

**SANTA CRUZ COUNTY
BOARD OF SUPERVISORS INDEX SHEET**

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Resolution(s): 219-2003

Ordinance(s):

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Index: --Letter of Supervisor Wormhoudt dated July 23, 2003
--Assembly Bill No. 906
--Assembly Bill No. 121
--Assembly Bill No. 471
--Letter of Kaitilin Gaffney of the Ocean Conservancy

Item: 24. ADOPTED RESOLUTION NO. 219-2003 in support of Assembly Bill 906, Assembly Bill 121, and Assembly Bill 471 to prohibit cruise ship pollution in the Monterey Bay National Marine Sanctuary, as recommended by Supervisor Wormhoudt



County of Santa Cruz

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

APPROVED AND FILED
BOARD OF SUPERVISORS

DATE: *8/5/03*
COUNTY OF SANTA CRUZ

SUSAN A. MAURIELLO
EX-OFFICIO CLERK OF THE BOARD

BY *Alicia Maurillo* DEPUTY

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

AGENDA: 8/5/03

July 23, 2003

RE: SUPPORT FOR LEGISLATION REGULATING CRUISE SHIPS
IN THE MONTEREY BAY NATIONAL MARINE SANCTUARY

Dear Members of the Board:

Our Board in the past has supported legislation to prevent damage to the Monterey Bay National Marine Sanctuary from cruise ships operating in the area. As our region becomes increasingly attractive to cruise ships, it is important that the cruise ships help preserve the environmental amenities that make the Sanctuary attractive to them.

Attached are three pieces of proposed State legislation that would help ensure that potential environmental problems caused by cruise ships are avoided. Assembly Bill 906 would prohibit cruise ships from discharging gray water from kitchens, laundries, and showers as well as hazardous materials into the Sanctuary. Assembly Bill 121 would prohibit cruise ships from dumping sewage (whether treated or untreated), sewage sludge, ballast water or oily bilge water into the marine waters of the State of California. Assembly Bill 471 would require cruise ships operating in the Sanctuary to burn only highway-quality diesel fuel and would prohibit them from onboard incineration out to 90 miles from the California coast. All three Bills are co-sponsored by our local Assembly Member, John Laird, and all are worthy of support.

BOARD OF SUPERVISORS
July 23, 2003
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Therefore, I recommend that the Board of Supervisors adopt the attached resolution supporting Assembly Bill 906, Assembly Bill 121, and Assembly Bill 471 regarding the regulation of cruise ships in the Monterey Bay National Marine Sanctuary.

Sincerely,



MARDI WORMHOUDT, Supervisor
Third District

MW:lg
Attachments

cc: Assembly Member John Laird
Kaitlin Gaffney, The Ocean Conservancy

1224H3

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

0165

RESOLUTION NO. 219-2003

On the motion of Supervisor **Wormhoudt**
duly seconded by Supervisor **Campos**
the following resolution is adopted

RESOLUTION SUPPORTING ASSEMBLY BILL 906, ASSEMBLY BILL **121**,
AND ASSEMBLY BILL **471** TO PROHIBIT CRUISE SHIP
POLLUTION IN CALIFORNIA

WHEREAS, the cruise ship industry is predicted to grow in California by at least 25 percent over the next 10 years; and

WHEREAS, on a single port visit, a cruise ship can generate the smog-forming emissions of 12,240 cars; and

WHEREAS, air emissions from cruise ships have been shown to cause cancer and other illnesses; and

WHEREAS, every week a typical cruise ship lawfully dumps 210,000 gallons **of** sewage, 1 million gallons of gray water, and 30,000 gallons of oily bilge water into the ocean; and

WHEREAS, cruise ship discharges harm the environment by degrading water quality and threatening the health of marine life; and

WHEREAS, Assembly Bill **906** would prohibit cruise ships from discharging gray water from kitchens, laundries, showers, and hazardous materials into the marine waters **of** the State of California and marine sanctuaries; and

