

Memorandum 2022-54

Fish and Game Law (Draft Recommendation)

At the Commission's¹ September meeting, in connection with discussion of its work priorities for 2023, the staff recommended that work on the Fish and Game reform proposal be accelerated, with an eye toward completion in 2022. This would allow for the introduction of implementing legislation in 2023 and would free up staff resources that will be urgently needed for a major expansion of the Commission's legislatively-assigned work. To effectuate that approach, the staff decided to prepare a draft recommendation for the Commission's consideration. It is attached.

If the Commission approves the draft, with or without changes, the staff will work with the Legislature to seek implementing legislation in 2023.

The content of the attached draft falls into two broad procedural postures.² First, the draft includes proposed changes that have been fully approved by the Commission, with the concurrence of the Department of Fish and Wildlife ("DFW"). There is no obvious need for any further review or approval of those proposals.

Second, the draft includes proposed changes that have been approved by the Commission and approved by DFW as to *substance*, but have not yet been

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. In the draft, the following Fish and Game Code provisions has been updated to reflect changes made by legislation in 2021 and 2022: §§ 3004.5 (2022 Cal. Stat. ch. 469); 3700.1 (2021 Cal. Stat. ch. 521); 4651 (2022 Cal. Stat. ch. 469); 4654 (2022 Cal. Stat. ch. 469); 5650.1 (2022 Cal. Stat. ch. 56); 7149.05 (2021 Cal. Stat. ch. 607); 8276.5 (2021 Cal. Stat. ch. 757); 12017 (2022 Cal. Stat. ch. 258). The following provisions were removed from the draft, because legislation obviated the need for the recommended reform: §§ 3040 (2021 Cal. Stat. ch. 413); 3701 (2021 Cal. Stat. ch. 521); 4304 (2022 Cal. Stat. ch. 469).

The changes described here only include legislation that was chaptered before September 1, 2022. When the final table of sections affected by legislation in 2022 is available, it may show that further adjustments are needed to conform to legislative changes. If so, those adjustments would be presented to the Commission for review and approval.

approved by DFW as to the *implementing language*. Sections that fall into that posture have been temporarily marked with the “•” symbol in section headings and in the table of contents to make them easier to identify. The staff requests that DFW examine those sections before the November meeting, if possible, and let the Commission know whether any of the implementing language would be problematic.

Any new input that is received before the November meeting will be presented in supplements to this memorandum.

The staff will also be checking whether any existing cross-references need to be adjusted to reflect changes made in the draft. If so, those purely technical adjustments will also be presented in a supplement before the November meeting.

There are also around 25 proposed changes that are still under discussion with DFW. *Those changes are not included in the attached draft.* If agreement regarding any of those changes is reached before the November meeting, implementing language will be presented in a supplement to this memorandum, for possible incorporation into the draft.

The November meeting will not be the last opportunity to make changes to the recommendation. The topic could be revisited at the Commission’s January 2023 meeting, to discuss further adjustments.

Please note that the narrative part of the attached draft includes a brief discussion of the definition of “fish,” pursuant to a Commission decision at its September meeting.³ Part of the language has been temporarily placed in brackets; it goes a bit farther than what was discussed at the September meeting. It should be considered provisional.

The Commission needs to decide whether to approve the attached draft as a final recommendation, with or without changes (with the understanding that its content could still be amended at the January 2023 meeting).

Respectfully submitted,

Brian Hebert
Executive Director

3. See Minutes (Sept. 2022), p. 4 (under “Commissioner Suggestions”).

#R-100

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

RECOMMENDATION

Fish and Game Law: Technical Revisions and Minor
Substantive Improvements (Part 3)

November 2022

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
<commission@clrc.ca.gov>

SUMMARY OF RECOMMENDATION

This recommendation proposes numerous technical revisions to improve the expression of various Fish and Game Code provisions.

It was prepared pursuant to Resolution Chapter 108 of the Statutes of 2021.

FISH AND GAME CODE CLEAN-UP

1 In 2010, the Legislature directed the Secretary of the Natural Resources Agency
2 to convene a committee to develop and submit a “strategic vision” for the Fish and
3 Game Commission and the Department of Fish and Game (now the Department of
4 Fish and Wildlife).¹ The resulting report recommended, among other things, that the
5 Law Revision Commission be tasked with cleaning up the Fish and Game Code by
6 doing all of the following:

7 (1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate unused and
8 outdated code sections; (4) consolidate sections creating parallel systems and
9 processes; and (5) restructure codes to group similar statutes and regulations.²

10 In 2012, the Legislature acted on that recommendation, authorizing the
11 Commission to conduct the requested study:

12 [The] Legislature approves for study by the California Law Revision
13 Commission the new topic listed below:

14 Whether the Fish and Game Code and related statutory law should be revised to
15 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
16 unnecessary or obsolete provisions, standardize terminology, clarify program
17 authority and funding sources, and make other minor improvements, without
18 making any significant substantive change to the effect of the law[.]³

19 In order to achieve the greatest degree of improvement to the organization and
20 expression of the Fish and Game Code, the Commission decided to prepare a
21 recommendation that would repeal the existing code and replace it with a new Fish
22 and Wildlife Code. The new code would continue the entire substance of the former
23 code with a more user-friendly organization, without making any significant
24 substantive change to the effect of existing law. In the process of preparing the
25 proposed new code, the Commission would identify technical problems of the type
26 described above (e.g., ambiguity, redundancy, inconsistency) and prepare language
27 to cure them. There were no objections to that general approach and the Department
28 of Fish and Wildlife provided valuable assistance in the early framing of the work.⁴

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. 2012 Cal. Stat. res. ch. 108.

4. See, e.g., Second Supplement to CLRC Staff Memorandum 2013-11, available at <http://clrc.ca.gov/pub/2013/MM13-11s2.pdf>; CLRC Staff Memorandum 2013-30, available at <http://clrc.ca.gov/pub/2013/MM13-30.pdf>; CLRC Staff Memorandum 2013-31, available at <http://clrc.ca.gov/pub/2013/MM13-31.pdf>; First Supplement to CLRC Staff Memorandum 2013-37, available at <http://clrc.ca.gov/pub/2013/MM13-37s1.pdf>; CLRC Staff Memorandum 2013-49, available at <http://clrc.ca.gov/pub/2013/MM13-49.pdf>; First Supplement to CLRC Staff Memorandum 2013-50, available at <http://clrc.ca.gov/pub/2013/MM13-50s1.pdf>.

1 In conducting its work, the Commission identified some technical defects that
2 could be addressed immediately, without waiting until the entire recodification draft
3 had been completed. Two omnibus recommendations were approved to address
4 those issues.⁵ Both proposals were enacted into law.⁶

5 In 2018, the Commission released a tentative recommendation proposing the new
6 Fish and Wildlife Code.⁷ The original deadline for public comment on the proposed
7 law was January 1, 2020. The deadline for comment on technical revisions was later
8 extended by another year, and the deadline for comment on organizational changes
9 was extended by 18 months, at the request of the Department of Fish and Wildlife.⁸

10 In January 2021, the Fish and Game Commission (“FGC”) and Department of
11 Fish and Wildlife (“DFW”) provided written comments on a large number of the
12 technical revisions that were proposed in the tentative recommendation. This
13 recommendation is substantially informed by that input.

14 In June 2021, the Department of Fish and Wildlife informed the Commission that
15 it would not support the proposed reorganization of the Fish and Wildlife Code. It
16 explained its view that reorganization would be “likely to result in confusion at best,
17 and at worst, a Code that is difficult to use and not supported by the department that
18 is charged with its administration and enforcement.”⁹

19 The Commission considered restructuring its work on organizational
20 improvement, to minimize the transitional costs and other disadvantages that occur
21 when any body of existing statutory law is reorganized. Instead of enacting an
22 entirely new code, the Commission considered preparing a series of targeted
23 reorganization proposals, to improve the organization of disordered parts of the
24 existing Fish and Game Code.¹⁰ That kind of incremental improvement would
25 reduce the transitional disruption, by implementing it in a series of smaller reforms.

26 DFW did not support that alternative approach, making clear that it would not
27 support any Commission work to reorganize the Fish and Game Code. Nor would
28 it provide any assistance, if the Commission were to proceed with such work.¹¹ A

5. See *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 1)*, 44 Cal. L. Revision Comm’n Reports 115 (2015); *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 2)*, 44 Cal. L. Revision Comm’n Reports 349 (2015).

6. See 2015 Cal. Stat. ch. 154; 2016 Cal. Stat. ch. 546.

7. See Tentative Recommendation on Fish and Wildlife Code (Dec. 2018), available at <http://clrc.ca.gov/pub/Misc-Report/TR-R100-Full.pdf>.

8. See CLRC Staff Memorandum 2019-44, Exhibit pp. 1-2, available at <http://www.clrc.ca.gov/pub/2019/MM19-44.pdf>.

9. See, e.g., CLRC Staff Memorandum 2021-33, available at <http://clrc.ca.gov/pub/2021/MM21-33.pdf>.

10. See, e.g., CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2013/MM13-30.pdf>; First Supplement to CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30s1.pdf>.

11. See, e.g., Fifth Supplement to CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30s5.pdf>.

1 variety of stakeholder groups wrote jointly to endorse DFW’s position.¹² No
2 stakeholder group wrote in support of reorganization.

3 In response to that input, the Commission decided to set aside its efforts to
4 improve the organization of the code. That decision was based on a combination of
5 deference to DFW as the agency charged with administration of the Fish and Game
6 Code¹³ and practical recognition that an effort to improve the organization of the
7 Fish and Game Code would likely fail without the support and assistance of DFW
8 and with coordinated opposition by stakeholder groups.

9 This recommendation proposes technical revisions to existing sections within the
10 Fish and Game Code. It does not recommend any changes to the organization of the
11 Fish and Game Code.

12 A NOTE ON THE DEFINITION OF “FISH”

13 The existing definition of “fish,” which applies to the entire Fish and Game Code,
14 includes animals that are not classified zoologically as fish (i.e., invertebrates and
15 amphibians).¹⁴ Unfortunately, it is not clear that every use of the defined term “fish”
16 is intended to have that broadly defined meaning.¹⁵ Moreover, there is no term that
17 can be used to refer only to animals that are classified zoologically as fish.

18 The Commission recognized these problems very early in its study of Fish and
19 Game law.¹⁶ However, it concluded that it could not address the problem without
20 risking significant substantive change throughout the code, which would violate an
21 express limitation on the Commission’s authority on this topic.¹⁷

22 The term “fish” is used in hundreds of Fish and Game Code sections. The
23 ambiguity described above could exist in any of them. Eliminating that ambiguity
24 would require hundreds of separate statutory interpretation analyses, usually
25 without the benefit of any extrinsic evidence of legislative intent. It seems inevitable
26 that such work would result in inadvertent substantive change.

12. See, e.g., Third Supplement to CLRC Staff Memorandum 2022-30 *available at* <http://clrc.ca.gov/pub/2022/MM22-30s3.pdf>; Fourth Supplement to CLRC Staff Memorandum 2022-30 *available at* <http://clrc.ca.gov/pub/2022/MM22-30s4.pdf>.

13. Early in this study, the Commission adopted a posture of deference to the Fish and Game Commission and Department of Fish and Wildlife on matters of administration of fish and game law. See, e.g., CLRC Staff Memorandum 2013-30 *available at* <http://clrc.ca.gov/pub/2013/MM13-30.pdf>.

14. See Fish & Game Code § 45.

15. Fish and Game Code Section 2 makes Section 45 applicable to the entire code, except where “the provisions or the context otherwise requires....”

16. See CLRC Staff Memorandum 2013-12 *available at* <http://clrc.ca.gov/pub/2013/MM13-12.pdf>.

17. See 2021 Cal. Stat. res. ch. 108 (Commission shall recommend improvements to Fish and Game Code “without making any significant substantive change to the effect of the law.”). The Commission’s decision to leave the definition of “fish” unchanged was supported by the Department of Fish and Wildlife. See CLRC Staff Memorandum 2013-30, Exhibit p. 3 *available at* <http://clrc.ca.gov/pub/2013/MM13-30.pdf>.

1 The question about whether to apply the statutory definition of “fish” recently
2 resurfaced in *Almond Alliance of California v. California Fish and Game*
3 *Commission*.¹⁸ In that case, the Almond Alliance of California challenged a decision
4 of the Fish and Game Commission to apply the California Endangered Species Act
5 (“CESA”) to bees (because CESA expressly applies to “fish” and the general
6 statutory definition of “fish” expressly includes invertebrates). The Court of Appeal
7 held that the definition of “fish” in Section 45 governs CESA. Consequently, CESA
8 applies to invertebrates (including terrestrial invertebrates like bees). The California
9 Supreme Court did not grant review. However, the Chief Justice suggested that it
10 might be appropriate for the Legislature to examine the issue.¹⁹

11 [Rather than trying to solve the problem for the entire Fish and Game Code, the
12 Legislature might consider a narrower change. It could codify the holding in *Almond*
13 *Alliance*. This could be done by adding a new Fish and Game Code Section 2063.5,
14 along these lines:

15 2063.5. “Fish” has the meaning provided in Section 45, which includes
16 invertebrates. Nothing in this section is intended to affect the meaning of “fish” in
17 any other provision of this code or any regulation adopted pursuant to this code.

18 The Legislature could also revise the law to achieve a different substantive result,
19 if it does not agree that CESA should apply to invertebrates.]

18. *Almond All. of California v. Fish & Game Comm’n* (2022), 79 Cal.App.5th 337, 366, *review denied* (Sept. 21, 2022), *republished with additional material at* 2022 WL 4374847 (Cal. Ct. App. May 31, 2022), *review denied* (Sept. 21, 2022).

19. *Almond All. of California v. Fish & Game Comm'n*, No. C093542, 2022 WL 4374847, at *18 (Cal. Ct. App. May 31, 2022), *review denied* (Sept. 21, 2022).

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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 § 308 (amended). Restricted take in District 22**

10 SEC. _____. Section 308 of the Fish and Game Code is amended to read:

11 308. Notwithstanding any other provisions of this code, in District 22 the taking
12 of birds, mammals, fish, ~~amphibia~~ amphibians, or reptiles shall be subject to
13 regulations ~~prescribed~~ adopted, from time to time, by the commission, except that
14 it is unlawful in District 22 to take birds or mammals within one-eighth mile of any
15 gallinaceous guzzler, if the area surrounding it is posted in the manner prescribed
16 by the commission. In the Colorado River, in District 22, the commission may
17 ~~prescribe such~~ adopt regulations in agreement with the proper authorities of the
18 State of Arizona.

19 **Comment.** Section 308 is amended for clarity.

20 • **Fish & Game Code § 315.3 (amended). Opening identified waters to take**

21 SEC. _____. Section 315.3 of the Fish and Game Code is amended to read:

22 315.3. The commission may, ~~at any time when facts are presented to the~~
23 ~~commission which were not presented to the commission at the time of its December~~
24 ~~meeting held pursuant to Section 209~~, open any stream, lake, or other inland waters,
25 or portions thereof, to the taking of any species or subspecies of fish for the proper
26 utilization of the fish, for such time as the commission may designate or until such
27 time as new legislation thereon enacted by the Legislature may become effective.

28 **Comment.** Section 315.3 is amended to delete reference to an obsolete procedure.

29 • **Fish & Game Code § 355 (amended). Commission regulations relating to Migratory Bird**
30 **Treaty Act**

31 SEC. _____. Section 355 of the Fish and Game Code is amended to read:

32 355. (a) The commission may, annually, adopt regulations pertaining to migratory
33 birds to conform with or to further restrict the rules and regulations prescribed
34 pursuant to the Migratory Bird Treaty Act.

1 (b) Regulations adopted under this section are not subject to Sections 11343.4,
2 11346.1, 11346.4, and 11346.8 of the Government Code.

3 (c) Every regulation of the commission adopted pursuant to this article ~~shall be~~
4 ~~filed with the Secretary of State, and~~ shall become effective upon filing, unless
5 otherwise specified in the regulations.

6 **Comment.** Section 355 is amended to add subdivision designations, and delete superfluous text.
7 See Gov't Code Section 11343 (generally requiring all regulations adopted by a state agency to be
8 filed with the Secretary of State).

9 • **Fish & Game Code § 356 (amended). Commission regulations relating to migratory birds**

10 SEC. _____. Section 356 of the Fish and Game Code is amended to read:

11 356. (a) Migratory game birds may be taken in conformity with the federal laws
12 and regulations and the regulations of the commission ~~as provided in Section 355~~
13 ~~adopted pursuant to this article.~~

14 (b) In the event no regulations are prescribed by the proper federal agency, the
15 commission may determine and fix the area or areas, the seasons and hours, the
16 species, the bag and possession limits, and the total number that may be taken during
17 any open season for the taking of migratory game birds, under such ~~rules and~~
18 regulations as the commission may ~~prescribe~~ adopt. Such ~~rules and~~ regulations as
19 the commission may ~~prescribe~~ adopt shall have the same effect as if enacted by the
20 Legislature.

21 **Comment.** Section 356 is amended to clarify the intended meaning of the section. The section
22 is also amended to add subdivision designations.

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

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

25 398. The base year for determining the inflationary index applied to the fee
26 established by Section 396 shall be the 1984-85 fiscal year, ~~and the base year for~~
27 ~~determining the inflationary index to be applied to the fee established by Section~~
28 ~~397 shall be the 1985-86 fiscal year.~~

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

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

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

32 456. The department shall biennially report to the Legislature and to the Fish and
33 Game Commission on the progress that is being made toward the restoration and
34 maintenance of California's deer herds. ~~The first report shall be submitted on or~~
35 ~~before October 1, 1989.~~ The report shall include program activities regarding deer
36 habitat, particularly addressing problems dealing with identification and
37 preservation of critical deer habitat areas; the amount of revenue derived from the
38 sale of deer tags during the two previous fiscal years; a list of expenditures during
39 the two previous fiscal years and proposed expenditures during the current fiscal

1 year; and a report of general benefits accrued to the deer resources as a result of the
2 program.

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

4 • **Fish & Game Code § 457 (amended). Annual recommendations by department**

5 SEC. _____. Section 457 of the Fish and Game Code is amended to read:

6 457. (a) ~~The~~ Not later than December 15 of each year, the department shall
7 determine ~~prior to December 15 of each year~~ its proposed recommendations to the
8 commission relating to the management of deer, including its recommendations as
9 to whether any antlerless deer hunts should be ordered.

10 (b) The recommendations ~~of the department~~ shall include ~~the~~ all of the following:

11 (1) The number, if any, of antlerless deer that should be taken in ~~units, whether~~
12 ~~the permits should be either sex permits, the proposed~~ particular deer management
13 units.

14 (2) Proposed dates for ~~each such~~ any recommended taking, ~~and the~~ .

15 (3) The number of permits proposed for each management unit.

16 (4) Whether the permits should be either-sex permits.

17 **Comment.** Section 457 is amended for clarity, and to add subdivision and paragraph
18 designations.

19 • **Fish & Game Code § 458 (amended). Notice of proposed recommendation**

20 SEC. _____. Section 458 of the Fish and Game Code is amended to read:

21 458. (a) ~~The~~ Not later than December 15 of each year, the department ~~not later~~
22 ~~than December 15~~ shall notify, by certified mail, provide notice of the details of its
23 proposed recommendations under Section 457 to the board of supervisors of each
24 county affected ~~of the details of its recommendations under Section 457~~ by a
25 recommendation, by certified mail.

26 (b) ~~The~~ Not later than the February 1 next following the department's notice, the
27 board of supervisors of any affected county may elect to hold a public hearing on
28 one or more of the department's proposed recommendations of the department. ~~Any~~
29 ~~such hearing shall be held prior to February 1.~~ The director or ~~his or her~~ the
30 director's representative shall attend ~~the hearing~~ all hearings held pursuant to this
31 subdivision.

32 (c) The board of supervisors of any affected county ~~to which this section is~~
33 ~~applicable~~ may, by resolution, elect not to exercise the rights conferred by this
34 section.

35 (d) This section applies only to the counties of, and to those districts or parts of
36 districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine,
37 Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt,
38 Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey,
39 Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa
40 Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

1 **Comment.** Section 458 is amended for clarity, to add subdivision designations, and to eliminate
2 gendered pronouns.

3 • **Fish & Game Code § 459 (amended). Response to department recommendations**

4 SEC. _____. Section 459 of the Fish and Game Code is amended to read:

5 459. (a) ~~The~~ Not later than the February 1 next following the department's notice,
6 the board of supervisors of any affected county ~~specified in Section 458 which that~~
7 has held a public hearing pursuant to Section 458 may, ~~not later than February 1,~~ by
8 resolution, object to ~~the~~ one or more proposed recommendations of the department,
9 or may, by resolution, determine that one or more ~~the~~ proposed ~~recommendation~~
10 recommendations should be modified, ~~setting forth and state~~ the necessary
11 ~~modifications~~ modification.

12 (b) A resolution objecting to, or ~~setting forth~~ stating necessary modifications
13 modification of, ~~the~~ a proposed ~~recommendations~~ recommendation shall be based
14 ~~upon the~~ on testimony and information presented at ~~the~~ a hearing conducted
15 pursuant to subdivision (b) of Section 458, or presented to the board of supervisors
16 at its meeting to consider the resolution.

17 (c) The department shall not recommend to the commission, and the commission
18 shall not authorize, the taking of antlerless deer in ~~a~~ an affected county ~~specified in~~
19 ~~Section 458 if it has received from~~ the board of supervisors of that county submits
20 a resolution objecting to that taking.

21 (d) If a board of supervisors of ~~a~~ an affected county ~~has submitted~~ submits a
22 resolution determining that ~~the~~ department's one or more proposed
23 ~~recommendations~~ on recommendations of the department relating to the taking of
24 antlerless deer should be modified for that county, the department and the
25 commission shall do one of the following:

26 (1) The department shall either ~~se~~ modify its recommendations and the
27 commission shall ~~se~~ modify its orders ~~or the~~ to incorporate the modification
28 determined to be necessary by the county board of supervisors.

29 (2) The department shall not recommend, and the commission shall not authorize,
30 the taking of antlerless deer in that county.

31 **Comment.** Section 459 is amended for clarity, and to add subdivision and paragraph
32 designations.

