

Memorandum 2021-58

Fish and Game Law: Cumulative Draft

In this study, the Commission¹ has been directed by the Legislature to consider revision of the Fish and Game Code in order to make technical improvements to that law, without making any significant substantive change to the effect of the law.²

In December 2018 the Commission approved a tentative recommendation that would recodify the existing Fish and Game Code in a proposed new Fish and Wildlife Code.³ After releasing the tentative recommendation, the Commission decided to divide public comment into two phases.⁴ Phase One would consist of comments on revisions to the text of existing law. Phase Two would address the proposed organizational changes.

In reviewing the Phase One comments, the Commission has been developing a draft of proposed legislation to make technical improvements to the existing Fish and Game Code.⁵

The Commission has been considering these proposed revisions in a series of memoranda that present the revisions in categories defined by the nature of the comments on the revision.

The first of these categories includes revisions that were supported by at least one commenter, with no commenter opposing the change. After provisional approval by the Commission, such revisions have been added to a “cumulative draft” of proposed legislation (the latest version of which is attached). The Commission’s initial approval of these revisions is provisional because the Department of Fish and Wildlife (“DFW”) has asked that final approval wait until

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See 2012 Cal. Stat. res. ch.108 (ACR 98 (Wagner)).

3. See Memorandum 2018-67 and its First Supplement; Minutes (Dec. 2018), p. 10.

4. See Memorandum 2019-44, pp. 8-10; Minutes (Sept. 2019), p. 4.

5. See Memorandum 2021-11; Minutes (Feb. 2021), p. 5.

after DFW has had time to confirm that the staff correctly construed the relevant comment. This also provides DFW and the Fish and Game Commission (“FGC”) an opportunity to see the actual implementing language, which is not always identical to the language in the tentative recommendation (because the new language would be adapted to the existing Fish and Game Code, rather than the reorganized provisions in the tentative recommendation). More recently, DFW asked that such changes be kept out of the cumulative draft until after DFW has had a chance to confirm that it has no concerns. The staff sees no disadvantage to honoring that request.

The cumulative draft attached to this memorandum takes that approach (i.e., revisions that have not yet been affirmed by DFW are omitted or were removed from the cumulative draft). The revisions will be added to the cumulative draft after DFW has had time to confirm that they are unproblematic.

The second and third categories of proposed revisions the Commission has been considering include revisions that require further discussion between the staff and the commenting entities. Depending on the results of that discussion, the revision will either be presented to the Commission as a revision recommended for inclusion in a draft recommendation or as a revision that is not recommended for inclusion. The presentation will explain the reasons for the staff’s recommendation.

The final categories the Commission has been considering are revisions that the staff has recommended against including in proposed legislation or are purely informational notes that do not require a revision.

In addition to the cumulative draft, the staff has been preparing (and has attached) a running list of all issues that still require some action before they can be resolved. As those issues are resolved, they will be removed from that list.

Respectfully submitted,

Steve Cohen
Staff Counsel

PROPOSED LEGISLATION

Staff Note. This draft contains proposed revisions that have been provisionally approved by the Commission and that the Department of Fish and Wildlife has confirmed as unproblematic.

Comments. A draft of an official Commission “Comment,” which would be included in any final recommendation, follows each revised code section in the cumulative draft. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

The Commission welcomes public comment on any issue relating to the content of this draft or any other aspect of this study.

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PROPOSED LEGISLATION

FISH AND GAME CODE

1 **Fish & Game Code § 70 (amended). “Resident”**

2 SEC. _____. Section 70 of the Fish and Game Code is amended to read:

3 70. “Resident” means any person who has resided continuously in the State of
4 California for six months or more immediately prior to the date of his application
5 for a license or permit, any person on active military duty with the Armed Forces of
6 the United States or auxiliary branch thereof, or any person enrolled in the Job Corps
7 established pursuant to Section 2883 of Title 29 of the United States Code.

Comment. Section 70 is amended to make the section gender neutral.

8 **Fish & Game Code § 398 (amended). Falconry**

9 SEC. _____. Section 398 of the Fish and Game Code is amended to read:

10 398. The base year for determining the inflationary index applied to the fee
11 established by Section 396 shall be the 1984-85 fiscal year, ~~and the base year for~~
12 ~~determining the inflationary index to be applied to the fee established by Section~~
13 ~~397 shall be the 1985-86 fiscal year.~~

Comment. Section 398 is amended to delete obsolete material.

14 **Fish & Game Code § 456 (amended). Deer management**

15 SEC. _____. Section 456 of the Fish and Game Code is amended to read:

16 456. The department shall biennially report to the Legislature and to the Fish and
17 Game Commission on the progress that is being made toward the restoration and
18 maintenance of California’s deer herds. ~~The first report shall be submitted on or~~
19 ~~before October 1, 1989.~~ The report shall include program activities regarding deer
20 habitat, particularly addressing problems dealing with identification and
21 preservation of critical deer habitat areas; the amount of revenue derived from the
22 sale of deer tags during the two previous fiscal years; a list of expenditures during
23 the two previous fiscal years and proposed expenditures during the current fiscal
24 year; and a report of general benefits accrued to the deer resources as a result of the
25 program.

Comment. Section 456 is amended to delete obsolete material.

26 **Fish & Game Code § 711 (amended). Statement of legislative intent regarding funding**

27 SEC. _____. Section 711 of the Fish and Game Code is amended to read:

28 711. (a) It is the intent of the Legislature to ensure adequate funding from
29 appropriate sources for the department. To this end, the Legislature finds and
30 declares that:

31 (1) The costs of nongame fish and wildlife programs shall be provided annually
32 in the Budget Act by appropriating money from the General Fund, through nongame

1 user fees, and sources other than the Fish and Game Preservation Fund to the
2 department for these purposes.

3 (2) The costs of commercial fishing programs shall be provided out of revenues
4 from commercial fishing landing fees, license fees, and other revenues, from
5 reimbursements and federal funds received for commercial fishing programs, and
6 other funds appropriated by the Legislature for this purpose.

7 (3) The costs of hunting and sportfishing programs shall be provided out of
8 hunting and sportfishing revenues and reimbursements and federal funds received
9 for hunting and sportfishing programs, and other funds appropriated by the
10 Legislature for this purpose. These revenues, reimbursements, and federal funds
11 shall not be used to support commercial fishing programs, free hunting and fishing
12 license programs, or nongame fish and wildlife programs.

13 (4) The costs of managing lands managed by the department and the costs of
14 wildlife management programs shall be supplemented out of revenues in the Native
15 Species Conservation and Enhancement Account in the Fish and Game Preservation
16 Fund.

17 (5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted
18 annually to an amount equal to that computed pursuant to Section 713. However, a
19 substantial increase in the aggregate of hunting and sportfishing programs shall be
20 reflected by appropriate amendments to the sections of this code that establish the
21 base sport license fee levels. The inflationary index provided in Section 713 shall
22 not be used to accommodate a substantial increase in the aggregate of hunting and
23 sportfishing programs.

24 (6) The costs of a conservation and mitigation banking program, including, but
25 not limited to, costs incurred by the department during its adoption of guidelines
26 for, and the review, approval, establishment, monitoring, and oversight of, banks,
27 shall be reimbursed from revenues of conservation and mitigation bank application
28 fees imposed pursuant to Sections 1798.5, 1798.6, and 1799.

29 (b) The director and the Secretary of the Natural Resources Agency, with the
30 department's annual budget submittal to the Legislature, shall submit a report on the
31 fund condition, including the expenditures and revenue, for all accounts and
32 subaccounts within the Fish and Game Preservation Fund. The department shall also
33 update its cost allocation plan to reflect the costs of program activities.

34 (c) For purposes of this ~~article~~ section, "substantial increase" means an increase
35 in excess of 5 percent of the Fish and Game Preservation Fund portion of the
36 department's current year support budget, excluding cost-of-living increases
37 provided for salaries, staff benefits, and operating expenses.

Comment. Subdivision (c) of Section 711 is amended to provide greater specificity without
changing the substance of the provision.

38 **Fish & Game Code § 2014 (amended). Damages**

39 SEC. _____. Section 2014 of the Fish and Game Code is amended to read:

1 2014. (a) It is the policy of this state to conserve its natural resources and to
2 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
3 amphibia.

4 ~~(b)~~ (b) The state may recover damages in a civil action against any person or local
5 agency which unlawfully or negligently takes or destroys any bird, mammal, fish,
6 reptile, or amphibian protected by the laws of this state.

7 ~~(b)~~ (c) The measure of damages is the amount ~~which~~ that will compensate for all
8 the detriment proximately caused by the taking or destruction of the birds,
9 mammals, fish, reptiles, or amphibia.

10 ~~(e)~~ (d) An action to recover damages under this section shall be brought in the
11 name of the people of the state, in a court of competent jurisdiction in the county in
12 which the cause of action arose. The State Water Resources Control Board shall be
13 notified of, and may join in, any action brought under this section when the activities
14 alleged to have caused the destruction of any bird, mammal, fish, reptile, or
15 amphibian may involve either the unlawful discharge of pollutants into the waters
16 of the state or other violation of Division 7 (commencing with Section 13000) of
17 the Water Code.

18 ~~(d)~~ (e) This section does not apply to ~~persons or local agencies engaged in~~
19 ~~agricultural pest control, to the destruction of fish in irrigation canals or works or~~
20 ~~irrigation drainages, or to the destruction of birds or mammals killed while~~
21 ~~damaging crops as provided by law~~ any of the following:

22 (1) Persons or local agencies engaged in agricultural pest control.

23 (2) The destruction of fish in irrigation canals or works, or irrigation drainages.

24 (3) The lawful destruction of a bird or mammal killed while damaging crops.

25 ~~(e)~~ (f) No damages may be recovered against a local agency pursuant to this
26 section if civil or administrative penalties are assessed against the local agency for
27 the same detriment pursuant to Division 7 (commencing with Section 13000) of the
28 Water Code.

29 ~~(f)~~ (g) Any recovery or settlement of money damages, including, but not limited
30 to, civil penalties, arising out of any civil action filed and maintained by the Attorney
31 General in the enforcement of this section shall be deposited by the department in
32 the subaccounts of the Fish and Wildlife Pollution Account in the Fish and Game
33 Preservation Fund as specified in Section 13011.

34 ~~(g)~~ (h) For purposes of this section, “local agency” includes any city, county, city
35 and county, district, public authority, or other political subdivision.