WHEREAS, Assembly Bill **121** would prohibit cruise ships from dumping sewage (treated or untreated), sewage sludge, ballast water or oily bilge water into the marine waters of the State of California; and

WHEREAS, Assembly Bill **471** would require cruise ships operating in California coastal waters out to 25 miles to burn only highway-quality diesel fuel that will significantly reduce smokestack emissions and prohibit cruise ships from onboard incineration out to 90 miles from the California coast; and

WHEREAS, Assembly Bill **906**, Assembly Bill **121**, and Assembly Bill **471** have passed the California State Assembly and are now being considered in the California State Senate; and

WHEREAS, Assembly Bill **906**, Assembly Bill **121**, and Assembly Bill **471** would help protect the Monterey Bay National Marine Sanctuary and benefit the citizens **of** Santa Cruz County and the State **of** California.

RESOLUTION SUPPORTING ASSEMBLY BILL 906, ASSEMBLY BILL 121, AND ASSEMBLY BILL 471 TO PROHIBIT CRUISE SHIP POLLUTION IN CALIFORNIA
Page 2

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz County Board of Supervisors supports Assembly Bill 906, Assembly Bill 121, and Assembly Bill 471 and urges their passage.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 5th day of August, 2003, by the following vote:

AYES: SUPERVISORS Wormhoudt, Campos, Almquist and Pirie
NOES: SUPERVISORS None
ABSENT: SUPERVISORS Beautz

ELLEN PIRIE

ELLEN PIRIE, Chairperson
Board of Supervisors

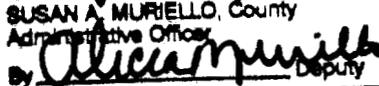
ATTEST: GAIL T. BORKOWSKI
Clerk of said Board

Approved as to form:


County Counsel

DISTRIBUTION: Assembly Member John Laird
Assembly Member Joe Simitian
Assembly Member George Nakano
Senator Bruce McPherson
Assembly Member Simon Salinas
Senator Byron Sher
Governor Gray Davis
Kaitlin Gaffney, The Ocean Conservancy

1468C3

STATE OF CALIFORNIA)
COUNTY OF SANTA CRUZ)
I, SUSAN A. MAURIELLO, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of the resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board on August 6, 20 03
SUSAN A. MURIELLO, County Administrative Officer
By  Deputy

AMENDED IN SENATE JULY 16, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003

0167

INTRODUCED BY Assembly Members Nakano, Laird, and Simitian

FEBRUARY 20, 2003

An act to add Division 39 (commencing with Section 72500) to the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as amended, Nakano. Large passenger vessels: water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (board) is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

Federal law establishes a system of national marine sanctuaries.

This bill would declare that it is in the public interest to prohibit large passenger vessels from releasing waste into national marine sanctuaries in the marine waters of the state.

The bill would *define the term "other waste"*. *The bill would prohibit the release of graywater ~~and~~, hazardous waste, and other waste, by large passenger vessels into the marine waters of the state or national marine sanctuaries in the marine waters of the state, and would subject a person who violates the prohibitions to a civil penalty, as specified. The bill would require the owner or operator of a large passenger vessel to immediately notify the board of a release of graywater, hazardous waste, or other waste, as specified.* The bill would require the board to request the appropriate federal agencies to prohibit the release of graywater ~~and~~, hazardous waste, *and other waste*, by large passenger vessels 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 to request, if necessary, approval of the state's prohibition of the release of graywater ~~and~~, hazardous waste, *and other waste*, in the national marine sanctuaries in the marine waters of the state.

The bill would permit the board to adopt regulations, and to board and inspect a vessel in the marine waters of the state, to carry out the bill's provisions. The bill would provide that it does not apply to vessels that operate in the marine waters of the state solely in innocent passage.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Division 39 (commencing with Section 72500) is added to the Public Resources Code, to read:

DIVISION 39. PROHIBITED RELEASE OF WASTES FROM LARGE PASSENGER VESSELS

CHAPTER 1. FINDINGS AND DECLARATIONS

72500. The Legislature finds and declares all of the following:
(a) Large passenger vessels produce considerable amounts of waste,

including graywater, sewage, and other forms of solid and liquid waste.