33 • **Fish & Game Code § 460 (amended). Department recommendations relating to deer**
34 **hunting**

35 SEC. _____. Section 460 of the Fish and Game Code is amended to read:

36 460. (a) Prior to each meeting of the commission at which the commission
37 considers the regulation of deer and takes action pursuant to paragraph (1) of
38 subdivision (a) of Section 255, the department shall recommend to the commission
39 ~~those~~ the deer herd units to be placed under a general deer hunting season.

40 (b) At the same time, the department shall ~~recommend~~ do all of the following:

1 (1) Recommend to the commission, subject to the provisions of Sections 458 and
2 459, whether any antlerless deer should be taken, ~~and in what~~ if so, in which deer
3 herd management units ~~antlerless deer are to be taken~~.

4 (2) If in the judgment of the department there are deer herd management units in
5 which hunting pressure would adversely affect the deer herd, impair the hunting
6 experience, or endanger the public safety, ~~the department shall also~~ recommend to
7 the commission those deer herd management units where hunter numbers should be
8 restricted, and those which should be removed from the general deer hunting season
9 designation. ~~The~~

10 ~~(3) Inform department shall inform~~ the commission of the condition of each deer
11 herd management unit. ~~Upon receipt of the recommendations and information~~
12 ~~required in this section, the commission shall make that material known to the public~~
13 ~~and its determinations regarding proposed regulations. The recommendations of the~~
14 ~~department shall~~

15 (4) Recommend to the commission, in accordance with the provisions of Sections
16 458 and 459, ~~include~~ the number, if any, of antlerless deer that should be taken in
17 deer herd management units, whether the permits should be either-sex permits, the
18 proposed dates for the taking, and the number of permits proposed for each deer
19 herd management unit. ~~At the same time, the department shall recommend~~

20 (5) Recommend to the commission the establishment of any hunter-restricted
21 quota units, if needed, and the number of the quota and manner in which the quota
22 permits should be issued.

23 (c) Upon receipt of the recommendations and information required by this section,
24 the commission shall make that material known to the public, and shall also make
25 known to the public the commission's determinations regarding proposed
26 regulations.

27 **Comment.** Section 460 is amended for clarity.

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

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

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

33 (1) The costs of nongame fish and wildlife programs shall be provided annually
34 in the Budget Act by appropriating money from the General Fund, through nongame
35 user fees, and sources other than the Fish and Game Preservation Fund to the
36 department for these purposes.

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

41 (3) The costs of hunting and sportfishing programs shall be provided out of
42 hunting and sportfishing revenues and reimbursements and federal funds received

1 for hunting and sportfishing programs, and other funds appropriated by the
2 Legislature for this purpose. These revenues, reimbursements, and federal funds
3 shall not be used to support commercial fishing programs, free hunting and fishing
4 license programs, or nongame fish and wildlife programs.

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

9 (5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted
10 annually to an amount equal to that computed pursuant to Section 713. However, a
11 substantial increase in the aggregate of hunting and sportfishing programs shall be
12 reflected by appropriate amendments to the sections of this code that establish the
13 base sport license fee levels. The inflationary index provided in Section 713 shall
14 not be used to accommodate a substantial increase in the aggregate of hunting and
15 sportfishing programs.

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

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

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

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

32 • **Fish & Game Code § 711.4 (amended). Exceptions to CEQA filing fee**

33 SEC. _____. Section 711.4 of the Fish and Game Code is amended to read:

34 711.4. (a) The department shall impose and collect a filing fee in the amount
35 prescribed in subdivision (d) to defray the costs of managing and protecting fish and
36 wildlife trust resources, including, but not limited to, consulting with other public
37 agencies, reviewing environmental documents, recommending mitigation
38 measures, developing monitoring requirements for purposes of the California
39 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
40 Public Resources Code), consulting pursuant to Section 21104.2 of the Public
41 Resources Code, and other activities protecting those trust resources identified in
42 the review pursuant to the California Environmental Quality Act.

1 (b) The filing fees shall be proportional to the cost incurred by the department and
2 shall be annually reviewed and adjustments recommended to the Legislature in an
3 amount necessary to pay the full costs of department programs as specified. The
4 department shall annually adjust the fees pursuant to Section 713.

5 (c)(1) All project applicants and public agencies subject to the California
6 Environmental Quality Act shall pay a filing fee for each proposed project, as
7 specified in subdivision (d).

8 (2) Notwithstanding paragraph (1), a filing fee shall not be paid pursuant to this
9 section if any of the following conditions exist:

10 (A) The project has no effect on fish and wildlife.

11 (B) The project is being undertaken by the department.

12 (C) The project costs are payable by the department from any of the following
13 sources that are held by the department:

14 (i) The Public Resources Account in the Cigarette and Tobacco Products Surtax
15 Fund.

16 (ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

17 (iii) The Habitat Conservation Fund.

18 (iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

19 (v) The Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game
20 Preservation Fund.

21 ~~(vi) Striped bass stamp funds collected pursuant to Section 7360.~~

22 ~~(vii) (vi) The California Ocean Resource Enhancement Account.~~

23 (D) The project is implemented by the department through a contract with either
24 a nonprofit entity or a local government agency.

25 (3) Filing fees shall be paid at the time and in the amount specified in subdivision
26 (d). Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code, a
27 project shall not be operative, vested, or final, and local government permits for the
28 project shall not be valid, until the filing fees required pursuant to this section are
29 paid.

30 (d) The fees shall be in the following amounts:

31 (1) For a project that is statutorily or categorically exempt from the California
32 Environmental Quality Act, including those certified regulatory programs that
33 incorporate statutory and categorical exemptions, a filing fee shall not be paid.

34 (2) For a project for which a negative declaration is prepared pursuant to
35 subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one
36 thousand eight hundred dollars (\$1,800). A local agency collecting the filing fee
37 shall remit the fee to the county clerk at the time of filing a notice of determination
38 pursuant to Section 21152 of the Public Resources Code. A state agency collecting
39 the filing fee shall remit the fee to the Office of Planning and Research at the time
40 of filing a notice of determination pursuant to Section 21108 of the Public Resources
41 Code.

42 (3) For a project with an environmental impact report prepared pursuant to the
43 California Environmental Quality Act, the filing fee is two thousand five hundred

1 dollars (\$2,500). A local agency collecting the filing fee shall remit the fee to the
2 county clerk at the time of filing a notice of determination pursuant to Section 21152
3 of the Public Resources Code. A state agency collecting the filing fee shall remit the
4 fee to the Office of Planning and Research at the time of filing a notice of
5 determination pursuant to Section 21108 of the Public Resources Code.

6 (4) For a project that is subject to a certified regulatory program pursuant to
7 Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty
8 dollars (\$850). The filing fee shall be paid to the department before the filing of the
9 notice of determination pursuant to Section 21080.5 of the Public Resources Code.

10 (e) The county clerk may charge a documentary handling fee of fifty dollars (\$50)
11 per filing in addition to the filing fee specified in subdivision (d).

12 (1) The county clerk of each county and the Office of Planning and Research shall
13 maintain a record, both electronic and in paper, of all environmental documents
14 received. The record shall include, for each environmental document received, the
15 name of each applicant or lead agency, the document filing number, the project
16 name as approved by the lead agency, and the filing date. The record shall be made
17 available for examination or audit by authorized personnel of the department during
18 normal business hours.

19 (2) The filing fee imposed and collected pursuant to subdivision (d) shall be
20 remitted monthly to the department within 30 days after the end of each month. The
21 remittance shall be accompanied with the information required pursuant to
22 paragraph (1). The amount of fees due shall be reported on forms prescribed and
23 provided by the department.

24 (3) The department shall assess a penalty of 10 percent of the amount of fees due
25 for a failure to remit the amount payable when due. The department may pursue
26 collection of delinquent fees through the Controller's office pursuant to Section
27 12419.5 of the Government Code.

28 (f) Notwithstanding subdivision (a) of Section 12000, failure to pay the fee under
29 subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment
30 subject to collection under procedures as provided in the Revenue and Taxation
31 Code.

32 (g) Only one filing fee shall be paid for each project unless the project is tiered or
33 phased, or separate environmental documents are required.

34 (h) This section does not preclude or modify the duty of the department to
35 recommend, require, permit, or engage in mitigation activities pursuant to the
36 California Environmental Quality Act.

37 (i) The permit process of the California Coastal Commission, as certified by the
38 Secretary of the Resources Agency, is exempt from the payment of the filing fees
39 prescribed by paragraph (4) of subdivision (d) insofar as the permits are issued under
40 any of the following regulations:

41 (1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5
42 of Title 14 of the California Code of Regulations.

1 (2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing
2 with Section 13213), Subchapter 3.5 (commencing with Section 13214), Subchapter
3 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section
4 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6
5 (commencing with Section 13250), and Subchapter 8 (commencing with Section
6 13255.0) of Chapter 6 of Division 5.5 of Title 14 of the California Code of
7 Regulations.

8 **Comment.** Subparagraph (vi) of subdivision (c)(2)(C) of Section 711.4 is deleted to reflect the
9 repeal of the statutory cross-reference in the provision, and the discontinuation of the referenced
10 collection of funds.

11 Subdivision (f) is amended to clarify a statutory cross-reference.

12 • **Fish & Game Code § 1055.3 (amended). Wildlife area passes and native species stamps**

13 SEC. ____ . Section 1055.3 of the Fish and Game Code is amended to read:

14 1055.3. The department may authorize any person other than a commissioner or
15 an officer or employee of the department to issue, as an agent of the department,
16 annual wildlife area passes and native species stamps, and to sell promotional
17 materials and nature study aids pursuant to, and subject to the requirements of, this
18 article. An agent thus authorized may add a handling charge pursuant to
19 ~~subdivisions (f), (g), and (h) of Section 1055 or~~ subdivisions (d), (e), and (f) of
20 Section 1055.1 to the fee prescribed in Article 3 (commencing with Section 1760)
21 of Chapter 7.5 of Division 2 for each annual wildlife area pass or native species
22 stamp issued.

23 **Comment.** Section 1055.3 is amended to delete an obsolete cross-reference to subdivisions of
24 former Section 1055.

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

26 SEC. ____ . Section 1068 of the Fish and Game Code is repealed.

27 ~~1068. (a) Beginning November 1, 1991, the director shall make a grant in~~
28 ~~installments to a nonprofit organization of sea urchin divers in an amount not to~~
29 ~~exceed four hundred thousand dollars (\$400,000), for the organization to~~
30 ~~accomplish the following purposes:~~

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

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

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

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

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

10 ~~(c) The grant shall be funded from revenues received pursuant to former~~
11 ~~subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995.~~
12 ~~If the department determines that the revenue received from former subdivision (b)~~
13 ~~of Section 8051.1, as that subdivision read on December 31, 1995, is not sufficient~~
14 ~~to fund the amount of the grant, including departmental overhead charges which~~
15 ~~shall be recovered from the revenues received pursuant to that former subdivision~~
16 ~~(b) of Section 8051.1, the department shall reduce the amount of the grant~~
17 ~~accordingly. The revenue received pursuant to that former subdivision (b) of Section~~
18 ~~8051.1 shall remain available for funding of the grant program pursuant to this~~
19 ~~subdivision until that revenue is fully encumbered, or the authorized amount of the~~
20 ~~grant program is expended, whichever event is later.~~

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

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

25 **• Fish & Game Code § 1122.5 (amended). Mount Whitney Fish Hatchery**

26 SEC. ____ . Section 1122.5 of the Fish and Game Code is amended to read:

27 1122.5. (a) Notwithstanding any other provision of law, the Director of General
28 Services, with the consent of the department, may lease to the Friends of the Mount
29 Whitney Hatchery, at no cost, and subject to any other terms and conditions that the
30 director deems appropriate, for a term not to exceed 25 years, and with the
31 possibility of renewal, the Mount Whitney Fish Hatchery ~~facilities, or any portion~~
32 ~~thereof~~ part of the hatchery, situated in the County of Inyo. ~~The leased portion of~~
33 ~~the building~~

34 (b) Any part of the hatchery that is leased pursuant to subdivision (a) shall be used
35 for environmental education purposes and other related activities designed to benefit
36 the hatchery and the community.

37 (c) The lease shall require the Friends of the Mount Whitney Fish Hatchery to
38 permit reasonable public access to the facility hatchery, to obtain and maintain
39 liability insurance for the leased portion of the facility hatchery, and to maintain the
40 leased portion of the facility hatchery at all times. The lease shall provide that any
41 work done on the facility hatchery shall be performed in consultation with the State
42 Office of Historic Preservation. The lease shall also provide that the state, agents of

1 the state, the department, and agents of the department shall be held harmless from,
2 and indemnified against, any liability resulting from the acts or omissions of the
3 Friends of the Mount Whitney Fish Hatchery ~~performed in the course of the lease~~
4 ~~agreement arising out of performance of the lease.~~

5 **Comment.** Section 1122.5 is amended for clarity, and to add subdivision designations.

6 • **Fish & Game Code § 1348.3 (amended). Condemnation of wildlife conservation easement**

7 SEC. _____. Section 1348.3 of the Fish and Game Code is amended to read:

8 1348.3. (a) No governmental entity may condemn any wildlife conservation
9 easement acquired by a state agency, except as provided in subdivision (b). As used
10 in this section, the following terms have the following meanings:

11 (1) “Public use” as used in Article 6 (commencing with Section 1240.510) and
12 Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of
13 the Code of Civil Procedure means privately owned lands managed for habitat in
14 public trust.

15 ~~(2) “Wildlife” has the same meaning as set forth in Section 89.5.~~

16 ~~(3)~~ (2) “Wildlife conservation easement” means a recorded conservation
17 easement, as defined in Section 815.1 of the Civil Code, that exists or will exist for
18 at least 10 years and that is acquired and held by a state agency and administered
19 primarily for the benefit of wildlife.

20 (b) Prior to the initiation by a governmental entity of condemnation proceedings
21 against a wildlife conservation easement acquired by a state agency, the
22 governmental entity shall give notice to the holder of the easement, provide an
23 opportunity for the holder of the easement to consult with the governmental agency,
24 provide the holder of the easement the opportunity to state its objections to the
25 condemnation, and provide a response to the objections. Article 6 (commencing
26 with Section 1240.510) and Article 7 (commencing with Section 1240.610) of
27 Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure shall apply to
28 condemnation proceedings initiated by a governmental entity against a wildlife
29 conservation easement acquired by a state agency. In those proceedings, the
30 condemning governmental entity shall be required to prove by clear and convincing
31 evidence that its proposed use satisfies the requirements of Article 6 (commencing
32 with Section 1240.510) or Article 7 (commencing with Section 1240.610) of
33 Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure.

34 **Comment.** Section 1348.3 is amended to delete paragraph (2) of subdivision (a) as superfluous.
35 See Section 89.5 (defining the term “wildlife” generally).

36 • **Fish & Game Code § 1352 (amended). Wildlife restoration fund**

37 SEC. _____. Section 1352 of the Fish and Game Code is amended to read:

38 1352. (a) The money in the Wildlife Restoration Fund, as provided for by Section
39 19632 of the Business and Professions Code, is available for expenditure under any
40 provision of this chapter.

1 (b) All federal moneys made available for projects authorized by the board shall
2 be deposited in the Wildlife Restoration Fund or the Fish and Game Preservation
3 Fund. ~~Any unexpended balances of the federal moneys remaining on or after June~~
4 ~~30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund or~~
5 ~~the Fish and Game Preservation Fund.~~

6 (c) Any moneys received in the Wildlife Restoration Fund or the Fish and Game
7 Preservation Fund from leases authorized pursuant to paragraph (2) or (3) of
8 subdivision (c) of Section 1348 shall be expended, upon appropriation by the
9 Legislature, by the department for the purposes of managing, maintaining, restoring,
10 or operating lands owned and managed by the department.

11 **Comment.** Subdivision (b) of Section 1352 is amended to delete the second sentence of the
12 subdivision, which is obsolete.

13 **Fish & Game Code § 1605 (amended). Duration and extension of agreement**

14 SEC. ____ . Section 1605 of the Fish and Game Code is amended to read:

15 1605. (a)(1) Except as otherwise provided in this section, the term of an agreement
16 shall not exceed five years.

17 (2) Notwithstanding paragraph (1), after the agreement expires, the entity shall
18 remain responsible for implementing any mitigation or other measures specified in
19 the agreement to protect fish and wildlife resources.

20 (b) Any entity may request one extension of a previously-approved agreement, if
21 the entity requests the extension prior to the expiration of its original term. The
22 department shall grant the extension unless it determines that the agreement requires
23 modification because the measures contained in the agreement no longer protect the
24 fish and wildlife resources that the activity may substantially adversely affect. In the
25 event the department makes that determination, the department shall propose
26 measures intended to protect those resources.

27 (c) If the entity disagrees with the department's determination that the agreement
28 requires modification to protect fish and wildlife resources or with the measures
29 proposed by the department, the disagreement shall be resolved pursuant to the
30 procedures described in subdivision (b) of Section 1603.

31 (d) The department may not extend an agreement for more than five years.

32 (e)(1) An original agreement shall remain in effect until the department grants the
33 extension request, or new measures are imposed to protect fish and wildlife
34 resources by agreement or through the arbitration process.

35 (2) Notwithstanding paragraph (1), an original agreement may not remain in
36 effect for more than one year after its expiration date.

37 (f) If the entity fails to submit a request to extend an agreement prior to its
38 expiration, the entity shall submit a new notification before commencing or
39 continuing the activity covered by the agreement.

40 (g) Notwithstanding paragraph (1) of subdivision (a), the department may issue
41 an agreement, that otherwise meets the requirements of this chapter, for a term
42 longer than five years if the following conditions are satisfied:

1 (1) The information the entity provides to the department in its notification meets
2 the requirements of paragraph (1) of subdivision (a) of Section 1602.

3 (2) The entity agrees to provide a status report to the department every four years.
4 The status report shall be delivered to the department no later than 90 days prior to
5 the end of each four-year period, and shall include all of the following information:

6 (A) A copy of the original agreement.

7 (B) The status of the activity covered by the agreement.

8 (C) An evaluation of the success or failure of the measures in the agreement to
9 protect the fish and wildlife resources that the activity may substantially adversely
10 affect.

11 (D) A discussion of any factors that could increase the predicted adverse impacts
12 on fish and wildlife resources, and a description of the resources that may be
13 adversely affected.

14 (3) The department shall review the four-year status report, and conduct an onsite
15 inspection to confirm that the entity is in compliance with the agreement and that
16 the measures in the agreement continue to protect the fish and wildlife resources. If
17 the department determines that the measures in the agreement no longer protect the
18 fish and wildlife resources that are being substantially adversely affected by the
19 activity, the department, in consultation with the entity, and within 45 days of
20 receipt of the report, shall impose one or more new measures to protect the fish and
21 wildlife resources affected by the activity. If requested to do so by the entity, the
22 department shall make available the information upon which it determined the
23 agreement no longer protects the affected fish and wildlife resources. If the entity
24 disagrees with one or more of the new measures, within seven days of receiving the
25 new measures, it shall notify the department, in writing, of the disagreement. The
26 entity and the department shall consult regarding the disagreement. The consultation
27 shall be completed within seven days after the department receives the entity's
28 notice of disagreement. If the department and entity fail to reach agreement, the
29 entity may request, in writing, the appointment of a panel of arbitrators to resolve
30 the disagreement. The panel of arbitrators shall be appointed within 14 days of the
31 completed consultation. The panel of arbitrators shall issue a decision within 14
32 days of the date it is established. All other provisions of subdivision (b) of Section
33 1603 regarding the panel shall apply to any arbitration panel established in
34 accordance with this subdivision. If the entity fails to provide timely status reports
35 as required by this subdivision, the department may suspend or revoke the
36 agreement.

37 (4) The agreement shall authorize department employees to conduct onsite
38 inspections relevant to the agreement, upon reasonable notice. Nothing in this
39 section limits the authority of department employees to inspect private or public
40 sites.

41 (5) Except as provided in paragraph (3), subparagraph (D) of paragraph (4) of
42 subdivision (a) of Section 1602 and the time periods to process agreements specified
43 in this chapter do not apply to agreements issued pursuant to this section.

1 (h) Each region of the department shall log the notifications of activities for which
2 a long-term agreement is being considered pursuant to subdivision (g). The log shall
3 list the date the notification was received by the department, a brief description of
4 the proposed activity, and the location of the activity. Each item shall remain on the
5 log for one year. Upon written request by any person, a regional office shall send
6 the log to that person monthly for one year. A request made pursuant to this
7 ~~paragraph~~ subdivision may be renewed annually.

8 **Comment.** Subdivision (h) of Section 1605 is amended to make a technical correction.

9 • **Fish & Game Code § 1771 (amended). Deposit of funds**

10 SEC. _____. Section 1771 of the Fish and Game Code is amended to read:

11 1771. (a) Whenever the department receives funds from the Treasurer under
12 ~~Article 7 (commencing with Section 18520) of Chapter 17 of Part 10~~ Article 5
13 (commencing with Section 18741) of Chapter 3 of Part 10.2 of Division 2 of the
14 Revenue and Taxation Code for the support of this article, the funds shall be
15 deposited in the Fish and Game Preservation Fund and credited to the Endangered
16 and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account.
17 These funds are for the support of programs for endangered and rare animals and
18 native plant species as determined by the commission, related conservation and
19 enhancement programs, and programs for those species which may be candidates
20 for determination as endangered or rare under the criteria developed by the
21 commission.

22 (b) The administrative overhead assessment on that portion of funds deposited in
23 the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
24 Enhancement Account expended through contracts shall not exceed 15 percent.

25 **Comment.** Section 1771 is amended to correct an erroneous cross-reference.

26 • **Fish & Game Code § 1772 (amended). Encouraging donations**

27 SEC. _____. Section 1772 of the Fish and Game Code is amended to read:

28 1772. (a) The department may take all appropriate measures to encourage
29 donations to this account through the tax return checkoff system provided for in
30 ~~Article 7 (commencing with Section 18520) of Chapter 17 of Part 10~~ Article 5
31 (commencing with Section 18741) of Chapter 3 of Part 10.2 of Division 2 of the
32 Revenue and Taxation Code.

33 (b) The department may also disseminate information to the public concerning the
34 status of endangered and rare species.

35 (c) The cost to the department to carry out the provisions of this section may be
36 charged to this account.

37 **Comment.** Section 1772 is amended to correct an erroneous cross-reference.

