

May 22, 2020

Honorable Lorena Gonzalez  
Chair – Assembly Appropriations Committee  
State Capitol Building  
Sacramento, CA 95814

RE: AB 3214 (Limón) oil spills: financial security, fines, and penalties - **Oppose**

Dear Assembly Member Gonzalez:

I am writing on behalf of the members of the Pacific Merchant Shipping Association (PMSA) to register opposition to Assembly Bill 3124, which is scheduled to be heard in your committee on June 2. The members of PMSA own and operate commercial **Non-Tank** vessels servicing California's international trade demands through our commercial ports. Our association and members have been supportive of California's oil spill prevention and response program since its inception; however, we believe the amendments sought in AB 3214 are not supported by any demonstration of need, and in fact could result in unintended consequences.

We would urge your No Vote to this legislation.

AB 3214 seeks three changes to existing law related to oil spill financial security, fines and penalties:

1. It would double the amount of coverage in the Certificate of Financial Responsibility (COFR). For Non-Tank vessels that would increase from \$300 million to \$600 million.
2. It would double existing fines and penalties for oil spills that result from negligence.
3. It would impose additional fines of \$10,000 **per gallon** for those same spills.

In regards to financial security, the levels in current statute are the highest in the nation and sufficient to cover reasonable worst-case scenarios (as determined by the Office of Spill Prevention and Response for planning purposes) for vessel sourced oil spills. The most expensive Non-Tank oil spill in California's history was the Cosco Busan in San Francisco Bay in November of 2007. The total cost to clean up greater than 60,000 gallons of fuel oil was about \$200 million, including Natural Resource Damages, cleanup costs, government costs and third-party claims. No other Non-Tank oil spill has come close to that level of cost, and suggesting that costs related to oil spills from pipelines or platforms be used as reference is not an appropriate comparison, due to the limited amount of oil on a Non-tank vessel. The existing COFR limits, coupled with unlimited strict liability for oil spills under existing California law, provide financial surety to the state for the foreseeable future.

In terms of fines and penalties, we are amenable to working with the state to address changes to the existing levels, but it is important to understand that there are numerous fines and penalties cross referenced with other state codes that are not directly related to oil spills, but have the effect of increasing the total amount of the assessed fines by 400% or more. This should be considered when adjusting any fines in state code.

Finally, the imposition of up to \$10,000 per gallon is far beyond similar fines in the maritime sector, either nationally or internationally. Besides creating the potential for bankrupting businesses and persons in the state for spills related to criminal negligence, which in California is a very low bar beyond civil negligence, it could impact entities well beyond what the author intends. The vast majority of oil spills in the state are small in volume, and are sourced from recreational and fishing boats, marinas, vehicles, commercial and residential facilities etc. Data on marine-only oil spills from July 2012 through June 2016 shows a total of 1,497 spills with a volume of 1 bbl (42 gallons) or less, 59 spills with a volume between 1 bbl and 500 gallons, and only 4 spills greater than 500 gallons. Placing a fine of up to \$10,000 per gallon would greatly expand the population of California businesses and persons subject to greatly increased fines each year for spills less than 1 bbl, which could quickly reach \$420,000 or more per incident for negligence. Couple this with the potential for cross referencing fines from other CA Codes, and those levels would increase substantially.

AB 3214 fails to justify the amendments being pursued, and creates unintended consequences that should be avoided. We urge your NO vote.

Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,



John Berge  
Vice President

cc: Assembly Member Monique Limón  
All Members of the Assembly Appropriations Committee  
Shaw, Yoder, Antwih, Schmelzer & Lange / S. Solis Shaw