(b) 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.

(c) The release of waste from large passenger vessels results in substantial damage to these valuable resources.

(d) In order to protect public health and the environment, it is in the public interest to prohibit large passenger vessels from releasing waste into marine sanctuaries.

0168

CHAPTER 2. DEFINITIONS

72505. Unless the context otherwise requires, the following definitions govern this division:

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

(b) "Graywater" means drainage from dishwasher, shower, laundry, bath, and wash basin drains, but does not include drainage from toilets, urinals, hospitals, and cargo Spaces.

(c) "Hazardous waste" has the meaning set forth in Section 25117 of the Health and Safety Code ~~— Hazardous waste also includes photography lab chemicals, dry cleaning chemicals, and medical waste~~, but does not include sewage.

(d) "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.

(e) "Marine waters of the state" means "coastal waters" as defined in Section 13181 of the Water Code.

(f) "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.

(g) "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.

(h) "Operator" has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(i) *"Other waste" means photography lab chemicals, dry cleaning chemicals, or medical waste.*

(j) "Owner" has the meaning set forth in Section 651 of the Harbors and Navigation Code.

~~(j)~~
(k) "Release" means discharging or disposing of wastes into the environment.

~~(k) "Waste" means gray water or hazardous waste.~~

(1) *"Waste" means graywater, hazardous waste, and other waste.*

CHAPTER 3. PROHIBITED RELEASES

72515. (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 graywater from large passenger vessels into the marine waters of the state should be prohibited.

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

72519. (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 hazardous waste from large passenger vessels into the marine waters of the state should be prohibited.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, a hazardous waste from the vessel into the marine waters of the state.

72520. (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 her waste from large passenger vessels into the marine waters of the state should be prohibited.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, other waste from the vessel into the marine waters of the state.

72521. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries requires that the release of hazardous waste from large passenger vessels into marine sanctuaries should be prohibited.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, a hazardous waste from the vessel into a marine sanctuary.

72523. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries requires that the release of graywater from large passenger vessels into marine sanctuaries should be prohibited.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, graywater from the vessel into a marine sanctuary.

72525. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries requires that the release of other waste from large passenger vessels into marine sanctuaries should be prohibited.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, other waste from the vessel into a marine sanctuary.

72527. If a large passenger vessel releases graywater, hazardous waste, or other waste into the marine waters of the state or a marine sanctuary, the owner or operator shall immediately, but no later than 24 hours after the release, notify the board of the release.

The owner or operator shall include all of the following information in the notification:

- (a) Date of the release.
- (b) Time of the release.
- (c) Location of the release.
- (d) Volume of the release.
- (e) Source of the release.
- (f) Remedial actions taken to prevent future releases.

CHAPTER 4. PENALTIES

72530. (a) A person who violates Section 72515, 72519, 72520, 72521, ~~or 72523~~ 72523, or 72525, shall be 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) A civil action brought under this section may only be brought by the Attorney General upon complaint by the Department of Fish and Game or the appropriate California regional water quality control board, or by the district attorney or city attorney. 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.

An action relating to the same violation may be joined or

CHAPTER 5. MISCELLANEOUS

72540. (a) This division does not apply to a large passenger vessel that operates in the marine waters of the state solely in innocent passage.

(b) For 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.

72542. The board may adopt regulations to carry out this division.

12544. The board may board and inspect a vessel in the marine waters of the state for the purposes of carrying out this division.

12545. The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of waste by large passenger vessels 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.

AMENDED IN SENATE JULY 16, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003

INTRODUCED BY Assembly Members Simitian, Nakano, and Laird

JANUARY 15, 2003

An act to add Division 38 (commencing with Section 72400) to the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 121, as amended, Simitian. Large passenger vessels: water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (board) is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

Existing law, which by its own terms will be repealed on January 1, 2004, generally requires a master, operator, or person in charge of a vessel to undertake specified ballast water management and reporting practices.