38 The section is also amended to add subdivision designations.

39 **Fish & Game Code § 1798 (amended). Application procedure**

40 SEC. _____. Section 1798 of the Fish and Game Code is amended to read:

1 1798. (a)(1) Any person interested in establishing any bank with the department
2 may elect to submit an optional draft prospectus for review by the department. Any
3 draft prospectus shall be accompanied by a draft prospectus review fee of one
4 thousand five hundred dollars (\$1,500) to fund the reasonable cost of the
5 department's review services. The draft prospectus review, while optional, is
6 intended to identify potential issues early so that the potential bank sponsor may
7 attempt to address those issues prior to initiating the formal review process. The
8 draft prospectus is a brief proposal submitted when scoping the concept of a bank,
9 contemplating pursuing a bank idea, or for those new to the banking process.

10 (2) No later than 30 calendar days after the department receives a draft prospectus
11 and review fee, the department shall make an initial evaluation of the proposed
12 concept and notify the person who submitted the draft prospectus of potential issues
13 identified by the department.

14 (b)(1) Any person seeking to establish a bank with the department shall submit a
15 bank prospectus to the department together with a prospectus review fee of ten
16 thousand dollars (\$10,000) to fund the reasonable cost of the department's review
17 services. If a draft prospectus and the review fee have been submitted pursuant to
18 subdivision (a), then the review fee for the bank prospectus shall be eight thousand
19 five hundred dollars (\$8,500) so as not to exceed a total fee of ten thousand dollars
20 (\$10,000).

21 (2) The bank prospectus shall contain at least all of the following information:

22 (A) The proposed bank name.

23 (B) Contact information, including, but not limited to, the bank sponsor, property
24 owner, and any consultants.

25 (C) A general location map, address, and the size of the proposed bank in acres.

26 (D) A 7.5-minute United States Geological Survey map showing proposed
27 boundaries of the bank.

28 (E) Color aerial photographs that reflect current conditions on the site of the
29 proposed bank and surrounding properties.

30 (F) Description of how the bank will be established and operated, including, but
31 not limited to, proposed ownership arrangements, long-term management strategy,
32 and any phases.

33 (G) Qualifications of bank sponsor.

34 (H) Preliminary natural resources surveys that document biotic and abiotic
35 baseline conditions, including past, current, and adjacent land uses, vegetation
36 types, species information, topography, hydrology, and soil types.

37 (I) Map of proposed bank service areas.

38 (J) Map depicting other conserved lands in the vicinity of the proposed bank.

39 (K) Description of bank objectives that includes how the proposed bank would
40 contribute to connectivity and ecosystem function.

41 (L) A current preliminary report covering the site of the proposed bank that
42 identifies the owner of the fee simple title and shows all liens, easements, and other

1 encumbrances and depicts all relevant property lines, easements, dedications, and
2 other features.

3 (M) A declaration of whether or not the proposed bank site has been or is being
4 used as mitigation, is designated or dedicated for park or open space use, or
5 designated for purposes that may be inconsistent with habitat preservation.

6 (N) Details of any public funding received for acquisition or restoration of, or
7 other purposes related to, the proposed bank site.

8 (c) No later than 30 calendar days after the department receives a bank prospectus
9 and the prospectus review fee, the department shall determine whether or not the
10 prospectus is complete and provide written notice of its determination to the person
11 who submitted the prospectus. If a prospectus is not complete, it may be made
12 complete and resubmitted.

13 (d) If the department determines that the prospectus is complete, then within 90
14 calendar days of that determination, the department shall determine whether or not
15 the prospectus is acceptable and notify the person who submitted the prospectus of
16 the determination. The department may request clarifying information during the
17 prospectus review process.

18 (e)(1) If the department determines that a bank prospectus is acceptable then a
19 bank agreement package may be submitted in accordance with Section 1798.5.

20 (2) If the department determines that a bank prospectus is not acceptable the
21 department shall state the reasons for the determination. The prospectus may be
22 resubmitted in accordance with subdivision (a) or (b) if further consideration is
23 desired. Any resubmittal must be accompanied by payment of a new ~~prospectus~~
24 review fee.

25 (f) The department may adopt and amend guidelines and criteria for the purposes
26 of this section pursuant to subdivision (b) of Section 1799.1.

27 **Comment.** Paragraph (2) of subdivision (e) of Section 1798 is amended for clarity.

28 **Fish & Game Code § 1798.5 (amended). Bank agreement package**

29 SEC. _____. Section 1798.5 of the Fish and Game Code is amended to read:

30 1798.5. (a)(1) If the department determines that a bank prospectus is acceptable
31 pursuant to Section 1798, the person seeking to establish the bank may submit a
32 bank agreement package to the department. Pursuant to subdivision ~~(b)~~ (c) of
33 Section 1799.1, the department may adopt and amend guidelines and criteria for the
34 bank agreement package, including, but not limited to, recommended standard
35 forms for bank enabling instruments or long-term management plan and
36 conservation easements.

37 (2) The bank agreement package shall be consistent with the prospectus and
38 contain at least all of the following information:

39 (A) The draft bank enabling instrument and all exhibits.

40 (B) Drafts of the interim management plan, long-term management plan, bank
41 closure plan, and, if applicable, a development or construction plan for the bank.

1 (C) A draft conservation easement, or if potential state ownership is contemplated
2 by the department, a draft grant deed.

3 (D) A map and written description of the proposed bank service area.

4 (E) A proposed credit ledger and credit release schedule for the bank.

5 (F) A property analysis record or other comparable economic analysis of the
6 funding necessary to support bank maintenance activities, such as monitoring and
7 reporting, in perpetuity.

8 (G) Estimates of financial assurances and proposed forms of security. Proposed
9 forms of security may be either cash or a letter of credit.

10 (H) A phase I environmental site assessment of the site of the proposed bank dated
11 not more than six months prior to the date the bank agreement package is submitted
12 to the department. This assessment shall be performed in accordance with the
13 American Society of Testing and Materials Standard E1527-05 “Standard Practice
14 for Environmental Site Assessments: Phase I Environmental Site Assessment
15 Process” or any successive ASTM standard active at the time of the assessment.

16 (b) The department shall collect a fee of twenty-five thousand dollars (\$25,000)
17 per bank agreement package to fund the cost of the department’s review services.
18 The fee shall be collected at the time the bank agreement package is submitted to
19 the department.

20 (c) Within 30 calendar days following the department’s receipt of a bank
21 agreement package and fee pursuant to subdivision (a), the department shall
22 determine whether or not the package is complete and give written notice of the
23 determination to the person who submitted the package.

24 (1) If the department determines that the bank agreement package is not complete,
25 it may be made complete and resubmitted.

26 (2) If the department determines that the bank agreement package is complete,
27 within 90 calendar days of that determination, the department shall determine
28 whether or not it is acceptable and notify the person who submitted the package of
29 the determination. If the department determines that the bank agreement package is
30 not acceptable, the department shall state the reasons.

31 (d) The department may request clarifying information during the bank agreement
32 review process.

33 (e) If the department needs supplemental information during its review of the
34 bank agreement package in order to fully evaluate the proposed bank, the regional
35 manager or departmental equivalent, or a higher level department employee, shall
36 provide the person seeking to establish the bank a written request for the needed
37 information. Upon the department’s receipt of the requested information, a new 90-
38 day period shall begin during which the department shall determine acceptability
39 pursuant to paragraph (2) of subdivision (c). If the department does not receive the
40 requested information within 60 calendar days of the department’s request, the bank
41 agreement package will be deemed unacceptable.

42 (f) If the person seeking to establish the bank proposes changes to the bank
43 agreement package that have not been solicited by the department during its 90-day

1 review period, including, but not limited to, parties, number or type of credits, bank
2 size, number or type of species, credit release schedule, service area, design change,
3 or other changes as identified by the department as necessitating additional review
4 time, the department, acting through the regional manager or department equivalent,
5 or a higher level department employee, shall assess a one-time fee of ten thousand
6 dollars (\$10,000) to cover the reasonable cost of the department's services in
7 reviewing the changes. A new 90-day review period shall begin upon the
8 department's receipt of the proposed changes and the associated review fee, during
9 which it will determine acceptability pursuant to paragraph (2) of subdivision (c).

10 (g) If the department determines that 90 days is insufficient time to complete its
11 review of the bank agreement package for reasons including, but not limited to, the
12 size, location, or complexity of the bank, that the package includes a development
13 or construction plan, complexity of the bank agreement package, or substantial
14 variations from recommended standard forms, the department may extend the 90-
15 day period for reviewing the bank agreement package by an additional 60 calendar
16 days.

17 (h) If the department determines that a bank agreement package is not acceptable,
18 the package may be resubmitted in accordance with subdivision (a) if further
19 consideration is desired. Any resubmittal shall be accompanied by payment of a new
20 bank agreement package review fee.

21 **Comment.** Paragraph (1) of subdivision (a) of Section 1798.5 is amended to correct an erroneous
22 cross-reference.

23 **Fish & Game Code § 1798.6 (amended). Bank amendment**

24 SEC. _____. Section 1798.6 of the Fish and Game Code is amended to read:

25 1798.6. (a) Any person seeking to amend any bank shall submit to the department
26 a complete bank amendment package containing each of the original bank
27 agreement package documents, including any prior amendments, as well as any
28 documents proposed to be amended or that would be affected by the proposed
29 amendment. The department may adopt and amend guidelines and criteria for the
30 bank amendment package pursuant to subdivision ~~(b)~~ (c) of Section 1799.1.

31 (b)(1) Within 30 calendar days following its receipt of a draft bank amendment
32 package and any fee required by subdivision (c), the department shall determine
33 whether or not the package is complete and give written notice of that determination
34 to the person who submitted the package.

35 (2) If the department determines that the bank amendment package is complete,
36 then within 90 calendar days of that determination, the department shall determine
37 whether or not the package is acceptable and notify the person who submitted the
38 package of that determination. If the bank amendment package is determined not to
39 be acceptable, the determination shall state the reasons. The department may request
40 clarifying information during the bank amendment review process. The department
41 may extend the 90-day period for reviewing the bank amendment package by an
42 additional 60 days if the department determines that 90 days is insufficient time to

1 complete its review of a bank amendment package for reasons that may include, but
2 are not limited to, the size, location, or complexity of the bank or bank amendment
3 documents, that the package includes a development plan, or that there are
4 substantial variations from recommended standard forms.

5 (c)(1) The department shall collect a fee of either seven thousand five hundred
6 dollars (\$7,500) or twenty-five thousand dollars (\$25,000) per bank amendment
7 package to fund the reasonable cost of the department's review services. The fee of
8 seven thousand five hundred dollars (\$7,500) is intended to cover the reasonable
9 cost of the department's services in reviewing simple amendments, such as a change
10 in bank name, ownership change, address change, or proposed decrease in the
11 number of credits proposed. The fee of twenty-five thousand dollars (\$25,000) is
12 intended to cover the reasonable cost of the department's services in reviewing all
13 other amendments, including, but not limited to, requests for increase change in
14 service area, or increase in the number of credits. A regional manager or department
15 equivalent, or a higher level department representative employee, shall determine
16 which of the two fees is appropriate and shall provide notification of that
17 determination to the person who submitted the request for bank amendment package
18 pursuant to paragraph (3).

19 (2) An initial fee of seven thousand five hundred dollars (\$7,500) shall be
20 submitted to the department with the bank amendment package.

21 (3) Within 30 calendar days following the department's receipt of a bank
22 amendment package and the initial fee, pursuant to paragraph (2), the department
23 shall determine whether or not the package is complete and give written notice of
24 the determination to the person who submitted it and, if applicable, notice pursuant
25 to paragraph (1) that the person shall remit an additional fee of seventeen thousand
26 five hundred dollars (\$17,500). If noticed by the department, the additional fee of
27 seventeen thousand five hundred dollars (\$17,500) shall be submitted to the
28 department within 30 days of the notice. If the additional fee is not received by this
29 date, the review timelines in this section shall be suspended until the fee is received
30 by the department.

31 (4) If the department determines that the bank amendment package is not
32 complete, the package may be made complete and resubmitted. If the department
33 determines that the bank amendment package is complete, then within 90 calendar
34 days of that determination and the receipt of the additional fee pursuant to paragraph
35 (3), if applicable, the department shall determine whether or not the bank
36 amendment package is acceptable and notify the person who submitted the package
37 of the determination.

38 (d)(1) If the department determines that the bank amendment package is not
39 acceptable the determination shall state the reasons.

40 (2) The department may request clarifying information during the bank
41 amendment review process.

42 (e) If the department needs supplemental information during its review of the
43 bank amendment package in order to fully evaluate the proposed amendment, the

1 regional manager or department equivalent, or a higher level department employee,
2 shall provide the person seeking to amend the bank, in writing, a written request for
3 the needed information. Upon the department’s receipt of the requested information,
4 a new 90-day period shall begin during which the department will determine
5 acceptability pursuant to paragraph (4) of subdivision (c). If the department does
6 not receive the requested information within 60 calendar days of the department’s
7 request, the bank amendment package shall be deemed unacceptable.

8 (f) If the person seeking to amend the bank proposes changes to the bank
9 amendment package that have not been solicited by the department during its the
10 department’s 90-day review period, including, but not limited to, parties, number or
11 type of credits, bank size, number or type of species, credit release schedule, service
12 area, design change, or other changes as identified by the department to require
13 additional review time, the department, acting through the regional manager or
14 department equivalent, or a higher level department employee, shall assess a one-
15 time fee of ten thousand dollars (\$10,000) to cover the reasonable cost of the
16 department’s services in reviewing the changes. A new 90-day review period shall
17 begin upon receipt of the proposed changes and the fee, during which the
18 department shall determine acceptability pursuant to paragraph (4) of subdivision
19 (c).

20 (g) If the department determines that 90 days is insufficient time to complete its
21 review of the bank amendment package for reasons, including, but not limited to,
22 the size, location, or complexity of the bank or bank amendment package, that the
23 package includes a development or construction plan, or substantial variations from
24 recommended standard forms, the department may extend the 90-day period for
25 reviewing the bank amendment package by an additional 60 calendar days.

26 (h) If the department determines that a bank amendment package is not
27 acceptable, then the package may be resubmitted in accordance with subdivision (a)
28 if further consideration is desired. Any resubmittal shall be accompanied by
29 payment of all applicable bank amendment package review fees.

30 **Comment.** Subdivision (a) of Section 1798.6 is amended to correct an erroneous cross-reference.

31 • **Fish & Game Code § 1930.2 (added). Definitions**

32 SEC. ____ . Section 1930.2 is added to the Fish and Game Code, to read:

33 1930.2. For purposes of this chapter, the following terms have the following
34 meanings:

35 (a) “Habitat stronghold” means high-quality habitat that supports wildlife in being
36 more resilient to increasing pressures on species due to climate change and land
37 development.

38 (b) “Wildlife corridor” means a habitat linkage that joins two or more areas of
39 wildlife habitat, allowing for fish passage or the movement of wildlife from one area
40 to another.

41 **Comment.** Section 1930.2 is added to generalize application throughout this chapter of
42 definitions previously applicable only to Section 1930.5.

1 • **Fish & Game Code § 1930.5 (amended). Habitat strongholds and wildlife corridors**

2 SEC. _____. Section 1930.5 of the Fish and Game Code is amended to read:

3 1930.5. (a) Contingent upon funding being provided by the Wildlife Conservation
4 Board from moneys available pursuant to Section 75055 of the Public Resources
5 Code, or from other appropriate bond funds, upon appropriation by the Legislature,
6 the department shall investigate, study, and identify those areas in the state that are
7 most essential as wildlife corridors and habitat linkages, as well as the impacts to
8 those wildlife corridors from climate change, and shall prioritize vegetative data
9 development in these areas.

10 (b) It is the intent of the Legislature that the Wildlife Conservation Board use
11 various funds to work with the department to complete a statewide analysis of
12 wildlife corridors and connectivity to support conservation planning and climate
13 change adaptation activities.

14 (c)(1) It is the policy of the state to promote the voluntary protection of wildlife
15 corridors and habitat strongholds in order to enhance the resiliency of wildlife and
16 their habitats to climate change, protect biodiversity, and allow for the migration
17 and movement of species by providing connectivity between habitat lands. In order
18 to further these goals, it is the policy of the state to encourage, wherever feasible
19 and practicable, voluntary steps to protect the functioning of wildlife corridors
20 through various means, as applicable and to the extent feasible and practicable,
21 those means may include, but are not limited to:

22 (A) Acquisition or protection of wildlife corridors as open space through
23 conservation easements.

24 (B) Installing of wildlife-friendly or directional fencing.

25 (C) Siting of mitigation and conservation banks in areas that provide habitat
26 connectivity for affected fish and wildlife resources.

27 (D) Provision of roadway undercrossings, overpasses, oversized culverts, or
28 bridges to allow for fish passage and the movement of wildlife between habitat
29 areas.

30 (2) The fact that a project applicant does not take voluntary steps to protect the
31 functioning of a wildlife corridor prior to initiating the application process for a
32 project shall not be grounds for denying a permit or requiring additional mitigation
33 beyond what would be required to mitigate project impacts under other applicable
34 laws, including, but not limited to, the California Endangered Species Act (Chapter
35 1.5 (commencing with Section 2050) of Division 3) and the California
36 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
37 Public Resources Code).

38 (d) The Legislature finds and declares that there are a number of existing efforts,
39 including, but not limited to, efforts involving working landscapes, that are already
40 working to achieve the policy described in subdivision (c).

41 (e) Subdivision (c) shall not be construed to create new regulatory requirements
42 or modify the requirements of subparagraphs (B) and (E) of paragraph (4) of
43 subdivision (a) of Section 2820 ~~of the Fish and Game Code~~, or the California

1 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
2 Public Resources Code).

3 ~~(f) For purposes of this section, the following terms have the following meanings:~~

4 ~~(1) “Habitat stronghold” means high-quality habitat that supports wildlife in being~~
5 ~~more resilient to increasing pressures on species due to climate change and land~~
6 ~~development.~~

7 ~~(2) “Wildlife corridor” means a habitat linkage that joins two or more areas of~~
8 ~~wildlife habitat, allowing for fish passage or the movement of wildlife from one area~~
9 ~~to another.~~

10 **Comment.** Section 1930.5 is amended to delete subdivision (f), which set forth definitions that
11 have been generalized to apply throughout the chapter in which Section 1930.5 appears. See
12 Section 1930.2.

13 Subdivision (e) is amended to make a technical change.

14 • **Fish & Game Code § 1932 (amended). Condemnation of wildlife conservation easement**

15 SEC. _____. Section 1932 of the Fish and Game Code is amended to read:

16 1932. There is hereby established the Significant Natural Areas Program, which
17 shall be administered by the department. The department, in administering this
18 program, shall do all of the following:

19 (a) Obtain access to the most recent information with respect to natural resources.
20 In order to accomplish this, the department shall maintain, expand, and keep current
21 a data management system, designated the California Natural Diversity Data Base,
22 designed to document information on these resources. That data shall be made
23 available to interested parties on request.

24 (b) Develop and maintain a spatial data system that identifies those areas in the
25 state that are most essential for maintaining habitat connectivity, including wildlife
26 corridors and habitat linkages. This data should include information essential for
27 evaluating the needs of wildlife species, ~~as defined in Section 89.5,~~ that require
28 habitat connectivity for their long-term conservation, including distribution and
29 movement patterns.

30 (c) As appropriate, develop and maintain the database by incorporating mapping
31 products and data developed by other state agencies.

32 (d) Make all of the data sets, and associated analytical products, available to the
33 public and other government entities.

34 (e) Ensure cost sharing by all who use the data management system and develop
35 an appropriate schedule of compensation to be paid by individuals using the data
36 management system, not to exceed the actual costs for use of the data management
37 system.

38 (f) Ensure recognition of the state’s most significant natural areas, including those
39 affected by climate change. The department shall, after consultation with federal,
40 state, and local agencies, education institutions, civic and public interest
41 organizations, private organizations, landowners, and other private individuals,

1 identify by means of periodic reports those natural areas deemed to be most
2 significant.

3 (g) Seek the maintenance and perpetuation of the state’s most significant natural
4 areas for present and future generations in the most feasible manner. The department
5 shall consider alternative approaches for that maintenance, including alternatives to
6 fee acquisition such as incentives, leasing, and dedication.

7 (h) Reduce unnecessary duplication of effort. The department shall provide
8 coordinating services to federal, state, local, and private interests wishing to aid in
9 the maintenance and perpetuation of significant natural areas.

10 (i) Actively pursue grants and cost-sharing opportunities with local, state, or
11 federal agencies, or private entities that use the data sets and benefit from their
12 creation and maintenance.

13 **Comment.** Subdivision (b) of Section 1932 is amended to delete the phrase “as defined in
14 Section 89.5” as superfluous. See Section 89.5 (defining the term “wildlife” generally).

15 The introductory paragraph of the section is also amended to correct a technical error.

16 **Fish & Game Code § 2003 (amended). Prize**

17 SEC. _____. Section 2003 of the Fish and Game Code is amended to read:

18 2003. (a) Except as specified in subdivisions (b), (c), (d), and (e), it is unlawful to
19 offer a prize or other inducement as a reward for the taking of a game bird, or the
20 taking of any mammal, fish, reptile, or amphibian, in an individual contest,
21 tournament, or derby.

22 (b) The department may issue a permit to a person authorizing that person to offer
23 a prize or other inducement as a reward for the taking of a game fish, as defined by
24 the commission by regulation, if it finds that there would be no detriment to the
25 resource. The permit is subject to regulations adopted by the commission. The
26 application for the permit shall be accompanied by a fee in the amount determined
27 by the department as necessary to cover the reasonable administrative costs incurred
28 by the department in issuing the permit. However, the department may waive the
29 permit fee if the contest, tournament, or derby is for persons who are under 16 years
30 of age or have a physical or mental disability, and the primary purpose of the contest,
31 tournament, or derby is to introduce those anglers to or educate them about fishing.
32 All permits for which the fee is waived pursuant to this subdivision shall comply
33 with all other requirements set forth in this section.

34 (c) This section does not apply to a person conducting what is generally known as
35 a frog-jumping contest, or, in waters of the Pacific Ocean, what is generally known
36 as a fish contest.

37 (d) This section does not apply to a person conducting an individual contest,
38 tournament, or derby for the taking of a game bird or game mammal, if the total
39 value of all prizes or other inducements is less than five hundred dollars (\$500) for
40 the individual contest, tournament, or derby.

41 (e)(1) As used in this subdivision:

42 (A) “Event” means a competition event on lands managed by the department.

1 (B) “Prize compensation” includes prize or purse money, other prizes, goods, or
2 other compensation.

