

Memorandum 2022-8

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.

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

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

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

11 398. The base year for determining the inflationary index applied to the fee
12 established by Section 396 shall be the 1984-85 fiscal year, ~~and the base year for~~
13 ~~determining the inflationary index to be applied to the fee established by Section~~
14 ~~397 shall be the 1985-86 fiscal year.~~

15 **Comment.** Section 398 is amended to delete obsolete material.

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

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

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

28 **Comment.** Section 456 is amended to delete obsolete material.

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

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

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

34 (1) The costs of nongame fish and wildlife programs shall be provided annually
35 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.

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

40 **Fish & Game Code § 1068 (repealed). Department grant**

41 SEC. _____. Section 1068 of the Fish and Game Code is repealed.

1 ~~1068. (a) Beginning November 1, 1991, the director shall make a grant in~~
2 ~~installments to a nonprofit organization of sea urchin divers in an amount not to~~
3 ~~exceed four hundred thousand dollars (\$400,000), for the organization to~~
4 ~~accomplish the following purposes:~~

5 ~~(1) To establish a communications network among sea urchin divers, through a~~
6 ~~newsletter and such other means as are deemed necessary and appropriate by the~~
7 ~~organization, providing divers with information on policies, procedures, statutes,~~
8 ~~and regulations affecting the sea urchin fishery, meeting announcements, and for~~
9 ~~other information the department reasonably requests to be transmitted to sea urchin~~
10 ~~divers.~~

11 ~~(2) To establish an education program on the conservation and utilization of sea~~
12 ~~urchins.~~

13 ~~(3) To convene statewide conferences for members of the industry to meet for~~
14 ~~purposes of strengthening the industry and benefiting industry goals.~~

15 ~~The grant shall be paid, upon submission and approval of an annual budget, in~~
16 ~~quarterly installments, in amounts deemed appropriate by the department, upon the~~
17 ~~submission to the department of progress reports which demonstrate the continued~~
18 ~~achievements of the organization toward the intended goals.~~

19 ~~(b) Prior to making the grant, the director shall verify from the nonprofit~~
20 ~~organization's bylaws that it is established for, among other purposes, the~~
21 ~~protection, conservation, enhancement, and promotion of the sea urchin fishery, and~~
22 ~~that its membership, including its board of directors, is composed solely of licensed~~
23 ~~commercial sea urchin divers.~~

24 ~~(c) The grant shall be funded from revenues received pursuant to former~~
25 ~~subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995.~~
26 ~~If the department determines that the revenue received from former subdivision (b)~~
27 ~~of Section 8051.1, as that subdivision read on December 31, 1995, is not sufficient~~
28 ~~to fund the amount of the grant, including departmental overhead charges which~~
29 ~~shall be recovered from the revenues received pursuant to that former subdivision~~
30 ~~(b) of Section 8051.1, the department shall reduce the amount of the grant~~
31 ~~accordingly. The revenue received pursuant to that former subdivision (b) of Section~~
32 ~~8051.1 shall remain available for funding of the grant program pursuant to this~~
33 ~~subdivision until that revenue is fully encumbered, or the authorized amount of the~~
34 ~~grant program is expended, whichever event is later.~~

35 ~~(d) The revenue received pursuant to former subdivision (b) of Section 8051.1 as~~
36 ~~it read on December 31, 1995, shall first be used to reimburse the department for~~
37 ~~departmental overhead charges incurred in administering the grant.~~

38 **Comment.** Section 1068 is repealed as obsolete.

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

40 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.

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

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

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

43 Newly designated subdivision (f) is amended to make clear that the provision applies to both
44 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.~~

17 **Comment.** Section 2021 is amended to delete obsolete material.

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

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

20 2021.5. (a) Notwithstanding Section 2021, all of the following provisions apply:

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

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

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

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

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

38 **Comment.** Section 2021.5 is amended to delete obsolete material.

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

40 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.

16 **Comment.** Subdivisions (a) and (b) of Section 2124 are amended to conform to statutory
17 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
18 2185, 2190.

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

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

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

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

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

41 (d)(1) If an animal is confiscated because the animal was kept in contravention of
42 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.

21 **Comment.** Subdivision (b) of Section 2125 is amended to conform to statutory language used
22 in other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.

23 The section is also amended to make it gender neutral.

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

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

26 2126. (a) Except as otherwise authorized by this code or regulations made
27 pursuant thereto, it is unlawful for any person to take any mammal ~~as identified by~~
28 enumerated in or designated pursuant to Section 2118.

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

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

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

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

35 2127. (a) The department may reimburse eligible local entities, pursuant to a
36 memorandum of understanding entered into pursuant to this section, for costs
37 incurred by the eligible local entities in the administration and enforcement of any
38 provision concerning the possession of, handling of, care for, or holding facilities
39 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

40 (b) The department may enter into memorandums of understanding with eligible
41 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.

9 **Comment.** Subdivisions (a) and (b) of Section 2127 are amended to conform to statutory
10 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
11 2185, 2190.

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

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

14 2150.3. (a) The director shall appoint a committee to advise the director on the
15 humane care and treatment of wild animals.

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

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

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

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

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

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

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

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

39 **Fish & Game Code § 2576 (amended). Prohibitions**

40 SEC. _____. Section 2576 of the Fish and Game Code is amended to read:

1 2576. It is unlawful to knowingly capture for sale, transport for sale or sell wild
2 rodents, except as provided in Article 1.5 1 (commencing with Section 1000) of
3 Chapter 3 of Division 2.

4 **Comment.** Section 2576 is amended to update a cross-reference to an article that was
5 renumbered.

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

7 SEC. ____ . Section 2582 of the Fish and Game Code is amended to read:

8 2582. (a) The department may impose ~~civil liability~~ an administrative penalty
9 upon any person pursuant to this chapter for any of the following acts done for profit
10 or personal gain:

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

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

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

27 (4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any
28 endangered or threatened species, or any fully protected bird, mammal, or fish
29 which has been taken, possessed, transported, or sold in violation of this code or any
30 regulations adopted pursuant to this code within the maritime and territorial
31 jurisdiction of the state or within the portions of the special maritime jurisdiction of
32 the United States upon which the State of California exercises concurrent
33 jurisdiction, either by statute, deputation, or by contract with the United States.

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

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

40 (b) The department may impose ~~civil liability~~ an administrative penalty upon any
41 person pursuant to this chapter for unlawfully exporting, importing, possessing,
42 receiving, or transporting in interstate commerce any container or package

1 containing any bird, mammal, amphibian, reptile, or fish, or any endangered or
2 threatened species, or any fully protected bird, mammal, or fish unless the container
3 or package has previously been plainly marked, labeled, or tagged in accordance
4 with this code and the regulations adopted pursuant to this code.

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

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

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

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

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

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

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

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

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

32 2585. The ~~civil~~ administrative penalties imposed under this chapter are in addition
33 to any forfeiture of equipment pursuant to Section 12157 or forfeiture of birds,
34 mammals, amphibia, reptiles, or fish pursuant to Section 12159.

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

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

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

39 2586. (a) The director may pay a reward from any funds available for that purpose
40 to any person who furnished information which led to an arrest, a criminal

1 conviction, an order of assessment of a ~~civil~~ an administrative penalty, or for
2 forfeiture of property for any violation of this code or any regulation adopted
3 pursuant to this code. The amount of reward, if any, shall be designated by the
4 director with the advice of the CalTIP Award Board.

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

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

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

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

11 2587. (a) Notwithstanding Section 12511 of the Government Code, the
12 department may retain or appoint legal counsel to prepare and prosecute civil
13 actions under this chapter.

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

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

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

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

21 2588. All ~~civil~~ administrative penalties and revenues from forfeitures collected
22 pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

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

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

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

27 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
28 the commission, shall be required when taking big game, as defined in the
29 department’s mammal hunting regulations (14 Cal. Code Regs. 350), with rifle or
30 pistol, and when taking coyote, within the California condor range.

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

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

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

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

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

6 (c)(1) The commission shall maintain, by regulation, a public process to certify
7 ammunition as nonlead ammunition, and shall define, by regulation, nonlead
8 ammunition as including only ammunition in which there is no lead content,
9 excluding the presence of trace amounts of lead. The commission shall establish and
10 annually update a list of certified ammunition.