Federal law prohibits a state from prohibiting vessels from discharging sewage, unless the state applies to, and receives approval from, the United States Environmental Protection Agency. Federal law establishes a system of national marine sanctuaries.

This bill would direct the board to apply to the Administrator of the United States Environmental Protection Agency and any other required federal agencies to authorize the state to prohibit the release of sewage by large passenger vessels into either the marine waters of the state or national marine sanctuaries in the marine waters of the state. The bill would prohibit the release of sewage by large passenger vessels into those waters if the administrator and any other required federal agencies approve the applications, would prohibit the release of oily bilgewater ~~or~~ and ballast water, by large passenger vessels into those waters, and would subject a person who violates the prohibitions to a civil penalty, as specified. *The bill would authorize the release of ballast water for safety reasons, as specified. The bill would require the owner or operator of a large passenger vessel to immediately notify the board of a release of sewage, oily bilgewater, or ballast water, as specified.*

The bill would require the board to request the United States Environmental Protection Agency and any other required agencies to ~~declare those areas outside of the marine waters of the state that flow into the marine sanctuaries to be no discharge zones for sewage, oily bilgewater, and ballast water. The bill would also require the board to request those agencies to~~ prohibit the release of ~~those substances~~ sewage, oily bilgewater, and ballast water, 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. The bill would authorize the board to board and inspect a vessel in the marine waters of the state for the purposes of carrying out the bill's provisions. The bill would authorize the board to adopt regulations to carry out the bill's provisions.

The bill would define various related terms and exempt from its provisions vessels that operate in the marine waters of the state solely in innocent passage.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Division 38 (commencing with Section 72400) is added to the Public Resources Code, to read:

DIVISION 38. LARGE PASSENGER VESSELS
CHAPTER 1. DEFINITIONS

72400. (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) "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.

(d) "Marine waters of the state" means "coastal waters" as defined in Section 13181 of the Water Code.

(e) "Marine ~~sanctuaries~~ 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, ~~and~~ or Monterey Bay National Marine Sanctuary.

(f) "Oil" has the meaning set forth in Section 8750.

(g) "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.

(h) "Operator" has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(i) "Owner" has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(j) "Release" means discharging or disposing of wastes into the environment.

(k) "Sewage" has the meaning set forth in Section 775.5 of the Harbors and Navigation Code, and also includes 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.

CHAPTER 2. PROHIBITED RELEASES

72415. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine waters of the state requires that the release of untreated and treated sewage from large passenger vessels into the marine waters of the state should be prohibited.

(b) The board shall apply to the Administrator of the United States Environmental Protection Agency, pursuant to subsection (f) of Section 1322 of Title 33 of the United States Code and Section 140.4 of Title 40 of the Code of Federal Regulations, and any other required federal agencies, as determined by the board, to authorize the state to prohibit the release of untreated and treated sewage from large passenger vessels into the marine waters of the state.

72417. If the Administrator of the United States Environmental Protection Agency, and any other required federal agencies, approve an application made pursuant to subdivision (b) of Section 72415, an owner or operator of a large passenger vessel may not release, or permit anyone to release, any sewage, untreated or treated, from the vessel into the marine waters of the state.

72419. (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 oily bilgewater from large passenger vessels into the marine waters of the state should be prohibited.

An owner or operator of a large passenger vessel may not

release, or permit anyone to release, any oily bilgewater from the vessel into the marine water: f the state.

0173

72421. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine waters of the state requires that the release of ballast water from large passenger vessels into the marine waters of the state should be prohibited.

(b) (1) An owner or operator of a large passenger vessel may not release, or permit anyone to release, ballast water from the vessel into the marine waters of the state.

