

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

AMENDED IN ASSEMBLY JUNE 8, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 614

Introduced by Senator Simitian

February 27, 2009

An act to amend Sections 72401, ~~72410~~, 72420.1, 72421, 72430, ~~72440~~, and 72441 of, *and to amend and repeal Section 72440 of*, the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 614, as amended, Simitian. Vessels.

(1) Existing law prohibits an owner or operator of a large passenger vessel or oceangoing ship from releasing or permitting anyone to release specified substances from the vessel or ship into the marine waters of the state or a marine sanctuary. Existing law excludes from those requirements a large passenger vessel or oceangoing ship that operates in the marine waters of the state, as that term is defined, solely in innocent passage, and discharges made for the purpose of securing the safety of the vessel or ship or saving life at sea if specified precautions are taken. The act provides that for purposes of that exclusion, a vessel is engaged in innocent passage if its operation in state waters would constitute innocent passage under specified conventions.

This bill instead would provide that for purposes of that exclusion, a vessel is engaged in innocent passage if its operation in the marine waters of the state would constitute innocent passage under those specified conventions. ~~The bill would make a technical, nonsubstantive~~

~~change to the definition of “marine waters of the state” by correcting an obsolete cross-reference.~~

(2) Existing law requires certain statutes relating to the release of sewage from specified vessels traveling in the marine waters of the state; to be repealed on January 1, 2010.

This bill instead would extend the operation of these statutes, ~~as specified,~~ to January 1, 2014. This bill would also make other conforming changes.

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 72401 of the Public Resources Code is
2 amended to read:

3 72401. (a) The Legislature finds and declares that the
4 protection and enhancement of the quality of the marine waters of
5 the state requires that the release of sewage from large passenger
6 vessels, and the release of sewage and graywater from oceangoing
7 ships with sufficient holding tank capacity, into the marine waters
8 of the state should be prohibited.

9 (b) The Legislature intends to request the Congress of the United
10 States to amend the Federal Water Pollution Control Act (33 U.S.C.
11 Sec. 1251 and following) to provide California with authority
12 similar to that granted to the State of Alaska by Public Law
13 106-554, to regulate the release of sewage from large passenger
14 vessels and oceangoing ships in the marine waters of the state.

15 (c) This section shall remain in effect only until January 1, 2014,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2014, deletes or extends that date.

18 ~~SEC. 2. Section 72410 of the Public Resources Code is~~
19 ~~amended to read:~~

20 ~~72410. (a) Unless the context otherwise requires, the~~
21 ~~definitions set forth in this section govern this division.~~

22 ~~(b) “Board” means the State Water Resources Control Board.~~

23 ~~(c) “Commission” means the State Lands Commission.~~

24 ~~(d) “Graywater” means drainage from dishwasher, shower,~~
25 ~~laundry, bath, and washbasin drains, but does not include drainage~~
26 ~~from toilets, urinals, hospitals, or cargo spaces.~~

1 ~~(e) “Hazardous waste” has the meaning set forth in Section~~
2 ~~25117 of the Health and Safety Code, but does not include sewage.~~

3 ~~(f) “Large passenger vessel” or “vessel” means a vessel of 300~~
4 ~~gross registered tons or greater that is engaged in the carrying of~~
5 ~~passengers for hire, excluding all of the following vessels:~~

6 ~~(1) Vessels without berths or overnight accommodations for~~
7 ~~passengers.~~

8 ~~(2) Noncommercial vessels, warships, vessels operated by~~
9 ~~nonprofit entities as determined by the Internal Revenue Service,~~
10 ~~and vessels operated by the state, the United States, or a foreign~~
11 ~~government.~~

12 ~~(3) Oceangoing ships, as defined in subdivision (j).~~

13 ~~(g) “Marine sanctuary” means marine waters of the state in the~~
14 ~~Channel Islands National Marine Sanctuary, Cordell Bank National~~
15 ~~Marine Sanctuary, Gulf of the Farallones National Marine~~
16 ~~Sanctuary, or Monterey Bay National Marine Sanctuary.~~

17 ~~(h) “Marine waters of the state” means waters within the area~~
18 ~~bounded by the mean high tide line to the three-mile state waters~~
19 ~~limit, from the Oregon border to the Mexican border.~~