Comment. The second paragraph of subdivision (a) of Section 2014 is amended to designate it
as subdivision (b). All of the subdivisions that follow are redesignated to reflect that change.

Newly designated subdivision (c) is amended to make clear that the measure of damages for
unlawful or negligent take or destruction can include the detriment caused by taking, even if the
animal is not destroyed.

Newly designated subdivision (e) is amended to eliminate an ambiguous use of the phrase “as
provided by law.”

Newly designated subdivision (f) is amended to make clear that the provision applies to both
judicial and administrative penalties.

1 **Fish & Game Code § 2021 (amended). Shark fin**

2 SEC. _____. Section 2021 of the Fish and Game Code is amended to read:

3 2021. (a) As used in this section “shark fin” means the raw, dried, or otherwise
4 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
5 an elasmobranch.

6 (b) Except as otherwise provided in subdivisions (c), (d), and (e), it shall be
7 unlawful for any person to possess, sell, offer for sale, trade, or distribute a shark
8 fin.

9 (c) Any person who holds a license or permit pursuant to Section 1002 may
10 possess a shark fin or fins consistent with that license or permit.

11 (d) Any person who holds a license or permit issued by the department to take or
12 land sharks for recreational or commercial purposes may possess a shark fin or fins
13 consistent with that license or permit.

14 ~~(e) Before January 1, 2013, any restaurant may possess, sell, offer for sale, trade,~~
15 ~~or distribute a shark fin possessed by that restaurant, as of January 1, 2012, that is~~
16 ~~prepared for consumption.~~

Comment. Section 2021 is amended to delete obsolete material.

17 **Fish & Game Code § 2021.5 (amended). Shark fin**

18 SEC. _____. Section 2021.5 of the Fish and Game Code is amended to read:

19 2021.5. (a) Notwithstanding Section 2021, all of the following provisions apply:

20 (1) Any person who holds a license or permit issued by the department to take or
21 land sharks for recreational or commercial purposes may possess, including for
22 purposes of consumption or taxidermy, or may donate to a person licensed or
23 permitted pursuant to Section 1002, a shark fin or fins consistent with that license
24 or permit.

25 ~~(2) Before July 1, 2013, any person may possess, sell, offer for sale, trade, or~~
26 ~~distribute a shark fin possessed by that person, as of January 1, 2012.~~

27 ~~(3) Nothing in Section 2021 prohibits the sale or possession of a shark carcass,~~
28 ~~skin, or fin for taxidermy purposes pursuant to Section 3087.~~

29 (b) (1) The Ocean Protection Council shall submit an annual report to the
30 Legislature that lists any shark species that have been independently certified to
31 meet internationally accepted standards for sustainable seafood, as defined in
32 Section 35550 of the Public Resources Code, and adopted by the Ocean Protection
33 Council pursuant to Section 35617 of the Public Resources Code, including chain
34 of custody standards.

35 (2) A report to be submitted pursuant to paragraph (1) shall be submitted in
36 compliance with Section 9795 of the Government Code.

Comment. Section 2021.5 is amended to delete obsolete material.

37 **Fish & Game Code § 2124 (amended). License requirement**

38 SEC. _____. Section 2124 of the Fish and Game Code is amended to read:

1 2124. (a) The department may reimburse eligible local entities, pursuant to a
2 memorandum of understanding entered into pursuant to this section, for costs
3 incurred by the eligible local entities in the administration and enforcement of any
4 provision concerning the possession of, handling of, care for, or holding facilities
5 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

6 (b) The department may enter into memorandums of understanding with eligible
7 local entities for the administration and enforcement of any provision concerning
8 the possession of, handling of, care for, or holding facilities provided for, a wild
9 animal enumerated in or designated pursuant to Section 2118.

10 (c) The commission shall adopt regulations that establish specific criteria an
11 eligible local entity shall meet in order to qualify as an eligible local entity.

12 (d) For the purposes of this division, “eligible local entity” means a county, local
13 animal control officer, local humane society official, educational institution, or
14 trained private individual that enters into a memorandum of understanding with the
15 department pursuant to this section.

Comment. Subdivisions (a) and (b) of Section 2124 are amended to conform to statutory
language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
2185, 2190.

16 **Fish & Game Code § 2125 (amended). Civil penalty**

17 SEC. ____ . Section 2125 of the Fish and Game Code is amended to read:

18 2125. (a) In addition to any other penalty provided by law, any person who
19 violates this chapter or any regulations implementing this chapter, is subject to a
20 civil penalty of not less than five hundred dollars (\$500) nor more than ten thousand
21 dollars (\$10,000) for each violation. Except as otherwise provided, any violation of
22 this chapter or of any regulations implementing this chapter is a misdemeanor
23 punishable by imprisonment in a county jail for not more than six months, or by a
24 fine of not more than one thousand dollars (\$1,000).

25 (b) The Attorney General, or the city attorney of the city or the district attorney or
26 county counsel of the county in which a violation of this article occurs, may bring a
27 civil action to recover the civil penalty in subdivision (a) and the costs of seizing
28 and holding the animal ~~listed in~~ enumerated in or designated pursuant to Section
29 2118, except to the extent that those costs have already been collected as provided
30 by subdivision (d). The civil action shall be brought in the county in which the
31 violation occurs and any penalty imposed shall be transferred to the Controller for
32 deposit in the Fish and Game Preservation Fund in accordance with Section 13001.

33 (c) In an action brought under this section, in addition to the penalty specified in
34 subdivision (a), the reasonable costs of investigation, reasonable attorney’s fees, and
35 reasonable expert witness’ fees may also be recovered and those amounts shall be
36 credited to the same operating funds as those from which the expenditures for those
37 purposes were derived.

38 (d) (1) If an animal is confiscated because the animal was kept in contravention
39 of this chapter or any implementing regulations, the person claiming the animal shall

1 pay to the department or the new custodian of the animal an amount sufficient to
2 cover all reasonable expenses expected to be incurred in caring for and providing
3 for the animal for at least 30 days, including, but not limited to, the estimated cost
4 of food, medical care, and housing.

5 (2) If the person claiming the animal fails to comply with the terms of ~~his or her~~
6 their permit and to regain possession of the animal by the expiration of the first 30-
7 day period, the department may euthanize the animal or place the animal with an
8 appropriate wild animal facility at the end of the 30 days, unless the person claiming
9 the animal pays all reasonable costs of caring for the animal for a second 30-day
10 period before the expiration of the first 30-day period. If the permittee is still not in
11 compliance with the terms of the permit at the end of the second 30-day period, the
12 department may euthanize the animal or place the animal in an appropriate wild
13 animal facility.

14 (3) The amount of the payments described in paragraphs (1) and (2) shall be
15 determined by the department, and shall be based on the current reasonable costs to
16 feed, provide medical care for, and house the animal. If the person claiming the
17 animal complies with the terms of ~~his or her~~ their permit and regains possession of
18 the animal, any unused portion of the payments required pursuant to paragraphs (1)
19 and (2) shall be returned to the person claiming the animal no later than 90 days
20 after the date on which the person regains possession of the animal.

Comment. Subdivision (b) of Section 2125 is amended to conform to statutory language used
in other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.
The section is also amended to make it gender neutral.

21 **Fish & Game Code § 2126 (amended). Prohibited take**

22 SEC. _____. Section 2126 of the Fish and Game Code is amended to read:

23 2126. (a) Except as otherwise authorized by this code or regulations made
24 pursuant thereto, it is unlawful for any person to take any mammal ~~as identified by~~
25 enumerated in or designated pursuant to Section 2118.

26 (b) This section does not prohibit the euthanasia of a mammal as appropriately
27 directed by a licensed veterinarian or animal health technician.

Comment. Subdivision (a) of Section 2126 is amended to conform to statutory language used in
other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.

28 **Fish & Game Code § 2127 (amended). Eligible local entity**

29 SEC. _____. Section 2127 of the Fish and Game Code is amended to read:

30 2127. (a) The department may reimburse eligible local entities, pursuant to a
31 memorandum of understanding entered into pursuant to this section, for costs
32 incurred by the eligible local entities in the administration and enforcement of any
33 provision concerning the possession of, handling of, care for, or holding facilities
34 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

35 (b) The department may enter into memorandums of understanding with eligible
36 local entities for the administration and enforcement of any provision concerning

1 the possession of, handling of, care for, or holding facilities provided for, a wild
2 animal enumerated in or designated pursuant to Section 2118.

3 (c) The commission shall adopt regulations that establish specific criteria an
4 eligible local entity shall meet in order to qualify as an eligible local entity.

5 (d) For the purposes of this division, “eligible local entity” means a county, local
6 animal control officer, local humane society official, educational institution, or
7 trained private individual that enters into a memorandum of understanding with the
8 department pursuant to this section.

Comment. Subdivisions (a) and (b) of Section 2127 are amended to conform to statutory
language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
2185, 2190.

9 **Fish & Game Code § 2150.3 (amended). Advisory committee**

10 SEC. _____. Section 2150.3 of the Fish and Game Code is amended to read:

11 2150.3. (a) The director shall appoint a committee to advise the director on the
12 humane care and treatment of wild animals.

13 (b) The committee shall make recommendations to the director for the
14 establishment of standards of performance for administration and enforcement,
15 which shall include, but are not limited to, requiring that the eligible local entity
16 possess a knowledge of humane wild animal training methods.

17 (c) The committee shall make recommendations to the director as to the frequency
18 of inspections necessary for the enforcement and administration of any provision
19 concerning the possession of, handling of, care for, or holding facilities provided
20 for, a wild animal enumerated in or designated pursuant to Section 2118.

21 (d) The committee shall advise and assist the director in entering into
22 memorandums of understanding with eligible local entities and in determining
23 whether the memorandums of understanding meet the requirements of this chapter.

Comment. Subdivision (c) of Section 2150.3 is amended to conform to statutory language used
in other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.

24 **Fish & Game Code § 2541 (amended). Surety bond**

25 SEC. _____. Section 2541 of the Fish and Game Code is amended to read:

26 2541. Each applicant for a guide license shall submit proof of having obtained a
27 surety bond in the amount of not less than one thousand dollars (\$1,000) ~~which shall~~
28 ~~insure, conditioned on~~ faithful performance of the guide and ~~his or her~~ the guide's
29 agents or employees in fulfilling their responsibilities to their clients. No guide
30 license shall be issued to any applicant who does not submit proof of having a bond
31 ~~which~~ that is valid for the term of the license.