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

13 (d)(1) To the extent that funding is available, the commission shall establish a
14 process that will provide hunters with nonlead ammunition at no or reduced charge.
15 The process shall provide that the offer for nonlead ammunition at no or reduced
16 charge may be redeemed through a coupon sent to a permit holder with the
17 appropriate permit tag. If available funding is not sufficient to provide nonlead
18 ammunition at no charge, the commission shall set the value of the reduced charge
19 coupon at the maximum value possible through available funding, up to the average
20 cost within this state for nonlead ammunition, as determined by the commission.

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

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

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

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

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

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

40 ~~(i) (h)~~ The commission shall promulgate regulations by July 1, 2015, that phase
41 in the requirements of this section. The requirements of this section shall be fully
42 implemented statewide by no later than July 1, 2019. If any of the requirements of
43 this section can be implemented practicably, in whole or in part, in advance of July

1 1, 2019, the commission shall implement those requirements. The commission shall
2 not reduce or eliminate any existing regulatory restrictions on the use of lead
3 ammunition in California condor range unless or until the additional requirements
4 for use of nonlead ammunition as required by this section are implemented.

5 ~~(j)~~ (i)(1) The prohibition in subdivision (b) shall be temporarily suspended for a
6 specific hunting season and caliber upon a finding by the director that nonlead
7 ammunition of a specific caliber is not commercially available from any
8 manufacturer because of federal prohibitions relating to armor-piercing ammunition
9 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
10 States Code.

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

14 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) of Section
15 3004.5, are deleted as obsolete.

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

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

18 3040. (a) Notwithstanding Section 3031, the director may designate two days per
19 year as “Free Hunting Days.” One free hunting day may be established during the
20 fall hunting season, and the other free hunting day may be established during the
21 winter hunting season. The department shall publish the exact dates of the free
22 hunting days in annual publications of the department regarding current hunting
23 regulations.

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

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

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

39 (2) Any required tags or report cards.

40 (3) Any required federal entitlements.

41 (4) Any required entry permits.

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

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

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

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

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

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

14 SEC. ____ . Section 3200 of the Fish and Game Code is amended to read:

15 3200. Any person engaged in raising or importing, or who keeps in captivity, in
16 this state domesticated game birds or domesticated game mammals which normally
17 exist in the wild in this state shall procure a domesticated game breeder's license if
18 the birds or mammals are kept more than 30 days after acquisition. No license is,
19 however, required of any of the following:

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

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

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

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

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

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

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

32 SEC. ____ . Section 3270 of the Fish and Game Code is amended to read:

33 3270. ~~(a)~~ In order to provide additional hunting by stocking domestically
34 propagated game birds, and to permit the taking of game birds under conditions that
35 will not conflict with the public interest, any person who owns or controls the
36 hunting rights on a tract of land may apply to the department for a game bird club
37 license authorizing the taking of game birds upon that land in accordance with the
38 regulations of the commission for the administration, including the implementation
39 and enforcement, of this section.

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

41 **Comment.** Section 3270 is amended to delete obsolete material.

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

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

3 3500. (a) Resident game birds are as follows:

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

6 (2) California quail and varieties thereof.

7 (3) Gambel's or desert quail.

8 (4) Mountain quail and varieties thereof.

9 (5) Sooty or blue grouse and varieties thereof.

10 (6) Ruffed grouse.

11 (7) Sage hens or sage grouse.

12 (8) Hungarian partridges.

13 (9) Red-legged partridges including the chukar and other varieties.

14 (10) Ring-necked pheasants and varieties thereof.

15 (11) Wild turkeys of the order Galliformes.

16 (12) White-tailed ptarmigan.

17 (b) Migratory game birds are as follows:

18 (1) Ducks and geese.

19 (2) Coots and gallinules.

20 (3) Jacksnipe.

21 (4) Western mourning doves.

22 (5) White-winged doves.

23 (6) Band-tailed pigeons.

24 (c) References in this code to "game birds" means both resident game birds and
25 migratory game birds.

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

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

31 SEC. _____. Section 3700.1 of the Fish and Game Code is amended to read:

32 3700.1. (a) It is unlawful for any person, except a person licensed pursuant to
33 paragraph (2) of subdivision (a) of Section 3031, to take ~~any migratory game bird,~~
34 ~~except jacksnipe, coots, gallinules, western mourning doves, white-winged doves,~~
35 ~~and band-tailed pigeons, a duck or goose~~ without first procuring a state duck hunting
36 validation as provided in subdivision (b), and having that validation in ~~his or her~~
37 their possession while taking those birds.

38 (b) State duck hunting validations shall be sold for a fee of ten dollars (\$10) by
39 the department and by license agents, who are authorized by the department
40 pursuant to Section 1055.1, in the same manner as hunting licenses.

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

1 **Comment.** Subdivision (a) of Section 3700.1 is amended to simplify without substantive change
2 a reference to the migratory game birds subject to the subdivision.

3 The subdivision is also amended to make it gender neutral.

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

5 SEC. _____. Section 3701 of the Fish and Game Code is amended to read:

6 3701. All funds derived from the sale of state duck hunting validations and state
7 duck stamps, and related items authorized by ~~subdivision (e) of Section 3700 or~~
8 subdivision (g) of Section 3700.2; shall be deposited in the State Duck Stamp
9 Account in the Fish and Game Preservation Fund to permit separate accountability
10 for the receipt and expenditure of these funds. An amount not to exceed 6 percent
11 of the amount annually deposited in the account may be used for administrative
12 overhead related to the use of those funds and for implementation of the federal
13 Migratory Bird Harvest Program.

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

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

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

18 3702.5. The department may permit individual artists to sell a limited number of
19 prints of duck stamp related artwork or posters.

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

21 **Comment.** Section 3702.5 is amended to delete obsolete material.

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

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

24 3704. Two dollars and twenty-five cents (\$2.25) of the amount collected by the
25 department for each state duck stamp sold shall be allocated by the commission for
26 the purposes of the North American Waterfowl Management Plan in those areas of
27 Canada from which come substantial numbers of waterfowl migrating to, or
28 through, California. These funds shall be matched with federal or private funds
29 available for that purpose. The available balance of the funds shall be used for any
30 project authorized pursuant to Section 3702 in California. However, any lands
31 acquired in California with those funds shall be open to waterfowl hunting as a
32 public shooting ground or wildlife management area.

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

34 **Comment.** Section 3704 is amended to delete obsolete material.

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

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

37 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are
38 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
39 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division
40 4 of the Military and Veterans Code. With the approval of the entity in control of

1 property affected by a project, the department may make grants to, or enter into
2 contracts with, nonprofit organizations for the accomplishment of those projects, or
3 the department may reimburse the controlling entity for its costs of accomplishing
4 the project.

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

6 **Comment.** Section 3704.5 is amended to delete obsolete material.

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

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

9 3961. Whenever an employee of the department is not present to carry out the
10 provisions of Section 3960 with respect to any dog inflicting injury or immediately
11 threatening to inflict injury to any deer, elk, or prong-horned antelope during the
12 closed season for these mammals, any property owner, lessee, person holding a
13 permit for the purpose of grazing livestock, or ~~his or her~~ their employee, may seize
14 or dispatch the dog if it is found on ~~his or her~~ their land or premises without the
15 permission of the person who is in immediate possession of the land. If the dog has
16 on it any readily visible identification tag or license tag as prescribed by Section
17 30951 of the Food and Agricultural Code, and the dog is found in the act of
18 immediately threatening to injure deer, elk, or prong-horned antelope, the dog may
19 only be dispatched under this section if the dog has, and the owner has been notified
20 that the dog has, previously threatened any of these species.

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

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

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

28 **Fish & Game Code § 4180.2 (added). “Wild pigs”**

29 SEC. _____. Section 4180.2 is added to the Fish and Game Code, to read:

30 4180.2. As used in this article, “wild pigs” has the meaning set forth in Section
31 4650.

