

Senate Bill No. 771

CHAPTER 588

An act to amend Sections 39630, 39631, and 39632 of, and to amend the heading of Chapter 3.3 (commencing with Section 39630) of Part 2 of Division 26 of, the Health and Safety Code, and to amend Sections 72410, 72420, 72440, and 72441 of, to amend the heading of Division 38 (commencing with Section 72400) of, to amend and repeal Sections 72400 and 72430 of, to add Sections 72420.2, 72423, and 72440.1 to, to add and repeal Sections 72401 and 72420.1 of, to repeal Division 39 (commencing with Section 72500) of, and to repeal and add Sections 72421 and 72425 to, the Public Resources Code, relating to vessels.

[Approved by Governor October 6, 2005. Filed with
Secretary of State October 6, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 771, Simitian. Oceangoing ships.

(1) Existing law prohibits a cruise ship, as defined, from conducting onboard incineration while operating within 3 miles of the California coast.

This bill would also prohibit an oceangoing ship, as defined, from conducting onboard incineration while operating within 3 miles of the California coast.

(2) Existing law regulates the release of graywater, sewage sludge, oily bilgewater, hazardous waste, or other waste by large passenger vessels into the marine waters of the state and marine sanctuaries. Existing law also regulates, until January 1, 2010, the release of sewage by large passenger vessels into the marine waters of the state.

This bill would also regulate the release of graywater, sewage, sewage sludge, oily bilgewater, hazardous waste, or other waste by oceangoing ships, as defined, into the marine waters of the state and marine sanctuaries.

The bill would require the master, owner, operator, agent, or person in charge of an oceangoing ship who has operated, or has caused to be operated, the oceangoing ship in the marine waters of the state during 2006, to provide certain information relating to ports of call and sewage, graywater, and blackwater discharge, in electronic or written form to the State Lands Commission upon the vessel's departure from its first port or place of call in California beginning in 2006. The bill would require the commission to submit the reported information to the State Water Resources Control Board on or before February 1, 2007. The bill would require the board to submit the reported information to the Legislature on or before October 1, 2007.

This bill would also consolidate the provisions regulating the release of these substances from large passenger vessels and oceangoing ships.

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

SECTION 1. This act shall be known and may be cited as the California Clean Coast Act.

SEC. 1.5. The heading of Chapter 3.3 (commencing with Section 39630) of Part 2 of Division 26 of the Health and Safety Code is amended to read:

CHAPTER 3.3. CRUISE SHIPS AND OCEANGOING SHIPS

SEC. 2. Section 39630 of the Health and Safety Code is amended to read:

39630. The Legislature finds and declares that it is in the interests of all Californians to protect the air quality from increasing volumes of cruise ship engine and oceangoing ship engine emissions.

SEC. 3. Section 39631 of the Health and Safety Code is amended to read:

39631. (a) The state board shall enforce this chapter, and may adopt standards, rules, and regulations for that purpose pursuant to Section 39601.

(b) As used in this division, “cruise ship” means a commercial vessel that has the capacity to carry 250 or more passengers for hire. “Cruise ship” does not include the following:

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

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

(3) Oceangoing ships, as defined in subdivision (c).

(c) As used in this division, “oceangoing ship” means a private, commercial, government, or military vessel of 300 gross registered tons or more calling on California ports or places.

SEC. 4. Section 39632 of the Health and Safety Code is amended to read:

39632. Commencing on January 1, 2005, a cruise ship, and commencing on January 1, 2006, an oceangoing ship, shall not conduct onboard incineration while operating within three miles of the California coast, to the extent allowed by federal law.

SEC. 5. The heading of Division 38 (commencing with Section 72400) of the Public Resources Code is amended to read:

DIVISION 38. CALIFORNIA CLEAN COAST ACT

SEC. 6. Section 72400 of the Public Resources Code, as amended by Section 1 of Chapter 764 of the Statutes of 2004, is amended to read:

72400. The Legislature finds and declares both of the following:

(a) California is home to four of the 13 national marine sanctuaries. These areas support some of the world's most diverse marine ecosystems and are home to numerous mammals, seabirds, fish, invertebrates, and plants.

(b) The protection and enhancement of the quality of the marine waters of the state and marine sanctuaries, and the protection of public health and the environment, requires that the release from large passenger vessels and oceangoing ships of hazardous waste, other waste, sewage sludge, and oily bilgewater, into the marine waters of the state and marine sanctuaries, and the release of graywater by large passenger ships into the marine waters of the state, should be prohibited.

SEC. 7. Section 72400 of the Public Resources Code, as added by Chapter 764 of the Statutes of 2004, is repealed.

SEC. 8. Section 72401 is added to the Public Resources Code, to read:

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

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

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 9. Section 72410 of the Public Resources Code is amended to read:

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

(b) "Board" means the State Water Resources Control Board.

(c) "Commission" means the State Lands Commission.

(d) "Graywater" means drainage from dishwasher, shower, laundry, bath, and washbasin drains, but does not include drainage from toilets, urinals, hospitals, or cargo spaces.

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

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

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

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

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

(g) “Marine waters of the state” means “coastal waters” as defined in Section 13181 of the Water Code.

(h) “Marine sanctuary” means marine waters of the state in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, or Monterey Bay National Marine Sanctuary.

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

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

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

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

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

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

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

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

(q) “Sewage” has the meaning set forth in Section 775.5 of the Harbors and Navigation Code, including material that has been collected or treated through a marine sanitation device as that term is used in Section 312 of the Clean Water Act (33 U.S.C. Sec. 1322) or material that is a byproduct of sewage treatment.

