less than 30 days from the date of the notification.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies that may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7 of this code, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(6) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars ($100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars ($100,000) from the fund for the purpose of allowing the administrator to respond to threatened oil spills.

(7) To reimburse the board for costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(8) To reimburse the costs incurred by the State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002 (Division 7.9 (commencing with Section 8780) of the Public Resources Code).

(9) To cover costs incurred by the Oiled Wildlife Care Network established by Section 8670.37.5 for training and field collection, and search and rescue activities, pursuant to subdivision (g) of Section 8670.37.5.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

SEC. 3. Section 8670.41 of the Government Code is amended to read:

8670.41. (a) The administrator shall charge a nontank vessel owner or operator a fee, to be collected with each application to obtain a certificate of financial responsibility, in the amount of three thousand dollars ($3,000) per nontank vessel for the administrator's costs in implementing this chapter relating to nontank vessels.

(b) Notwithstanding subdivision (a), the administrator may charge a reduced fee under this section for nontank vessels determined by the administrator to pose a reduced risk of pollution, including, but not limited to, vessels used for research or training and vessels that are moored permanently or rarely move.

(c) The administrator shall deposit all revenue derived from the fees imposed under this section in the Oil Spill Prevention and Administration Fund established in the State Treasury under Section 8670.38.

(d) Revenue derived from the fees imposed under this section shall be spent for the purposes listed in subdivision (e) of Section 8670.40, and ~~may~~ *shall* not be used for responding to an oil spill.

SEC. 4. Section 6226 is added to the Public Resources Code, to read:

6226. (a) On or before ~~July~~ *March* 1, 2011, the commission shall report to the Legislature on regulatory action, pending or already taken, and statutory recommendations for the Legislature to ensure maximum safety and prevention of harm during offshore oil drilling. The report shall include, but not be limited to, all of the following:

(1) A comprehensive set of requirements for offshore oil drilling rigs operating in state waters to have fully redundant and

functioning safety systems to prevent a failure of a blowout preventer from causing a major oil spill.

(2) A complete description of a response plan to control a blowout and manage the accompanying discharge of hydrocarbons, including both of the following:

(A) The technology and timeline for regaining control of a well.

(B) The strategy, organization, and resources necessary to avoid harm to the environment and human health from hydrocarbons.

(3) Requirements for the use of the best available and safest technologies and practices, if the failure of equipment would have a significant effect on safety, health, or the environment.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2015.

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