20 ~~(i) “Medical waste” means medical waste subject to regulation~~
21 ~~pursuant to Part 14 (commencing with Section 117600) of Division~~
22 ~~104 of the Health and Safety Code.~~

23 ~~(j) “Oceangoing ship” means a private, commercial, government,~~
24 ~~or military vessel of 300 gross registered tons or more calling on~~
25 ~~California ports or places.~~

26 ~~(k) “Oil” has the meaning set forth in Section 8750.~~

27 ~~(l) “Oily bilgewater” includes bilgewater that contains used~~
28 ~~lubrication oils, oil sludge and slops, fuel and oil sludge, used oil,~~
29 ~~used fuel and fuel filters, and oily waste.~~

30 ~~(m) “Operator” has the meaning set forth in Section 651 of the~~
31 ~~Harbors and Navigation Code.~~

32 ~~(n) “Other waste” means photography laboratory chemicals,~~
33 ~~dry cleaning chemicals, or medical waste.~~

34 ~~(o) “Owner” has the meaning set forth in Section 651 of the~~
35 ~~Harbors and Navigation Code.~~

36 ~~(p) “Release” means discharging or disposing of wastes into~~
37 ~~the environment.~~

38 ~~(q) “Sewage” has the meaning set forth in Section 775.5 of the~~
39 ~~Harbors and Navigation Code, including material that has been~~
40 ~~collected or treated through a marine sanitation device as that term~~

1 is used in Section 312 of the Clean Water Act (33 U.S.C. Sec.
2 1322) or material that is a byproduct of sewage treatment.

3 (r) “Sewage sludge” has the meaning set forth in Section 122.2
4 of Title 40 of the Code of Federal Regulations.

5 (s) “Sufficient holding tank capacity” means a holding tank of
6 sufficient capacity to contain sewage and graywater while the
7 oceangoing ship is within the marine waters of the state.

8 (t) “Waste” means hazardous waste and other waste.

9 ~~SEC. 3.~~

10 *SEC. 2.* Section 72420.1 of the Public Resources Code is
11 amended to read:

12 72420.1. (a) If the Administrator of the United States
13 Environmental Protection Agency approves the application for
14 sewage release made pursuant to subdivision (a) of Section 72440,
15 or if the board determines that an application is not required, an
16 owner or operator of a large passenger vessel may not release, or
17 permit anyone to release, any sewage from the vessel into the
18 marine waters of the state.

19 (b) This section shall remain in effect only until January 1, 2014,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2014, deletes or extends that date.

22 ~~SEC. 4.~~

23 *SEC. 3.* Section 72421 of the Public Resources Code is
24 amended to read:

25 72421. (a) The owner or operator shall notify the California
26 Emergency Management Agency immediately, but not longer than
27 30 minutes, after discovery of any of the following:

28 (1) A large passenger vessel release of graywater into the marine
29 waters of the state.

30 (2) Until January 1, 2014, a large passenger vessel release of
31 sewage into the marine waters of the state or a marine sanctuary.

32 (3) A large passenger vessel or oceangoing ship release of
33 hazardous waste, other waste, sewage sludge, or oily bilgewater
34 into the marine waters of the state or a marine sanctuary.

35 (4) An oceangoing ship with sufficient holding tank capacity
36 release of sewage or graywater into the marine waters of the state
37 or a marine sanctuary.

38 (b) The owner or operator shall include all of the following in
39 the notification required pursuant to subdivision (a):

40 (1) Date of the release.

- 1 (2) Time of the release.
- 2 (3) Location, by latitude and longitude, of the release.
- 3 (4) Volume of the release.
- 4 (5) Source of the release.
- 5 (6) Remedial action taken to prevent future releases.

6 (c) The California Emergency Management Agency shall
7 transmit the notification required by subdivision (a) to the board
8 and the Department of Fish and Game immediately, but not longer
9 than 30 minutes, after receiving the notification.

10 ~~SEC. 5.~~

11 *SEC. 4.* Section 72430 of the Public Resources Code is
12 amended to read:

13 72430. (a) A person who violates Section 72420 or 72420.2,
14 or until January 1, 2014, Section 72420.1, is subject to a civil
15 penalty of not more than twenty-five thousand dollars (\$25,000)
16 for each violation.

17 (b) The civil penalty imposed for each separate violation
18 pursuant to this section is separate from, and in addition to, any
19 other civil penalty imposed for a separate violation pursuant to
20 this section or any other provision of law.