(2) (A) *This subdivision does not require an owner or operator to refrain from releasing ballast water from the vessel, if the owner or operator determines that refraining from releasing ballast water would threaten the safety of the vessel, its crew, or its passengers, because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions.*

(B) *If a determination described in subparagraph (A) is made, the owner or operator shall take all feasible measures, based on the best available technologies economically achievable, that do not compromise the safety of the vessel, to minimize the release of ballast water into the marine waters of the state.*

(C) *Nothing in this section relieves the owner or operator of responsibility for ensuring the safety and stability of the vessel and the safety of the crew and passengers, or of any other responsibility.*

72423. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries requires that the release of untreated and treated sewage from large passenger vessels into marine sanctuaries should be prohibited.

(b) The board shall apply to the Administrator of the United States Environmental Protection Agency, pursuant to subsection (f) of Section 1322 of Title 33 of the United States Code and Section 140.4 of Title 40 of the Code of Federal Regulations, and any other required federal agencies, as determined by the board, to authorize the state to prohibit the release of untreated and treated sewage from large passenger vessels into marine sanctuaries.

72425. If the Administrator of the United States Environmental Protection Agency, and any other required federal agencies, approve an application made pursuant to subdivision (b) of Section 12423, an owner or operator of a large passenger vessel may not release, or permit anyone to release, sewage, untreated or treated, from the vessel into ~~marine sanctuaries~~ a marine sanctuary .

72421. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries requires that the release of oily bilgewater from large passenger vessels into marine sanctuaries should be prohibited.

(b) An owner or operator of a large passenger vessel may not release, or permit anyone to release, oily bilgewater from the vessel into ~~marine sanctuaries~~ a marine sanctuary

72429. (a) The Legislature finds and declares that the protection and enhancement of the quality of marine sanctuaries requires that the release of ballast water from large passenger vessels into marine sanctuaries should be prohibited.

(b) (1) An owner or operator of a large passenger vessel may not release, or permit anyone to release, ballast water from the vessel into ~~marine sanctuaries~~ a marine sanctuary .

(2) (A) *This subdivision does not require an owner or operator to refrain from releasing ballast water from the vessel, if the owner or operator determines that refraining from releasing ballast water would threaten the safety of the vessel, its crew, or its passengers, because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions.*

(B) *If a determination described in subparagraph (A) is made, the owner or operator shall take all feasible measures, based on the best available technologies economically achievable, that do not compromise the safety of the vessel, to minimize the release of ballast water into a marine sanctuary.*

(C) *Nothing in this section relieves the owner or operator of*

responsibility for ensuring the safety and stability of the vessel and the safety of the crew and passengers, or of any other responsibility.

0174

72430. If a large passenger vessel releases sewage, oily bilgewater, or ballast water into the marine waters of the state or a marine sanctuary, the owner or operator shall immediately, but no later than 24 hours after the release, notify the board of the release. The owner or operator shall include all of the following information in the notification:

- (a) Date of the release.
- (b) Time of the release.
- (c) Location of the release.
- (d) Volume of the release.
- (e) Source of the release.
- (f) Remedial actions taken to prevent future releases.
- (g) If the release was a release of ballast water, whether the release was made under conditions described in paragraph (2) of subdivision (b) of Section 72421 or paragraph (2) of subdivision (b) of Section 72429.

CHAPTER 3. PENALTIES

~~72430.~~

72435. (a) A person who violates Section 72417, 72419, 72421, 72425, 72427, or 72429 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) 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 by the Department of Fish and Game or the appropriate California regional water quality control board, or by a district attorney or city attorney. 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. An action relating to the same violation may be joined or consolidated.

CHAPTER 4. MISCELLANEOUS

~~72440. The board shall request the United States Environmental Protection Agency, and any other required agencies, as determined by the board, to declare these areas outside of the marine waters of the state that flow into the marine sanctuaries to be no discharge zones for sewage, oily bilgewater, and ballast water.~~

72441. The board shall request the United States Environmental Protection Agency, and any other required agencies, as determined by the board, to prohibit the release of sewage, oily bilgewater, and ballast water, 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.

