



October 12, 2020

CSI Client Advisory 13-2020

SUBJECT: Updated Fines for State of California

On September 24, 2020, the California State Legislature adopted Assembly Bill 3214 into law which significantly increases penalties in two ways: by doubling the existing fines such that, upon conviction, a state court must now impose a fine of between \$10,000 and \$1,000,000; and for spills over 1,000 gallons, the new law permits courts to impose a new, additional fine of up to \$1,000 per gallon spilled. These penalties are in terms of per-day assessments for violations.

The offenses include vessel masters, individuals as well as corporate entities who:

- Knowingly fails to follow the direction or orders of the administrator in connection with an oil spill;
- 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;
- 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 the person 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;
- Knowingly fails to begin clean-up, abatement, or removal of spilled oil
- Knowingly 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.

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CHAPTER 119

An act to amend Section 8670.64 of the Government Code, relating to oil and gas.

[Approved by Governor September 24, 2020. Filed with Secretary of State September 24, 2020.]

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. 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 the person 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 ten thousand dollars (\$10,000) and not more than one million dollars (\$1,000,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

Page 2 of 2

(2) The court may also impose upon a person convicted of violating subdivision (a), a

fine of up to one thousand dollars (\$1,000) per gallon spilled in excess of 1,000 gallons of oil.

(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 five thousand dollars (\$5,000) and not more than five hundred thousand dollars (\$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 ten thousand dollars (\$10,000) and no more than one million dollars (\$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 670.25.5.

(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.