AMENDED IN ASSEMBLY MAY 4, 2020
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 3214

Introduced by Assembly Member Limón

February 21, 2020

An act to amend Section 3210, Sections 8670.37.53, 8670.37.58, and 8670.64 of the Public Resources Government Code, relating to oil and gas.

LEGISLATIVE COUNSEL’S DIGEST

AB 3214, as amended, Limón. Oil and gas: well records; oil spills: financial security, fines, and penalties.

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 emergency drills and preparedness, and oil spill containment and cleanup.

Existing law prohibits a tank vessel, as defined, that is required to have a contingency plan, from entering the waters of the state unless the tank vessel owner or operator provides to the administrator evidence of financial responsibility that demonstrates, to the administrator’s satisfaction, the ability to pay at least $1,000,000,000 to cover damages caused by a spill, and the owner or operator of the tank vessel has obtained a certificate of financial responsibility from the administrator for the tank vessel. Existing law prohibits a nontank vessel from entering waters of the state unless the nontank vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator’s satisfaction, the ability to pay at least $300,000,000 to cover damages caused by a spill, and the owner
or operator of the nontank vessel has obtained a certificate of financial responsibility from the administrator for the nontank vessel.

This bill would double those amounts from $1,000,000,000 to $2,000,000,000 and from $300,000,000 to $600,000,000, respectively.

Existing law makes it a felony to, among other things, knowingly engage in or cause the discharge or spill of oil into waters of the state, or knowingly fail to begin cleanup, abatement, or removal of spilled oil, as specified. Existing law makes this crime punishable by a fine of not less than $5,000 or more than $500,000 for each day a violation occurs. Existing law additionally makes it a felony to, among other things, fail to notify the Office of Emergency Services regarding an oil spill or to knowingly fail to follow the material provisions of an applicable oil spill contingency plan. Existing law makes this crime punishable by a fine of not less than $2,500 or more than $250,000 for each day a violation occurs for a first conviction, and by a fine of not less than $5,000 or more than $500,000 for each day a violation occurs for a 2nd conviction.

This bill would double the minimum and maximum amounts of the fines described above. The bill would authorize the court to also impose upon a person convicted of, among other things, knowingly engage in or cause the discharge or spill of oil into waters of the state, or knowingly fail to begin cleanup, abatement, or removal of spilled oil, as specified, a fine of up to ten thousand dollars ($10,000) per gallon spilled.

Existing law requires the State Oil and Gas Supervisor to supervise the drilling, operation, maintenance, and abandonment of oil and gas wells. Existing law requires an owner or operator of a well to keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling of the well. Existing law provides that a person who fails to comply with requirements relating to the regulation of oil or gas operations is guilty of a misdemeanor.

This bill would additionally require the owner or operator to keep, or cause to be kept, a history of the maintenance and repair of the well. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.
The people of the State of California do enact as follows:

SECTION 1. Section 8670.37.53 of the Government Code is amended to read:

8670.37.53. (a) To receive a certificate of financial responsibility for a tank vessel or for all of the oil contained within that vessel, the applicant shall demonstrate to the satisfaction of the administrator the financial ability to pay at least one billion dollars ($1,000,000,000) for any damages that may arise during the term of the certificate.

(b) The administrator may establish a lower standard of financial responsibility for small tank barges, vessels carrying oil as a secondary cargo, and small marine fueling facilities. The standard shall be based on the quantity of oil that can be carried or stored and the risk of spill into waters of the state. The administrator shall not set a standard that is less than the expected costs from a reasonable worst case oil spill into waters of the state.

(c) (1) To receive a certificate of financial responsibility for a facility, the applicant shall demonstrate to the satisfaction of the administrator the financial ability to pay for any damages that might arise during a reasonable worst case oil spill into waters of the state that results from the operations of the facility. The administrator shall consider criteria including, but not necessarily limited to, the amount of oil that could be spilled into waters of the state from the facility, the cost of cleaning up spilled oil, the frequency of operations at the facility, and the damages that could result from a spill.

(2) The administrator shall adopt regulations to implement this section.

SEC. 2. Section 8670.37.58 of the Government Code is amended to read:

8670.37.58. (a) A nontank vessel shall not enter waters of the state unless the nontank vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator’s satisfaction, the ability to pay at least three hundred million dollars—($300,000,000) to cover damages caused by a spill, and the owner...
or operator of the nontank vessel has obtained a certificate of financial responsibility from the administrator for the nontank vessel.

(b) Notwithstanding subdivision (a), the administrator may establish a lower standard of financial responsibility for a nontank vessel that has a carrying capacity of 6,500 barrels of oil or less, or for a nontank vessel that is owned and operated by California or a federal agency and has a carrying capacity of 7,500 barrels of oil or less. The standard shall be based upon the quantity of oil that can be carried by the nontank vessel and the risk of an oil spill into waters of the state. The administrator shall not set a standard that is less than the expected cleanup costs and damages from an oil spill into waters of the state.

(c) A nontank vessel fee shall be submitted along with the application for the certificate, as required pursuant to Section 8670.41.

(d) The administrator may adopt regulations to implement this section.

SEC. 3. Section 8670.64 of the Government Code is amended to read:

8670.64. (a) A person who commits any of the following acts shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code:

(1) Except as provided in Section 8670.27, knowingly fails to follow the direction or orders of the administrator in connection with an oil spill.

(2) Knowingly fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil that enters marine waters. For purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross tons or more.

(3) Knowingly engages in or causes the discharge or spill of oil into waters of the state, or a person who reasonably should have known that he or she was engaging in or causing the discharge or spill of oil into waters of the state, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.
(4) Knowingly fails to begin cleanup, abatement, or removal of spilled oil as required in Section 8670.25.

(b) (1) The court shall also impose upon a person convicted of violating subdivision (a), a fine of not less than five ten thousand dollars ($5,000) or ($10,000) and not more than five hundred thousand one million dollars ($500,000) ($1,000,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

(2) The court may also impose upon a person convicted of violating subdivision (a), a fine of up to ten thousand dollars ($10,000) per gallon spilled.

(c) (1) A person who knowingly does any of the acts specified in paragraph (2) shall, upon conviction, be punished by a fine of not less than two five thousand five hundred dollars ($2,500) or ($5,000) and not more than two five hundred fifty thousand dollars ($250,000) ($500,000) or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or by a fine of not less than five ten thousand dollars ($5,000) or ($10,000) and no more than five hundred thousand one million dollars ($500,000), ($1,000,000), or by both that fine and imprisonment:

(2) The acts subject to this subdivision are all of the following:

(A) Failing to notify the Office of Emergency Services in violation of Section 8670.25.5.

(B) Knowingly making a false or misleading oil spill report to the Office of Emergency Services.

(C) Continuing operations for which an oil spill contingency plan is required without an oil spill contingency plan approved pursuant to Article 5 (commencing with Section 8670.28).

(D) Except as provided in Section 8670.27, knowingly failing to follow the material provisions of an applicable oil spill contingency plan.

SECTION 1. Section 3210 of the Public Resources Code is amended to read:
The owner or operator of any well shall keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling, maintenance, and repair of the well.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.