3 (2) The department, for any event that awards prize compensation to competitors
4 in gendered categories, shall require as a condition of a permit pursuant to this
5 section that, for any participant level that receives prize compensation, the prize
6 compensation for each gendered category be identical at each participant level. The
7 department shall not approve a permit for an event that does not comply with this
8 condition.

9 **Comment.** Section 2003 is amended to make clear that (1) the general prohibition in subdivision
10 (a) applies to game birds, as well as all mammals, fish, reptiles and amphibians, and (2) the
11 exception in subdivision (d) applies only to game birds and game mammals.

12 • **Fish & Game Code § 2007 (amended). Trap gun**

13 SEC. _____. Section 2007 of the Fish and Game Code is amended to read:

14 2007. (a) It is unlawful to set, place, or cause to be set; or placed, any trap gun.

15 (b) A “trap gun” is a firearm loaded with other than blank cartridges and connected
16 with a string or other contrivance contact with which will cause the firearm to be
17 discharged.

18 **Comment.** Section 2007 is amended for clarity, and to add subdivision designations.

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

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

21 2014. (a) It is the policy of this state to conserve its natural resources and to
22 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
23 amphibia.

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

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

30 ~~(c)~~ (d) An action to recover damages under this section shall be brought in the
31 name of the people of the state, in a court of competent jurisdiction in the county in
32 which the cause of action arose. The State Water Resources Control Board shall be
33 notified of, and may join in, any action brought under this section when the activities
34 alleged to have caused the destruction of any bird, mammal, fish, reptile, or
35 amphibian may involve either the unlawful discharge of pollutants into the waters
36 of the state or other violation of Division 7 (commencing with Section 13000) of
37 the Water Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 2021. (a) As used in this section “shark fin” means the raw, dried, or otherwise
27 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
28 an elasmobranch.

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

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

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

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

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

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

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

3 2021.5. (a) Notwithstanding Section 2021, all of the following provisions apply:

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

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

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

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

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

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

22 **Fish & Game Code § 2074.8 (amended). Scope of inquiry**

23 SEC. _____. Section 2074.8 of the Fish and Game Code is amended to read:

24 2074.8. (a) This article does not impose any duty or obligation for, or otherwise
25 require, the commission or the department to undertake independent studies or other
26 assessments of any species when reviewing a petition and its attendant documents
27 and comments. ~~However, the department shall seek independent scientific peer~~
28 ~~review of the department's status report.~~

29 (b) The director may approve an extension of time for completion of the status
30 report if necessary for the purposes of obtaining independent peer review pursuant
31 to Section 2074.6.

32 **Comment.** Section 2074.8 is amended to delete a redundant provision. See Section 2074.6.

33 The section is also amended to add subdivision designations.

34 **Fish & Game Code § 2080.3 (amended). Enhancement of survival permit**

35 SEC. _____. Section 2080.3 of the Fish and Game Code is amended to read:

36 2080.3. (a) Notwithstanding any other provision of this chapter, if any person
37 obtains from the Secretary of Commerce an enhancement of survival permit
38 pursuant to Section 1539(a)(1)(A) of Title 16 of the United States Code that
39 authorizes the taking of spring run Chinook salmon (*Oncorhynchus tshawytscha*) in
40 order to establish or maintain an experimental population in the San Joaquin River
41 pursuant to subsection (j) of that section and the San Joaquin River Restoration

1 Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11), no further
2 authorization or approval is necessary under this chapter for that person to take that
3 species as identified in, and in accordance with, the enhancement of survival permit,
4 if all of the following requirements are met:

5 (1) That person shall notify the director in writing that the person has received an
6 enhancement of survival permit and include in the notification a copy of the permit.

7 (2) Upon receipt of the notice specified in paragraph (1) ~~of subdivision (e)~~, the
8 director shall immediately have the notice published in the General Public Interest
9 section of the California Regulatory Notice Register.

10 (3) Within 30 days after the director has received the notice specified in paragraph
11 (1), the director shall determine whether the enhancement of survival permit will
12 further the conservation of the species. As used in this paragraph, “conservation”
13 has the same meaning as defined in Section 2061.

14 (4) The director shall immediately have the determination pursuant to paragraph
15 (3) published in the General Public Interest section of the California Regulatory
16 Notice Register.

17 (b) The timing and extent of a take authorization under this section shall be limited
18 to the terms in the federal enhancement of survival permit and shall expire upon the
19 expiration of the federal permit.

20 (c) This section shall remain in effect only until the effective date of an
21 amendment to Section 1539 of Title 16 of the United States Code that alters the
22 requirements for issuing an enhancement of survival permit, as applicable, and as
23 of that date is repealed, unless a later enacted statute, that is chaptered before the
24 date this section is repealed, deletes or extends that date.

25 **Comment.** Paragraph (2) of subdivision (a) of Section 2080.3 is amended to correct an erroneous
26 cross-reference.

27 Subdivision (c) is also amended to make a technical correction.

28 • **Fish & Game Code § 2086 (amended). Voluntary programs**

29 SEC. ____ . Section 2086 of the Fish and Game Code is amended to read:

30 2086. (a) The department, in cooperation with the Department of Food and
31 Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and
32 other agricultural experts, shall adopt regulations that authorize locally designed
33 voluntary programs for routine and ongoing agricultural activities on farms or
34 ranches that encourage habitat for candidate, threatened, and endangered species,
35 and wildlife generally. Agricultural commissioners, extension agents, farmers,
36 ranchers, or other agricultural experts, in cooperation with conservation groups, may
37 propose those programs to the department. ~~The department shall propose regulations~~
38 ~~for those programs not later than July 1, 1998.~~

39 (b) Programs authorized under subdivision (a) shall do all of the following:

40 (1) Include management practices that will, to the maximum extent practicable,
41 avoid and minimize take of candidate, endangered, and threatened species, while
42 encouraging the enhancement of habitat.

1 (2) Be supported by the best available scientific information for both agricultural
2 and conservation practices.

3 (3) Be consistent with the policies and goals of this chapter.

4 (4) Be designed to provide sufficient flexibility to maximize participation and to
5 gain the maximum wildlife benefits without compromising the economics of
6 agricultural operations.

7 (5) Include terms and conditions to allow farmers or ranchers to cease
8 participation in a program without penalty. The terms and conditions shall include
9 reasonable measures to minimize take during withdrawal from the program.

10 (c) Any taking of candidate, threatened, or endangered species incidental to
11 routine and ongoing agricultural activities that occurs while the management
12 practices specified by paragraph (1) of subdivision (b) are followed, is not
13 prohibited by this chapter.

14 (d)(1) The department shall automatically renew the authorization for these
15 voluntary programs every five years, unless the Legislature amends or repeals this
16 section in which case the program shall be revised to conform to this section.

17 (2) Commencing in 2000, and every five years thereafter, the department shall
18 post a report regarding the effect of the programs on its Internet Web site. The
19 department shall consult with the Department of Food and Agriculture in evaluating
20 the programs and preparing the report. The report shall address factors such as the
21 temporary and permanent acreage benefiting from the programs, include an estimate
22 of the amount of land upon which routine and ongoing agricultural activities are
23 conducted, provide examples of farmer and rancher cooperation, and include
24 recommendations to improve the voluntary participation by farmers and ranchers.

25 (e) If the authorization for these programs is not renewed or is modified under
26 subdivision (d), persons participating in the program shall be allowed to cease
27 participating in the program in accordance with the terms and conditions specified
28 in paragraph (5) of subdivision (b), without penalty.

29 (f)(1) The department may approve an application submitted by an agricultural-
30 based nonprofit organization or other entity registered as a California nonprofit
31 organization to initiate and undertake public education and outreach activities that
32 promote the achievement of the objectives of this chapter. An application submitted
33 pursuant to this subdivision shall include the following:

34 (A) The name and contact information of the participating organization.

35 (B) A brief description of the planned outreach activities.

36 (C) An end date for the outreach activities.

37 (2) The department may require a participating organization to submit, for
38 approval by the department, educational materials and outreach materials that are
39 disseminated to the public in furtherance of this subdivision.

40 (3) A participating organization shall file an annual report with the department
41 before the end of each calendar year during the time period specified in the
42 application. The report shall include, but is not limited to, the following:

1 (A) Complete information on the activities conducted by the participating
2 organization in the prior year, including a description of all means of
3 communicating to the public and agricultural community, including personal visits,
4 electronic communications, organized meetings, or other means.

5 (B) A compilation of responses from the public and members of the agricultural
6 community that will assist the participating organization and the department to
7 modify or improve public education and outreach activities on an ongoing basis.

8 (C) An assessment of the existing knowledge within the agricultural community
9 of programs and prohibitions under this chapter and a review of outreach activities
10 that could be used to adapt and improve future outreach efforts.

11 (D) Information on a farm or ranch that has expressed interest in participating in
12 a voluntary program pursuant to this section or the safe harbor agreement program
13 contained in Article 3.7 (commencing with Section 2089.2). This provision does not
14 require the annual report to include the identification to the department of an
15 individual, farm, or ranch.

16 **Comment.** Subdivision (a) of Section 2086 is amended to delete an obsolete deadline for the
17 proposal of specified regulations.

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

19 SEC. ____. Section 2124 of the Fish and Game Code is amended to read:

20 2124. (a) The department may reimburse eligible local entities, pursuant to a
21 memorandum of understanding entered into pursuant to this section, for costs
22 incurred by the eligible local entities in the administration and enforcement of any
23 provision concerning the possession of, handling of, care for, or holding facilities
24 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

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

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

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

35 **Comment.** Subdivisions (a) and (b) of Section 2124 are amended to conform to statutory
36 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
37 2185, 2190.

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

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

40 2125. (a) In addition to any other penalty provided by law, any person who
41 violates this chapter or any regulations implementing this chapter, is subject to a
42 civil penalty of not less than five hundred dollars (\$500) nor more than ten thousand

1 dollars (\$10,000) for each violation. Except as otherwise provided, any violation of
2 this chapter or of any regulations implementing this chapter is a misdemeanor
3 punishable by imprisonment in a county jail for not more than six months, or by a
4 fine of not more than one thousand dollars (\$1,000).

5 (b) The Attorney General, or the city attorney of the city or the district attorney or
6 county counsel of the county in which a violation of this article occurs, may bring a
7 civil action to recover the civil penalty in subdivision (a) and the costs of seizing
8 and holding the animal ~~listed in~~ enumerated in or designated pursuant to Section
9 2118, except to the extent that those costs have already been collected as provided
10 by subdivision (d). The civil action shall be brought in the county in which the
11 violation occurs and any penalty imposed shall be transferred to the Controller for
12 deposit in the Fish and Game Preservation Fund in accordance with Section 13001.

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

18 (d)(1) If an animal is confiscated because the animal was kept in contravention of
19 this chapter or any implementing regulations, the person claiming the animal shall
20 pay to the department or the new custodian of the animal an amount sufficient to
21 cover all reasonable expenses expected to be incurred in caring for and providing
22 for the animal for at least 30 days, including, but not limited to, the estimated cost
23 of food, medical care, and housing.

24 (2) If the person claiming the animal fails to comply with the terms of ~~his or her~~
25 their permit and to regain possession of the animal by the expiration of the first 30-
26 day period, the department may euthanize the animal or place the animal with an
27 appropriate wild animal facility at the end of the 30 days, unless the person claiming
28 the animal pays all reasonable costs of caring for the animal for a second 30-day
29 period before the expiration of the first 30-day period. If the permittee is still not in
30 compliance with the terms of the permit at the end of the second 30-day period, the
31 department may euthanize the animal or place the animal in an appropriate wild
32 animal facility.

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

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

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

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

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

3 2126. (a) Except as otherwise authorized by this code or regulations made
4 pursuant thereto, it is unlawful for any person to take any mammal ~~as identified by~~
5 enumerated in or designated pursuant to Section 2118.

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

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

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

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

12 2127. (a) The department may reimburse eligible local entities, pursuant to a
13 memorandum of understanding entered into pursuant to this section, for costs
14 incurred by the eligible local entities in the administration and enforcement of any
15 provision concerning the possession of, handling of, care for, or holding facilities
16 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

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

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

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

27 **Comment.** Subdivisions (a) and (b) of Section 2127 are amended to conform to statutory
28 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
29 2185, 2190.

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

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

32 2150.3. (a) The director shall appoint a committee to advise the director on the
33 humane care and treatment of wild animals.

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

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

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

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

6 • **Fish & Game Code § 2185 (amended). Notification of law enforcement of arriving wild
7 animal**

8 SEC. _____. Section 2185 of the Fish and Game Code is amended to read:

9 2185. (a) Any person who transports, receives, or imports into the State, or
10 transports within the State, any live wild animal enumerated in or designated
11 pursuant to Section 2118, shall hold said animal in confinement for inspection and
12 immediately notify the nearest enforcing officer of the arrival thereof. If there is
13 found in any shipment any species not specified in the permit issued under this
14 chapter, or more than the number of any species specified, said animals shall be
15 refused admittance as provided in Section ~~2188 of this chapter~~ 2189.

16 (b) Notwithstanding Section 2117, for the purposes of this section, “enforcing
17 officer” means the enforcement personnel of the department, the state plant
18 quarantine officers, and county agricultural commissioners.

19 **Comment.** Section 2185 is amended to update an obsolete cross-reference.

20 • **Fish & Game Code § 2356 (amended). Transport of trout**

21 SEC. _____. Section 2356 of the Fish and Game Code is amended to read:

22 2356. (a) ~~It is unlawful at any time to offer for shipment, ship, or receive for~~
23 ~~shipment, or transport from this state, any trout taken in the waters of this state,~~
24 ~~except that the~~ as provided in subdivision (b).

25 (b) The following persons may personally transport from this state not more than
26 one daily bag limit of trout:

27 (1) The holder of a nonresident angling sport fishing license, or any .

28 (2) A person on active military duty with the armed forces of the United States or
29 ~~on active military duty with an auxiliary branch thereof~~ who possesses a valid
30 ~~angling license, may personally transport from this state not more than one daily~~
31 ~~bag limit of trout.~~

32 (3) A person on active military duty with an auxiliary branch of the armed forces
33 of the United States who possesses a valid angling license.

34 **Comment.** Section 2356 is amended for clarity.

35 The section is also amended to add subdivision designations.

36 • **Fish & Game Code § 2359 (amended). Striped bass**

37 SEC. _____. Section 2359 of the Fish and Game Code is amended to read:

38 2359. Except as provided in Section 2363, ~~no~~ striped bass may be transported or
39 carried out of or into this state, ~~except striped bass taken from the Colorado River~~
40 ~~by sportfishing licensees to the extent and in the manner following~~ only as follows:

1 (a) A resident of California, or the holder of a valid nonresident California
2 sportfishing license, lawfully taking ~~such fish on the waters~~ striped bass from the
3 Colorado River or from the Arizona shore of ~~the~~ that river, may transport or carry
4 ~~such fish~~ the fish taken into California.

5 (b) A resident of Arizona, or the holder of a valid nonresident Arizona
6 sportfishing license, lawfully taking ~~such fish on the waters~~ striped bass from the
7 Colorado River or from the California shore of ~~the~~ that river, may transport or carry
8 ~~such fish~~ the fish taken into Arizona.

9 **Comment.** Section 2359 is amended for clarity.

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

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

12 2541. Each applicant for a guide license shall submit proof of having obtained a
13 surety bond in the amount of not less than one thousand dollars (\$1,000) ~~which shall~~
14 ~~insure, conditioned on~~ faithful performance of the guide and ~~his or her~~ the guide's
15 agents or employees in fulfilling their responsibilities to their clients. No guide
16 license shall be issued to any applicant who does not submit proof of having a bond
17 ~~which~~ that is valid for the term of the license.

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

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

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

22 2576. It is unlawful to knowingly capture for sale, transport for sale or sell wild
23 rodents, except as provided in Article ~~4.5~~ 1 (commencing with Section 1000) of
24 Chapter 3 of Division 2.

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

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

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

29 2582. (a) The department may impose ~~civil liability~~ an administrative penalty
30 upon any person pursuant to this chapter for any of the following acts done for profit
31 or personal gain:

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

37 (2) Unlawfully export, import, transport, sell, possess, receive, acquire, or
38 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
39 transporting, sale, possession, receiving, acquisition, or purchasing of any plants,
40 insects, or other species listed pursuant to the California Endangered Species Act

1 (Chapter 1.5 (commencing with Section 2050)), which are taken or possessed in
2 violation of this code or the regulations adopted pursuant to this code.

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

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

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

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

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

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

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

33 **Fish & Game Code § 2583 (amended). Administrative penalties relating to endangered,
34 threatened, or fully protected animals**

35 SEC. ____. Section 2583 of the Fish and Game Code is amended to read:

36 2583. (a) Except as provided in subdivision (b), any person who violates this code
37 or any regulation adopted to carry out this code, and, with the exercise of due care,
38 should have known that the birds, mammals, amphibians, reptiles, or fish, or the
39 endangered or threatened species, or the fully protected birds, mammals, or fish
40 were taken, possessed, transported, imported, received, purchased, acquired, or sold
41 in violation of, or in a manner unlawful under, this code, may be assessed a ~~civil~~ an
42 administrative penalty. The ~~civil~~ administrative penalty imposed under this chapter

1 by the department shall not be more than ten thousand dollars (\$10,000) for each
2 bird, mammal, amphibian, reptile, or fish, or for each endangered or threatened
3 species, or each fully protected bird, mammal, or fish unlawfully taken, possessed,
4 transported, imported, received, purchased, acquired, or sold. This ~~civil~~
5 administrative penalty may be in addition to any other penalty, civil or criminal,
6 provided in this code or otherwise by law.

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

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

12 **Fish & Game Code § 2584 (amended). Procedure for imposition of administrative penalty**

13 SEC. ____ . Section 2584 of the Fish and Game Code is amended to read:

14 2584. (a) Upon an actionable violation, the department shall consult, as to the
15 appropriate civil or criminal remedy, with the district attorney in the jurisdiction
16 where the violation was alleged to have occurred. Before proceeding with a civil
17 action, the department shall seek the concurrence of the Attorney General.

18 ~~(b) The director shall appoint a qualified referee or hearing board, composed of~~
19 ~~one or any combination of the following persons:~~

20 ~~(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.~~

21 ~~(2) A retired judge of the superior court who is knowledgeable in fish and wildlife~~
22 ~~law.~~

23 ~~(3) A qualified neutral referee, appointed upon petition to the Superior Court in~~
24 ~~which the violation was alleged to have occurred.~~

25 ~~(e)~~ The director, after investigation of the facts and circumstances, may issue a
26 complaint to any person on whom a ~~civil~~ an administrative penalty may be imposed
27 pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to
28 act that constitute a basis for a ~~civil~~ an administrative penalty and the amount of the
29 proposed ~~civil~~ administrative penalty. The complaint shall be served by personal
30 service or certified mail and shall inform the person so served that a hearing shall
31 be conducted within 60 days after the person has been served, unless the person
32 waives the right to a hearing. If the person waives the right to a hearing, the
33 department shall issue an order setting ~~liability~~ the penalty in the amount proposed
34 in the complaint. If the person has waived the right to a hearing or if the department
35 and the person have entered into a settlement agreement, the order shall be final.

36 (c) If the director issues a complaint pursuant to subdivision (a), the director shall
37 appoint a qualified referee or hearing board, composed of one or any combination
38 of the following persons:

39 (1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

40 (2) A retired judge of the superior court who is knowledgeable in fish and wildlife
41 law.

1 (3) A qualified neutral referee, appointed upon petition to the superior court in
2 which the violation was alleged to have occurred.

3 (d) Any hearing required under this section shall be conducted by a the appointed
4 referee or hearing board according to the procedures specified in Sections 11507 to
5 11517, inclusive, of the Government Code, except as otherwise provided in this
6 section. In making a determination, the ~~hearing officer~~ appointed referee or hearing
7 board may consider the records of the department in the matter, the complaint, and
8 any new facts brought to the ~~officer's~~ referee or hearing board by
9 ~~that the person served with the complaint.~~ The hearing officer appointed referee or
10 hearing board shall be the sole trier of fact as to the existence of a basis for liability
11 under Section 2582 or 2583. The hearing officer appointed referee or hearing board
12 shall make the determination of the facts of the case and shall prepare and submit
13 the proposed decision, including a recommended penalty assessment, to the director
14 for the director's review and assistance in the penalty assessment process. The
15 proposed decision is a public record and shall be served upon the person. The
16 director may approve the proposed decision in its entirety, or the director may
17 reduce the proposed penalty and adopt the balance of the proposed decision.

18 (e) The director may assess the ~~civil~~ recommended administrative penalty, ~~and~~
19 ~~may reduce the amount of the recommended penalty,~~ or not impose any ~~assessment,~~
20 ~~of civil penalties~~ administrative penalty, based upon the nature, circumstances,
21 extent, and gravity of the prohibited acts alleged, and the degree of culpability of
22 the violator; ~~or the director may enter into a settlement agreement with the person~~
23 ~~served with the complaint in the best interests of the state or confirm the amount of~~
24 ~~civil administrative penalties contained in the complaint. If the director reduces the~~
25 ~~amount of the civil administrative penalty, does not impose the civil administrative~~
26 ~~penalty, or enters into a settlement agreement, the director shall seek the~~
27 ~~recommendation of the hearing officer appointed referee or hearing board and enter~~
28 ~~into the records of the case the reasons for that action, including the hearing officer's~~
29 ~~recommendation of the appointed referee or hearing board. The decision of the~~
30 ~~director assessing the civil administrative penalty is final. The proposed decision is~~
31 ~~a public record and shall be served upon the person. The director may approve the~~
32 ~~proposed decision in its entirety, or the director may reduce the proposed penalty~~
33 ~~and adopt the balance of the proposed decision.~~

34 (f) Upon the final assessment of the ~~civil~~ administrative penalty, the department
35 shall issue an order setting the amount of the ~~civil~~ administrative penalty to be
36 imposed. An order setting ~~civil liability~~ the amount of an administrative penalty
37 under this section becomes effective and final upon the issuance thereof of the order,
38 and payment shall be made within 30 days of issuance. Copies of the order shall be
39 served by personal service or by certified mail upon the person served with the
40 complaint and upon other persons who appeared before the director and requested
41 a copy. Copies of the order shall be provided to any person within 10 days of receipt
42 of a written request from that person.