32 **Comment.** Section 4180.2 is added to incorporate in the article in which the section is located
33 the definition of the term “wild pigs” set forth in Section 4650.

34 **Fish & Game Code § 4181.1 (amended). Protection of property**

35 SEC. _____. Section 4181.1 of the Fish and Game Code is amended to read:

36 4181.1. (a) Any bear that is encountered while in the act of inflicting injury to,
37 molesting, or killing, livestock may be taken immediately by the owner of the
38 livestock or the owner’s employee if the taking is reported no later than the next
39 working day to the department and the carcass is made available to the department.

40 (b) Notwithstanding Section 4652, any wild pig that is encountered while in the
41 act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or

1 damaging or destroying, or threatening to immediately damage or destroy, land or
2 other property, including, but not limited to, rare, threatened, or endangered native
3 plants, wildlife, or aquatic species, may be taken immediately by the owner of the
4 livestock, land, or property or the owner's agent or employee, or by an agent or
5 employee of any federal, state, county, or city entity when acting in his or her official
6 capacity. The person taking the wild pig shall report the taking no later than the next
7 working day to the department and shall make the carcass available to the
8 department. Unless otherwise directed by the department and notwithstanding
9 Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom
10 the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant
11 to subdivision (c), may possess the carcass of the wild pig. The person in possession
12 of the carcass shall make use of the carcass, which may include an arrangement for
13 the transfer of the carcass to another person or entity, such as a nonprofit
14 organization, without compensation. The person who arranges this transfer shall be
15 deemed to be in compliance with Section 4304. ~~A violation of this subdivision is~~
16 ~~punishable pursuant to Section 12000.~~ It is the intent of the Legislature that nothing
17 in this subdivision shall be interpreted to authorize a person to take wild pigs
18 pursuant to this subdivision in violation of a state statute or regulation or a local
19 zoning or other ordinance that is adopted pursuant to other provisions of law and
20 that restricts the discharge of firearms.

21 (c) The department shall make a record of each report made pursuant to
22 subdivision (a) or (b) and may have an employee of the department investigate the
23 taking or cause the taking to be investigated. The person taking a wild pig shall
24 provide information as deemed necessary by the department. Upon completion of
25 the investigation, the investigator may, upon a finding that the requirements of this
26 section have been met with respect to the particular bear or wild pig taken under
27 subdivision (a) or (b), issue a written statement to the person confirming that the
28 requirements of this section have been met. The person who took the wild pig may
29 transfer the carcass to another person without compensation.

30 (d) Notwithstanding Section 4763, any part of any bear lawfully possessed
31 pursuant to this section is subject to Section 4758.

32 (e) Nothing in this section prohibits federal, state, or county trappers from killing
33 or trapping bears when the bears are killing or molesting livestock, but no iron-
34 jawed or steel-jawed or any type of metal-jawed trap shall be used to take the bear,
35 and no person, including employees of the state, federal, or county government,
36 shall take bear with iron-jawed or steel-jawed or any type of metal-jawed traps.

37 **Comment.** Subdivision (b) of Section 4181.1 is amended to delete a superfluous sentence.

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

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

40 4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid
41 hunting license, may procure one tag for the taking of one deer by one person during
42 the current license year, upon payment of the base fee of ten dollars (\$10) for the

1 license year beginning July 1, 1986, and the base fee as adjusted under Section 713
2 for subsequent license years.

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

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

14 (d) If provided in regulations adopted by the commission under Section 200, any
15 nonresident of this state, 12 years of age or over, who possesses a deer tag may
16 procure one additional deer tag for the taking of one additional deer during the
17 current license season, upon payment of the base fee of one hundred dollars (\$100)
18 for the license year beginning July 1, 1986, and the base fee as adjusted under
19 Section 713 for subsequent license years.

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

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

24 **Fish & Game Code § 4651 (amended). Management plan**

25 SEC. ____ . Section 4651 of the Fish and Game Code is amended to read:

26 4651. (a) The department shall prepare a plan for the management of wild pigs.
27 Under the plan, the status and trend of wild pig populations shall be determined and
28 management units shall be designated within the state. The plan may establish pig
29 management zones to address regional needs and opportunities. In preparing the
30 plan, the department shall consider available, existing information and literature
31 relative to wild pigs.

32 (b) The plan may include all of the following:

33 (1) The distribution and abundance of wild pigs, as described in Section 3950.

34 (2) A survey of range conditions.

35 (3) Recommendations for investigations and utilization of wild pigs.

36 (4) Encouraging mitigation of depredation by sport hunting pursuant to this
37 chapter.

1 (5) Live trapping and relocation of wild pigs to areas suitable and accessible to
2 mitigation of depredation, with the consent of the landowner and after prior
3 consultation with adjacent landowners who, in the department's ~~opinion~~ opinion,
4 may be impacted, ~~pursuant to this chapter~~.

5 **Comment.** Paragraph (5) of subdivision (b) of Section 4651 is amended for clarity.

6 **Fish & Game Code § 4656 (repealed). Revenue deposit and management**

7 SEC. _____. Section 4656 of the Fish and Game Code is repealed.

8 ~~4656. Revenues received pursuant to this chapter shall be deposited in the Big
9 Game Management Account established in Section 3953. These funds shall be
10 available for expenditure by the department as set forth in Section 3953. The
11 department shall maintain all internal accounting measures necessary to ensure that
12 all restrictions on these funds are met.~~

13 **Comment.** Section 4656 is repealed as superfluous. See Section 3953.

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

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

16 5650.1. (a) A person who violates Section 5650 is subject to a civil penalty of not
17 more than twenty-five thousand dollars (\$25,000) for each violation.

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

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

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

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

1 (f) After the party seeking the injunction has met its burden of proof, the court
2 shall determine whether to issue a temporary restraining order, preliminary
3 injunction, or permanent injunction without requiring the defendant to prove that it
4 will suffer grave or irreparable harm. The court shall make the determination
5 whether to issue a temporary restraining order, preliminary injunction, or permanent
6 injunction by taking into consideration, among other things, the nature,
7 circumstance, extent, and gravity of the violation, the quantity and characteristics of
8 the substance or material involved, the extent of environmental harm caused by the
9 violation, measures taken by the defendant to remedy the violation, the relative
10 likelihood that the material or substance involved may pass into waters of the state,
11 and the harm likely to be caused to the defendant.

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

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

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

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

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

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

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

37 **Fish & Game Code § 5700 (amended). Specified districts**

38 SEC. _____. Section 5700 of the Fish and Game Code is amended to read:

39 5700. Notwithstanding Sections 5670, 5672, 8341, and 9050, native and
40 nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to
41 be purified for human consumption under such rules and regulations as shall be
42 established by the commission. Such regulations may include, but are not limited

1 to, bag limits, methods of harvest, and provisions for public use. Mollusks taken
2 under this section shall not be used for human consumption unless such use is
3 approved by the ~~State Department of Health Services~~ State Department of Public
4 Health.

5 **Comment.** Section 5700 is amended to update an obsolete reference to the State Department of
6 Health Services. See Health & Safety Code §§ 20 and 131052(6).

7 **Fish & Game Code § 5701 (amended). Sanitary surveys**

8 SEC. _____. Section 5701 of the Fish and Game Code is amended to read:

9 5701. The ~~State Department of Health Services~~ State Department of Public Health
10 may make sanitary surveys of mollusk-growing areas or may use sanitary surveys
11 of mollusk-growing areas made by qualified state or county agencies, and based on
12 such information may classify such areas for purposes of harvesting and moving
13 mollusks which are to be purified for human consumption in accordance with
14 Section 5700. The ~~State Department of Health Services~~ State Department of Public
15 Health shall adopt such rules and regulations as are necessary to implement this
16 section.

17 **Comment.** Section 5701 is amended to update obsolete references to the State Department of
18 Health Services. See Health & Safety Code §§ 20 and 131052(6).

19 **Fish & Game Code § 5701.5 (amended). Certification of water quality**

20 SEC. _____. Section 5701.5 of the Fish and Game Code is amended to read:

21 5701.5. If examinations are conducted by the ~~State Department of Health Services~~
22 State Department of Public Health pursuant to this article for purposes of certifying
23 the quality of shellfish-growing waters, certification of water quality shall be
24 commenced within 30 days and completed within six months of the filing of an
25 application by an aquaculturist.