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

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

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

SEC. 10. Section 72420 of the Public Resources Code is amended to read:

72420. (a) If the appropriate federal agencies approve an application made pursuant to subdivision (a) of Section 72440, or if the board determines that an application is not required, an owner or operator of a large passenger vessel or oceangoing ship may not release, or permit anyone to release, any sewage sludge from the vessel into the marine waters of the state or a marine sanctuary.

(b) If the Administrator of the United States Environmental Protection Agency approves the application for sewage release made pursuant to subdivision (a) of Section 72440, or if the board determines that an application is not required, an owner or operator of an oceangoing ship with sufficient holding tank capacity may not release, or permit anyone to release, any sewage from the vessel into the marine waters of the state.

SEC. 11. Section 72420.1 is added to the Public Resources Code, to read:

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

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 12. Section 72420.2 is added to the Public Resources Code, to read:

72420.2. (a) An owner or operator of a large passenger vessel shall not release, or permit anyone to release, from the vessel, graywater into the marine waters of the state.

(b) An owner or operator of a large passenger vessel or oceangoing ship shall not release, or permit anyone to release, from the vessel, hazardous waste, other waste, or oily bilgewater into the marine waters of the state or a marine sanctuary.

(c) An owner or operator of an oceangoing ship with sufficient holding tank capacity shall not release, or permit anyone to release, from the vessel, graywater into the marine waters of the state.

SEC. 13. Section 72421 of the Public Resources Code, as amended by Section 3 of Chapter 764 of the Statutes of 2004, is repealed.

SEC. 14. Section 72421 of the Public Resources Code, as added by Section 4 of Chapter 764 of the Statutes of 2004, is repealed.

SEC. 15. Section 72421 is added to the Public Resources Code, to read:

72421. (a) The owner or operator shall immediately, but no later than 24 hours after a release, notify the board of any of the following:

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

(2) Until January 1, 2010, a large passenger vessel release of sewage into the marine waters of the state or a marine sanctuary.

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

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

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

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

SEC. 16. Section 72423 is added to the Public Resources Code, to read:

72423. An oceangoing ship with sufficient holding tank capacity and capability for transfer shall either hold on board or shall transfer sewage and graywater to a pumpout facility, if that facility is available and accessible for the oceangoing ship where the ship is docked, and shall not discharge sewage or graywater within California's waters.

SEC. 17. Section 72425 of the Public Resources Code is repealed.

SEC. 18. Section 72425 is added to the Public Resources Code, to read:

72425. (a) (1) If the master, owner, operator, agent, or person in charge of an oceangoing ship has operated, or has caused to be operated, the oceangoing ship in the marine waters of the state during 2006, that master, owner, operator, agent, or person in charge shall provide the information described in subdivision (b) in electronic or written form to the commission upon the vessel's departure from its first port or place of call in California beginning in 2006.

(2) The information described in subdivision (b) shall be submitted on a form developed by the commission.

(b) The master, owner, operator, or person in charge of the oceangoing vessel shall maintain on board the vessel, in written or electronic form, records that include all of the following information:

(1) Vessel information, including all of the following:

- (A) Name.
- (B) International Maritime Organization number or official number if the International Maritime Organization number has not been assigned.
- (C) Vessel type.
- (D) Owner or operator.
- (E) Gross tonnage.
- (F) Keel laid date.
- (G) Port of registry.
- (H) Typical or required number of crew.

(2) Graywater information, including the vessel's ability to store graywater while in California waters and size and capacity of any graywater holding tanks, as measured in metric tons.

(3) Blackwater information, including the vessel's ability to store blackwater while in California waters and size and capacity of any blackwater holding tanks, as measured in metric tons.

(4) Marine sanitation devices information, including number, size, and nature of devices on the vessel treating sewage prior to discharge.

(5) Connections to ensure transfer of sewage and graywater to pumpout facilities.

(6) California port of call information, including expected number of calls, in days, in ports within the state during 2006.

(7) Certification of accurate information, including the printed name, title, and signature of the master, owner, operator, or person in charge, or responsible officer attesting to the accuracy of the information provided.

(c) The commission shall submit the reported information to the board on or before February 1, 2007. The board shall submit the reported information to the Legislature on or before October 1, 2007. The board may submit the report to the Legislature in an electronic form.

SEC. 19. Section 72430 of the Public Resources Code, as amended by Section 6 of Chapter 764 of the Statutes of 2004, is amended to read:

72430. (a) A person who violates Section 72420 or 72420.2, or until January 1, 2010, Section 72420.1, is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

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

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

(d) (1) A civil action brought under this section may only be brought in accordance with this subdivision. That civil action may be brought by the Attorney General upon complaint or request by the Department of Fish and Game or the appropriate California regional water quality control board, or by a district attorney or 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. 20. Section 72430 of the Public Resources Code, as added by Section 7 of Chapter 764 of the Statutes of 2004, is repealed.

SEC. 21. Section 72440 of the Public Resources Code, as amended by Section 8 of Chapter 764 of the Statutes of 2004, 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, and oceangoing ships with sufficient holding tank capacity, 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 subdivision (a) of Section 72420, subdivision (a) of Section 72420.1, and Section 72420.2. 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, and oceangoing ships with sufficient holding tank capacity, 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, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 22. Section 72440.1 is added to the Public Resources Code, to read:

72440.1. The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of waste by large passenger vessels or oceangoing ships in all of the waters 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; and, request, if necessary, approval of the state's prohibition of the release of waste in the marine sanctuaries.

SEC. 23. Section 72441 of the Public Resources Code is amended to read:

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

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

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

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

SEC. 24. Division 39 (commencing with Section 72500) of the Public Resources Code is repealed.