1 (g) Within 30 days after service of a copy of an order setting the amount of the
2 ~~civil~~ administrative penalty, any person so served may file with the superior court a
3 petition for a writ of mandate for review of the order. In all proceedings pursuant to
4 this subdivision, the court shall exercise its independent judgment on the evidence
5 in the whole record. The filing of a petition for a writ of mandate shall not stay any
6 other civil or criminal action.

7 (h) The records of the case, after all appeals are final, are public records, as
8 defined in Section 7920.530 of the Government Code.

9 **Comment.** Section 2584 is amended to replace references to a “civil penalty” or “civil liability”
10 with references to an “administrative penalty,” and make other nonsubstantive clarifications.

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

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

13 2585. The ~~civil~~ administrative penalties imposed under this chapter are in addition
14 to any forfeiture of equipment pursuant to Section 12157 or forfeiture of birds,
15 mammals, amphibia, reptiles, or fish pursuant to Section 12159.

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

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

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

20 2586. (a) The director may pay a reward from any funds available for that purpose
21 to any person who furnished information which led to an arrest, a criminal
22 conviction, an order of assessment of a ~~civil~~ an administrative penalty, or for
23 forfeiture of property for any violation of this code or any regulation adopted
24 pursuant to this code. The amount of reward, if any, shall be designated by the
25 director with the advice of the CalTIP Award Board.

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

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

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

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

32 2587. (a) Notwithstanding Section 12511 of the Government Code, the
33 department may retain or appoint legal counsel to prepare and prosecute civil
34 actions under this chapter.

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

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

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

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

3 2588. All ~~civil~~ administrative penalties and revenues from forfeitures collected
4 pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

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

7 **• Fish & Game Code § 2854 (amended). Workgroup actions**

8 SEC. _____. Section 2854 of the Fish and Game Code is amended to read:

9 2854. The ~~workgroup~~ State Interagency Marine Managed Areas Workgroup shall,
10 after appropriate consultation with members of the public, determine future actions
11 for implementing the recommendations of its final report.

12 **Comment.** Section 2854 is amended to identify a workgroup referenced in the section.

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

14 SEC. _____. Section 3004.5 of the Fish and Game Code, as amended by Section 3
15 of Chapter 469 of the Statutes of 2022, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ~~(k)~~ (j) This section shall remain in effect only until July 1, 2024, and as of that
5 date is repealed.

6 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) of Section
7 3004.5, are deleted as obsolete.

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

9 SEC. ____ . Section 3004.5 of the Fish and Game Code, as added by Section 4 of
10 Chapter 469 of the Statutes of 2022, is amended to read:

11 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
12 the commission, shall be required when taking big game, as defined in the
13 department’s mammal hunting regulations (14 Cal. Code Regs. 350), with rifle or
14 pistol, and when taking coyote, within the California condor range.

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

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

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

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

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

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

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

37 (d)(1) To the extent that funding is available, the commission shall establish a
38 process that will provide hunters with nonlead ammunition at no or reduced charge.
39 The process shall provide that the offer for nonlead ammunition at no or reduced
40 charge may be redeemed through a coupon sent to a permit holder with the
41 appropriate permit tag. If available funding is not sufficient to provide nonlead
42 ammunition at no charge, the commission shall set the value of the reduced charge

1 coupon at the maximum value possible through available funding, up to the average
2 cost within this state for nonlead ammunition, as determined by the commission.

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

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

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

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

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

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

22 ~~(i)~~ (h) The commission shall promulgate regulations by July 1, 2015, that phase
23 in the requirements of this section. The requirements of this section shall be fully
24 implemented statewide by no later than July 1, 2019. If any of the requirements of
25 this section can be implemented practicably, in whole or in part, in advance of July
26 1, 2019, the commission shall implement those requirements. The commission shall
27 not reduce or eliminate any existing regulatory restrictions on the use of lead
28 ammunition in California condor range unless or until the additional requirements
29 for use of nonlead ammunition as required by this section are implemented.

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

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

40 ~~(k)~~ (j) This section shall become operative on July 1, 2024.

41 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) of Section
42 3004.5, are deleted as obsolete.

1 **Fish & Game Code § 3005 (amended). Other prohibited methods of taking**

2 SEC. ____ . Section 3005 of the Fish and Game Code is amended to read:

3 3005. (a) It is unlawful to take birds or mammals with any net, pound, cage, trap,
4 set line or wire, or poisonous substance, or to possess birds or mammals so taken,
5 whether taken within or without this state, except as provided in this code or, when
6 relating to ongoing mining operations, in accordance with a mitigation plan
7 approved by the department.

8 (b)(1) Mitigation plans relating to mining operations approved by the department
9 shall, among other criteria, require avoidance of take, where feasible, and include
10 reasonable and practicable methods of mitigating the unavoidable take of birds and
11 mammals. When approving mitigation plans, the department shall consider the use
12 of the best available technology on a site-specific basis.

13 (2) Mitigation plans relating to mining operations approved by the department
14 shall include provisions that address circumstances where mining operations
15 contribute to bird deaths, including ponding of process solutions on heap leach pads
16 and exposure of process solution channels, solution ponds, and tailing ponds.

17 (3) The mine operator shall prepare a mitigation plan that shall be submitted to
18 the department for approval. For ongoing mining operations, the mitigation plan
19 shall result in an overall reduction in take of avian or mammal species. The
20 department shall provide an opportunity for public review and comment on each
21 mitigation plan during the department's approval process. The mitigation plan shall
22 be prepared on a site-specific basis and may provide for offsite mitigation measures
23 designed to reduce avian mortality. The mine operator shall submit monthly
24 monitoring reports on avian mortality to the department to aid in evaluating the
25 effectiveness of onsite mitigation measures.

26 (4) The department shall monitor and evaluate implementation of the mitigation
27 plan by the mine operator and require modification of the plan or other remedial
28 actions to be taken if the overall reduction in take of avian or mammal species
29 required pursuant to paragraph (3) is not being achieved.

30 (5) The mining operator shall reimburse the department for its direct costs to
31 provide appropriate notice of the mitigation plan to affected local government
32 entities and other affected parties. The mine operator shall provide the department
33 a limited number of copies, as determined by the department, of the mitigation plan
34 for public review.

35 (c) Proof of possession of any bird or mammal that does not show evidence of
36 having been taken by means other than a net, pound, cage, trap, set line or wire, or
37 poisonous substance, is prima facie evidence that the birds or mammals were taken
38 in violation of this section.

39 (d) This section does not apply to ~~the~~ any of the following:

40 (1) The lawful taking of fur-bearing mammals, nongame birds, or nongame
41 mammals;~~or,~~

42 (2) The lawful taking of mammals found to be injuring crops or property;~~to the .~~

43 (3) The taking of birds or mammals under depredation permits;~~to.~~

1 (4) The taking of birds or mammals by employees of the department acting in an
2 official capacity, ~~or to~~ .

3 (5) The taking of birds or mammals in accordance with the conditions of a
4 scientific or propagation permit by the holder of that permit.

5 **Comment.** Subdivision (d) of Section 3005 is amended for clarity.

6 **Fish & Game Code § 3049 (amended). Legislative declaration**

7 SEC. ____ . Section 3049 of the Fish and Game Code is amended to read:

8 3049. (a) It is the intent of the Legislature in enacting this article to ensure the
9 health and safety of its citizens engaged in activities requiring the use of hunting
10 implements.

11 (b) The Legislature finds and declares that individuals who engage in hunting
12 should possess an adequate understanding of hunter safety practices, principles of
13 conservation, and ~~sportsmanship~~ positive sporting behavior.

14 (c) It is also the intent of the Legislature that persons so engaged be mindful of
15 their responsibilities to others, toward wildlife, and toward their natural
16 environment. The department shall take all steps necessary to carry out the
17 provisions of this article.

18 **Comment.** Section 3049 is amended to make the section gender neutral, and add subdivision
19 designations.

20 **Fish & Game Code § 3051 (amended). Hunter instruction**

21 SEC. ____ . Section 3051 of the Fish and Game Code is amended to read:

22 3051. (a) The department shall provide for a course of instruction in hunter
23 education, principles of conservation, and ~~sportsmanship~~ positive sporting behavior,
24 and for this purpose may cooperate with any reputable association or organization
25 having as one of its objectives the promotion of hunter safety, principles of
26 conservation, and ~~sportsmanship~~ positive sporting behavior.

27 (b) The department may designate as a hunter education instructor any person
28 found by it to be competent to give instruction in the courses required in this article.

29 (c) A hunter education instructor shall issue a certificate of completion as
30 provided by the department to a person who completes a course of instruction in
31 hunter safety, principles of conservation, and ~~sportsmanship~~ positive sporting
32 behavior.

33 (d) The department shall prescribe a minimum level of skill and knowledge to be
34 required of all hunter education instructors, and may limit the number of students
35 per instructor in all required classes.

36 (e) The department may revoke the certificate of an instructor when, in the opinion
37 of the department, it is in the best interest of the state to do so.

38 (f) In order to recruit and retain hunter education instructors, the department shall
39 offer special hunting opportunities to qualified hunter education instructors by
40 providing a limited number of existing tags and other hunting opportunities. The

1 department may provide these tags and hunting opportunities through any of the
2 following methods:

3 (1) The private lands management program described in Article 5 (commencing
4 with Section 3400) of Chapter 2.

5 (2) The Shared Habitat Alliance for Recreational Enhancement (SHARE)
6 program described in Article 3 (commencing with Section 1570) of Chapter 5 of
7 Division 2.

8 (3) Entering into cooperative agreements with federal, state, and local agencies
9 that hold title to, or administer, lands or waters.

10 (4) Entering into cooperative agreements with landowners or tenants seeking
11 depredation permits for game mammals as described in Section 4188.

12 (5) Authorizing a maximum of 15 tags from the annual tag quota, as determined
13 by the department.

14 (g) The department shall determine eligibility criteria for hunter education
15 instructors seeking the hunting opportunities offered pursuant to subdivision (f). The
16 department shall offer hunting opportunities to eligible hunter education instructors
17 only by random drawing.

18 (h) The department may adopt regulations to implement this section.

19 **Comment.** Section 3051 is amended to make the section gender neutral.

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

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

22 3200. Any person engaged in raising or importing, or who keeps in captivity, in
23 this state domesticated game birds or domesticated game mammals which normally
24 exist in the wild in this state shall procure a domesticated game breeder's license if
25 the birds or mammals are kept more than 30 days after acquisition. No license is,
26 however, required of any of the following:

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

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

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

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

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

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

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

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

40 3270. ~~(a)~~ In order to provide additional hunting by stocking domestically
41 propagated game birds, and to permit the taking of game birds under conditions that

1 will not conflict with the public interest, any person who owns or controls the
2 hunting rights on a tract of land may apply to the department for a game bird club
3 license authorizing the taking of game birds upon that land in accordance with the
4 regulations of the commission for the administration, including the implementation
5 and enforcement, of this section.

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

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

8 • **Fish & Game Code § 3407 (amended). Marking of animal taken in area**

9 SEC. _____. Section 3407 of the Fish and Game Code is amended to read:

10 3407. (a) The commission may require that any fish, bird, or mammal taken in a
11 wildlife habitat enhancement and management area licensed pursuant to this article
12 be marked for identification with a distinctive tag or seal issued by the department
13 prior to being removed from the area.

14 (b) A deer tag shall be countersigned by a person who is authorized to countersign
15 deer tags pursuant to Section ~~372~~ 708.6 of Title 14 of the California Code of
16 Regulations.

17 (c) Any fish, bird, or mammal so identified may be possessed and transported at
18 any time during the period for which the tag or seal is valid.

19 (d) The fees for tags and seals shall be established by the commission in amounts
20 which, in conjunction with fees collected pursuant to Section 3402, are calculated
21 to meet the actual costs incurred by the department in administering all aspects of
22 the habitat enhancement and management program.

23 **Comment.** Section 3407 is amended to correct an erroneous cross-reference.

24 The section is also amended to add subdivision designations.

25 • **Fish & Game Code § 3462 (amended). Recordation of contract**

26 SEC. _____. Section 3462 of the Fish and Game Code is amended to read:

27 3462. (a) Not later than 20 days after the director has entered into a contract
28 pursuant to this ~~division~~ article, a copy of the contract particularly describing the
29 subject habitat as required by subdivision (a) of Section 3461 shall be recorded by
30 the department in the office of the county recorder in each county in which any
31 portion of the areas subject to the contract is located. The contract shall be indexed
32 by the recorder in the grantor-grantee index to the name of the owner of record as
33 grantor and to the department as grantee.

34 (b) Notwithstanding Section 27383 of the Government Code, the department shall
35 pay the fees for recording and indexing the contract, and the department shall deduct
36 the amount paid from the amounts due to the owner under the contract.

37 **Comment.** Section 3462 is amended to correct an erroneous cross-reference.

38 • **Fish & Game Code § 3466 (amended). Modification of terms**

39 SEC. _____. Section 3466 of the Fish and Game Code is amended to read:

1 3466. The director and the owner or lessee may mutually agree to modify the
2 terms and conditions of a contract under this ~~division~~ article as the director may
3 determine to be desirable to carry out the purposes of, or to facilitate administration
4 of, the program.

5 **Comment.** Section 3466 is amended to correct an erroneous cross-reference.

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

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

8 3500. (a) Resident game birds are as follows:

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

11 (2) California quail and varieties thereof.

12 (3) Gambel’s or desert quail.

13 (4) Mountain quail and varieties thereof.

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

15 (6) Ruffed grouse.

16 (7) Sage hens or sage grouse.

17 (8) Hungarian partridges.

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

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

20 (11) Wild turkeys of the order Galliformes.

21 (12) White-tailed ptarmigan.

22 (b) Migratory game birds are as follows:

23 (1) Ducks and geese.

24 (2) Coots and gallinules.

25 (3) Jacksnipe.

26 (4) Western mourning doves.

27 (5) White-winged doves.

28 (6) Band-tailed pigeons.

29 (c) References in this code to “game birds” means both resident game birds and
30 migratory game birds.

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

35 **Fish & Game Code § 3680 (amended). Pigeon**

36 SEC. _____. Section 3680 of the Fish and Game Code is amended to read:

37 3680. ~~Any~~ (a) Except as provided in subdivision (b), any person, other than the
38 ~~owner thereof, who at any time, by any means or in any manner, purposely takes~~
39 any racing pigeon that at the time of taking is currently registered with a recognized
40 organization, is guilty of a misdemeanor. ~~However, the~~

41 (b) This section does not apply to either of the following:

1 (1) The taking of a registered racing pigeon by its owner.

2 (2) The incidental take of a registered racing pigeons with the pigeon while
3 shooting or taking of a wild band-tailed pigeons pigeon or a domestic pigeons
4 pigeon (Columba livia), is not a violation of this section.

5 **Comment.** Section 3680 is amended for clarity, and to add subdivision designations.

6 **Fish & Game Code § 3681 (amended). Take of duck or goose in District 8 and 9**

7 SEC. _____. Section 3681 of the Fish and Game Code is amended to read:

8 3681. (a) In Districts 8 and 9, it is unlawful to take ~~ducks or geese in any manner~~
9 a duck or goose below the incoming or outgoing tidewater's edge, or from any blind,
10 boat, floating device, island, islet, or exposed tidal flat ~~except~~ .

11 (b) Subdivision (a) does not apply on Saturdays, Sundays, Wednesdays, holidays,
12 and the opening and closing days during the prescribed open season ~~except that~~ .

13 (c) Notwithstanding subdivision (a), the use of boats is permitted to retrieve
14 crippled or dead birds.

15 **Comment.** Section 3681 is amended for clarity. The section is also amended to add subdivision
16 designations.

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

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

19 3700.1. (a) It is unlawful for any person, except a person licensed pursuant to
20 paragraph (2) of subdivision (a) of Section 3031, to take ~~any migratory game bird,~~
21 ~~except jacksnipe, coots, gallinules, western mourning doves, white-winged doves,~~
22 ~~and band-tailed pigeons,~~ a duck or goose without first procuring a state duck hunting
23 validation as provided in subdivision (b), and having that validation in their
24 possession while taking those birds.

25 (b)(1) State duck hunting validations shall be sold for a fee of ten dollars (\$10),
26 as adjusted pursuant to Section 713, by the department and by license agents, who
27 are authorized by the department pursuant to Section 1055.1, in the same manner as
28 hunting licenses.

29 (2) In addition to the fee imposed pursuant to paragraph (1), a fee of ten dollars
30 (\$10) is hereby imposed to obtain a state duck hunting validation, as adjusted
31 pursuant to Section 713.

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

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

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

36 3702.5. The department may permit individual artists to sell a limited number of
37 prints of duck stamp related artwork or posters.

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

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

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

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

3 3704. Two dollars and twenty-five cents (\$2.25) of the amount collected by the
4 department for each state duck stamp sold shall be allocated by the commission for
5 the purposes of the North American Waterfowl Management Plan in those areas of
6 Canada from which come substantial numbers of waterfowl migrating to, or
7 through, California. These funds shall be matched with federal or private funds
8 available for that purpose. The available balance of the funds shall be used for any
9 project authorized pursuant to Section 3702 in California. However, any lands
10 acquired in California with those funds shall be open to waterfowl hunting as a
11 public shooting ground or wildlife management area.

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

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

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

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

16 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are
17 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
18 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division
19 4 of the Military and Veterans Code. With the approval of the entity in control of
20 property affected by a project, the department may make grants to, or enter into
21 contracts with, nonprofit organizations for the accomplishment of those projects, or
22 the department may reimburse the controlling entity for its costs of accomplishing
23 the project.

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

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

26 **Fish & Game Code § 3801 (amended). Take or possession of English sparrow or starling**

27 SEC. _____. Section 3801 of the Fish and Game Code is amended to read:

28 3801. (a) Except as provided in Section 3000 and this section, the following
29 nongame birds may be taken or possessed at any time:

30 (1) English sparrow (*Passer domesticus*).

31 (2) Starling (*Sturnus vulgaris*).

32 (b) Notwithstanding Section 3007 or any other provision of this code or
33 regulations made pursuant thereto regulation adopted pursuant to this code requiring
34 the possession of a hunting license, a landowner or lessee, or an agent of either in
35 immediate possession of written authority from the landowner or lessee, shall not
36 be required to obtain a hunting license or a depredation permit to take ~~the following~~
37 ~~nongame birds~~ a nongame bird listed in subdivision (a) on land owned or leased by
38 the landowner or lessee. ~~Hunters otherwise~~

39 (c) All other persons taking the following nongame birds a nongame bird listed in
40 subdivision (a) shall be licensed pursuant to Section 3007. ~~The following nongame~~

1 ~~birds taken in compliance with this section may be taken and possessed by any~~
2 ~~person at any time, except as provided in Section 3000:~~

3 ~~(a) English sparrows (*Passer domesticus*).~~

4 ~~(b) Starlings (*Sturnus vulgaris*).~~

5 **Comment.** Section 3801 is amended for clarity. The section is also amended to add subdivision
6 designations.

7 **Fish & Game Code § 3801.6 (amended). Possession of parts of nongame bird**

8 SEC. ____ . Section 3801.6 of the Fish and Game Code is amended to read:

9 3801.6. (a) Except as otherwise provided in this code or regulations ~~made~~
10 ~~pursuant thereto~~ adopted pursuant to this code, it is unlawful to possess the carcass,
11 skin, or ~~parts~~ other part of any nongame bird. The feathers, carcass, skin, or parts of
12 any nongame bird possessed by any person in violation of any of the provisions of
13 this code shall be seized by the department and delivered to a California Native
14 American tribal government or a scientific or educational institution, used by the
15 department, or destroyed.

16 (b)(1) It shall be an affirmative defense to a violation of this section if the
17 possessor of feathers, carcass, skin, or ~~parts~~ other part of a nongame bird legally
18 acquired the feathers, carcass, skin, or ~~parts~~ other part, possesses them for tribal,
19 cultural, or spiritual purposes, and satisfies either of the following criteria:

20 (A) The possessor is an enrolled member of a federally recognized Native
21 American tribe or nonfederally recognized California Native American tribe listed
22 on the California Tribal Consultation List maintained by the Native American
23 Heritage Commission ~~who~~ and has, in ~~his or her~~ their immediate possession, valid
24 tribal identification or other irrefutable proof of current enrollment.

25 (B) The possessor has a certificate of degree of Indian blood issued by the United
26 States Bureau of Indian Affairs in ~~his or her~~ their immediate possession.

27 (2) Nothing in this section allows any person to sell the feathers, carcass, skin, or
28 other part of a nongame bird ~~feathers, carcasses, skins, or parts. Native Americans~~
29 ~~meeting the~~ .

30 (3) A Native American satisfying the criteria that would constitute an affirmative
31 defense requirements under paragraph (1) may salvage dead nongame birds so long
32 as the person salvaging ~~these birds~~ the nongame bird does not possess, nor is in the
33 company of any person who possesses, a firearm, BB device as defined in Section
34 16250 of the Penal Code, trap, snare, net archery equipment, device capable of
35 discharging a projectile, or any apparatus designed to take ~~birds~~ a bird.

36 (4) Salvaging shall not take place by any person involved in the take of the
37 nongame bird to be salvaged, any person present at the time of the take, or by any
38 person who received related information originating from any person present at the
39 time of the take of the nongame bird.

40 (5) Salvaging pursuant to this subdivision shall not take place if a bird has been
41 struck with any thrown or discharged projectile, or trapped, netted, caught, or
42 snared.

1 (c) Notwithstanding subdivisions (a) and (b), ~~any an~~ officer deputized pursuant to
2 this code may interrupt ~~any an~~ ongoing salvaging of a dead nongame ~~carcasses,~~
3 ~~feathers, skins, or parts~~ bird carcass, feathers, skin, or part if, in the officer's
4 judgment, the activity causes a public disruption, safety hazard, or is detrimental to
5 the ability of the department to prevent a possible violation of this section. ~~The~~ In
6 ~~that event, the~~ officer may seize ~~any of the salvaged feathers, carcasses, skins, or~~
7 ~~parts and has the option of returning them~~ the carcass, feathers, skin, or part being
8 salvaged, or may return the carcass, feathers, skin, or part to the general location
9 from where ~~they were~~ it had been salvaged.

10 **Comment.** Section 3801.6 is amended to clarify the intended meaning of the section.

11 • **Fish & Game Code § 3960 (amended). Possession of parts of nongame bird**

12 SEC. ____ . Section 3960 of the Fish and Game Code is amended to read:

13 3960. (a) As used in this section:

14 (1) "Pursue" means pursue, run, or chase.