Comment. Section 2541 is amended to delete obsolete material and make nonsubstantive
technical changes.

32 **Fish & Game Code § 2582 (amended). Administrative penalties for specified conduct**

33 SEC. _____. Section 2582 of the Fish and Game Code is amended to read:

1 2582. (a) The department may impose ~~civil liability~~ an administrative penalty
2 upon any person pursuant to this chapter for any of the following acts done for profit
3 or personal gain:

4 (1) Unlawfully export, import, transport, sell, possess, receive, acquire, or
5 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
6 transporting, sale, possession, receiving, acquisition, or purchasing of, any bird,
7 mammal, amphibian, reptile, or fish which are taken or possessed in violation of this
8 code or the regulations adopted pursuant to this code.

9 (2) Unlawfully export, import, transport, sell, possess, receive, acquire, or
10 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
11 transporting, sale, possession, receiving, acquisition, or purchasing of any plants,
12 insects, or other species listed pursuant to the California Endangered Species Act
13 (Chapter 1.5 (commencing with Section 2050)), which are taken or possessed in
14 violation of this code or the regulations adopted pursuant to this code.

15 (3) Unlawfully export, import, transport, sell, possess, receive, acquire, or
16 purchase any bird, mammal, amphibian, reptile, or fish, or any endangered or
17 threatened species, or any fully protected bird, mammal, or fish which has been
18 taken, possessed, transported, or sold in violation of this code or the regulations
19 adopted pursuant to this code.

20 (4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any
21 endangered or threatened species, or any fully protected bird, mammal, or fish
22 which has been taken, possessed, transported, or sold in violation of this code or any
23 regulations adopted pursuant to this code within the maritime and territorial
24 jurisdiction of the state or within the portions of the special maritime jurisdiction of
25 the United States upon which the State of California exercises concurrent
26 jurisdiction, either by statute, deputization, or by contract with the United States.

27 (5) Having exported, imported, transported, sold, purchased, or received any bird,
28 mammal, amphibian, reptile, or fish, or any endangered or threatened species, or
29 any fully protected bird, mammal, or fish, unlawfully make or submit any false
30 record, account, label, or identification thereof.

31 (6) Attempt to commit any unlawful act, or unlawfully attempt to commit any act,
32 described in paragraphs (1) to (5), inclusive.

33 (b) The department may impose ~~civil liability~~ an administrative penalty upon any
34 person pursuant to this chapter for unlawfully exporting, importing, possessing,
35 receiving, or transporting in interstate commerce any container or package
36 containing any bird, mammal, amphibian, reptile, or fish, or any endangered or
37 threatened species, or any fully protected bird, mammal, or fish unless the container
38 or package has previously been plainly marked, labeled, or tagged in accordance
39 with this code and the regulations adopted pursuant to this code.

40 (c) The department may impose ~~civil liability~~ an administrative penalty upon any
41 person pursuant to this chapter for any unlawful failure or refusal to maintain any
42 records or paperwork as required by this code.

Comment. Section 2582 is amended to replace references to “civil liability” with references to “an administrative penalty.” This is a nonsubstantive clarification.

1 **Fish & Game Code § 2583 (amended). Administrative penalties for specified conduct**

2 SEC. _____. Section 2583 of the Fish and Game Code is amended to read:

3 2583. (a) Except as provided in subdivision (b), any person who violates this code
4 or any regulation adopted to carry out this code, and, with the exercise of due care,
5 should have known that the birds, mammals, amphibians, reptiles, or fish, or the
6 endangered or threatened species, or the fully protected birds, mammals, or fish
7 were taken, possessed, transported, imported, received, purchased, acquired, or sold
8 in violation of, or in a manner unlawful under, this code, may be assessed ~~a civil~~ an
9 administrative penalty. The ~~civil~~ administrative penalty imposed under this chapter
10 by the department shall not be more than ten thousand dollars (\$10,000) for each
11 bird, mammal, amphibian, reptile, or fish, or for each endangered or threatened
12 species, or each fully protected bird, mammal, or fish unlawfully taken, possessed,
13 transported, imported, received, purchased, acquired, or sold. This ~~civil~~
14 administrative penalty may be in addition to any other penalty, civil or criminal,
15 provided in this code or otherwise by law.

16 (b) No ~~civil~~ administrative penalties shall be imposed under this chapter until the
17 guidelines for the imposition of the penalties are adopted by the commission
18 pursuant to Section 500.

Comment. Section 2583 is amended to replace references to a “civil penalty” with references to
an “administrative penalty.” This is a nonsubstantive clarification.

19 **Fish & Game Code § 2585 (amended). Forfeiture not precluded by penalty**

20 SEC. _____. Section 2585 of the Fish and Game Code is amended to read:

21 2585. The ~~civil~~ administrative penalties imposed under this chapter are in addition
22 to any forfeiture of equipment pursuant to Section 12157 or forfeiture of birds,
23 mammals, amphibia, reptiles, or fish pursuant to Section 12159.

Comment. Section 2585 is amended to replace a reference to “civil penalties” with a reference
to “administrative penalties.” This is a nonsubstantive clarification.

24 **Fish & Game Code § 2586 (amended). Reward**

25 SEC. _____. Section 2586 of the Fish and Game Code is amended to read:

26 2586. (a) The director may pay a reward from any funds available for that purpose
27 to any person who furnished information which led to an arrest, a criminal
28 conviction, an order of assessment of ~~a civil~~ an administrative penalty, or for
29 forfeiture of property for any violation of this code or any regulation adopted
30 pursuant to this code. The amount of reward, if any, shall be designated by the
31 director with the advice of the CalTIP Award Board.

32 (b) This chapter does not apply to any action brought to recover damages under
33 Section 2014.

Comment. Section 2586 is amended to replace a reference to a “civil penalty” with a reference
to an “administrative penalty.” This is a nonsubstantive clarification.

1 **Fish & Game Code § 2587 (amended). Enforcement of penalty**

2 SEC. _____. Section 2587 of the Fish and Game Code is amended to read:

3 2587. (a) Notwithstanding Section 12511 of the Government Code, the
4 department may retain or appoint legal counsel to prepare and prosecute civil
5 actions under this chapter.

6 (b) Any action to recover ~~civil~~ administrative penalties imposed under this chapter
7 shall be commenced within three years after discovery of the commission of the
8 offense.

Comment. Section 2587 is amended to replace a reference to “civil penalties” with a reference
to “administrative penalties.” This is a nonsubstantive clarification.

9 **Fish & Game Code § 2588 (amended). Deposit of penalties and revenue**

10 SEC. _____. Section 2588 of the Fish and Game Code is amended to read:

11 2588. All ~~civil~~ administrative penalties and revenues from forfeitures collected
12 pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

Comment. Section 2588 is amended to replace a reference to a reference to “civil penalties”
with a reference to “administrative penalties.” This is a nonsubstantive clarification.

13 **Fish & Game Code § 3004.5 (amended). Take within California condor range**

14 SEC. _____. Section 3004.5 of the Fish and Game Code is amended to read:

15 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
16 the commission, shall be required when taking big game, as defined in the
17 department’s mammal hunting regulations (14 Cal. Code Regs. 350), with rifle or
18 pistol, and when taking coyote, within the California condor range.

19 (2) For purposes of this section, “California condor range” means:

20 (A) The department’s deer hunting zone A South, but excluding Santa Cruz,
21 Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of
22 Highway 101 within Santa Clara County, and areas between Highway 5 and
23 Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern
24 Counties.

25 (B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

26 (3) The requirements of this subdivision shall remain in effect in the California
27 condor range unless and until the more restrictive nonlead prohibitions required
28 pursuant to subdivision (b) are implemented.

29 (b) Except as provided in subdivision (j), and as soon as is practicable as
30 implemented by the commission pursuant to subdivision (i), but by no later than
31 July 1, 2019, nonlead ammunition, as determined by the commission, shall be
32 required when taking all wildlife, including game mammals, game birds, nongame
33 birds, and nongame mammals, with any firearm.

34 (c)(1) The commission shall maintain, by regulation, a public process to certify
35 ammunition as nonlead ammunition, and shall define, by regulation, nonlead
36 ammunition as including only ammunition in which there is no lead content,

1 excluding the presence of trace amounts of lead. The commission shall establish and
2 annually update a list of certified ammunition.

3 (2) The list of certified ammunition shall include, but not be limited to, any
4 federally approved nontoxic shotgun ammunition.

5 (d)(1) To the extent that funding is available, the commission shall establish a
6 process that will provide hunters with nonlead ammunition at no or reduced charge.
7 The process shall provide that the offer for nonlead ammunition at no or reduced
8 charge may be redeemed through a coupon sent to a permit holder with the
9 appropriate permit tag. If available funding is not sufficient to provide nonlead
10 ammunition at no charge, the commission shall set the value of the reduced charge
11 coupon at the maximum value possible through available funding, up to the average
12 cost within this state for nonlead ammunition, as determined by the commission.

13 (2) The nonlead ammunition coupon program described in paragraph (1) shall be
14 implemented only to the extent that sufficient funding, as determined by the
15 Department of Finance, is obtained from local, federal, public, or other nonstate
16 sources in order to implement the program.

17 ~~(3) If the nonlead ammunition coupon program is implemented, the commission~~
18 ~~shall issue a report on the usage and redemption rates of ammunition coupons. The~~
19 ~~report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued~~
20 ~~by June of the following year.~~

21 ~~(e) The commission shall issue a report on the levels of lead found in California~~
22 ~~condors. This report shall cover calendar years 2008, 2009, and 2012. Each report~~
23 ~~shall be issued by June of the following year.~~

24 ~~(f)~~ (e) The department shall notify those hunters who may be affected by this
25 section.

26 ~~(g)~~ (f) A person who violates any provision of this section is guilty of an infraction
27 punishable by a fine of five hundred dollars (\$500). A second or subsequent offense
28 shall be punishable by a fine of not less than one thousand dollars (\$1,000) or more
29 than five thousand dollars (\$5,000).

30 ~~(h)~~ (g) This section does not apply to government officials or their agents when
31 carrying out a statutory duty required by law.

32 ~~(i)~~ (h) The commission shall promulgate regulations by July 1, 2015, that phase
33 in the requirements of this section. The requirements of this section shall be fully
34 implemented statewide by no later than July 1, 2019. If any of the requirements of
35 this section can be implemented practicably, in whole or in part, in advance of July
36 1, 2019, the commission shall implement those requirements. The commission shall
37 not reduce or eliminate any existing regulatory restrictions on the use of lead
38 ammunition in California condor range unless or until the additional requirements
39 for use of nonlead ammunition as required by this section are implemented.