26 **Comment.** Section 5701.5 is amended to update an obsolete reference to the State Department
27 of Health Services. See Health & Safety Code §§ 20 and 131052(6).

28 **Fish & Game Code § 5671 (amended). Authority of State Department of Public Health**

29 SEC. _____. Section 5671 of the Fish and Game Code is amended to read:

30 5671. The ~~State Department of Health Services~~ State Department of Public Health
31 may:

32 (a) Examine any area from which shellfish may be taken.

33 (b) Determine whether the area is subject to sewage contamination.

34 (c) Determine whether the taking of shellfish from the area does or may constitute
35 a menace to the lives or health of human beings.

36 **Comment.** Section 5671 is amended to update an obsolete reference to the State Department of
37 Health Services. See Health & Safety Code §§ 20 and 131052(6).

38 **Fish & Game Code § 5672 (amended). Notice of contamination**

39 SEC. _____. Section 5672 of the Fish and Game Code is amended to read:

1 5672. (a) Upon the determination by the ~~State Department of Health Services~~
2 State Department of Public Health that the area is or may be subject to sewage
3 contamination, and that the taking of shellfish from it does or may constitute a
4 menace to the lives or health of human beings, it shall ascertain as accurately as it
5 can the bounds of the contamination, and shall post notices on or in the area
6 describing its bounds and prohibiting the taking of shellfish therefrom.

7 (b) The taking of shellfish from the area is unlawful after the completion of the
8 publication of the notices as prescribed in this article.

9 **Comment.** Section 5672 is amended to update an obsolete reference to the State Department of
10 Health Services. See Health & Safety Code §§ 20 and 131052(6).

11 **Fish & Game Code § 5674 (amended). Enforcement**

12 SEC. _____. Section 5674 of the Fish and Game Code is amended to read:

13 5674. The ~~State Department of Health Services~~ State Department of Public Health
14 shall enforce the provisions of this article, and for that purpose the inspectors and
15 employees of that agency may enter at all times upon public or private property
16 upon which shellfish may be located.

17 **Comment.** Section 5674 is amended to update an obsolete reference to the State Department of
18 Health Services. See Health & Safety Code §§ 20 and 131052(6).

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

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

21 7120. It is unlawful for any person to possess more than one daily bag limit of any
22 fish, amphibian, or reptile taken under a license issued pursuant to Article 3
23 (commencing with Section 7145) unless authorized by regulations adopted by the
24 commission.

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

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

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

28 7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile,
29 or amphibia anywhere in this state for purposes other than profit shall be issued to
30 any of the following:

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

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

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

1 (4) A resident or nonresident, 16 years of age or older, for two designated days,
2 upon payment of one-half the fee set forth in paragraph (1). Notwithstanding Section
3 ~~1053~~ 1053.1, more than one single day license issued for different days may be
4 issued to, or possessed by, a person at one time.

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

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

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

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

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

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

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

22 SEC. _____. Section 7149.2 of the Fish and Game Code is amended to read:

23 7149.2. (a) In addition to Section 7149.05, the department shall issue a lifetime
24 sport fishing license under this section. A lifetime sport fishing license authorizes
25 the taking of fish, amphibians, or reptiles anywhere in this state in accordance with
26 the law for purposes other than profit for the life of the person to whom issued unless
27 revoked for a violation of this code or regulations adopted under this code. A
28 lifetime sport fishing license is valid for a one-year period from January 1 through
29 December 31 and may be renewed annually, regardless of any lapse of the license,
30 at no additional cost to the licensee. A lifetime sport fishing license is not
31 transferable. A lifetime sport fishing license does not include any special tags,
32 stamps, or fees.

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

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

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

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

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

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

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

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

14 (f) The base fees specified in this section are applicable commencing January 1,
15 2004, and shall be adjusted annually thereafter pursuant to Section 713.

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

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

19 SEC. ____ . Section 7232 of the Fish and Game Code is amended to read:

20 7232. (a) Notwithstanding Section 7121 any offal from a fish taken under a sport
21 fishing license which is delivered by the license holder to a fish canner or fish
22 processor may be processed, used, or sold by that fish canner or fish processor.

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

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

28 The section is also amended to add subdivision designations.

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

30 SEC. ____ . Section 7850 of the Fish and Game Code is amended to read:

31 7850. (a) Excepting persons expressly exempted under this code, no person shall
32 use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or
33 other appliance to take fish or amphibia for commercial purposes, and no person
34 shall cause to be brought ashore, any fish or amphibia at any point in the state for
35 the purpose of selling them in a fresh state or shall contribute materially to the
36 activities on board the commercial fishing vessel, unless the person holds a
37 commercial fishing license issued by the department.

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

1 (c) As used in this section, “person” ~~does not include persons who are less than~~
2 ~~16 years of age, a partnership, corporation, or association~~ means a natural person 16
3 years of age or greater. Any person, partnership, corporation, limited liability
4 company, or association may pay the fees for a license issued to any person.

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

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

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

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

12 7921. The base fee for a commercial passenger fishing ~~boat~~ vessel license is two
13 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
14 annually thereafter pursuant to Section 713. The commercial passenger fishing
15 vessel license shall be issued to the holder of a commercial boat registration issued
16 pursuant to Section 7881.

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

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

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

21 8032. (a) A multi-function commercial fish business license shall be issued that
22 authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The
23 annual fee for this license is one thousand three hundred seventy-three dollars
24 (\$1,373).

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

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

29 (2) Marine aquaria receiver’s license, issued to any person engaged in the business
30 of receiving live marine species indigenous to California waters from a person
31 required to be a licensed commercial fisherman for the purpose of wholesaling or
32 retailing those species for pet industry or hobby purposes as provided in Section
33 8033.1.

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

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

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

40 (c) The commission shall adjust the amount of the fee specified in subdivision (a),
41 as necessary, to fully recover, but not exceed, all reasonable administrative and

1 implementation costs of the department and the commission relating to those
2 licenses.

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

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

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

7 8037. (a) A person who engages in business involving fish which business activity
8 would require more than one class of license under this article shall obtain either a
9 commercial fish business license issued under subdivision (a) of Section 8032 or
10 each of the specialty licenses which are required for the classes of activities engaged
11 in. Each plant, facility, or other place of business in which an activity occurs that is
12 required to be licensed shall have a copy of the required license on the premises.

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

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

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

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

18 8246. (a) At any time after notice of an order suspending or revoking of a person's
19 commercial salmon fishing privilege is issued by the commission, and before the
20 order of suspension or revocation is final, the commission may, with the agreement
21 of the person subject to the action, compromise or dismiss the action to suspend or
22 revoke the commercial salmon fishing privilege in the best interests of the state, or
23 the commission may compromise or dismiss the action with the agreement of the
24 person subject to the action on terms and conditions, which may include, but are not
25 limited to, the payment of civil damages, the reduction of a revocation to a
26 suspension for a specified period of time, or any other terms and conditions.

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

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

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

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

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

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

1 8246.2. (a) The commission, in consultation with the department, shall adopt
2 regulations for the determination of civil damages provided for in subdivision ~~(b)~~
3 (a) of Section 8246 that give due consideration to the appropriateness of the civil
4 damages with respect to all of the following factors:

- 5 (1) The gravity of the violation.
- 6 (2) The good faith of the convicted licensee.
- 7 (3) The history of previous violations.
- 8 (4) The damage to the fishery.
- 9 (5) The cost of restoration of the fishery.

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

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

13 **Fish & Game Code § 8276.5 (amended). Dungeness crab trap limits**

14 SEC. ____ . Section 8276.5 of the Fish and Game Code is amended to read:

15 8276.5. (a) In consultation with the Dungeness crab task force, or its appointed
16 representatives, the director shall adopt a program, by March 31, 2013, for
17 Dungeness crab trap limits for all California permits. Unless the director finds that
18 there is consensus in the Dungeness crab industry that modifications to the
19 following requirements are more desirable, with evidence of consensus, including,
20 but not limited to, the record of the Dungeness crab task force, the program shall
21 include all of the following requirements:

22 (1) The program shall contain seven tiers of Dungeness crab trap limits based on
23 California landings receipts under California permits between November 15, 2003,
24 and July 15, 2008, as follows:

25 (A) The 55 California permits with the highest California landings shall receive a
26 maximum allocation of 500 trap tags.