15 (2) "Bear" means any black bear (*Ursus americanus*) found in the wild in this
16 state.

17 (b) It is unlawful to permit or allow any dog to pursue any big game mammal
18 during the closed season on that mammal, to pursue any fully protected, rare, or
19 endangered mammal at any time, to pursue any bear or bobcat at any time, or to
20 pursue any mammal in a game refuge or ecological reserve if hunting within that
21 refuge or ecological reserve is unlawful.

22 (c) ~~(1)~~ The department may take any of the following actions:

23 ~~(A)~~ (1) Capture any dog not under the reasonable control of its owner or handler,
24 when that uncontrolled dog is pursuing, in violation of this section, any of the
25 following mammals:

26 (A) A big game mammal, ~~any~~ .

27 (B) A bear or bobcat, ~~or any~~ .

28 (C) A fully protected, rare, or endangered mammal.

29 ~~(B)~~ (2) Capture or dispatch any dog inflicting injury or immediately threatening
30 to inflict injury to any of the following mammals, under the specified conditions:

31 (A) A big game mammal, during the closed season on that mammal, ~~and the~~
32 ~~department may capture or dispatch any dog inflicting injury or immediately~~
33 ~~threatening to inflict injury on any~~ .

34 (B) A bear or bobcat, at any time, ~~or any~~ .

35 (C) A fully protected, rare, or endangered mammal, at any time.

36 ~~(C)~~ ~~Capture or dispatch any dog inflicting injury or immediately threatening to~~
37 ~~inflict injury to any~~

38 (D) A mammal in a game refuge or ecological reserve, if hunting within that
39 refuge or ecological reserve is unlawful.

40 ~~(2)~~ (d) No criminal or civil liability shall accrue to any department employee as a
41 result of enforcement of this section.

1 ~~(3)~~ (e) This section does not apply to the use of dogs to pursue bears or bobcats
2 by federal, state, or local law enforcement officers, or their agents or employees,
3 when carrying out official duties as required by law.

4 ~~(4) Owners of dogs with~~ (f) If a dog captured or dispatched pursuant to this section
5 has identification, that have been captured or dispatched, its owner shall be notified
6 within 72 hours after capture or dispatch.

7 **Comment.** Section 3960 is amended to clarify the intended meaning of the section.

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

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

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

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

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

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

29 **• Fish & Game Code § 4154 (amended). Agreements relating to control of harmful nongame**
30 **mammals**

31 SEC. _____. Section 4154 of the Fish and Game Code is amended to read:

32 4154. (a) The department may enter into cooperative contracts with the United
33 States Fish and Wildlife Service in the Department of the Interior ~~in relation to the~~
34 ~~control of nongame mammals and for that~~ the purpose of controlling or eradicating
35 any nongame mammal, and may expend any money made available to the
36 department for ~~expenditure for the control or eradication of nongame mammals that~~
37 purpose.

38 (b) This section does not apply to bobcats.

39 **Comment.** Section 4154 is amended for clarity.

40 **Fish & Game Code § 4180.1 (amended). Immature depredator mammal in den**

41 SEC. _____. Section 4180.1 of the Fish and Game Code is amended to read:

1 4180.1. (a) It is unlawful to ~~use snares, hooks, or do~~ either of the following to an
2 immature depredator mammal while it is in its den:

3 (1) Use a snare, hook, or barbed wire to remove the mammal from the den, or .

4 (2) Use fire to kill the mammal in the den, any immature depredator mammal.

5 (b) Nothing in this section shall prohibit the use of fire-ignited gas cartridges or
6 other products registered or permitted under the Federal Insecticide, Rodenticide,
7 and Fungicide Act (7 U.S.C. ~~435~~ 136 et seq.).

8 **Comment.** Section 4180.1 is amended for clarity, and to update an erroneous reference.

9 The section is also amended to add subdivision and paragraph designations.

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

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

12 4180.2. As used in this article, “wild pigs” has the meaning set forth in Section
13 4650.

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

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

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

18 4181.1. (a) Any bear that is encountered while in the act of inflicting injury to,
19 molesting, or killing, livestock may be taken immediately by the owner of the
20 livestock or the owner’s employee if the taking is reported no later than the next
21 working day to the department and the carcass is made available to the department.

22 (b) Notwithstanding Section 4652, any wild pig that is encountered while in the
23 act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or
24 damaging or destroying, or threatening to immediately damage or destroy, land or
25 other property, including, but not limited to, rare, threatened, or endangered native
26 plants, wildlife, or aquatic species, may be taken immediately by the owner of the
27 livestock, land, or property or the owner’s agent or employee, or by an agent or
28 employee of any federal, state, county, or city entity when acting in his or her official
29 capacity. The person taking the wild pig shall report the taking no later than the next
30 working day to the department and shall make the carcass available to the
31 department. Unless otherwise directed by the department and notwithstanding
32 Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom
33 the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant
34 to subdivision (c), may possess the carcass of the wild pig. The person in possession
35 of the carcass shall make use of the carcass, which may include an arrangement for
36 the transfer of the carcass to another person or entity, such as a nonprofit
37 organization, without compensation. The person who arranges this transfer shall be
38 deemed to be in compliance with Section 4304. ~~A violation of this subdivision is~~
39 ~~punishable pursuant to Section 12000.~~ It is the intent of the Legislature that nothing
40 in this subdivision shall be interpreted to authorize a person to take wild pigs
41 pursuant to this subdivision in violation of a state statute or regulation or a local

1 zoning or other ordinance that is adopted pursuant to other provisions of law and
2 that restricts the discharge of firearms.

3 (c) The department shall make a record of each report made pursuant to
4 subdivision (a) or (b) and may have an employee of the department investigate the
5 taking or cause the taking to be investigated. The person taking a wild pig shall
6 provide information as deemed necessary by the department. Upon completion of
7 the investigation, the investigator may, upon a finding that the requirements of this
8 section have been met with respect to the particular bear or wild pig taken under
9 subdivision (a) or (b), issue a written statement to the person confirming that the
10 requirements of this section have been met. The person who took the wild pig may
11 transfer the carcass to another person without compensation.

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

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

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

20 • **Fish & Game Code § 4181.5 (amended). Permit to take deer**

21 SEC. _____. Section 4181.5 of the Fish and Game Code is amended to read:

22 4181.5. (a) Any owner or tenant of land or property that is being damaged or
23 destroyed or is in immediate danger of being damaged or destroyed by deer may
24 apply to the department for a permit to kill those deer. The department, upon
25 satisfactory evidence of ~~that~~ actual or immediately threatened damage or
26 ~~destruction, actual or immediately threatened,~~ shall, pursuant to regulations adopted
27 by the commission, issue a revocable permit for the taking and disposition of those
28 deer, for a designated period not to exceed 60 days ~~under regulations promulgated~~
29 ~~by the commission.~~

30 (b) The regulations of the commission shall include provisions concerning the
31 type of weapons to be used to kill the deer. The weapons shall be those as will ensure
32 humane killing, but the regulations of the commission shall provide for the use of a
33 sufficient variety of weapons to permit the designation of particular types to be used
34 in any particular locality commensurate with the need to protect persons and
35 property. Firearms using .22-caliber rimfire cartridges may be used only when
36 authorized by the director or his designee. No pistols shall be used.

37 (c) The caliber and type of weapon to be used by each permittee shall be specified
38 in each permit by the issuing officer who shall take into consideration the location
39 of the area, the necessity for clean kills, the safety factor, local firearms ordinances,
40 and other factors that apply. Rifle ammunition used shall have expanding bullets;
41 shotgun ammunition shall have only single slugs, or, if authorized by the
42 department, 0 or 00 buckshot.

1 ~~(e)~~ (d) ~~The~~ At the time a permit is issued pursuant to subdivision (a), the
2 department shall issue tags similar to those provided for in Section 4331 at the same
3 time the permit is issued. A permittee under this section ~~The permittee shall carry~~
4 the tags while hunting the deer for which the permit was issued, and upon the killing
5 of any deer, shall immediately fill do all of the following:

6 (1) Fill out both parts of the tag, and clearly punch out clearly the date of the kill.
7 ~~One~~

8 (2) Attach one part of the completed tag shall be immediately attached to the
9 antlers of antlered deer, or to the ear of any other deer, and kept keep that part of the
10 tag attached to the deer until 10 days after the permit has expired. The

11 (3) Obtain a countersignature on the other part of the tag shall be immediately sent
12 to the department after it has been countersigned by any person authorized by
13 pursuant to Section 4341.

14 (4) Send the countersigned part of the tag to the department.

15 ~~(d)~~ (e) A permit issued pursuant to this section may be renewed only after a
16 finding by the department that further damage has occurred or will occur, unless
17 that permit is renewed. A person seeking renewal of the permit pursuant to this
18 subdivision shall ~~account~~ do all of the following:

19 (1) Account for all prior tags previously issued at the time he or she received any
20 with all prior permits, and if .

21 (2) If any previously issued tags are unused, he or she shall show either that of the
22 following:

23 (A) That any deer previously killed pursuant to a previously issued permit could
24 not reasonably be have been tagged or why .

25 (B) Why the killing was not accomplished within the allotted time allotted for that
26 killing, and why that the killing would be accomplished under a new time period.

27 **Comment.** Section 4181.5 is amended for clarity, and to add a subdivision designation and
28 paragraph designations.

29 • **Fish & Game Code § 4188 (amended). Access by licensed hunters for depredator control**

30 SEC. ____ . Section 4188 of the Fish and Game Code is amended to read:

31 4188. (a) If a landowner or tenant applies for a permit under Section 4181 ~~for to~~
32 take wild pigs or wild turkeys, or under Section 4181.5 for to take deer, the
33 department shall notify the landowner or tenant inform the applicant about available
34 options for allowing access by licensed hunters, including, but not limited to, access
35 authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of
36 Division 2 to control wild pigs, wild turkeys, and deer.

37 (b) The commission, in lieu of a permit as described in subdivision (a), and with
38 the consent of, or upon the request of, the landowner or tenant, ~~under~~ may pursuant
39 to appropriate regulations, may regulation authorize the issuance of permits to
40 persons holding valid hunting licenses to take wild pigs, wild turkeys, or deer in
41 sufficient numbers to stop the damage or threatened damage. Before issuing permits
42 to licensed hunters, the department shall investigate and determine the number of

1 permits necessary, the territory involved, the dates of the proposed hunt, the manner
2 of issuing the permits, and the fee for the permit.

3 **Comment.** Section 4188 is amended for clarity.

4 • **Fish & Game Code § 4301 (amended). Commercial use of deer meat**

5 SEC. _____. Section 4301 of the Fish and Game Code is amended to read:

6 4301. (a) As used in this section, “deer” includes any animal of the family
7 Cervidae.

8 ~~(a) Subject to the provisions of this code permitting the sale of domestically raised~~
9 ~~game mammals (b) Except as otherwise provided in this section,~~ it is unlawful to
10 sell ~~or~~ , purchase, or transport for the purpose of sale, any deer meat in this state,
11 whether fresh, smoked, canned, or preserved by any means, .

12 (c) The prohibition in subdivision (b) does not apply to the following:

13 (1) Conduct authorized by provisions of this code permitting the sale of
14 domestically raised game mammals.

15 (2) except fallow Fallow deer meat processed by a slaughterer in accordance with
16 Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing with
17 Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code, ~~and~~
18 ~~except that deer meat may be~~ .

19 (3) Deer meat imported into this state from a foreign country for the purpose of
20 ~~processing (manufacturing) preparing~~ and selling for human consumption a product
21 commonly known and properly labeled as venison ~~or jerky,~~ deer jerky ~~or~~ , venison
22 salami, or deer salami, ~~properly labeled as such, for human consumption.~~

23 (d) All deer meat imported into this state shall meet all of the sanitary and
24 inspection requirements for wholesomeness, except an antemortem inspection, but
25 including a postmortem inspection, as required for other meat imported for human
26 consumption.

27 (e) The deer meat shall be in an identifiable condition and accompanied by a bill
28 of lading, showing the name of the consignor, the consignee, and the weight of the
29 deer meat shipped. A copy of the bill of lading shall be delivered to the nearest office
30 of the department either prior to, or not later than, two days from the date of receipt
31 of the deer meat.

32 (f) No such deer meat imported into this state may leave the premises of the
33 original consignee unless written permission is received from the department, or
34 unless it is processed into the form of the product commonly known as jerky or
35 salami.

36 ~~(b) As used in this section, “deer” includes any animal of the family Cervidae.~~

37 **Comment.** Section 4301 is amended for clarity, and to add additional subdivision and paragraph
38 designations.

39 • **Fish & Game Code § 4302 (amended). Retention of deer head**

40 SEC. _____. Section 4302 of the Fish and Game Code is amended to read:

1 4302. Any person taking ~~any~~ a deer shall retain ~~in his possession during the open~~
2 ~~season thereon, and for 15 days thereafter,~~ of that portion of the deer's head which
3 that in adult males normally bears the antlers, during the open season for that deer
4 and for 15 days thereafter, and shall produce ~~the designated~~ that portion of the head
5 upon the demand of any officer authorized to enforce the provisions of this code.

6 **Comment.** Section 4302 is amended for clarity, and to eliminate a gendered pronoun.

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

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

9 4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid
10 hunting license, may procure one tag for the taking of one deer by one person during
11 the current license year, upon payment of the base fee of ten dollars (\$10) for the
12 license year beginning July 1, 1986, and the base fee as adjusted under Section 713
13 for subsequent license years.

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

19 (c) If provided in regulations adopted by the commission under Section 200, any
20 resident of this state, 12 years of age or over, who possesses a deer tag may procure
21 one additional deer tag for the taking of one additional deer during the current
22 license season, upon payment of the base fee of twelve dollars and fifty cents
23 (\$12.50) for the license years beginning July 1, 1986, and the base fee as adjusted
24 under Section 713 for subsequent license years.

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

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

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

35 **• Fish & Game Code § 4341 (amended). Countersigning**

36 SEC. _____. Section 4341 of the Fish and Game Code is amended to read:

37 4341. Any person legally killing a deer in this state shall have the tag for that deer
38 countersigned by a person employed ~~in~~ by the department, a person designated for
39 this that purpose by the commission, ~~or~~ by a notary public, a postmaster,
40 postmistress, a peace officer, or an officer authorized to administer oaths, before
41 transporting such the deer, except for the purpose of taking it to transport the deer

1 to the nearest person authorized to countersign the tag, on the route ~~being followed~~
2 ~~from the point~~ from where the deer is taken to that person.

3 **Comment.** Section 4341 is amended for clarity.

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

5 SEC. _____. Section 4651 of the Fish and Game Code is amended to read:

6 4651. (a) The department shall, upon appropriation by the Legislature for that
7 purpose, prepare a plan for the management of wild pigs. Under the plan, the status
8 and trend of wild pig populations shall be determined and management units shall
9 be designated within the state. The plan may establish pig management zones to
10 address regional needs and opportunities. In preparing the plan, the department shall
11 consider available, existing information and literature relative to wild pigs.

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

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

14 (2) A survey of range conditions.

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

16 (4) Encouraging mitigation of depredation by sport hunting pursuant to this
17 chapter.

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

22 (c) This section shall remain in effect only until July 1, 2024, and as of that date
23 is repealed.

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

25 **• Fish & Game Code § 4654 (amended). Obtaining tag**

26 SEC. _____. Section 4654 of the Fish and Game Code, as amended by Section 31
27 of Chapter 469 of the Statutes of 2022, is amended to read:

28 4654. (a) ~~Any resident of this state, To obtain a wild pig tag, a person must be 12~~
29 ~~years of age or older, who possesses and possess a valid hunting license, or if a~~
30 nonresident, a valid California nonresident hunting license.

31 (b) A person authorized to obtain a wild pig tag may procure obtain the number
32 of wild pig tags corresponding to the number of wild pigs that may legally be taken
33 by one person during the license year, upon payment of a base fee ~~of fifteen dollars~~
34 ~~(\$15), for each wild pig tag, as follows:~~

35 (1) For a resident of the state, fifteen dollars (\$15).

36 (2) For a nonresident, fifty dollars (\$50).

37 (b) ~~Any nonresident, 12 years of age or older, who possesses a valid California~~
38 ~~nonresident hunting license, may procure the number of wild pig tags corresponding~~
39 ~~to the number of wild pigs that may legally be taken by one person during the license~~
40 ~~year upon payment of a base fee of fifty dollars (\$50), for each wild pig tag.~~

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

3 (d) This section shall remain in effect only until July 1, 2024, and as of that date
4 is repealed.

5 **Comment.** Section 4654 is amended for clarity.

6 • **Fish & Game Code § 4654 (amended). Obtaining tag**

7 SEC. _____. Section 4654 of the Fish and Game Code, as added by Section 32 of
8 Chapter 469 of the Statutes of 2022, is amended to read:

9 4654. (a) ~~Any resident of this state, To obtain a wild pig validation, a person must~~
10 ~~be 12 years of age or older, who possesses and possess a valid hunting license, or if~~
11 ~~a nonresident, a valid California nonresident hunting license.~~

12 (b) ~~A person authorized to obtain a wild pig validation may procure obtain a wild~~
13 ~~pig validation upon payment of a base fee of twenty-five dollars (\$25) for the license~~
14 ~~year beginning July 1, 2024, and the base fee as adjusted under Section 713 for~~
15 ~~subsequent license years, as follows:~~

16 (1) ~~For a resident of the state, twenty-five dollars (\$25).~~

17 (2) ~~For a nonresident, ninety dollars (\$90).~~

18 (b) ~~Any nonresident, 12 years of age or older, who possesses a valid California~~
19 ~~hunting license, may procure a wild pig validation upon payment of a base fee of~~
20 ~~ninety dollars (\$90) for the license year beginning July 1, 2024, and the base fee as~~
21 ~~adjusted under Section 713 for subsequent license years.~~

22 (c) ~~The base fees specified in this section are applicable for the license year~~
23 ~~beginning July 1, 2024, and shall be adjusted under Section 713 for subsequent~~
24 ~~license years.~~

25 (e) (d) ~~This section shall become operative on July 1, 2024.~~

26 **Comment.** Section 4654 is amended for clarity.

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

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

29 ~~4656. Revenues received pursuant to this chapter shall be deposited in the Big~~
30 ~~Game Management Account established in Section 3953. These funds shall be~~
31 ~~available for expenditure by the department as set forth in Section 3953. The~~
32 ~~department shall maintain all internal accounting measures necessary to ensure that~~
33 ~~all restrictions on these funds are met.~~

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

35 • **Fish & Game Code § 4755 (amended). Countersigning**

36 SEC. _____. Section 4755 of the Fish and Game Code is amended to read:

37 4755. Any person legally killing a bear in this state shall have the tag for that bear
38 ~~countersigned by a fish and game commissioner, a person employed in the~~
39 ~~department, a person designated for this that purpose by the commission, or by a~~
40 ~~notary public, a postmaster, postmistress, a peace officer, or by an officer authorized~~

1 to administer oaths, before transporting ~~that the bear,~~ except for the purpose of
2 taking it to transport the bear to the nearest ~~officer~~ person authorized by this section
3 to countersign the tag, on the route ~~being followed from the point from~~ where the
4 bear is taken to that person.

5 **Comment.** Section 4755 is amended for clarity.

6 • **Fish & Game Code § 4757 (amended). Retention of skin and head**

7 SEC. _____. Section 4757 of the Fish and Game Code is amended to read:

8 4757. Any person taking ~~any~~ a bear must retain ~~in his~~ in his possession of the skin of
9 the bear and the portion of the bear's head that includes both ears, during the open
10 season ~~thereon~~, for that bear and for 15 days thereafter, ~~the skin and portion of the~~
11 ~~head bearing the ears~~, and must produce the skin and that portion of the head upon
12 the demand of any officer authorized to enforce the provisions of this code.

13 **Comment.** Section 4757 is amended for clarity, and to eliminate a gendered pronoun.

14 **Fish & Game Code § 5500 (amended). Explosives**

15 SEC. _____. Section 5500 of the Fish and Game Code is amended to read:

16 5500. It is unlawful to use explosives in the waters of ~~this~~ the state inhabited by
17 fish, except ~~under~~ in one of the following circumstances:

18 (a) Pursuant to a permit first obtained by the user from the department, consistent
19 with terms and conditions set by the commission, ~~or except in case of~~ . The
20 department's decision to grant or deny a permit may be appealed to the commission
21 by any person.

22 (b) In an emergency, to remove an accidental obstruction to the flow of water.
23 ~~Any person may appeal the department's decision to grant or deny a permit to the~~
24 ~~commission~~.

25 **Comment.** Section 5500 is amended for clarity, and to add subdivision designations.

26 • **Fish & Game Code § 5507 (amended). Fish spear or gaff**

27 SEC. _____. Section 5507 of the Fish and Game Code is amended to read:

28 5507. (a) It is unlawful for any person to possess, ~~except in his home,~~ any a fish
29 spear or gaff within 300 feet of ~~any~~ a lake or stream in this ~~State~~ state, at ~~any~~ a time
30 when spearing is prohibited in ~~such~~ that lake or stream.

31 (b) This section does not apply to ~~the possession~~ either of the following acts:

32 (1) Possession of a gaff carried as an accessory while angling.

33 (2) Possession of a fish spear or gaff in one's own home.

34 **Comment.** Section 5507 is amended for clarity.

35 **Fish & Game Code § 5522 (amended). Abalone recovery and management plan**

36 SEC. _____. Section 5522 of the Fish and Game Code is amended to read:

1 5522. (a) On or before January 1, 2003, the department shall submit to the
2 commission a comprehensive abalone recovery and management plan. The plan
3 shall contain all of the following:

4 (1) An explanation of the scientific knowledge regarding the biology, habitat
5 requirements, and threats to abalone.

6 (2) A summary of the interim and long-term recovery goals, including a range of
7 alternative interim and long-term conservation and management goals and
8 activities. The department shall report why it prefers the recommended activities.

9 (3) Alternatives for allocating harvest between sport and commercial divers if the
10 allocation of the abalone harvest is warranted.

11 (4) An estimate of the time and costs required to meet the interim and long-term
12 recovery goals for the species, including available or anticipated funding sources,
13 and an initial projection of the time and costs associated with meeting the final
14 recovery goals. An implementation schedule shall also be included.

15 (5) An estimate of the time necessary to meet the interim recovery goals and
16 triggers for review and amendment of strategy.