40 ~~(j)~~ (i)(1) The prohibition in subdivision (b) shall be temporarily suspended for a
41 specific hunting season and caliber upon a finding by the director that nonlead
42 ammunition of a specific caliber is not commercially available from any
43 manufacturer because of federal prohibitions relating to armor-piercing ammunition

1 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
2 States Code.

3 (2) Notwithstanding a suspension pursuant to paragraph (1), nonlead ammunition
4 shall be used when taking big game mammals, nongame birds, or nongame
5 mammals in the California condor range, as defined in subdivision (a).

Comment. Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) of Section
3004.5, are deleted as obsolete.

6 **Fish & Game Code § 3040 (amended). Free hunting days**

7 SEC. ____ . Section 3040 of the Fish and Game Code is amended to read:

8 3040. (a) Notwithstanding Section 3031, the director may designate two days per
9 year as “Free Hunting Days.” One free hunting day may be established during the
10 fall hunting season, and the other free hunting day may be established during the
11 winter hunting season. The department shall publish the exact dates of the free
12 hunting days in annual publications of the department regarding current hunting
13 regulations.

14 (b) During a free hunting day, a California resident may hunt if accompanied by
15 a hunter who holds a valid hunting license issued by the State of California, has held
16 a valid hunting license for at least the last three consecutive years, is at least 21 years
17 of age, and accompanies only one unlicensed hunter in the field at a time. An
18 unlicensed hunter shall participate in the free hunting days for only one license year
19 and shall complete a hunter education course approved by the department and
20 register with the department, or an agent of the department, prior to participating in
21 a free hunting day. While engaged in hunting activities, the unlicensed hunter shall
22 remain in close visual and verbal contact with the licensed hunter at all times so that
23 the licensed hunter is able to provide adequate direction and immediately assume
24 control of a firearm from the unlicensed hunter at any time.

25 (c) An unlicensed hunter who participates in a free hunting day shall have in his
26 or her possession all of the following:

27 (1) A certificate of completion of a course in hunter education as required in
28 paragraph (3) of subdivision (a) of Section 3050.

29 (2) Any required tags or report cards.

30 (3) Any required federal entitlements.

31 (4) Any required entry permits.

32 (d) Unlicensed hunters participating in free hunting days shall not take any species
33 that requires a draw or lottery to obtain a tag.

34 (e) An unlicensed hunter hunting pursuant to this section is subject to all of the
35 limitations, restrictions, conditions, statutes, rules, and regulations applicable to the
36 holder of a valid hunting license, except the requirement to possess a valid hunting
37 license.

38 (f) The department may adopt additional minimum requirements and restrictions
39 for a licensed hunter or unlicensed hunter participating in a free hunting day
40 pursuant to this section.

1 ~~(g) This section shall not be implemented until the department's Automated~~
2 ~~License Data System is fully operational for at least one year.~~

Comment. Subdivision (g) of Section 3040 is deleted as obsolete.

3 **Fish & Game Code § 3200 (amended). License requirement**

4 SEC. _____. Section 3200 of the Fish and Game Code is amended to read:

5 3200. Any person engaged in raising or importing, or who keeps in captivity, in
6 this state domesticated game birds or domesticated game mammals which normally
7 exist in the wild in this state shall procure a domesticated game breeder's license if
8 the birds or mammals are kept more than 30 days after acquisition. No license is,
9 however, required of any of the following:

10 (a) Licensed pheasant clubs, ~~except to the extent provided in Section 3283.~~

11 (b) Licensed domesticated migratory game bird shooting areas as defined in
12 Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.

13 (c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of
14 those birds or mammals for actual consumption on the premises.

15 (d) Retail meat dealers selling such meat to customers for actual consumption.

16 (e) Public zoological gardens possessing those birds or mammals for exhibition
17 purposes or for the purpose of disposing of the birds or mammals by sale, exchange,
18 or donation to other public zoological gardens.

Comment. Subdivision (a) of Section 3200 is amended to delete a cross-reference to a repealed code section.

19 **Fish & Game Code § 3270 (amended). Game bird club**

20 SEC. _____. Section 3270 of the Fish and Game Code is amended to read:

21 3270. ~~(a)~~ In order to provide additional hunting by stocking domestically
22 propagated game birds, and to permit the taking of game birds under conditions that
23 will not conflict with the public interest, any person who owns or controls the
24 hunting rights on a tract of land may apply to the department for a game bird club
25 license authorizing the taking of game birds upon that land in accordance with the
26 regulations of the commission for the administration, including the implementation
27 and enforcement, of this section.

28 ~~(b) This section shall become operative on July 1, 1995.~~

Comment. Section 3270 is amended to delete obsolete material.

29 **Fish & Game Code § 3500 (amended). Upland game bird**

30 SEC. _____. Section 3500 of the Fish and Game Code is amended to read:

31 3500. (a) Resident game birds are as follows:

32 (1) Doves of the genus *Streptopelia*, including, but not limited to, spotted doves,
33 ringed turtledoves, and Eurasian collared-doves.

34 (2) California quail and varieties thereof.

35 (3) Gambel's or desert quail.

36 (4) Mountain quail and varieties thereof.

- 1 (5) Sooty or blue grouse and varieties thereof.
- 2 (6) Ruffed grouse.
- 3 (7) Sage hens or sage grouse.
- 4 (8) Hungarian partridges.
- 5 (9) Red-legged partridges including the chukar and other varieties.
- 6 (10) Ring-necked pheasants and varieties thereof.
- 7 (11) Wild turkeys of the order Galliformes.
- 8 (12) White-tailed ptarmigan.
- 9 (b) Migratory game birds are as follows:
- 10 (1) Ducks and geese.
- 11 (2) Coots and gallinules.
- 12 (3) Jacksnipe.
- 13 (4) Western mourning doves.
- 14 (5) White-winged doves.
- 15 (6) Band-tailed pigeons.
- 16 (c) References in this code to “game birds” means both resident game birds and
- 17 migratory game birds.

Comment. Subdivision (a) of Section 3500 is amended to include the white-tailed ptarmigan as a resident game bird. This is consistent with existing law and practice. See Section 3683(a)(8) (“resident game bird” includes white tailed ptarmigan). See also 14 Cal. Code Reg. §§ 257, 313 (white-tailed ptarmigan regulated as upland game bird).

18 **Fish & Game Code § 3700.1 (amended). Required validation**

- 19 SEC. ____ . Section 3700.1 of the Fish and Game Code is amended to read:
- 20 3700.1. (a) It is unlawful for any person, except a person licensed pursuant to
- 21 paragraph (2) of subdivision (a) of Section 3031, to take ~~any migratory game bird,~~
- 22 ~~except jacksnipe, coots, gallinules, western mourning doves, white-winged doves,~~
- 23 ~~and band-tailed pigeons,~~ a duck or goose without first procuring a state duck hunting
- 24 validation as provided in subdivision (b), and having that validation in ~~his or her~~
- 25 their possession while taking those birds.
- 26 (b) State duck hunting validations shall be sold for a fee of ten dollars (\$10) by
- 27 the department and by license agents, who are authorized by the department
- 28 pursuant to Section 1055.1, in the same manner as hunting licenses.
- 29 (c) This section applies only to licenses, permits, reservations, tags, and other
- 30 entitlements issued through the Automated License Data System.

Comment. Subdivision (a) of Section 3700.1 is amended to simplify without substantive change a reference to the migratory game birds subject to the subdivision.
 The subdivision is also amended to make it gender neutral.

31 **Fish & Game Code § 3701 (amended). State Duck Stamp Account**

- 32 SEC. ____ . Section 3701 of the Fish and Game Code is amended to read:
- 33 3701. All funds derived from the sale of state duck hunting validations ~~and~~ , state
- 34 duck stamps, and related items authorized by ~~subdivision (e) of Section 3700 or~~
- 35 ~~subdivision (g) of Section 3700.2,~~ shall be deposited in the State Duck Stamp

1 Account in the Fish and Game Preservation Fund to permit separate accountability
2 for the receipt and expenditure of these funds. An amount not to exceed 6 percent
3 of the amount annually deposited in the account may be used for administrative
4 overhead related to the use of those funds and for implementation of the federal
5 Migratory Bird Harvest Program.

Comment. Section 3701 is amended to delete an obsolete cross-reference and make a technical correction.

6 **Fish & Game Code § 3702.5 (amended). Duck stamp**

7 SEC. _____. Section 3702.5 of the Fish and Game Code is amended to read:

8 3702.5. The department may permit individual artists to sell a limited number of
9 prints of duck stamp related artwork or posters.

10 ~~This section shall become operative on July 1, 1993.~~

Comment. Section 3702.5 is amended to delete obsolete material.

11 **Fish & Game Code § 3704 (amended). Duck stamp fee**

12 SEC. _____. Section 3704 of the Fish and Game Code is amended to read:

13 3704. Two dollars and twenty-five cents (\$2.25) of the amount collected by the
14 department for each state duck stamp sold shall be allocated by the commission for
15 the purposes of the North American Waterfowl Management Plan in those areas of
16 Canada from which come substantial numbers of waterfowl migrating to, or
17 through, California. These funds shall be matched with federal or private funds
18 available for that purpose. The available balance of the funds shall be used for any
19 project authorized pursuant to Section 3702 in California. However, any lands
20 acquired in California with those funds shall be open to waterfowl hunting as a
21 public shooting ground or wildlife management area.

22 ~~This section shall become operative on July 1, 1993.~~

Comment. Section 3704 is amended to delete obsolete material.

23 **Fish & Game Code § 3704.5 (amended). Waterfowl projects**

24 SEC. _____. Section 3704.5 of the Fish and Game Code is amended to read:

25 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are
26 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
27 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division
28 4 of the Military and Veterans Code. With the approval of the entity in control of
29 property affected by a project, the department may make grants to, or enter into
30 contracts with, nonprofit organizations for the accomplishment of those projects, or
31 the department may reimburse the controlling entity for its costs of accomplishing
32 the project.

33 ~~This section shall become operative on July 1, 1993.~~

Comment. Section 3704.5 is amended to delete obsolete material.