27 (B) The 55 California permits with the next highest California landings to those
28 in subparagraph (A) shall receive a maximum allocation of 450 trap tags.

29 (C) The 55 California permits with the next highest California landings to those
30 in subparagraph (B) shall receive a maximum allocation of 400 trap tags.

31 (D) The 55 California permits with the next highest California landings to those
32 in subparagraph (C) shall receive a maximum allocation of 350 trap tags.

33 (E) The 55 California permits with the next highest California landings to those
34 in subparagraph (D) shall receive a maximum allocation of 300 trap tags.

35 (F) The remaining California permits with the next highest California landings to
36 those in subparagraph (E), which are not described in paragraph (1) or (2) of
37 subdivision (i) of Section 8276.4, shall receive a maximum allocation of 250 trap
38 tags.

39 (G) The California permits described in paragraphs (1) and (2) of subdivision (i)
40 of Section 8276.4 shall receive a maximum allocation of 175 tags. ~~The tags in this~~
41 ~~tier shall not be transferable for the first two years of the program.~~

1 ~~(2) Notwithstanding paragraph (1), the director shall not remove a permit holder~~
2 ~~from a tier described in paragraph (1), if, after an allocation is made pursuant to~~
3 ~~paragraph (1), an appeal pursuant to paragraph (8) places a permit holder in a tier~~
4 ~~different than the original allocation.~~

5 ~~(3)~~ (2) Participants in the program shall meet all of the following requirements:

6 (A) Unless a participant receives a waiver pursuant to paragraph (4), pay a
7 biennial fee for each trap tag issued pursuant to this section to pay the pro rata share
8 of costs of the program, including, but not limited to, informing permit holders of
9 the program, collecting fees, acquiring and sending trap tags to permit holders,
10 paying for a portion of enforcement costs, and monitoring the results of the program.
11 The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the
12 trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by
13 the permit holder or the permit shall be void.

14 (B) Purchase a biennial crab trap limit permit of not more than one thousand
15 dollars (\$1,000) per two-year period to pay for the department's reasonable
16 regulatory costs.

17 (C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to
18 purchase a California permitted crab vessel.

19 (D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to
20 the main buoy, and an additional tag provided by the permit holder attached to the
21 trap. The department shall mandate the information that is required to appear on
22 both buoy and trap tags.

23 ~~(4)~~ (3) The department shall issue a participant a waiver from the biennial fee for
24 each trap tag described in subparagraph (A) of paragraph ~~(3)~~ (2) if the participant is
25 unable to fish due to mandatory military service and the participant submits a
26 request for a waiver to the department at the same time that the participant renews
27 the permit issued pursuant to subparagraph (B) of paragraph ~~(3)~~ (2). A participant
28 who receives a waiver pursuant to this paragraph shall not apply to the department
29 to fish for Dungeness crab during the first year of the waiver, but may apply to fish
30 for Dungeness crab during the second year of the waiver if the participant pays the
31 full cost of the biennial fee for each trap tag. The department shall not limit the
32 number of times a participant may request a waiver.

33 ~~(5)~~ (4) Notwithstanding subparagraph (D) of paragraph ~~(3)~~ (2), a vessel may
34 transit state waters with Dungeness crab traps that are not tagged pursuant to
35 subparagraph (D) of paragraph ~~(3)~~ (2) if the traps contain either a valid Oregon or
36 Washington trap tag, no crab species are onboard the vessel, and the traps are not
37 deployed in state waters.

38 ~~(6)~~ (5) The department shall annually provide an accounting of all costs associated
39 with the crab trap limit program. The department shall use excess funds collected to
40 reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the
41 program.

1 ~~(7)~~ (6) Permitholders may replace lost tags by application to the department and
2 payment of a fee not to exceed the reasonable costs incurred by the department. The
3 department may waive or reduce a fee in the case of catastrophic loss of tags.

4 ~~(8) Any Dungeness crab permitholder may submit to the director an appeal of a~~
5 ~~trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-~~
6 ~~by permit basis for the purpose of revising upward or downward any trap tag~~
7 ~~allocation. Any appeal to revise upward a trap tag allocation shall be based on~~
8 ~~evidence that a permit's California landings during the period between November~~
9 ~~15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual~~
10 ~~circumstances and that these circumstances constitute an unfair hardship, taking into~~
11 ~~account the overall California landings history as indicated by landing receipts~~
12 ~~associated with the permit. The director shall initiate the appeal process within 12~~
13 ~~months of receiving an appeal request. The appeal shall be heard and decided by an~~
14 ~~administrative law judge of the Office of Administrative Hearings, whose decision~~
15 ~~shall constitute the final administrative decision. Except as provided in~~
16 ~~subparagraph (B), any Dungeness crab permitholder requesting an appeal to revise~~
17 ~~upward the permitholder's trap tag allocation shall pay all expenses, including a~~
18 ~~nonrefundable filing fee, as determined by the department, to pay for the~~
19 ~~department's reasonable costs associated with the appeal process described in this~~
20 ~~paragraph.~~

21 (b) (1) In addition to criminal penalties authorized by law, a violation of the
22 requirements of the program created pursuant to this section shall be subject to the
23 following civil penalties:

24 (A) Conviction of a first offense shall result in a fine of not less than two hundred
25 fifty dollars (\$250) and not more than one thousand dollars (\$1,000) per illegal trap
26 or fraudulent tag.

27 (B) Conviction of a second offense shall result in a fine of not less than five
28 hundred dollars (\$500) and not more than two thousand five hundred dollars
29 (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one
30 year.

31 (C) Conviction of a third offense shall result in a fine of not less than one thousand
32 dollars (\$1,000) and not more than five thousand dollars (\$5,000) per illegal trap or
33 fraudulent tag, and the permit may be permanently revoked.

34 (2) The severity of a penalty within the ranges described in this subdivision shall
35 be based on a determination whether the violation was willful or negligent and other
36 factors.

37 (3) The portion of monetary judgments for noncompliance that are paid to the
38 department shall be deposited in the Dungeness Crab Account created pursuant to
39 subdivision (e).

40 (c) For the purposes of this section, a proposed recommendation that receives an
41 affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab
42 task force may be transmitted to the director or the Legislature as a recommendation,
43 shall be considered to be the consensus of the task force, and shall be considered to

1 be evidence of consensus in the Dungeness crab industry. Any proposed
2 recommendation that does not receive a vote sufficient to authorize transmittal to
3 the director or Legislature as a recommendation shall be evidence of a lack of
4 consensus by the Dungeness crab task force, and shall be considered to be evidence
5 of a lack of consensus in the crab industry.

6 (d) The director may modify the program adopted pursuant to subdivision (a), if
7 consistent with the requirements of this section, after consultation with the
8 Dungeness crab task force or its representatives and after the task force has had 60
9 days or more to review the proposed modifications and recommend any proposed
10 changes. The director may implement the modifications earlier than 60 days after it
11 is sent to the Dungeness crab task force for review, if recommended by the task
12 force.

13 (e) The Dungeness Crab Account is hereby established in the Fish and Game
14 Preservation Fund and the fees collected pursuant to this section shall be deposited
15 in that account. The money in the account shall be used as follows:

16 (1) By the department, upon appropriation by the Legislature, for administering
17 and enforcing the program.

18 (2) In each fiscal year through the 2029 fiscal year, upon appropriation by the
19 Legislature, of the amount remaining in the account after an allocation pursuant to
20 paragraph (1), the sum of one hundred fifty thousand dollars (\$150,000), if
21 available, shall be allocated to the council to support the administration and
22 facilitation of the Dungeness crab task force.