17 (6) A description of objective measurable criteria by which to determine whether
18 the goals and objectives of the recovery strategy are being met and procedures for
19 recognition of successful recovery. These criteria and procedures shall include, but
20 not be limited to, the following:

21 (A) Specified abundance and size frequency distribution criteria for former
22 abalone beds within suitable habitat not dominated by sea otters.

23 (B) Size frequency distributions exhibiting multiple size classes as necessary to
24 ensure continued recruitment into fishable stock.

25 (C) The reproductive importance to the entire ecosystem of those areas proposed
26 for reopening to harvest and the potential impact of each reopening on the recovery
27 of abalone population in adjacent areas.

28 (b) Where appropriate, the recovery and management plan may include the
29 following:

30 (1) A network of no-take abalone reserves.

31 (2) A total allowable catch, reflecting the long-term yield each species is capable
32 of sustaining, using the best available science and bearing in mind the ecological
33 importance of the species and the variability of marine ecosystems.

34 (3) A permanent reduction in harvest.

35 (c) Funding to prepare the recovery and management plan and any planning and
36 scoping meetings shall be derived from the fees collected for ~~the abalone stamp~~
37 an abalone report card or stamp.

38 (d) On or before January 1, 2008, and following the adoption of the recovery and
39 management plan by the commission, the department may apply to the commission
40 to reopen sport or commercial fishing in all or any portion of the waters described
41 in Section 5521. If the commission makes a finding that the resource can support
42 additional harvest activities and that these activities are consistent with the abalone
43 recovery plan, all or a portion of the waters described in Section 5521 may be

1 reopened and management measures prescribed and implemented, as appropriate.
2 The commission may close or, where appropriate, may establish no-take marine
3 refuges in any area opened pursuant to this section if it makes a finding that this
4 action is necessary to comply with the abalone management plan.

5 (e) If the commission determines that commercial fishing is an appropriate
6 management measure, priority for participation in the fishery shall be given to those
7 persons who held a commercial abalone permit during the 1996–97 permit year.

8 **Comment.** Subdivision (c) of Section 5522 is amended to revise a reference to fees collected for
9 an abalone stamp to also include fees collected for an abalone report card.

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

11 SEC. ____ . Section 5650.1 of the Fish and Game Code is amended to read:

12 5650.1. (a) A person who violates Section 5650 is subject to a civil penalty of not
13 more than twenty-five thousand dollars (\$25,000) for each violation.

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

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

28 (d)(1) Every civil action brought under this section shall be brought by the
29 Attorney General, district attorney, or city attorney in the name of the people of the
30 State of California, and any actions relating to the same violation may be joined or
31 consolidated.

32 (2) A civil action alleging a violation resulting from unlicensed cannabis
33 cultivation may be brought by a county counsel in the name of the people of the
34 State of California.

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

40 (f) After the party seeking the injunction has met its burden of proof, the court
41 shall determine whether to issue a temporary restraining order, preliminary
42 injunction, or permanent injunction without requiring the defendant to prove that it

1 will suffer grave or irreparable harm. The court shall make the determination
2 whether to issue a temporary restraining order, preliminary injunction, or permanent
3 injunction by taking into consideration, among other things, the nature,
4 circumstance, extent, and gravity of the violation, the quantity and characteristics of
5 the substance or material involved, the extent of environmental harm caused by the
6 violation, measures taken by the defendant to remedy the violation, the relative
7 likelihood that the material or substance involved may pass into waters of the state,
8 and the harm likely to be caused to the defendant.

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

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

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

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

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

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

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

34 **Fish & Game Code § 5653 (amended). Vacuum or suction dredging**

35 SEC. _____. Section 5653 of the Fish and Game Code is amended to read:

36 5653. (a) The use of vacuum or suction dredge equipment by a person in a river,
37 stream, or lake of this state is prohibited, except as authorized under a permit issued
38 to that person by the department in compliance with the regulations adopted
39 pursuant to Section 5653.9. Before a person uses vacuum or suction dredge
40 equipment in a river, stream, or lake of this state, that person shall submit an
41 application to the department for a permit to use the vacuum or suction dredge
42 equipment, specifying the type and size of equipment to be used and other

1 information as the department may require pursuant to regulations adopted by the
2 department to implement this section.

3 (b)(1) The department shall not issue a permit for the use of vacuum or suction
4 dredge equipment until the permit application is deemed complete. A complete
5 permit application shall include any other permit required by the department and
6 one of the following, as applicable:

7 (A) A copy of waste discharge requirements or a waiver of waste discharge
8 requirements issued by the State Water Resources Control Board or a regional water
9 quality control board in accordance with Division 7 (commencing with Section
10 13000) of the Water Code.

11 (B) A copy of a certification issued by the State Water Resources Control Board
12 or a regional water quality control board and a permit issued by the United States
13 Army Corps of Engineers in accordance with Sections 401 and 404 of the Federal
14 Water Pollution Control Act (33 U.S.C. Secs. 1341 and 1344, respectively) to use
15 vacuum or suction dredge equipment.

16 (C) If the State Water Resources Control Board or the appropriate regional water
17 quality control board determines that waste discharge requirements, a waiver of
18 waste discharge requirements, or a certification in accordance with Section 1341 of
19 Title 33 of the United States Code is not necessary for the applicant to use of vacuum
20 or suction dredge equipment, a letter stating this determination signed by the
21 Executive Director of the State Water Resources Control Board, the executive
22 officer of the appropriate regional water quality control board, or their designee.

23 (c) Under the regulations adopted pursuant to Section 5653.9, the department shall
24 designate waters or areas wherein vacuum or suction dredge equipment may be used
25 pursuant to a permit, waters or areas closed to the use of that equipment, the
26 maximum size of the vacuum or suction dredge equipment that may be used, and
27 the time of year when the equipment may be used. If the department determines,
28 pursuant to the regulations adopted pursuant to Section 5653.9, that the use of
29 vacuum or suction dredge equipment does not cause any significant effects to fish
30 and wildlife, it shall issue a permit to the applicant. If a person uses vacuum or
31 suction dredge equipment other than as authorized by a permit issued by the
32 department consistent with regulations ~~implementing this section~~ adopted pursuant
33 to Section 5653.9, that person is guilty of a misdemeanor.

34 (d)(1) Except as provided in paragraph (2), the department shall issue a permit
35 upon the payment, in the case of a resident, of a base fee of twenty-five dollars
36 (\$25), as adjusted under Section 713, when an onsite investigation of the project
37 size is not deemed necessary by the department, and a base fee of one hundred thirty
38 dollars (\$130), as adjusted under Section 713, when the department deems that an
39 onsite investigation is necessary. Except as provided in paragraph (2), in the case of
40 a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under
41 Section 713, when an onsite investigation is not deemed necessary, and a base fee
42 of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite
43 investigation is deemed necessary.

1 (2) The department may adjust the base fees for a permit described in this
2 subdivision to an amount sufficient to cover all reasonable costs of the department
3 in regulating suction dredging activities.

4 (e) It is unlawful to possess a vacuum or suction dredge in areas, or in or within
5 100 yards of waters, that are closed to the use of vacuum or suction dredges.

6 (f) A permit issued by the department under this section shall not authorize an
7 activity in violation of other applicable requirements, conditions, or prohibitions
8 governing the use of vacuum or suction dredge equipment, including those adopted
9 by the State Water Resources Control Board or a regional water quality control
10 board. The department, the State Water Resources Control Board, and the regional
11 water quality control boards shall make reasonable efforts to share information
12 among the agencies regarding potential violations of requirements, conditions, or
13 prohibitions governing the use of vacuum or suction dredge equipment.

14 (g) For purposes of this section and Section 5653.1, the use of vacuum or suction
15 dredge equipment, also known as suction dredging, is the use of a mechanized or
16 motorized system for removing or assisting in the removal of, or the processing of,
17 material from the bed, bank, or channel of a river, stream, or lake in order to recover
18 minerals. This section and Section 5653.1 do not apply to, prohibit, or otherwise
19 restrict nonmotorized recreational mining activities, including panning for gold.

20 **Comment.** Subdivision (c) of Section 5653 is amended to more precisely identify regulations
21 referenced in that subdivision.

22 • **Fish & Game Code § 5653.1 (amended). Moratorium and regulation review**

23 SEC. ____ . Section 5653.1 of the Fish and Game Code is amended to read:

24 5653.1. (a) The issuance of permits to operate vacuum or suction dredge
25 equipment is a project pursuant to the California Environmental Quality Act
26 (Division 13 (commencing with Section 21000) of the Public Resources Code) and
27 permits may only be issued, and vacuum or suction dredge mining may only occur
28 as authorized by any existing permit, if the department has caused to be prepared,
29 and certified the completion of, an environmental impact report for the project
30 pursuant to the court order and consent judgment entered in the case of Karuk Tribe
31 of California et al. v. California Department of Fish and Game et al., Alameda
32 County Superior Court Case No. RG 05211597.

33 (b) Notwithstanding Section 5653, the use of any vacuum or suction dredge
34 equipment in any river, stream, or lake of this state is prohibited until the director
35 certifies to the Secretary of State that all of the following have occurred:

36 (1) The department has completed the environmental review of its existing suction
37 dredge mining regulations, as ordered by the court in the case of Karuk Tribe of
38 California et al. v. California Department of Fish and Game et al., Alameda County
39 Superior Court Case No. RG 05211597.

40 (2) The department has transmitted for filing with the Secretary of State pursuant
41 to Section 11343 of the Government Code, a certified copy of new regulations

1 adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340)
2 of Part 1 of Division 3 of Title 2 of the Government Code.

3 (3) The new regulations described in paragraph (2) are operative.

4 (4) The new regulations described in paragraph (2) fully mitigate all identified
5 significant environmental impacts.

6 (5) A fee structure is in place that will fully cover all costs to the department
7 related to the administration of the program.

8 ~~(e)(1) To facilitate its compliance with subdivision (b), the department shall~~
9 ~~consult with other agencies as it determines to be necessary, including, but not~~
10 ~~limited to, the State Water Resources Control Board, the State Department of Public~~
11 ~~Health, and the Native American Heritage Commission, and, on or before April 1,~~
12 ~~2013, shall prepare and submit to the Legislature a report with recommendations on~~
13 ~~statutory changes or authorizations that, in the determination of the department, are~~
14 ~~necessary to develop the suction dredge regulations required by paragraph (2) of~~
15 ~~subdivision (b), including, but not limited to, recommendations relating to the~~
16 ~~mitigation of all identified significant environmental impacts and a fee structure that~~
17 ~~will fully cover all program costs.~~

18 ~~(2) The requirement for submitting a report imposed under this subdivision is~~
19 ~~inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government~~
20 ~~Code.~~

21 ~~(3) The report submitted to the Legislature pursuant to this subdivision shall be~~
22 ~~submitted in accordance with Section 9795 of the Government Code.~~

23 ~~(d)~~ (c) The Legislature finds and declares that this section, as added during the
24 2009–10 Regular Session, applies solely to vacuum and suction dredging activities
25 conducted for instream mining purposes. This section does not expand or provide
26 new authority for the department to close or regulate suction dredging conducted
27 for regular maintenance of energy or water supply management infrastructure, flood
28 control, or navigational purposes governed by other state or federal law.

29 ~~(e)~~ (d) This section does not prohibit or restrict nonmotorized recreational mining
30 activities, including panning for gold.

31 **Comment.** Section 5653.1 is amended to delete subdivision (c) of the section as obsolete.

32 • **Fish & Game Code § 5654 (amended). Fishing closure**

33 SEC. _____. Section 5654 of the Fish and Game Code is amended to read:

34 5654. (a)(1) Notwithstanding Section 5523 and except as provided in paragraph
35 (2), the director, within 24 hours of notification of a spill or discharge, as those terms
36 are defined in Section 8670.3 of the Government Code, where any fishing, including
37 all commercial, recreational, and nonlicensed subsistence fishing, may take place,
38 or where aquaculture operations are taking place, shall close to the take of all fish
39 and shellfish all waters in the vicinity of the spill or discharge or where the spilled
40 or discharged material has spread, or is likely to spread. In determining where a spill
41 or discharge is likely to spread, the director shall consult with the Administrator of
42 the Office of Spill Prevention and Response. At the time of closure, the department

1 shall make all reasonable efforts to notify the public of the closure, including
2 notification to commercial and recreational fishing organizations, and posting of
3 warnings on public piers and other locations where subsistence fishing is known to
4 occur. The department shall coordinate, when possible, with local and regional
5 agencies and organizations to expedite public notification.

6 (2) Closure pursuant to paragraph (1) is not required if, within 24 hours of
7 notification of a spill or discharge, the Office of Environmental Health Hazard
8 Assessment finds that a public health threat does not or is unlikely to exist.

9 (b) Within 48 hours of notification of a spill or discharge subject to subdivision
10 (a), the director, in consultation with the Office of Environmental Health Hazard
11 Assessment, shall make an assessment and determine all of the following:

12 (1) The danger posed to the public from fishing in the area where the spill or
13 discharge occurred or spread, and the danger of consuming fish taken in the area
14 where the spill or discharge occurred or spread.

15 (2) Whether the areas closed for the take of fish or shellfish should be expanded
16 to prevent any potential take or consumption of any fish or shellfish that may have
17 been contaminated by the spill or discharge.

18 (3) The likely period for maintaining a closure on the take of fish and shellfish in
19 order to prevent any possible contaminated fish or shellfish from being taken or
20 consumed or other threats to human health.

21 (c) Within 48 hours after receiving notification of a spill or discharge subject to
22 subdivision (a), or as soon as is feasible, the director, in consultation with the Office
23 of Environmental Health Hazard Assessment, shall assess and determine the
24 potential danger from consuming fish that have been contained in a recirculating
25 seawater tank onboard a vessel that may become contaminated by the vessel's
26 movement through an area where the spill or discharge occurred or spread.

27 (d) If the director finds in ~~his or her~~ the director's assessment pursuant to
28 subdivision (b) that there is no significant risk to the public or to the fisheries, the
29 director may immediately reopen the closed area and waive the testing requirements
30 of ~~subdivisions~~ subdivision (e) and (f).

31 (e) Except under the conditions specified in subdivision (d), after complying with
32 subdivisions (a) and (b), the director, in consultation with the Office of
33 Environmental Health Hazard Assessment, but in no event more than seven days
34 from the notification of the spill or discharge, shall order expedited tests of fish and
35 shellfish that would have been open for take for commercial, recreational, or
36 subsistence purposes in the closed area if not for the closure, to determine the levels
37 of contamination, if any, and whether the fish or shellfish is safe for human
38 consumption.

39 (f)(1) Within 24 hours of receiving a notification from the Office of
40 Environmental Health Hazard Assessment that no threat to human health exists from
41 the spill or discharge or that no contaminant from the spill or discharge is present
42 that could contaminate fish or shellfish, the director shall reopen the areas closed
43 pursuant to this section. The director may maintain a closure in any remaining

1 portion of the closed area where the Office of Environmental Health Hazard
2 Assessment finds contamination from the spill or discharge persists that may
3 adversely affect human health.

4 (2) The director, in consultation with the commission, may also maintain a closure
5 in any remaining portion of the closed area where commercial fishing or aquaculture
6 occurs and where the department determines, pursuant to this paragraph, that
7 contamination from the spill or discharge persists that may cause the waste of
8 commercial fish or shellfish as regulated by Section 7701.

9 (g) To the extent feasible, the director shall consult with representatives of
10 commercial and recreational fishing associations and subsistence fishing
11 communities regarding the extent and duration of a closure, testing protocols, and
12 findings. If a spill or discharge occurs within the lands governed by a Native
13 American tribe or affects waters flowing through tribal lands, or tribal fisheries, the
14 director shall consult with the affected tribal governments.

15 (h) The director shall seek full reimbursement from the responsible party or
16 parties for the spill or discharge for all reasonable costs incurred by the department
17 in carrying out this section, including, but not limited to, all testing.

18 **Comment.** Subdivision (d) of Section 5654 is amended to delete an erroneous cross-reference.
19 The subdivision is also amended to make it gender neutral.

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

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

22 5671. The ~~State Department of Health Services~~ State Department of Public Health
23 may:

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

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

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

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

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

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

32 5672. (a) Upon the determination by the ~~State Department of Health Services~~
33 State Department of Public Health that the area is or may be subject to sewage
34 contamination, and that the taking of shellfish from it does or may constitute a
35 menace to the lives or health of human beings, it shall ascertain as accurately as it
36 can the bounds of the contamination, and shall post notices on or in the area
37 describing its bounds and prohibiting the taking of shellfish therefrom.

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

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

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

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

3 5674. The ~~State Department of Health Services~~ State Department of Public Health
4 shall enforce the provisions of this article, and for that purpose the inspectors and
5 employees of that agency may enter at all times upon public or private property
6 upon which shellfish may be located.

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

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

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

11 5700. Notwithstanding Sections 5670, 5672, 8341, and 9050, native and
12 nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to
13 be purified for human consumption under such rules and regulations as shall be
14 established by the commission. Such regulations may include, but are not limited
15 to, bag limits, methods of harvest, and provisions for public use. Mollusks taken
16 under this section shall not be used for human consumption unless such use is
17 approved by the ~~State Department of Health Services~~ State Department of Public
18 Health.

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

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

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

23 5701. The ~~State Department of Health Services~~ State Department of Public Health
24 may make sanitary surveys of mollusk-growing areas or may use sanitary surveys
25 of mollusk-growing areas made by qualified state or county agencies, and based on
26 such information may classify such areas for purposes of harvesting and moving
27 mollusks which are to be purified for human consumption in accordance with
28 Section 5700. The ~~State Department of Health Services~~ State Department of Public
29 Health shall adopt such rules and regulations as are necessary to implement this
30 section.

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

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

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

35 5701.5. If examinations are conducted by the ~~State Department of Health Services~~
36 State Department of Public Health pursuant to this article for purposes of certifying
37 the quality of shellfish-growing waters, certification of water quality shall be
38 commenced within 30 days and completed within six months of the filing of an
39 application by an aquaculturist.

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

3 **Fish & Game Code § 5901 (amended). Obstruction in specified districts**

4 SEC. _____. Section 5901 of the Fish and Game Code is amended to read:

5 5901. Except as otherwise provided in this code, it is unlawful to construct or
6 maintain in any stream in Districts 1, 1^{3/8}, 1^{1/2}, ~~1^{7/8}~~, 2, 2^{1/4}, 2^{1/2}, ~~2^{3/4}~~, 3, 3^{1/2}, 4, 4^{1/8},
7 4^{1/2}, 4^{3/4}, 11, 12, 13, 23, and 25, any device or contrivance that prevents, impedes,
8 or tends to prevent or impede, the passing of fish up and down stream.

9 **Comment.** Section 5901 is amended to delete references to two non-existent Fish and Game
10 Districts.

11 **Fish & Game Code § 5946 (amended). Dams constructed in District 4^{1/2}**

12 SEC. _____. Section 5946 of the Fish and Game Code is amended to read:

13 5946. (a) The provisions of Section 5938 shall not be applicable to dams
14 constructed in District 4^{1/2} after September 9, 1953.

15 (b) No permit or license to appropriate water in District 4^{1/2} shall be issued by the
16 ~~State Water Rights Board~~ State Water Resources Control Board after September 9,
17 1953, unless conditioned upon full compliance with Section 5937.

18 (c) Plans and specifications for any such dam shall not be approved by the
19 Department of Water Resources unless adequate provision is made for full
20 compliance with Section 5937.

21 **Comment.** Section 5946 is amended to update a reference to the former State Water Rights
22 Board.

23 The section is also amended to add subdivision designations and make a technical correction.

24 **Fish & Game Code § 6656 (amended). License revocation or nonrenewal**

25 SEC. _____. Section 6656 of the Fish and Game Code is amended to read:

26 6656. (a) The commission may revoke a license and prohibit its reissuance for a
27 period of not more than one year, ~~the license of~~ in either of the following
28 circumstances:

29 ~~(a) Any person who harvests any~~ (1) The licensee harvested kelp from a bed which
30 is that was closed, between the time of service of notice upon him or her of the
31 closing of the bed and the decision of the commission upon a hearing as to the
32 necessity for the closing after the department served notice of the closure on the
33 licensee and before the bed was reopened.

34 ~~(b) Any person who violates~~ (2) The licensee violated any law or regulation of the
35 commission relating to kelp.

36 ~~The proceedings~~ (b) A proceeding pursuant to this section shall be conducted at
37 one of the commission's regularly scheduled meetings.

38 **Comment.** Section 6656 is amended for clarity.

39 The section is also amended to add subdivision designations.

1 **Fish & Game Code § 6657 (amended). Scientific and educational permits**

2 SEC. _____. Section 6657 of the Fish and Game Code is amended to read:

3 6657. The commission may, subject to such regulations as it may deem proper,
4 grant permits to any department of the United States Government or to any scientific
5 or any educational institution, to harvest kelp at any time for scientific or
6 experimental purposes without the payment of the kelp license or ~~privilege tax~~
7 royalty imposed by this chapter.

8 **Comment.** Section 6657 is amended to more precisely describe the nature of payments
9 referenced in the section. See Section 6680 (requiring payment of “royalty” for harvesting kelp).

10 **Fish & Game Code § 6704 (amended). Renewal of lease**

11 SEC. _____. Section 6704 of the Fish and Game Code is amended to read:

12 6704. (a) Each kelp bed lease ~~entered into or renewed, on and after January 1,~~
13 ~~1985,~~ shall specify a period prior to expiration when renewal of the lease may be
14 requested by the lessee. If the commission determines that the lessee has complied
15 with the terms of the lease, the lessee shall have a prior right to renew the lease on
16 terms agreed upon between the commission and the lessee.

17 (b) If terms for a renewal of the lease are not agreed upon, or the commission
18 determines that the lessee has not complied with the terms of the lease, the
19 commission shall advertise for bids on the individual kelp beds comprising the lease.

20 (c) If a request for renewal is not made during the specified period by the lessee,
21 the commission shall advertise for bids on the individual kelp beds comprising the
22 lease.

23 (d) The duration of the term of any renewal of a lease shall not exceed 20 years.

24 **Comment.** Subdivision (a) of Section 6704 is amended to delete an obsolete reference to a past
25 qualifying date.