1 **Fish & Game Code § 3961 (amended). Seizure or dispatch generally**

2 SEC. _____. Section 3961 of the Fish and Game Code is amended to read:

3 3961. Whenever an employee of the department is not present to carry out the
4 provisions of Section 3960 with respect to any dog inflicting injury or immediately
5 threatening to inflict injury to any deer, elk, or prong-horned antelope during the
6 closed season for these mammals, any property owner, lessee, person holding a
7 permit for the purpose of grazing livestock, or ~~his or her~~ their employee, may seize
8 or dispatch the dog if it is found on ~~his or her~~ their land or premises without the
9 permission of the person who is in immediate possession of the land. If the dog has
10 on it any readily visible identification tag or license tag as prescribed by Section
11 30951 of the Food and Agricultural Code, and the dog is found in the act of
12 immediately threatening to injure deer, elk, or prong-horned antelope, the dog may
13 only be dispatched under this section if the dog has, and the owner has been notified
14 that the dog has, previously threatened any of these species.

15 No action, civil or criminal, shall be maintained for a dog lawfully seized or
16 dispatched pursuant to this ~~article~~ section.

17 The owner of a dog shall be notified within 72 hours of the seizure or dispatching
18 of that dog under this section if it had the identification tag or license tag which is
19 required pursuant to Section 30951 of the Food and Agricultural Code.

Comment. Section 3961 is amended to fix an incorrect cross-reference, and to make the section gender neutral.

20 **Fish & Game Code § 4332 (amended). Deer tag**

21 SEC. _____. Section 4332 of the Fish and Game Code is amended to read:

22 4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid
23 hunting license, may procure one tag for the taking of one deer by one person during
24 the current license year, upon payment of the base fee of ten dollars (\$10) for the
25 license year beginning July 1, 1986, and the base fee as adjusted under Section 713
26 for subsequent license years.

27 (b) Any nonresident of this state, 12 years of age or over, who possesses a valid
28 hunting license, may procure one tag for the taking of one deer by one person during
29 the current license year, upon payment of the base fee of one hundred dollars (\$100)
30 for the license year beginning July 1, 1986, and the base fee as adjusted under
31 Section 713 for subsequent license years.

32 (c) If provided in regulations adopted by the commission under Section 200, any
33 resident of this state, 12 years of age or over, who possesses a deer tag may procure
34 one additional deer tag for the taking of one additional deer during the current
35 license season, upon payment of the base fee of twelve dollars and fifty cents
36 (\$12.50) for the license years beginning July 1, 1986, and the base fee as adjusted
37 under Section 713 for subsequent license years.

38 (d) If provided in regulations adopted by the commission under Section 200, any
39 nonresident of this state, 12 years of age or over, who possesses a deer tag may
40 procure one additional deer tag for the taking of one additional deer during the

1 current license season, upon payment of the base fee of one hundred dollars (\$100)
2 for the license year beginning July 1, 1986, and the base fee as adjusted under
3 Section 713 for subsequent license years.

4 ~~(e) All revenues pursuant to this section shall be deposited in the Big Game~~
5 ~~Management Account established in Section 3953 and, upon appropriation by the~~
6 ~~Legislature, shall be expended as set forth in that section.~~

Comment. Section 4332 is amended to delete duplicative material. See Section 3953(b).

7 **Fish & Game Code § 5650.1 (amended). Specified punishments**

8 SEC. _____. Section 5650.1 of the Fish and Game Code is amended to read:

9 5650.1. (a) A person who violates Section 5650 is subject to a civil penalty of not
10 more than twenty-five thousand dollars (\$25,000) for each violation.

11 (b) The civil penalty imposed for each separate violation pursuant to this section
12 is separate, and in addition to, any other civil penalty imposed for a separate
13 violation pursuant to this section or any other provision of law, except as provided
14 in subdivision (j).

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

25 (d) Every civil action brought under this section shall be brought by the Attorney
26 General upon complaint by the department, or by the district attorney or city
27 attorney in the name of the people of the State of California, and any actions relating
28 to the same violation may be joined or consolidated.

29 (e) In a civil action brought pursuant to this ~~chapter~~ section in which a temporary
30 restraining order, preliminary injunction, or permanent injunction is sought, it is not
31 necessary to allege or prove at any stage of the proceeding that irreparable damage
32 will occur if the temporary restraining order, preliminary injunction, or permanent
33 injunction is not issued, or that the remedy at law is inadequate.

34 (f) After the party seeking the injunction has met its burden of proof, the court
35 shall determine whether to issue a temporary restraining order, preliminary
36 injunction, or permanent injunction without requiring the defendant to prove that it
37 will suffer grave or irreparable harm. The court shall make the determination
38 whether to issue a temporary restraining order, preliminary injunction, or permanent
39 injunction by taking into consideration, among other things, the nature,
40 circumstance, extent, and gravity of the violation, the quantity and characteristics of
41 the substance or material involved, the extent of environmental harm caused by the

1 violation, measures taken by the defendant to remedy the violation, the relative
2 likelihood that the material or substance involved may pass into waters of the state,
3 and the harm likely to be caused to the defendant.

4 (g) The court, to the maximum extent possible, shall tailor a temporary restraining
5 order, preliminary injunction, or permanent injunction narrowly to address the
6 violation in a manner that will otherwise allow the defendant to continue business
7 operations in a lawful manner.

8 (h) All civil penalties collected pursuant to this section shall not be considered
9 fines or forfeitures as defined in Section 13003 and shall be apportioned in the
10 following manner:

11 (1) Fifty percent shall be distributed to the county treasurer of the county in which
12 the action is prosecuted. Amounts paid to the county treasurer shall be deposited in
13 the county fish and wildlife propagation fund established pursuant to Section 13100.

14 (2) Fifty percent shall be distributed to the department for deposit in the Fish and
15 Game Preservation Fund. These funds may be expended to cover the costs of legal
16 actions or for any other law enforcement purpose consistent with Section 9 of
17 Article XVI of the California Constitution.

18 (i) Except as provided in subdivision (j), in addition to any other penalty provided
19 by law, a person who violates Section 5650 is subject to a civil penalty of not more
20 than ten dollars (\$10) for each gallon or pound of material discharged. The total
21 amount of the civil penalty shall be reduced for every gallon or pound of the illegally
22 discharged material that is recovered and properly disposed of by the responsible
23 party.

24 (j) A person shall not be subject to a civil penalty imposed under this section and
25 to a civil penalty imposed pursuant to Article 9 (commencing with Section 8670.57)
26 of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the same act or
27 failure to act.

Comment. Subdivision (e) of Section 5650.1 is amended to revise an overbroad reference.

28 **Fish & Game Code § 7120 (amended). Bag limits**

29 SEC. _____. Section 7120 of the Fish and Game Code is amended to read:

30 7120. It is unlawful for any person to possess more than one daily bag limit of any
31 fish, amphibian, or reptile taken under a license issued pursuant to Article 3
32 (commencing with Section 7145) unless authorized by regulations adopted by the
33 commission.

Comment. Section 7120 is amended to apply to amphibians and reptiles.

34 **Fish & Game Code § 7149.05 (amended). Sport fishing license**

35 SEC. _____. Section 7149.05 of the Fish and Game Code is amended to read:

36 7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile,
37 or amphibia anywhere in this state for purposes other than profit shall be issued to
38 any of the following:

1 (1) A resident, 16 years of age or older, for the period of a calendar year, or, if
2 issued after the beginning of the year, for the remainder thereof, upon payment of a
3 base fee of thirty-one dollars and twenty-five cents (\$31.25).

4 (2) A nonresident, 16 years of age or older, for the period of a calendar year, or,
5 if issued after the beginning of the year, for the remainder thereof, upon payment of
6 a base fee of eighty-four dollars (\$84).

7 (3) A nonresident, 16 years of age or older for the period of 10 consecutive days
8 beginning on the date specified on the license upon payment of the fee set forth in
9 paragraph (1).

10 (4) A resident or nonresident, 16 years of age or older, for two designated days,
11 upon payment of one-half the fee set forth in paragraph (1). Notwithstanding Section
12 ~~4053~~ 1053.1, more than one single day license issued for different days may be
13 issued to, or possessed by, a person at one time.

14 (5) A resident or nonresident, 16 years of age or older, for one designated day
15 upon payment of a base fee of ten dollars (\$10).

16 (b) California sport fishing license validations shall be issued by authorized
17 license agents in the same manner as sport fishing licenses, and no compensation
18 shall be paid to the authorized license agent for issuing the validations except as
19 provided in Section 1055.1.

20 (c) This section applies only to licenses, permits, reservations, tags, and other
21 entitlements issued through the Automated License Data System.

22 (d) The base fees specified in this section are applicable to the 2004 license year,
23 and shall be adjusted annually thereafter pursuant to Section 713.

24 (e) The commission shall adjust the amount of the fees specified in subdivision
25 (d), as necessary, to fully recover, but not exceed, all reasonable administrative and
26 implementation costs of the department and the commission relating to those
27 licenses.

Comment. Paragraph (4) of subdivision (a) of Section 7149.05 is amended to replace a cross-
reference to a repealed code section with the appropriate cross-reference.

28 **Fish & Game Code § 7149.2 (amended). Lifetime sport fishing license**

29 SEC. ____ . Section 7149.2 of the Fish and Game Code is amended to read:

30 7149.2. (a) In addition to Section 7149.05, the department shall issue a lifetime
31 sport fishing license under this section. A lifetime sport fishing license authorizes
32 the taking of fish, amphibians, or reptiles anywhere in this state in accordance with
33 the law for purposes other than profit for the life of the person to whom issued unless
34 revoked for a violation of this code or regulations adopted under this code. A
35 lifetime sport fishing license is valid for a one-year period from January 1 through
36 December 31 and may be renewed annually, regardless of any lapse of the license,
37 at no additional cost to the licensee. A lifetime sport fishing license is not
38 transferable. A lifetime sport fishing license does not include any special tags,
39 stamps, or fees.

1 (b) A lifetime sport fishing license may be issued to residents of this state, as
2 follows:

3 (1) To a person 62 years of age or over, upon payment of a base fee of three
4 hundred sixty-five dollars (\$365).

5 (2) To a person 40 years of age or over and less than 62 years of age, upon
6 payment of a base fee of five hundred forty dollars (\$540).

7 (3) To a person 10 years of age or over and less than 40 years of age upon payment
8 of a base fee of six hundred dollars (\$600).