23 (f) For purposes of meeting the necessary expenses of initial organization and
24 operation of the program until fees may be collected, or other funding sources may
25 be received, the department may borrow money as needed for these expenses from
26 the council. The borrowed money shall be repaid within one year from the fees
27 collected or other funding sources received. The council shall give high priority to
28 providing funds or services to the department, in addition to loans, to assist in the
29 development of the program, including, but not limited to, the costs of convening
30 the Dungeness crab task force, environmental review, and the department's costs of
31 attending meetings with task force members.

32 (g)(1) It is the intent of the Legislature that the department, the council, and the
33 Dungeness crab task force work with the Pacific States Marine Fisheries
34 Commission and the Tri-State Dungeness Crab Commission to resolve any issues
35 pertaining to moving the fair start line south to the border of California and Mexico.

36 (2) For purposes of this subdivision, the resolution of issues pertaining to the fair
37 start line shall be limited to assessing the positive and negative implications of
38 including District 10 in the tri-state agreement, including working with the Tri-State
39 Dungeness Crab Commission to amend Oregon and Washington laws to include
40 District 10 in the regular season fair start clause, and discussion of providing
41 different rules for District 10 with regard to preseason quality testing.

42 (h) For purposes of this section, "council" means the Ocean Protection Council
43 established pursuant to Section 35600 of the Public Resources Code.

1 (i) This section shall become inoperative on April 1, 2029, and, as of January 1,
2 2030, is repealed, unless a later enacted statute, that becomes operative on or before
3 January 1, 2030, deletes or extends the dates on which it becomes inoperative and
4 is repealed.

5 **Comment.** Section 8276.5 is amended to delete obsolete provisions within the section, and make
6 conforming revisions.

7 **Fish & Game Code § 8494 (amended). Halibut bottom trawl vessel permits**

8 SEC. ____ . Section 8494 of the Fish and Game Code is amended to read:

9 8494. (a) Any vessel using bottom trawl gear in state-managed halibut fisheries,
10 as described in subdivision (a) of Section 8841, shall possess a valid California
11 halibut bottom trawl vessel permit that has not been suspended or revoked and that
12 is issued by the department authorizing the use of trawl gear by that vessel for the
13 take of California halibut.

14 (b) A California halibut bottom trawl vessel permit shall be issued annually, and
15 commencing with the 2006 permit year, ~~and an applicant shall have been~~ shall be
16 issued only to a person who had been issued a California halibut bottom trawl vessel
17 permit in the immediately preceding permit year.

18 (c) Permits issued pursuant to this section may be transferred only if at least one
19 of the following occur:

20 (1) The commission adopts a restricted access program for the fishery that is
21 consistent with the commission's policies regarding restricted access to commercial
22 fisheries.

23 (2) (A) Before the implementation of a halibut trawl restricted access program,
24 the department may consider requests from a vessel permitholder or the
25 permitholder's conservator or estate representative, as applicable, to transfer a
26 vessel permit to a vessel consistent with the requirements of subparagraph (B) or
27 (C). The department may request information that it determines is reasonably
28 necessary from the permitholder or the permitholder's conservator or heirs or estate
29 for the purpose of verifying statements in the request before authorizing the transfer
30 of the permit.

31 (B) The department may approve the transfer of a California halibut bottom trawl
32 vessel permit to a replacement vessel if all of the following requirements are met:

33 (i) In the form of a notarized application, the permitholder submits to the
34 department a request for the transfer of a California halibut bottom trawl vessel
35 permit to another vessel owned by the permitholder.

36 (ii) The permitholder provides a current United States Coast Guard certificate of
37 documentation or vessel marine survey to the department for the permitted vessel
38 and replacement vessel.

39 (iii) Based on the information provided pursuant to clause (ii), the department
40 determines that the replacement vessel is equal to or less than the capacity of the
41 permitted vessel.

1 (iv) The department determines the California halibut bottom trawl vessel permit
2 for the permitted vessel is valid and has not been suspended or revoked.

3 (v) If applicable, the department receives written confirmation from the
4 replacement vessel's owner or authorized agent, or mortgager, of the vessel's
5 participation in the transfer of the California halibut bottom trawl vessel permit.

6 (vi) The replacement vessel is registered with the department pursuant to Section
7 7881 at the time the application is submitted pursuant to clause (i).

8 (C) The department may approve the transfer of a California halibut bottom trawl
9 vessel permit to another person if all of the following requirements are met:

10 (i) In the form of a notarized application, the permitholder or the permitholder's
11 conservator or estate submits to the department a request to transfer a California
12 halibut bottom trawl vessel permit to another person.

13 (ii) If the permitholder's estate submits a request pursuant to clause (i), the estate
14 submits the notarized application to the department within one year of the death of
15 the permitholder as listed on the death certificate.

16 (iii) A current United States Coast Guard certificate of documentation or vessel
17 marine survey is provided to the department for the permitted vessel and vessel to
18 be used by the proposed transferee.

19 (iv) Based on the information provided pursuant to clause (iii), the department
20 determines that the vessel to be used by the proposed transferee is equal to or less
21 than the capacity of the permitted vessel.

22 (v) The proposed transferee meets both of the following requirements:

23 (I) The person has a valid commercial fishing license issued pursuant to Section
24 7852 that has not been suspended or revoked.

25 (II) The person is the owner of a commercial fishing vessel that is registered with
26 the department pursuant to Section 7881 and that registration has not been
27 suspended or revoked.

28 (vi) The permit for the permitted vessel is current, and the permitholder or the
29 permitholder's conservator or estate submitting the application is responsible for
30 any renewal of the permit that becomes due during the application processing
31 period.

32 (vii) Under penalty of perjury, the permitholder or the permitholder's conservator
33 or estate signs the application for transfer and certifies that the information included
34 is true to the best of the permitholder's information and belief.

35 (D) Any applicant who is denied transfer pursuant to this paragraph may appeal
36 the denial in writing describing the basis for the appeal to the commission within 60
37 days from the date of the department's decision.

38 (d) The commission shall establish California halibut bottom trawl vessel permit
39 fees based on the recommendations of the department and utilizing the guidelines
40 outlined in subdivision (b) of Section 711 to cover the costs of administering this
41 section. Before the adoption of a restricted access program pursuant to subdivision
42 (c), fees may not exceed one thousand dollars (\$1,000) per permit.

1 (e) Individuals holding a federal groundfish trawl permit may retain and land up
2 to 150 pounds of California halibut per trip without a California halibut trawl permit
3 in accordance with federal and state regulations, including, but not limited to,
4 regulations developed under a halibut fishery management plan.

5 (f) This section shall become inoperative upon the adoption by the commission of
6 a halibut fishery management plan in accordance with the requirements of Part 1.7
7 (commencing with Section 7050).

8 (g) The commission may adopt regulations to implement this section.

9 **Comment.** Subdivision (b) of Section 8494 is amended to clarify its meaning.

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

12 SEC. ____ . Section 8625 of the Fish and Game Code is amended to read:

13 8603. It is unlawful to use or operate or assist in using or operating any net, trap,
14 line, spear, or appliance, other than in connection with angling, in taking fish, except
15 as ~~provided in this chapter or Chapter 4 of this part~~ authorized by this code.

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

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

19 SEC. ____ . Section 8606.1 of the Fish and Game Code is repealed.

20 ~~8606.1. (a) The Legislature finds and declares that the use of nearshore trawl nets~~
21 ~~was authorized through the experimental gear permit process and the alternative~~
22 ~~gear development program as a potential alternative to the use of gill and trammel~~
23 ~~nets in areas where the use of that gear type has been prohibited.~~

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

26 **Comment.** Section 8606.1 is repealed as obsolete.

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

28 SEC. ____ . Section 8625 of the Fish and Game Code is amended to read:

29 8625. (a) Except as otherwise provided in this code, set gill nets and trammel nets
30 with mesh size of not less than 8½ inches may be used to take California halibut.

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

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

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

2 **Comment.** Section 8625 is amended to delete obsolete material.

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

4 SEC. _____. Section 8626 of the Fish and Game Code is amended to read:

5 8626. (a) Notwithstanding Section 8625, and where consistent with the
6 determination made pursuant to subdivisions (b) and (c), the director may reduce
7 the minimum mesh size permitted for gill and trammel nets used to take California
8 halibut from 8½ inches to not less than 8 inches in any or all areas south of a line
9 extending 240° magnetic from the boundary line between the Counties of Los
10 Angeles and Ventura.