21 (c) In determining the amount of a civil penalty imposed
22 pursuant to this section, the court shall take into consideration all
23 relevant circumstances, including, but not limited to, the nature,
24 circumstance, extent, and gravity of the violation. In making this
25 determination, the court shall consider the degree of toxicity and
26 volume of the release, the extent of harm caused by the violation,
27 whether the effects of the violation may be reversed or mitigated,
28 and with respect to the defendant, the ability to pay, the effect of
29 a civil penalty on the ability to continue in business, all voluntary
30 cleanup efforts undertaken, the prior history of violations, the
31 gravity of the behavior, the economic benefit, if any, resulting
32 from the violation, and all other matters the court determines justice
33 may require.

34 (d) (1) A civil action brought under this section may only be
35 brought in accordance with this subdivision. That civil action may
36 be brought by the Attorney General upon complaint or request by
37 the Department of Fish and Game or the appropriate California
38 regional water quality control board, or by a district attorney or
39 city attorney.

(2) Notwithstanding Section 13223 of the Water Code, a regional water quality control board may delegate to its executive officer authority to request the Attorney General for judicial enforcement under this section.

(3) If a district attorney or city attorney brings an action under this section, the action shall be in the name of the people of the State of California.

(4) An action relating to the same violation may be joined or consolidated.

~~SEC. 6.~~

SEC. 5. Section 72440 of the Public Resources Code, as amended by Section 10 of Chapter 292 of the Statutes of 2006, is amended to read:

72440. (a) (1) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage or sewage sludge from large passenger vessels, sewage from oceangoing ships with sufficient holding tank capacity, and sewage sludge from oceangoing ships, into the marine waters of the state or to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into marine sanctuaries, as described in Section 72420 and subdivision (a) of Section 72420.1. If the board determines that application is necessary for either sewage or sewage sludge, or both, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of sewage or sewage sludge, or both, as necessary, from large passenger vessels, sewage from oceangoing ships with sufficient holding tank capacity, and sewage sludge from oceangoing ships, into the marine waters of the state and, if necessary, to authorize the state to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into marine sanctuaries.

(2) It is not the Legislature's intent to establish for the marine waters of the state a no discharge zone for sewage from all vessels, but only for a class of vessels.

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels and oceangoing ships, in all of the waters that are in the Channel Islands National Marine

Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 7. Section 72440 of the Public Resources Code, as added by Section 9 of Chapter 764 of the Statutes of 2004, is amended to read:~~

~~72440. (a) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state or marine sanctuaries. If the board determines that application is necessary, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state and marine sanctuaries.~~

~~(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels, in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.~~

~~(c) This section shall become operative on January 1, 2014.~~

~~SEC. 6. Section 72440 of the Public Resources Code, as added by Section 9 of Chapter 764 of the Statutes of 2004, is repealed.~~

~~72440. (a) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state or marine sanctuaries. If the board determines that application is necessary, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of sewage sludge from large passenger vessels into the marine waters of the state and marine sanctuaries.~~

~~(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge~~

1 and oily bilgewater, except under the circumstances specified in
2 Section 72441, by large passenger vessels, in all of the waters that
3 are in the Channel Islands National Marine Sanctuary, Cordell
4 Bank National Marine Sanctuary, Gulf of the Farallones National
5 Marine Sanctuary, and Monterey Bay National Marine Sanctuary,
6 that are not in the state waters.

7 ~~(c) This section shall become operative on January 1, 2010.~~

8 ~~SEC. 8.~~

9 *SEC. 7.* Section 72441 of the Public Resources Code is
10 amended to read:

11 72441. (a) This division does not apply to either of the
12 following:

13 (1) A large passenger vessel or oceangoing ship that operates
14 in the marine waters of the state solely in innocent passage.

15 (2) Discharges made for the purpose of securing the safety of
16 the large passenger vessel or oceangoing ship or saving life at sea,
17 if reasonable precautions are taken for the purpose of preventing
18 or minimizing the discharge.

19 (b) For the purposes of this section, a vessel is engaged in
20 innocent passage if its operation in the marine waters of the state
21 would constitute innocent passage under either the Convention on
22 the Territorial Sea and Contiguous Zone, dated April 29, 1958, or
23 the United Nations Convention on the Law of the Sea, dated
24 December 10, 1982.