9 (4) To a person less than 10 years of age upon payment of a base fee of three
10 hundred sixty-five dollars (\$365).

11 (c) Nothing in this section requires a person less than 16 years of age to obtain a
12 license to take fish, amphibians, or reptiles for purposes other than profit.

13 (d) Nothing in this section exempts a license applicant from meeting other
14 qualifications or requirements otherwise established by law for the privilege of sport
15 fishing.

16 (e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person
17 holding a lifetime sport fishing license shall be entitled annually to the privileges
18 afforded to a person holding a second-rod ~~stamp~~ or validation issued pursuant to
19 Section 7149.45, a sport fishing ocean enhancement ~~stamp~~ or validation issued
20 pursuant to subdivision (a) of Section 6596.1, one steelhead trout report restoration
21 card issued pursuant to Section 7380, and one salmon report card issued pursuant to
22 regulations adopted by the commission. Lifetime privileges issued pursuant to this
23 subdivision are not transferable.

24 (f) The base fees specified in this section are applicable commencing January 1,
25 2004, and shall be adjusted annually thereafter pursuant to Section 713.

Comment. Subdivision (e) of Section 7149.2 is amended to delete references to two obsolete
types of stamps.

26 **Fish & Game Code § 7232 (amended). Fish offal**

27 SEC. _____. Section 7232 of the Fish and Game Code is amended to read:

28 7232. (a) Notwithstanding Section 7121 any offal from a fish taken under a sport
29 fishing license which is delivered by the license holder to a fish canner or fish
30 processor may be processed, used, or sold by that fish canner or fish processor.

31 (b) Nothing in this section authorizes a holder of a sport fishing license to sell, or
32 a fish canner or fish processor to purchase from a holder of a sport fishing license,
33 any fish, ~~or any portion thereof~~, taken under a sport fishing license.

Comment. Section 7232 is amended to delete a superfluous reference to a portion of a fish. See
Section 80.

The section is also amended to add subdivision designations.

34 **Fish & Game Code § 7850 (amended). Activity requiring license**

35 SEC. _____. Section 7850 of the Fish and Game Code is amended to read:

1 7850. (a) Excepting persons expressly exempted under this code, no person shall
2 use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or
3 other appliance to take fish or amphibia for commercial purposes, and no person
4 shall cause to be brought ashore, any fish or amphibia at any point in the state for
5 the purpose of selling them in a fresh state or shall contribute materially to the
6 activities on board the commercial fishing vessel, unless the person holds a
7 commercial fishing license issued by the department.

8 (b) Any person not required under subdivision (a) to hold a commercial fishing
9 license shall register his or her presence on board the commercial fishing vessel in
10 a log maintained by the owner or operator of the vessel according to the
11 requirements of the department.

12 (c) As used in this section, “person” ~~does not include persons who are less than~~
13 ~~16 years of age, a partnership, corporation, or association~~ means a natural person 16
14 years of age or greater. Any person, partnership, corporation, limited liability
15 company, or association may pay the fees for a license issued to any person.

16 (d) This article does not apply to the taking, transporting, or selling of live
17 freshwater fish for bait by the holder of a live freshwater bait fish license issued
18 pursuant to Section 8460.

Comment. Subdivision (c) of Section 7850 is amended to clarify the definition of the term
“person” as used in the section.

19 **Fish & Game Code § 7921 (amended). Commercial passenger fishing vessel license**

20 SEC. _____. Section 7921 of the Fish and Game Code is amended to read:

21 7921. The base fee for a commercial passenger fishing ~~boat~~ vessel license is two
22 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
23 annually thereafter pursuant to Section 713. The commercial passenger fishing
24 vessel license shall be issued to the holder of a commercial boat registration issued
25 pursuant to Section 7881.

Comment. Section 7921 is amended to conform two references in the section to a commercial
passenger fishing vessel license.

26 **Fish & Game Code § 8032 (amended). Types of licenses**

27 SEC. _____. Section 8032 of the Fish and Game Code is amended to read:

28 8032. (a) A multi-function commercial fish business license shall be issued that
29 authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The
30 annual fee for this license is one thousand three hundred seventy-three dollars
31 (\$1,373).

32 (b) Specialty licenses for part of, but not all, activities described in subdivision (a)
33 shall be issued in five classes, as follows:

34 (1) Fish receiver’s license, issued to any person engaged in the business of
35 receiving fish as provided in Section 8033.

36 (2) Marine aquaria receiver’s license, issued to any person engaged in the business
37 of receiving live marine species indigenous to California waters from a person
38 required to be a licensed commercial fisherman for the purpose of wholesaling or

1 retailing those species for pet industry or hobby purposes as provided in Section
2 8033.1.

3 (3) Fish processor's license, issued to any person engaged in the business of
4 processing fish as provided in Section 8034.

5 (4) Fish wholesaler's license, issued to any person who is engaged in the business
6 of wholesaling fish as provided in Section 8035.

7 (5) Fish importer's license, issued to any person who is engaged in the business
8 of importing fish as provided in Section 8036.

9 (c) The commission shall adjust the amount of the fee specified in subdivision (a),
10 as necessary, to fully recover, but not exceed, all reasonable administrative and
11 implementation costs of the department and the commission relating to those
12 licenses.

Comment. Subdivision (a) of Section 8032 is amended to more precisely identify the license
referenced in the subdivision.

13 **Fish & Game Code § 8037 (amended). License on premises of business**

14 SEC. _____. Section 8037 of the Fish and Game Code is amended to read:

15 8037. (a) A person who engages in business involving fish which business activity
16 would require more than one class of license under this article shall obtain either a
17 commercial fish business license issued under subdivision (a) of Section 8032 or
18 each of the specialty licenses which are required for the classes of activities engaged
19 in. Each plant, facility, or other place of business in which an activity occurs that is
20 required to be licensed shall have a copy of the required license on the premises.

21 (b) This section shall become operative on January 1, 1993.

Comment. Subdivision (a) of Section 8037 is amended to clarify its meaning.

22 **Fish & Game Code § 8246 (amended). Compromise or dismissal of suspension or revocation**
23 **of commercial salmon fishing privilege**

24 SEC. _____. Section 8246 of the Fish and Game Code is amended to read:

25 8246. (a) At any time after notice of an order suspending or revoking of a person's
26 commercial salmon fishing privilege is issued by the commission, and before the
27 order of suspension or revocation is final, the commission may, with the agreement
28 of the person subject to the action, compromise or dismiss the action to suspend or
29 revoke the commercial salmon fishing privilege in the best interests of the state, or
30 the commission may compromise or dismiss the action with the agreement of the
31 person subject to the action on terms and conditions, which may include, but are not
32 limited to, the payment of civil damages, the reduction of a revocation to a
33 suspension for a specified period of time, or any other terms and conditions.

34 (b) The commission, after notice and opportunity for hearing, may suspend or
35 revoke the commercial fishing privilege, authorized under a license issued for the
36 purposes of Section 7850, for any violation of a term or condition of an agreement
37 to compromise or dismiss a separate suspension or revocation action that was made
38 pursuant to subdivision (a).

1 (c) If the commission orders a suspension or revocation of a person’s commercial
2 salmon fishing privilege, any permit issued pursuant to this article shall be renewed
3 when the next renewal is due or the permit shall expire as provided in Section 8233.

4 (d) Subdivision ~~(b)~~ (a) does not apply if an action is brought to recover civil
5 damages under Section 2014 from the person subject to action under this section.

Comment. Subdivision (d) of Section 8246 is amended to correct an erroneous cross-reference.

6 **Fish & Game Code § 8246.2 (amended). Determination of civil damages**

7 SEC. _____. Section 8246.2 of the Fish and Game Code is amended to read:

8 8246.2. (a) The commission, in consultation with the department, shall adopt
9 regulations for the determination of civil damages provided for in subdivision ~~(b)~~
10 (a) of Section 8246 that give due consideration to the appropriateness of the civil
11 damages with respect to all of the following factors:

- 12 (1) The gravity of the violation.
- 13 (2) The good faith of the convicted licensee.
- 14 (3) The history of previous violations.
- 15 (4) The damage to the fishery.
- 16 (5) The cost of restoration of the fishery.

17 (b) Civil damages imposed under subdivision ~~(b)~~ (a) of Section 8246 shall be due
18 and payable on or before a date that is 30 days after the compromise is entered into.

Comment. Section 8246.2 is amended to correct two erroneous cross-references.

19 **Fish & Game Code § 8603 (amended). Prohibition against use of gear to take fish except as**
20 **authorized**

21 SEC. _____. Section 8625 of the Fish and Game Code is amended to read:

22 8603. It is unlawful to use or operate or assist in using or operating any net, trap,
23 line, spear, or appliance, other than in connection with angling, in taking fish, except
24 as ~~provided in this chapter or Chapter 4 of this part~~ authorized by this code.

Comment. Section 8603 is amended to provide an exception to the prohibitions of the section
when a described action is otherwise authorized by the Fish and Game Code.

25 **Fish & Game Code § 8606.1 (repealed). Use of nearshore trawl nets**

26 SEC. _____. Section 8606.1 of the Fish and Game Code is repealed.

27 ~~8606.1. (a) The Legislature finds and declares that the use of nearshore trawl nets~~
28 ~~was authorized through the experimental gear permit process and the alternative~~
29 ~~gear development program as a potential alternative to the use of gill and trammel~~
30 ~~nets in areas where the use of that gear type has been prohibited.~~

31 ~~(b) The Legislature, in considering the needs of user groups, requires the use of~~
32 ~~nearshore trawl nets to be phased out effective January 1, 1993.~~

Comment. Section 8606.1 is repealed as obsolete.

33 **Fish & Game Code § 8625 (amended). Nets for halibut**

34 SEC. _____. Section 8625 of the Fish and Game Code is amended to read:

1 8625. (a) Except as otherwise provided in this code, set gill nets and trammel nets
2 with mesh size of not less than 8¹/₂ inches may be used to take California halibut.

3 (b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000
4 feet) of gill net or trammel net shall be fished in combination each day for California
5 halibut from any vessel in ocean waters.

6 (c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be
7 fished in combination each day for California halibut from any vessel in ocean
8 waters between a line extending due west magnetic from Point Arguello in Santa
9 Barbara County and a line extending 172° magnetic from Rincon Point in Santa
10 Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa
11 Barbara County, then extending southwesterly 188° magnetic from San Pedro Point
12 on Santa Cruz Island.