11 (b) If, on or before October 1, 1990, the department determines that commercial
12 landings of California halibut taken south of the line extending 240° magnetic from
13 the boundary line between the Counties of Los Angeles and Ventura in the period
14 between September 1, 1989, and August 31, 1990, decline by 10 percent or more
15 compared with landings of California halibut taken in this area during the period
16 between September 1, 1988, and August 31, 1989, the department shall assess the
17 impact of the 8½ inch minimum mesh size restriction on the California halibut
18 fishery in the area described in subdivision (a). The assessment shall include, but is
19 not limited to, an analysis of landing data, including landings of California halibut
20 in Los Angeles, Orange, and San Diego Counties, the age and size composition of
21 the catch, and the department's monitoring at sea of the gill and trammel net fishery.

22 (c) If the department determines that the 8½ inch minimum mesh size, established
23 pursuant to Section 8625 has directly resulted in a decline of 10 percent or more in
24 landings of California halibut south of the line extending 240° magnetic from the
25 boundary between the Counties of Los Angeles and Ventura, the director shall hold
26 a public hearing in the area affected to make findings and take public testimony
27 prior to taking any action pursuant to subdivision (a).

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

29 **Comment.** Section 8626 is amended to delete obsolete material.

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

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

32 8752. In Districts 6, 7, 8, 9, 10, and 11, ~~purse and~~ round haul nets may be used.

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

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

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

37 8754. (a) In Districts 16, 17, 18, and 19, ~~purse and~~ round haul nets may be used,
38 except that purse seines or ring nets may not be used in that portion of District 19
39 lying within three miles offshore from the line of the high-water mark along the
40 coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to
41 September 10, inclusive.

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

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

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

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

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

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

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

12 SEC. ____ . Section 8755 of the Fish and Game Code is amended to read:

13 8755. In Districts 20A and 21, ~~purse and~~ round haul nets may be used.

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

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

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

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

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

32 SEC. ____ . Section 8756 of the Fish and Game Code is amended to read:

33 8756. Salmon, steelhead, striped bass, or shad may not be taken with ~~purse or~~
34 round haul nets.

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

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

38 SEC. ____ . Section 8780 of the Fish and Game Code is amended to read:

39 8780. (a) As used in this chapter, the term “bait net” means a lampara or round
40 haul type net, the mesh of which is constructed of twine not exceeding Standard No.
41 9 medium cotton seine twine or synthetic twine of equivalent size or strength.
42 Notwithstanding Section 8757, except for drum seines and other round haul nets

1 authorized under a permit issued by the department pursuant to this section, the nets
2 may not have rings along the lead line or any method of pursing the bottom of the
3 net.

4 (b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13,
5 16, 17, 18, 19, ~~19A~~, 19B, 20A, 21, 118, and 118.5.

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

9 (d) No other species of fish may be taken on any boat carrying a bait net in District
10 19A, except that loads or lots of fish may contain not more than 18 percent, by
11 weight of the fish, of other bait fish species taken incidentally to other fishing
12 operations and that are mixed with other fish in the load or lot.

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

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

17 SEC. ____ . Section 8841 of the Fish and Game Code is amended to read:

18 8841. (a) The commission is hereby granted authority over all state-managed
19 bottom trawl fisheries not managed under a federal fishery management plan
20 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
21 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7
22 (commencing with Section 7050), to ensure that resources are sustainably managed,
23 to protect the health of ecosystems, and to provide for an orderly transition to
24 sustainable gear types in situations where bottom trawling may not be compatible
25 with these goals.

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

- 29 (1) California halibut.
- 30 (2) Sea cucumber.
- 31 (3) Ridge-back, spot, and golden prawn.
- 32 (4) Pink shrimp.

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

37 (d) Every commercial bottom trawl vessel issued a state permit is subject to the
38 requirements and policies of the federal groundfish observer program (50 C.F.R.
39 660.360).

40 (e) The commission may only authorize additional fishing areas for bottom trawls
41 after it determines, based on the best available scientific information, that bottom

1 trawling in those areas is sustainable, does not harm bottom habitat, and does not
2 unreasonably conflict with other users.

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

5 (g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or
6 pink shrimp, unless an approved bycatch reduction device is used with each net. On
7 or before April 1, 2006, the commission shall approve one or more bycatch
8 reduction devices for use in the bottom trawl fishery. For purposes of this
9 subdivision, a rigid grate fish excluder device is the approved type of bycatch
10 reduction device unless the commission, the Pacific Marine Fishery Management
11 Council, or the National Marine Fisheries Service determines that a different type
12 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
13 the commission does not approve a bycatch reduction device prior to April 1, 2006,
14 then a device that is approved by the Pacific Marine Fishery Management Council
15 or the National Marine Fisheries Service shall be deemed approved by the
16 commission.

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

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

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

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

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

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

36 Subdivision (k) is deleted as obsolete.

37 **Fish & Game Code § 9001.7 (amended). Taking of finfish**

38 SEC. ____ . Section 9001.7 of the Fish and Game Code is amended to read:

39 9001.7. Finfish, other than sablefish and hagfish, may be taken under a general
40 trap permit if all of the following criteria are also met:

41 (a) Every person aboard the vessel possesses a valid general trap permit that has
42 not been suspended or revoked.

1 (b) If nearshore species are present, at least one person aboard the vessel possesses
2 a valid nearshore fishery permit and a nearshore fishery trap endorsement that has
3 not been suspended or revoked.

4 (c) If deeper nearshore species are present, at least one person aboard the vessel
5 possesses a valid deeper nearshore species fishery permit that has not been
6 suspended or revoked.

7 (d) During the period from one hour after sunset to one hour before sunrise, finfish
8 traps that are left in the water shall be unbaited with the door secured open. If, for
9 reasons beyond the control of the permittee, all trap doors cannot be secured open
10 prior to one hour after sunset, the permittee shall immediately notify the department.

11 (e) Poppers shall not be used on buoy lines attached to finfish traps, and shall not
12 be possessed aboard a vessel when taking finfish under a general trap permit.

13 (f) Trap destruction devices used on finfish traps shall conform to the current
14 regulatory requirements for those devices pursuant to Section 9003 and as adopted
15 by the commission.

16 (g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in
17 District 6, 7, 17, 18, 19, 19A, 19B, 20, 20A, 20B, or 21.

18 (h) No more than 50 finfish traps may be used in state waters along the mainland
19 shore.

20 (i) The mesh of any finfish trap used pursuant to this section shall measure not
21 less than two inches by two inches.

22 (j) The following fish shall not be used as bait in finfish traps:

23 (1) Lobster.

24 (2) Crabs of the genus cancer, except rock crab, yellow crab, and red crab, as
25 identified in Section 8282, which may be used as bait under the authority of a rock
26 crab trap permit issued pursuant to Section 8282.

27 (3) Any other finfish or invertebrate to which a minimum size limit applies that is
28 used or possessed in a condition so that its size can not be determined.

29 (k) Lobster may be possessed aboard or landed from any vessel on which finfish
30 are also present, if every person aboard the vessel has a valid lobster permit that has
31 not been suspended or revoked, and complies with Article 5 (commencing with
32 Section 8250) of Chapter 2 ~~of the Fish and Game Code~~, this article, and the
33 regulations adopted pursuant thereto.

34 **Comment.** Subdivision (k) of Section 9001.7 is amended to clarify its meaning.

35 **Fish & Game Code § 9011 (amended). Dungeness and rock crab traps**

36 SEC. ____ . Section 9011 of the Fish and Game Code is amended to read:

37 9011. (a) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2,
38 Dungeness crab, as defined in Section 8275, may be taken with Dungeness crab
39 traps.

40 (2) A Dungeness crab trap may have any number of openings of any size.
41 However, every Dungeness crab trap shall have at least two rigid circular openings
42 of not less than 4¹/₄ inches, inside diameter, on the top or side of the trap. If both of

1 the openings are located on the side of the trap, at least one of the openings shall be
2 located so that at least one-half of the opening is in the upper half of the trap.