72442. The board may board and inspect a vessel in the marine waters of the state for the purposes of carrying out this division.

72444. (a) This division does not apply to a large passenger vessel that operates in the near line waters of the state solely innocent passage.

(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.

72446. The board may adopt regulations to carry out this division.

AMENDED IN SENATE JULY 16, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY MAY 6, 2003
AMENDED IN ASSEMBLY APRIL 3, 2003

INTRODUCED BY Assembly Members Simitian, Laird, and Nakano

FEBRUARY 14, 2003

An act to add Chapter 3.3 (commencing with Section 39630) to Part 2 of Division 26 of the Health and Safety Code, relating to air emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 471, as amended, Simitian. Air emissions: cruise ships.

Existing law requires the State Air Resources Board to measure and record the opacity of visible emissions of a representative sample of large passenger vessels while at berth or at anchor in a port in the state. That provision is repealed as of July 1, 2003.

This bill would instead prohibit, as of January 1, 2004, a cruise ship, as defined, from conducting onboard ~~waste~~ incineration while operating within ~~90~~ 20 miles of the California coast. The bill would require, as of January 1, 2005, a cruise ship to use only specified diesel fuel while operating within 25 miles of the California coast. The bill would require the State Air Resources Board to enforce those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Chapter 3.3 (commencing with Section 39630) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 3.3. CRUISE SHIPS

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 emissions.

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 federal government.

39632. Commencing on January 1, 2004, a cruise ship shall not conduct onboard ~~waste~~ incineration while operating within ~~90~~ 20 miles of the California coast, *except to the extent allowed by federal law*.

39633. Commencing on January 1, 2005, a cruise ship shall ~~use only diesel fuel formulated as specified in Section 2281 and 2282 of Title 13 of the California Code of Regulations, while use only onroad diesel fuel that is approved by the United States Environmental Protection Agency, while operating within 25 miles of the California coast.~~

Chair Ellen Pirie and
Members of the Board of Supervisors
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060



RE: SUPPORT FOR RESOLUTION SUPPORTING AB 906, AB 121 AND AB 471

Dear Chair Pirie and Members of the Board:

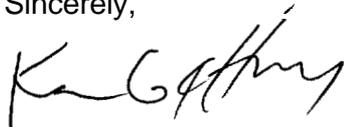
On behalf The Ocean Conservancy's 25,000 California members, I am writing in support of your proposed resolution supporting AB 121 (Simitian), AB 740 (Simitian), and AB 906 (Nakano and Laird). Our organization strongly supports the provisions contained in these bills that will stop large cruise ships from dumping sewage and other wastes into state waters and reduce the significant air pollution generated by cruise ships. We are also supportive of provisions in AB 740 and AB 906 directing the State Water Resources Control Board to petition the National Oceanic and Atmospheric Administration to prohibit cruise ship discharges in the waters of California's four national marine sanctuaries, including the Monterey Bay National Marine Sanctuary.

With the rapid growth in cruise ship traffic in California has come a growing awareness of the significant volumes of waste and air pollution generated by these "floating cities" as well as the inadequacy of existing pollution regulations. The Ocean Conservancy believes that a more rigorous regulatory framework is needed to protect California's natural resources from the air and water pollution generated by cruise ships. Given the industry's extensive history of illegal dumping and fraudulent record keeping, monitoring and enforcement are critical components of any program.

As you know, these three bills have already passed the State Assembly and will be considered by the Senate later in August. I urge you to support passage of AB 906, AB 471 and AB 121 and help protect California and the Monterey Bay National Marine Sanctuary from cruise ship pollution.

Thank you for your consideration.

Sincerely,



Kaitilin Gaffney
California Central Coast Program Manager

The Ocean Conservancy strives to be the world's foremost advocate for the oceans. Through science-based advocacy, research, and public education, we inform, inspire and empower people to speak and act for the oceans.