13 ~~(d) This section shall become operative on August 15, 1989.~~

Comment. Section 8625 is amended to delete obsolete material.

14 **Fish & Game Code § 8626 (amended). Nets for halibut**

15 SEC. ____ . Section 8626 of the Fish and Game Code is amended to read:

16 8626. (a) Notwithstanding Section 8625, and where consistent with the
17 determination made pursuant to subdivisions (b) and (c), the director may reduce
18 the minimum mesh size permitted for gill and trammel nets used to take California
19 halibut from 8¹/₂ inches to not less than 8 inches in any or all areas south of a line
20 extending 240° magnetic from the boundary line between the Counties of Los
21 Angeles and Ventura.

22 (b) If, on or before October 1, 1990, the department determines that commercial
23 landings of California halibut taken south of the line extending 240° magnetic from
24 the boundary line between the Counties of Los Angeles and Ventura in the period
25 between September 1, 1989, and August 31, 1990, decline by 10 percent or more
26 compared with landings of California halibut taken in this area during the period
27 between September 1, 1988, and August 31, 1989, the department shall assess the
28 impact of the 8¹/₂ inch minimum mesh size restriction on the California halibut
29 fishery in the area described in subdivision (a). The assessment shall include, but is
30 not limited to, an analysis of landing data, including landings of California halibut
31 in Los Angeles, Orange, and San Diego Counties, the age and size composition of
32 the catch, and the department's monitoring at sea of the gill and trammel net fishery.

33 (c) If the department determines that the 8¹/₂ inch minimum mesh size, established
34 pursuant to Section 8625 has directly resulted in a decline of 10 percent or more in
35 landings of California halibut south of the line extending 240° magnetic from the
36 boundary between the Counties of Los Angeles and Ventura, the director shall hold
37 a public hearing in the area affected to make findings and take public testimony
38 prior to taking any action pursuant to subdivision (a).

39 ~~(d) This section shall become operative on August 15, 1989.~~

Comment. Section 8626 is amended to delete obsolete material.

1 **Fish & Game Code § 8752 (amended). Districts 6, 7, 8, 9, 10, and 11**

2 SEC. _____. Section 8752 of the Fish and Game Code is amended to read:

3 8752. In Districts 6, 7, 8, 9, 10, and 11, ~~purse and~~ round haul nets may be used.

Comment. Section 8752 is amended to eliminate a superfluous reference to purse nets. See Section 8750 (round haul nets include purse nets).

4 **Fish & Game Code § 8754 (amended). Districts 16, 17, 18, and 19**

5 SEC. _____. Section 8754 of the Fish and Game Code is amended to read:

6 8754. (a) In Districts 16, 17, 18, and 19, ~~purse and~~ round haul nets may be used,
7 except that purse seines or ring nets may not be used in that portion of District 19
8 lying within three miles offshore from the line of the high-water mark along the
9 coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to
10 September 10, inclusive.

11 (b) Purse seine or ring nets may not be used from May 1 to September 10,
12 inclusive, in the following portions of District 19:

13 (a) (1) Within a two-mile radius of Dana Point.

14 (b) (2) Within a two-mile radius of San Mateo Point.

15 (c) (3) Within two miles offshore from the line of the high-water mark along that
16 portion of the coast of Orange County lying between the northernmost bank of the
17 mouth of the Santa Ana River and a point on that coast six miles south therefrom.

Comment. Section 8754 is amended to eliminate a superfluous reference to purse nets. See Section 8750 (round haul nets include purse nets).

The section is also amended to add and revise subdivision designations.

18 **Fish & Game Code § 8755 (amended). Districts 20, 20A, and 21**

19 SEC. _____. Section 8755 of the Fish and Game Code is amended to read:

20 8755. In Districts 20A and 21, ~~purse and~~ round haul nets may be used.

21 (a) In District 20, ~~Purse and~~ round haul nets may be used, except (1) from sunrise
22 Saturday to sunset Sunday, in ~~that portion of District 20~~ the area from a line
23 extending three nautical miles east magnetically from the extreme easterly end of
24 Santa Catalina Island southwesterly and northerly to a line extending three nautical
25 miles southwest magnetically from the most southerly promontory of China Point
26 and (2) at any time during the period commencing on June 1st and ending on
27 September 10 in each year, ~~that portion of District 20~~ the area from a line extending
28 three nautical miles east magnetically from the extreme easterly end of Santa
29 Catalina Island southerly to a line extending three nautical miles southeasterly
30 magnetically from the United States government light on the southeasterly end of
31 Santa Catalina Island.

32 (b) Subdivision (a) shall not be construed as restricting the right to use the waters
33 therein specified for anchorage of vessels at any time.

Comment. Section 8755 is amended to eliminate superfluous references to purse nets. See Section 8750 (round haul nets include purse nets).

Subdivision (a) of the section is also amended to insert an inadvertently omitted introductory clause and make conforming technical changes.

1 **Fish & Game Code § 8756 (amended). Salmon, steelhead, striped bass, or shad**

2 SEC. _____. Section 8756 of the Fish and Game Code is amended to read:

3 8756. Salmon, steelhead, striped bass, or shad may not be taken with ~~purse or~~
4 round haul nets.

Comment. Section 8756 is amended to eliminate a superfluous reference to purse nets. See Section 8750 (round haul nets include purse nets).

5 **Fish & Game Code § 8780 (amended). Use of bait nets**

6 SEC. _____. Section 8780 of the Fish and Game Code is amended to read:

7 8780. (a) As used in this chapter, the term “bait net” means a lampara or round
8 haul type net, the mesh of which is constructed of twine not exceeding Standard No.
9 9 medium cotton seine twine or synthetic twine of equivalent size or strength.
10 Notwithstanding Section 8757, except for drum seines and other round haul nets
11 authorized under a permit issued by the department pursuant to this section, the nets
12 may not have rings along the lead line or any method of pursing the bottom of the
13 net.

14 (b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13,
15 16, 17, 18, 19, ~~19A~~, 19B, 20A, 21, 118, and 118.5.

16 (c) In District 19A, bait nets may be used only to take anchovies, queenfish, white
17 croakers, sardines, mackerel, squid, and smelt for live bait purposes only. Bait nets
18 may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

19 (d) No other species of fish may be taken on any boat carrying a bait net in District
20 19A, except that loads or lots of fish may contain not more than 18 percent, by
21 weight of the fish, of other bait fish species taken incidentally to other fishing
22 operations and that are mixed with other fish in the load or lot.

Comment. Subdivision (b) of Section 8780 is amended to eliminate an erroneous reference to Fish and Game District 19A, as use of bait nets in that district is specifically governed by subdivisions (c) and (d).

23 **Fish & Game Code § 8841 (amended). Bottom trawl fisheries**

24 SEC. _____. Section 8841 of the Fish and Game Code is amended to read:

25 8841. (a) The commission is hereby granted authority over all state-managed
26 bottom trawl fisheries not managed under a federal fishery management plan
27 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
28 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7
29 (commencing with Section 7050), to ensure that resources are sustainably managed,
30 to protect the health of ecosystems, and to provide for an orderly transition to
31 sustainable gear types in situations where bottom trawling may not be compatible
32 with these goals.

33 (b) The commission is hereby granted authority to manage all of the following
34 fisheries in a manner that is consistent with this section and Part 1.7 (commencing
35 with Section 7050):

36 (1) California halibut.

37 (2) Sea cucumber.

1 (3) Ridge-back, spot, and golden prawn.

2 (4) Pink shrimp.

3 (c) The commission is also granted authority over other types of gear targeting the
4 same species as the bottom trawl fisheries referenced in subdivision (a) to manage
5 in a manner that is consistent with the requirements of Part 1.7 (commencing with
6 Section 7050).

7 (d) Every commercial bottom trawl vessel issued a state permit is subject to the
8 requirements and policies of the federal groundfish observer program (50 C.F.R.
9 660.360).

10 (e) The commission may only authorize additional fishing areas for bottom trawls
11 after it determines, based on the best available scientific information, that bottom
12 trawling in those areas is sustainable, does not harm bottom habitat, and does not
13 unreasonably conflict with other users.

14 (f) It is unlawful to use roller gear more than eight inches in diameter in
15 connection with a trawl net.

16 (g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or
17 pink shrimp, unless an approved bycatch reduction device is used with each net. On
18 or before April 1, 2006, the commission shall approve one or more bycatch
19 reduction devices for use in the bottom trawl fishery. For purposes of this
20 subdivision, a rigid grate fish excluder device is the approved type of bycatch
21 reduction device unless the commission, the Pacific Marine Fishery Management
22 Council, or the National Marine Fisheries Service determines that a different type
23 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
24 the commission does not approve a bycatch reduction device prior to April 1, 2006,
25 then a device that is approved by the Pacific Marine Fishery Management Council
26 or the National Marine Fisheries Service shall be deemed approved by the
27 commission.

28 (h) Except as provided in Section 8495 or 8842, it is unlawful to engage in bottom
29 trawling in ocean waters of the state.

30 (i) This section does not apply to the use of trawl nets pursuant to a scientific
31 research permit.

32 (j) The commission shall facilitate the conversion of bottom trawlers to gear that
33 is more sustainable if the commission determines that conversion will not contribute
34 to overcapacity or overfishing. The commission may participate in, and encourage
35 programs that support, conversion to low-impact gear or capacity reduction by trawl
36 fleets. The department may not issue new permits to bottom trawlers to replace those
37 retired through a conversion program.

38 ~~(k) As soon as practicable, but not later than May 1, 2005, the commission and~~
39 ~~the department shall submit to the Pacific Fishery Management Council and the~~
40 ~~National Marine Fisheries Service a request for federal management measures for~~
41 ~~the pink shrimp fishery that the commission and the department determine are~~
42 ~~needed to reduce bycatch or protect habitat, to account for uncertainty, or to~~
43 ~~otherwise ensure consistency with federal groundfish management.~~

1 ⊕ (k) No vessel may utilize bottom trawling gear without a state or federal permit.

Comment. Subdivision (f) of Section 8841 is amended to clarify the context in which the provision is intended to apply.

 Subdivision (k) is deleted as obsolete.

2 **Fish & Game Code § 9050 (amended). Miscellaneous tools**

3 SEC. _____. Section 9050 of the Fish and Game Code is amended to read:

4 9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be
5 used to take mollusks, sand crabs, and shrimps in Districts 1, 1½, 2, 2½, 3, 3½, 4,
6 4⅛, 4¾, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as
7 specified in ~~Sections~~ Section 7332 ~~and 8303~~, and except that freshwater clams shall
8 not be taken by means of such appliances on any levee or on the berm of any levee.