3 (3) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab
4 may be taken incidentally with a Dungeness crab trap used pursuant to this
5 subdivision to take Dungeness crab, provided that the incidental taking occurs only
6 during the season when it is lawful to take both species. A rock crab, taken
7 incidentally with a Dungeness crab trap, that does not comply with Article 6
8 (commencing with Section 8275) of Chapter 2, shall be immediately returned to the
9 waters from which it was taken.

10 (b) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock
11 crab, as defined in Section 8275, may be taken with rock crab traps.

12 (2) A rock crab trap may have any number of openings of any size. However, a
13 rock crab trap constructed of wire mesh with an inside mesh measurement of not
14 less than $1\frac{7}{8}$ inches by $3\frac{7}{8}$ inches, with the $3\frac{7}{8}$ inch measurement parallel to the
15 floor, shall have at least one rigid circular opening of not less than $3\frac{1}{4}$ inches, inside
16 diameter, located on any outside wall of the rearmost chamber of the crab trap and
17 shall be located so that at least one-half of the opening is in the upper half of the
18 trap. Rock crab traps constructed of other material shall have at least two rigid
19 circular openings of not less than $3\frac{1}{4}$ inches, inside diameter, on the top or side of
20 the rearmost chamber of the trap. If both of the openings are located on the side of
21 the trap, at least one of the openings shall be located so that at least one-half of the
22 opening is in the upper half of the trap. No rigid circular opening, as required, shall
23 extend more than $\frac{1}{2}$ inch beyond the plane of the wall side or top of the trap in
24 which it is located, and it shall be clearly accessible to any crab which may be in the
25 trap.

26 (3) Subject to Article 6 (commencing with Section 8275) of Chapter 2, Dungeness
27 crab may be taken incidentally with a rock crab trap used pursuant to this
28 subdivision to take rock crab, provided that the incidental taking occurs only during
29 the season when it is lawful to take both species. A Dungeness crab, taken
30 incidentally with a rock crab trap, that does not comply with Article 6 (commencing
31 with Section 8275) of Chapter 2, shall be immediately returned to the waters from
32 which it was taken.

33 (4) A person shall not possess any lobster aboard a vessel while the vessel is being
34 used pursuant to this subdivision to take rock crab.

35 ~~(c) On or before January 1, 2013, the department shall report to the appropriate~~
36 ~~policy and fiscal committees of the Legislature the impacts, if any, of the changes~~
37 ~~made to this section by Chapter 478 of the Statutes of 2009. The report shall include~~
38 ~~information about citations issued pursuant to this section relating to both rock crab~~
39 ~~and Dungeness crab for the years 2010 to 2012, inclusive.~~

40 **Comment.** Section 9011 is amended to delete subdivision (c) of the section as obsolete.

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

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

1 9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be
2 used to take mollusks, sand crabs, and shrimps in Districts 1, 1½, 2, 2½, 3, 3½, 4,
3 4½, 4¾, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as
4 specified in ~~Sections~~ Section 7332 and ~~8303~~, and except that freshwater clams shall
5 not be taken by means of such appliances on any levee or on the berm of any levee.

6 **Comment.** Section 9050 is amended to delete obsolete material.

7 **Fish & Game Code § 10000 (amended). Required license**

8 SEC. _____. Section 10000 of the Fish and Game Code is amended to read:

9 10000. (a) Every person engaged in the business of canning, curing, preserving,
10 packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon
11 for human consumption shall obtain a sturgeon egg processing license from the
12 department for that purpose. The license required by this division is in addition to
13 any other license, permit, or other authorization required by this code or by any
14 other provision of law.

15 (b) Possession of a sturgeon egg processing license issued pursuant to this
16 division authorizes the licensee to can, cure, preserve, pack, or otherwise process,
17 or deal at wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully
18 taken or lawfully possessed pursuant to Section 7230 or ~~8371~~ 7370.

19 **Comment.** Subdivision (b) of Section 10000 is amended to reflect the effect of prior legislation
20 relocating regulation of sturgeon eggs to Section 7370.

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

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

23 11018. The following constitutes Fish and Game District 10:

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

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

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

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

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

38 12001.5. (a) In addition to any other penalty or fine imposed pursuant to this code,
39 if a person has been convicted of one or more offenses that was a violation of a
40 section listed in subdivision (b) separate from the offense before the court, the court

1 may order as a condition of probation upon conviction of the offense before the
2 court that is also a violation of a section listed in subdivision (b), that the person
3 attend the hunter education course designated in Section 3051 and perform
4 community service, preferably relating to natural resources if that type of
5 community service is available, as follows:

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

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

10 (b) This section applies to violations relating to a taking in Sections 3007, ~~3700~~
11 3700.1, 4330, and 4750, and a sale or purchase of parts of a bear in Section 4758.

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

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

14 SEC. ____ . Section 12002 of the Fish and Game Code is amended to read:

15 12002. (a) Unless otherwise provided, the punishment for a violation of this code
16 that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000),
17 imprisonment in a county jail for not more than six months, or by both that fine and
18 imprisonment.

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

22 (1) Section 1059.

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

24 (3) Section 4600.

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

26 (5) A first violation of Section 8670.

27 (6) Section 10500.

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

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

34 (d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege
35 issued pursuant to this code to a defendant who fails to appear at a court hearing for
36 a violation of this code, or who fails to pay a fine imposed pursuant to this code,
37 shall be immediately suspended or revoked. The license, tag, stamp, reservation,
38 permit, or other entitlement or privilege shall not be reinstated or renewed, and no
39 other license, tag, stamp, reservation, permit, or other entitlement or privilege shall
40 be issued to that person pursuant to this code, until the court proceeding is completed
41 or the fine is paid.

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

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

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

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

7 12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of
8 the following is an infraction, punishable by a fine of not less than fifty dollars (\$50),
9 or more than two hundred fifty dollars (\$250), for a first offense:

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

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

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

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

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

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

27 **Comment.** Section 12002.2.1 is amended to delete obsolete material.

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

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

30 12023. (a) Notwithstanding ~~Section~~ Sections 12002 and 12007, any person who
31 violates Section 6400 through the use of an aquatic nuisance species, as defined in
32 Section 6431, is guilty of a misdemeanor, punishable by all of the following:

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

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

38 (b) A person who personally or through another violates Section 6400, through
39 the use of an aquatic nuisance species, is liable to the owner of any privately or
40 publicly owned property for any damages to that property caused by the violation.
41 A person who violates Section 6400 through the use of an aquatic nuisance species

1 shall also be liable for all monetary damages directly, indirectly, and proximately
2 caused thereby, including, but not limited to, damages to any commercial fishery,
3 sport fishery, or to the public communities which depend upon those fisheries for a
4 portion of their annual income. The Attorney General may file a civil action on
5 behalf of the fisheries or communities that are damaged as a result of the violation.
6 In addition, a private citizen who suffers damages as a result of the violation may
7 file a civil action against the violator.

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

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

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

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

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

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

24 SEC. _____. Section 15700 of the Fish and Game Code is amended to read:

25 15700. The director shall appoint an Aquaculture Development Committee
26 consisting of the following persons:

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

29 (b) One member representing the department, two members from and chosen by
30 the University of California, one with expertise in aquaculture science and one with
31 expertise in outreach to the fisheries community, and one member each from and
32 chosen by the Department of Food and Agriculture, the California Coastal
33 Commission, the State Lands Commission, the State Water Resources Control
34 Board, the ~~State Department of Health Services~~ State Department of Public Health,
35 and the Joint Legislative Committee on Fisheries and Aquaculture. The member of
36 the committee appointed by the Joint Legislative Committee on Fisheries and
37 Aquaculture shall meet and, except as otherwise provided by the California
38 Constitution, advise the committee to the extent that this advisory participation is
39 not incompatible with ~~his or her~~ their position as a Member of the Legislature.

1 **Comment.** Section 15700 is amended to update an obsolete reference to the State Department
2 of Health Services. See Health & Safety Code Sections 20 and 131052(6).
3 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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