Comment. Section 9050 is amended to delete obsolete material.

9 **Fish & Game Code § 11018 (amended). District 10**

10 SEC. _____. Section 11018 of the Fish and Game Code is amended to read:

11 11018. The following constitutes Fish and Game District 10:

12 The ocean waters and the tidelands of the State to high-water mark lying between
13 the southern boundary of Mendocino County and a line extending west from the
14 Pigeon Point lighthouse in San Mateo County, including the waters of Tomales Bay
15 to a line drawn from the mouth of the unnamed creek approximately 1500 feet north
16 of Tomasini Point southwesterly 218° magnetic to the mouth of the unnamed creek
17 at Shell Beach, and excluding Bodega Lagoon and all that portion of Bolinas Bay
18 lying inside of Bolinas bar, that portion of San Francisco Bay lying east of a line
19 drawn from Point Bonita to Point Lobos and all rivers, streams, and lagoons.

20 ~~The amendment of this section by the Legislature at the 1963 Regular Session has~~
21 ~~no effect on the cultivation of oysters by persons licensed under Article 4~~
22 ~~(commencing with Section 6480), Chapter 5, Part 1, Division 6.~~

Comment. Section 11018 is amended to delete an obsolete provision.

23 **Fish & Game Code § 12001.5 (amended). Specified punishments**

24 SEC. _____. Section 12001.5 of the Fish and Game Code is amended to read:

25 12001.5. (a) In addition to any other penalty or fine imposed pursuant to this code,
26 if a person has been convicted of one or more offenses that was a violation of a
27 section listed in subdivision (b) separate from the offense before the court, the court
28 may order as a condition of probation upon conviction of the offense before the
29 court that is also a violation of a section listed in subdivision (b), that the person
30 attend the hunter education course designated in Section 3051 and perform
31 community service, preferably relating to natural resources if that type of
32 community service is available, as follows:

33 (1) If the person has one separate conviction, not more than 200 hours of
34 community service.

1 (2) If the person has two or more separate convictions, not more than 300 hours
2 of community service.

3 (b) This section applies to violations relating to a taking in Sections 3007, ~~3700~~
4 3700.1, 4330, and 4750, and a sale or purchase of parts of a bear in Section 4758.

Comment. Section 12001.5 is amended to update a cross-reference to a repealed code section.

5 **Fish & Game Code § 12002 (amended). Specified punishments**

6 SEC. _____. Section 12002 of the Fish and Game Code is amended to read:

7 12002. (a) Unless otherwise provided, the punishment for a violation of this code
8 that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000),
9 imprisonment in a county jail for not more than six months, or by both that fine and
10 imprisonment.

11 (b) The punishment for a violation of any of the following provisions is a fine of
12 not more than two thousand dollars (\$2,000), imprisonment in a county jail for not
13 more than one year, or both the fine and imprisonment:

14 (1) Section 1059.

15 (2) Subdivision (b) of Section 4004.

16 (3) Section 4600.

17 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

18 (5) A first violation of Section 8670.

19 (6) Section 10500.

20 (7) Unless a greater punishment is otherwise provided, a violation subject to
21 subdivision (a) of Section 12003.1.

22 (c) Except as specified in Sections 12001 and 12010, the punishment for violation
23 of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand
24 dollars (\$5,000), imprisonment in the county jail for not more than six months, or
25 by both that fine and imprisonment.

26 (d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege
27 issued pursuant to this code to a defendant who fails to appear at a court hearing for
28 a violation of this code, or who fails to pay a fine imposed pursuant to this code,
29 shall be immediately suspended or revoked. The license, tag, stamp, reservation,
30 permit, or other entitlement or privilege shall not be reinstated or renewed, and no
31 other license, tag, stamp, reservation, permit, or other entitlement or privilege shall
32 be issued to that person pursuant to this code, until the court proceeding is completed
33 or the fine is paid.

34 (2) This subdivision does not apply to any violation of Section 1052, 1059, 1170,
35 ~~5650~~, ~~5653.9~~, 6454, 6650, or 6653.5.

Comment. Paragraph (2) of subdivision (d) of Section 12002 is amended to delete an erroneous cross-reference.

36 **Fish & Game Code § 12002.2.1 (amended). Punishments for specified offenses**

37 SEC. _____. Section 12002.2.1 of the Fish and Game Code is amended to read:

1 12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of
2 the following is an infraction, punishable by a fine of not less than fifty dollars (\$50),
3 or more than two hundred fifty dollars (\$250), for a first offense:

4 (1) Subdivision (a) of Section 6596.1.

5 (2) Subdivision (a) of Section 7149.45.

6 (3) Subdivision (b) of Section 7180.1.

7 ~~(4) Section 1.18 of Title 14 of the California Code of Regulations.~~

8 (b) If a person is convicted of a violation of any of the sections listed in
9 subdivision (a) within five years of a separate offense resulting in a conviction of a
10 violation of any of those sections, that person shall be punished by a fine of not less
11 than one hundred dollars (\$100) or more than five hundred dollars (\$500).

12 (c) If a person convicted of a violation of any of the sections listed in subdivision
13 (a) produces in court the applicable ~~sport fishing ocean enhancement stamp~~, sport
14 fishing ocean enhancement validation, ~~second rod sport fishing stamp~~, second rod
15 sport fishing validation, ~~Colorado River special use stamp~~, or Colorado River
16 special use validation, ~~Bay Delta Sport Fishing Enhancement Stamp or Bay Delta~~
17 ~~Sport Fishing Enhancement validation~~ issued pursuant to this code and valid at the
18 time of the person's arrest, and if the taking was otherwise lawful with respect to
19 season, limit, time, and area, the court may reduce the fine imposed for the violation
20 to twenty-five dollars (\$25).

Comment. Section 12002.2.1 is amended to delete obsolete material.

21 **Fish & Game Code § 12023 (amended). Specified punishments**

22 SEC. _____. Section 12023 of the Fish and Game Code is amended to read:

23 12023. (a) Notwithstanding ~~Section~~ Sections 12002 and 12007, any person who
24 violates Section 6400 through the use of an aquatic nuisance species, as defined in
25 Section 6431, is guilty of a misdemeanor, punishable by all of the following:

26 (1) Imprisonment in the county jail for not less than six months or more than one
27 year, a fine of not more than fifty thousand dollars (\$50,000) for each violation, or
28 both that imprisonment and fine.

29 (2) Revocation of all of the defendant's licenses and permits issued pursuant to
30 this code.

31 (b) A person who personally or through another violates Section 6400, through
32 the use of an aquatic nuisance species, is liable to the owner of any privately or
33 publicly owned property for any damages to that property caused by the violation.
34 A person who violates Section 6400 through the use of an aquatic nuisance species
35 shall also be liable for all monetary damages directly, indirectly, and proximately
36 caused thereby, including, but not limited to, damages to any commercial fishery,
37 sport fishery, or to the public communities which depend upon those fisheries for a
38 portion of their annual income. The Attorney General may file a civil action on
39 behalf of the fisheries or communities that are damaged as a result of the violation.
40 In addition, a private citizen who suffers damages as a result of the violation may
41 file a civil action against the violator.

1 (c) A person who allows an aquatic nuisance species to escape from ~~his or her~~
2 their property to the property of another, whether privately or publicly owned, is
3 liable to the owner of the intruded upon property for any damages caused by the
4 species.

5 (d) This section shall not apply to the placement of any live fish, any fresh or salt
6 water animal, or any aquatic plant from the discharge or exchange of ballast water
7 from any vessel as defined by Section 21 of the Harbors and Navigation Code.

8 (e) This section does not apply to the placement of an aquatic plant by a person
9 who was unaware that ~~he or she was~~ they were in possession of the plant. This
10 exception includes circumstances in which a plant becomes unknowingly and
11 temporarily attached or affixed to a boat, boat trailer, or boat motor.

Comment. Subdivision (a) of Section 12023, which specifies punishment for a violation of
Section 6400, is amended to reconcile its relationship with Sections 12002 and 12007, which also
specify punishment for a violation of Section 6400.

Subdivisions (c) and (e) are revised to eliminate gendered pronouns.

12 **Fish & Game Code § 15700 (amended). Composition of committee**

13 SEC. ____ . Section 15700 of the Fish and Game Code is amended to read:

14 15700. The director shall appoint an Aquaculture Development Committee
15 consisting of the following persons:

16 (a) At least 12 members representing all sectors of the fresh and salt water
17 aquaculture industry.

18 (b) One member representing the department, two members from and chosen by
19 the University of California, one with expertise in aquaculture science and one with
20 expertise in outreach to the fisheries community, and one member each from and
21 chosen by the Department of Food and Agriculture, the California Coastal
22 Commission, the State Lands Commission, the State Water Resources Control
23 Board, the ~~State Department of Health Services~~ State Department of Public Health,
24 and the Joint Legislative Committee on Fisheries and Aquaculture. The member of
25 the committee appointed by the Joint Legislative Committee on Fisheries and
26 Aquaculture shall meet and, except as otherwise provided by the California
27 Constitution, advise the committee to the extent that this advisory participation is
28 not incompatible with ~~his or her~~ their position as a Member of the Legislature.

Comment. Section 15700 is amended to update an obsolete reference to the State Department
of Health Services. See Health & Safety Code Sections 20 and 131052(6).

The section is also amended to make it gender neutral.

PROPOSED REVISIONS REQUIRING FURTHER INFORMATION

The table below lists proposed revisions that require further action before they can be resolved.

Each item includes: (1) The proposed section number from the Commission’s tentative recommendation, (2) the related section of the Fish and Game Code, (3) a citation to the Commission memorandum or supplement in which the proposed revision was most recently discussed, and (4) the “category” to which the item was assigned by the staff. The categories are as follows:

Category 1. Revisions that have been provisionally approved by the Commission, but are awaiting confirmation from the Department of Fish and Wildlife that the revision would be unproblematic.

Category 3. Proposed revisions that are presumed to be proper, but have not yet been confirmed to be proper by the commenters.

Category 4. Proposed revisions that require further discussion between commenters and the Commission’s staff.

(Categories 2 and 5 are intentionally omitted, because they do not result in proposed revisions.)

This table is being updated for each meeting.

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43250	10000	21-49	7	1
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