26 **Fish & Game Code § 6705 (repealed). Renewal of leases in effect on specified dates**

27 SEC. _____. Section 6705 of the Fish and Game Code is repealed.

28 ~~6705. Notwithstanding Section 6704, with respect to any kelp lease in effect on~~
29 ~~January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed~~
30 ~~upon between the commission and the lessee. If the lessee does not renew the lease,~~
31 ~~or if terms are not agreed upon, the commission shall advertise for bids on the~~
32 ~~individual kelp beds comprising the lease. The term of any renewal of a lease shall~~
33 ~~not exceed 20 years. Any lease in effect on January 1, 1985, may be performed~~
34 ~~pursuant to its terms, notwithstanding this article, but any renewal of that lease is~~
35 ~~subject to this article.~~

36 **Comment.** Section 6705 is repealed as obsolete.

37 **Fish & Game Code § 6707 (amended). Royalty payment**

38 SEC. _____. Section 6707 of the Fish and Game Code is amended to read:

39 6707. (a) Each lease ~~entered into, or renewed, on or after January 1, 1985,~~ shall
40 require, in addition to the license fee required by this chapter, a payment by the

1 lessee or any sublessee of not less than the minimum royalty established under
2 Article 2 (commencing with Section 6680), for all kelp harvested from the lease
3 area, and shall provide for an annual advance payment of not less than forty dollars
4 (\$40) per square mile per year for the kelp bed leased, to be credited against the
5 amount payable by the lessee, or sublessee, as the case may be, for each ton of kelp
6 harvested during the ensuing year.

7 (b) The lease shall, in addition, include provisions for forfeiture of the lease if the
8 annual payment is not made in advance.

9 **Comment.** Section 6707 is amended to delete an obsolete reference to a past qualifying date.
10 The section is also amended to add subdivision designations.

11 • **Fish & Game Code § 6924 (repealed). Report of determined elements of program**

12 SEC. _____. Section 6924 of the Fish and Game Code is repealed.

13 ~~6924. The department shall determine the initial elements of the program and~~
14 ~~transmit a report describing those elements to the Legislature and the Advisory~~
15 ~~Committee on Salmon and Steelhead Trout within six months of the effective date~~
16 ~~of this chapter.~~

17 **Comment.** Section 6924 is repealed as obsolete.

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

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

20 7120. It is unlawful for any person to possess more than one daily bag limit of any
21 fish, amphibian, or reptile taken under a license issued pursuant to Article 3
22 (commencing with Section 7145) unless authorized by regulations adopted by the
23 commission.

24 **Comment.** Section 7120 is amended to parallel the language of Section 7145.

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

26 SEC. _____. Section 7149.05 of the Fish and Game Code, as amended by Section 2
27 of Chapter 607 of the Statutes of 2021, is amended to read:

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

31 (1)(A) 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 of the year, upon payment
33 of a base fee of thirty-one dollars and twenty-five cents (\$31.25).

34 (B) The director may authorize the issuance of a license under subparagraph (A)
35 that is valid for the period of 12 consecutive months beginning on the date specified
36 on the license instead of only for the calendar year.

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

1 (B) The director may authorize the issuance of a license under subparagraph (A)
2 that is valid for the period of 12 consecutive months beginning on the date specified
3 on the license instead of only for the calendar year.

4 (3) A nonresident, 16 years of age or older, for ~~the a~~ a period of 10 designated
5 consecutive days beginning on the date specified on the license, upon payment of
6 the fee set forth in paragraph (1). Notwithstanding Section 1053.1, more than one
7 10-day license for different 10-day periods may be issued to, or possessed by, a
8 person at one time.

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

14 (5) A resident or nonresident, 16 years of age or older, for one designated day,
15 upon payment of a base fee of ten dollars (\$10). Notwithstanding Section 1053.1,
16 more than one one-day license for different days may be issued to, or possessed by,
17 a person at one time.

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

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

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

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

30 (f)(1) The director shall provide the Legislature, on or before January 1, 2025,
31 recommendations for increasing fees for all sport fishing licenses to levels that
32 provide adequate resources to fund sport fishing, including all necessary supporting
33 activities, at the department.

34 (2) The director shall submit to the Legislature, on or before July 1, 2028, a written
35 report evaluating all sport fishing licenses issued pursuant to this section, including
36 sales information, the cost of administering and implementing sport fishing licenses
37 to the department and commission, and evidence of any changes in the number of
38 new or renewing sport fishing license participants. The director shall collect all
39 relevant, appropriate, and sufficient data necessary to evaluate sport fishing licenses
40 issued pursuant to this section and to justify the amount of the license fees assessed
41 pursuant to this section, including information about data collection and
42 enforcement costs. Data collection efforts pursuant to this paragraph shall avoid
43 duplication and use data collected for other purposes, to the extent feasible.

1 (3) The requirement for submitting a report imposed under paragraph (1) is
2 inoperative on January 1, 2029, pursuant to Section 10231.5 of the Government
3 Code.

4 (4) A report to be submitted pursuant to this subdivision shall be submitted in
5 compliance with Section 9795 of the Government Code.

6 (g) This section shall remain in effect only until January 1, 2030, and as of that
7 date is repealed.

8 **Comment.** Paragraphs (3) and (5) of subdivision (a) of Section 7149.05 are amended to
9 expressly state the inapplicability of Section 1053.1 to those provisions. See Section 1053.1(a)(1).

10 Paragraphs (3) and (4) of subdivision (a) are also amended for clarity.

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

12 SEC. ____ . Section 7149.05 of the Fish and Game Code, as added by Section 3 of
13 Chapter 607 of the Statutes of 2021, is amended to read:

14 7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile,
15 or amphibian anywhere in this state for purposes other than profit shall be issued to
16 any of the following:

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

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

23 (3) A nonresident, 16 years of age or older, for ~~the~~ a period of 10 designated
24 consecutive days beginning on the date specified on the license, upon payment of
25 the fee set forth in paragraph (1). Notwithstanding Section 1053.1, more than one
26 10-day license for different 10-day periods may be issued to, or possessed by, a
27 person at one time.

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

33 (5) A resident or nonresident, 16 years of age or older, for one designated day,
34 upon payment of a base fee of ten dollars (\$10). Notwithstanding Section 1053.1,
35 more than one one-day license for different days may be issued to, or possessed by,
36 a person at one time.

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

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

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

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

7 (f) This section shall become operative on January 1, 2030.

8 **Comment.** Paragraphs (3) and (5) of subdivision (a) of Section 7149.05 are amended to
9 expressly state the inapplicability of Section 1053.1 to those provisions. See Section 1053.1(a)(1).

10 Paragraphs (3) and (4) of subdivision (a) are also amended for clarity.

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

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

13 7149.2. (a) In addition to Section 7149.05, the department shall issue a lifetime
14 sport fishing license under this section. A lifetime sport fishing license authorizes
15 the taking of fish, amphibians, or reptiles anywhere in this state in accordance with
16 the law for purposes other than profit for the life of the person to whom issued unless
17 revoked for a violation of this code or regulations adopted under this code. A
18 lifetime sport fishing license is valid for a one-year period from January 1 through
19 December 31 and may be renewed annually, regardless of any lapse of the license,
20 at no additional cost to the licensee. A lifetime sport fishing license is not
21 transferable. A lifetime sport fishing license does not include any special tags,
22 stamps, or fees.

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

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

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

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

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

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

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

38 (e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person
39 holding a lifetime sport fishing license shall be entitled annually to the privileges
40 afforded to a person holding a second-rod ~~stamp~~ or validation issued pursuant to
41 Section 7149.45, a sport fishing ocean enhancement ~~stamp~~ or validation issued
42 pursuant to subdivision (a) of Section 6596.1, one steelhead trout report restoration

1 card issued pursuant to Section 7380, and one salmon report card issued pursuant to
2 regulations adopted by the commission. Lifetime privileges issued pursuant to this
3 subdivision are not transferable.

4 (f) The base fees specified in this section are applicable commencing January 1,
5 2004, and shall be adjusted annually thereafter pursuant to Section 713.

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

8 **Fish & Game Code § 7151 (amended). Free sport fishing licenses**

9 SEC. _____. Section 7151 of the Fish and Game Code is amended to read:

10 7151. (a) Upon application to the department, the following persons, if they have
11 not been convicted of any violation of this code, shall be issued, free of any charge
12 or fee, a sport fishing license, that authorizes the licensee to take any fish, reptile,
13 or amphibian anywhere in this state for purposes other than profit:

14 (1) Any blind person upon presentation of proof of blindness. “Blind person”
15 means a person with central visual acuity of 20/200 or less in the better eye, with
16 the aid of the best possible correcting glasses, or central visual acuity better than
17 20/200 if the widest diameter of the remaining visual field is no greater than 20
18 degrees. Proof of blindness shall be by certification from a qualified licensed
19 optometrist or ophthalmologist or by presentation of a license issued pursuant to this
20 paragraph in any previous license year.

21 (2) Every resident Native American who, in the discretion of the department, is
22 financially unable to pay the fee required for the license.

23 (3) Any ~~developmentally disabled~~ person with a developmental disability, upon
24 presentation of certification of that disability from a qualified licensed physician, or
25 the director of a state regional center for ~~the developmentally disabled persons with~~
26 developmental disabilities.

27 (4) Any person who is a resident of the state and who is so severely physically
28 disabled as to be permanently unable to move from place to place without the aid of
29 a wheelchair, walker, forearm crutches, or a comparable mobility-related device.
30 Proof of the disability shall be by certification from a licensed physician or surgeon
31 or, by presentation of a license issued pursuant to this paragraph in any previous
32 license year after 1996.

33 (b) Sport fishing licenses issued pursuant to paragraph (2) of subdivision (a) are
34 valid for the calendar year of issue or, if issued after the beginning of the year, for
35 the remainder thereof.

36 (c) Sport fishing licenses issued pursuant to paragraphs (1), (3), and (4) of
37 subdivision (a) are valid for five calendar years, or if issued after the beginning of
38 the first year, for the remainder thereof.

39 (d) Upon application to the department, the department may issue, ~~free of any~~
40 ~~charge or fee~~, a group sport fishing license, free of any charge or fee, to groups of
41 ~~mentally or physically handicapped persons~~ a group of persons with mental or
42 physical disabilities who are under the care of a any of the following entities:

1 (1) A certified federal, state, county, city, or private licensed care center that is a
2 community care facility as defined in subdivision (a) of Section 1502 of the Health
3 and Safety Code, to organizations .

4 (2) An organization exempt from taxation under Section 501(c)(3) of the federal
5 Internal Revenue Code, or to schools or school districts.

6 (3) A school or school district.

7 (e) Any The organization that applies for a group fishing license listed in
8 subdivision (d) shall provide evidence that it is a legitimate private licensed care
9 center, tax-exempt organization, school, or school district.

10 (f) The license shall be issued to the person in charge of the group and shall be in
11 his or her that person's possession when the group is fishing.

12 (g) Employees of private licensed care centers, tax-exempt organizations, schools,
13 or school districts are exempt from Section 7145 only while assisting physically or
14 mentally disabled persons fishing under the authority of a valid license issued
15 pursuant to this section. The license shall include identify the location where the
16 activity will take place, and the date or dates of the activity for which fishing is
17 authorized, and the maximum number of people that may be included in the group
18 that will be fishing. The licenseholder shall notify the local department office before
19 sport fishing and indicate where, when, and how long the group will fish be sport
20 fishing.

21 (h) Employees of the organization listed in subdivision (d) are exempt from
22 Section 7145 while assisting the group that is sport fishing pursuant to the license.

23 (e) (i) Upon application to the department, the department may issue, free of any
24 charge or fee, a sport fishing license to a nonprofit organization for day-fishing trips
25 that provide recreational rehabilitation therapy for active duty members of the
26 United States military who are currently receiving inpatient care in a military or
27 Veterans Administration hospital and veterans with service-connected disabilities.
28 The license shall be valid for the calendar year of issue or, if issued after the
29 beginning of the year, for the remainder of that year. The license shall be issued to
30 the person in charge of the group, and shall be in the licenseholder's possession
31 when the group is fishing. The organization shall notify the local department office
32 before fishing and indicate where, when, and how long the group will fish. To be
33 eligible for a license under this subdivision, an organization shall be registered to
34 do business in this state or exempt from taxation under Section 501(c) of the federal
35 Internal Revenue Code.

36 (f) (j) On January 15 of each year, the department shall determine the number of
37 free sport fishing licenses in effect during the preceding year under subdivisions (a),
38 (d), and (e) (i).

39 (g) (k) There shall be appropriated from the General Fund a sum equal to two
40 dollars (\$2) per free sport fishing license in effect during the preceding license year
41 under subdivisions (a) and (d), as determined by the department pursuant to
42 subdivision (f) (j). That sum may be appropriated annually in the Budget Act for
43 transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act

1 from the Fish and Game Preservation Fund to the department for the purposes of
2 this part.

3 **Comment.** Section 7151 is amended for clarity. The section is also amended to make it gender
4 neutral.

5 **Fish & Game Code § 7180.1 (amended). Fishing on Colorado River**

6 SEC. _____. Section 7180.1 of the Fish and Game Code is amended to read:

7 7180.1. (a) Any person taking fish or amphibia for purposes other than profit from
8 or on a boat or other floating device on the waters of the Colorado River ~~and or~~ on
9 adjacent waters, except canals, drains, or ditches used to transport water used for
10 irrigation or domestic purposes, shall have in ~~his or her~~ their possession a valid
11 sportfishing license issued by either the State of Arizona or State of California.

12 ~~(b) In addition to either of the licenses, a person taking fish or amphibia as~~
13 ~~indicated shall have in his or her possession a Colorado River special use validation.~~
14 ~~If he or she is a person having in his or her possession a valid California sportfishing~~
15 ~~license, he or she shall have an Arizona special use validation to fish legally the~~
16 ~~waters described above. If he or she is a person having in his or her possession a~~
17 ~~valid Arizona sportfishing license, he or she shall have a California special use~~
18 ~~validation to fish legally the waters described above.~~

19 ~~(c) A special use validation, when accompanied by the proper license, permits~~
20 ~~fishing in any portion of those waters, and permit fishermen to enter the waters from~~
21 ~~any point. The fee for a Colorado River special use validation is three dollars (\$3).~~

22 ~~(d) (b)~~ This section applies only to licenses, permits, reservations, tags, and other
23 entitlements issued through the Automated License Data System.

24 **Comment.** Subdivision (a) of Section 7180.1 is amended to correct a grammatical error, and to
25 eliminate gendered pronouns.

26 Subdivisions (b) and (c) are deleted to reflect the discontinuation of Colorado River special use
27 validations issued by the state of California.

28 **Fish & Game Code § 7181.1 (amended). Colorado River shoreline fishing**

29 SEC. _____. Section 7181.1 of the Fish and Game Code is amended to read:

30 7181.1. (a) A person fishing from the shore in the waters of the Colorado River
31 located in Arizona or California shall have in ~~his or her~~ their possession a valid
32 sportfishing license issued by the state that has jurisdiction over that shore. ~~That~~
33 ~~shoreline fishing does not require a Colorado River special use validation as long as~~
34 ~~the fisherman remains on the shore and does not embark on the water. Any person,~~
35 ~~however, having in his or her possession a valid Arizona sportfishing license and a~~
36 ~~California special use validation may fish from the shore in the waters of the~~
37 ~~Colorado River, or adjacent waters, except canals, drains, and ditches used to~~
38 ~~transport water used for irrigation or domestic purposes, located in California,~~
39 ~~without a sport fishing license issued by the State of California.~~

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

1 **Comment.** Section 7181.1 is amended to reflect the discontinuation of Colorado River special
2 use validations issued by the state of California, and to eliminate gendered pronouns.

3 **Fish & Game Code § 7182.1 (repealed). Colorado River special use validations**

4 SEC. ____ . Section 7182.1 of the Fish and Game Code is repealed.

5 ~~7182.1. (a) Arizona Colorado River special use validations shall be issued by~~
6 ~~California authorized license agents under the supervision of the department in the~~
7 ~~same manner as sportfishing licenses are issued, and California sportfishing licenses~~
8 ~~and California Colorado River special use validations shall be issued by Arizona~~
9 ~~license dealers under the supervision of the Arizona Game and Fish Commission.~~

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

12 **Comment.** Section 7182.1 is repealed based on the discontinuation of Colorado River special
13 use validations issued by the state of California.

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

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

16 7232. (a) Notwithstanding Section 7121 any offal from a fish taken under a sport
17 fishing license which is delivered by the license holder to a fish canner or fish
18 processor may be processed, used, or sold by that fish canner or fish processor.

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

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

24 The section is also amended to add subdivision designations.

25 **Fish & Game Code § 7706 (amended). Complaint alleging violation**

26 SEC. ____ . Section 7706 of the Fish and Game Code is amended to read:

27 7706. (a) A written complaint may be made to the commission against any person
28 who violates Section 7700 to 7705, inclusive, 7707, 7708, or 8075 to 8080,
29 inclusive, ~~or 8153~~, or any regulation adopted thereunder, by any person having
30 information or knowledge of the violation. If the person charged in the complaint is
31 found guilty of the offense charged, the commission may suspend, for a period not
32 to exceed 90 days, any license issued by any state board or officer to that person to
33 take, buy, sell, can, or preserve fish or fishery products. No other license shall be
34 issued to that person during the period of suspension.

35 (b) The proceedings on a complaint shall be conducted at one of the commission's
36 regularly scheduled meetings.

37 **Comment.** Section 7706 is amended for clarity, and to delete a cross-reference to a repealed
38 provision.

39 The section is also amended to add subdivision designations.

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

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

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

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

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

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

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

23 **Fish & Game Code § 7852 (amended). Age requirement and fee for commercial fishing**
24 **license**

25 SEC. _____. Section 7852 of the Fish and Game Code is amended to read:

26 7852. (a) ~~The department shall issue a commercial fishing license to any resident~~
27 ~~who is 16 years of age or older, upon payment of a base fee of ninety five dollars~~
28 ~~(\$95) for each resident vessel crewmember or resident vessel operator.~~

29 (b) ~~The department shall issue a commercial fishing license to any nonresident~~
30 ~~who is 16 years of age or older, upon payment of a base fee of two hundred eighty-~~
31 ~~five dollars (\$285) for a nonresident vessel crewmember or nonresident vessel~~
32 ~~operator.~~

33 (a) An applicant for a commercial fishing license must be at least 16 years of age
34 on the date the license is issued.

35 (b) The fee for a commercial fishing license is as follows:

36 (1) For a resident, a base fee of ninety-five dollars (\$95).

37 (2) For a nonresident, a base fee of two hundred eighty-five dollars (\$285).

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

40 (d) The commission shall adjust the amount of the fees specified in subdivision
41 (c), 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 (e) Nothing in this section affects any other provision of law relating to the
4 employment of minors.

5 **Comment.** Section 7852 is amended for clarity.

6 **Fish & Game Code § 7856 (amended). Preparation of fish on commercial fishing vessel for**
7 **human consumption**

8 SEC. ____ . Section 7856 of the Fish and Game Code is amended to read:

9 7856. Notwithstanding any other provision of this division, except as provided in
10 subdivision (f) and except when prohibited by federal law, fish may be prepared for
11 human consumption aboard a commercial fishing vessel only under the following
12 conditions:

13 (a) The fish are taken under all existing commercial fishing laws and regulations
14 and, except as provided in subdivision (f), the fish is of a species and size that can
15 be lawfully taken under sportfishing regulations in the area where taken and are
16 taken incidental to normal commercial fishing operations.

17 (b) The fish is separated from other fish and stored with other foodstuff for
18 consumption by the crew and passengers aboard the vessel.

19 (c) The fish shall not be bought, sold, offered for sale, transferred to another
20 person, landed, brought ashore, or used for a purpose other than consumption by the
21 crew and passengers.

22 (d)(1) All fish shall be maintained in a condition that the species can be
23 determined, and the size or weight can be determined if a size or weight limit
24 applies, until the fish is prepared for immediate consumption.

25 (2) If the fish is filleted, a patch of skin shall be retained on each fillet as prescribed
26 by the commission in the sportfishing regulations until the fish is prepared for
27 immediate consumption.

28 (3) Fillets from fish possessed under sportfishing regulations shall be of the
29 minimum length prescribed by commission regulations.

30 ~~(e) A fish that may be possessed under sportfishing regulations shall not be~~
31 ~~possessed in excess of the sport bag limit for each crew member and passenger~~ The
32 quantity of fish prepared shall not exceed the aggregate sportfishing bag limit for
33 that fish applicable to the total number of crew members and passengers on board
34 the vessel.

35 (f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted
36 bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be
37 possessed aboard a commercial fishing vessel while that vessel is on a commercial
38 fishing trip. Lobster, salmon, or abalone shall not be possessed aboard a commercial
39 fishing vessel while that vessel is on a commercial fishing trip for preparation for
40 human consumption pursuant to this section unless that lobster, salmon, or abalone
41 is taken and possessed in compliance with all applicable laws pertaining to
42 commercial fishing methods of take, licenses, permits, and size limits. Sturgeon or

1 striped bass shall not be possessed aboard a commercial fishing vessel. A person
2 shall not take or possess a fish on a commercial fishing vessel under a sportfishing
3 license while that vessel is engaged in a commercial fishing activity, including going
4 to or from an area where fish are taken for commercial purposes.

5 **Comment.** Subdivision (e) of Section 7856 is amended for clarity.

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

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

8 7921. The base fee for a commercial passenger fishing ~~boat~~ vessel license is two
9 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
10 annually thereafter pursuant to Section 713. The commercial passenger fishing
11 vessel license shall be issued to the holder of a commercial boat registration issued
12 pursuant to Section 7881.

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

15 **Fish & Game Code § 7925 (amended). Take from commercial passenger fishing boat**

16 7925. (a) ~~If a vessel is licensed under this article and~~ commercial passenger
17 fishing boat is used to take salmon or has salmon aboard in ocean waters north of
18 Point Arguello, there shall be on board that vessel; a total number of commercial
19 fishing salmon stamps sufficient to have at least one for the operator and one for
20 each crewmember required by United States Coast Guard regulations, excepting an
21 operator or a crewmember who is exempt from the commercial fishing salmon
22 stamp requirement ~~under subdivision (b)~~ of Section 7860. The commercial fishing
23 salmon stamps shall be affixed to either the commercial fishing licenses of the
24 operator and the crewmembers or, pursuant to subdivision (b), to the vessel's
25 commercial passenger fishing boat license. No person shall operate, or cause to be
26 operated, ~~any vessel licensed under this article~~ a commercial passenger fishing boat
27 in violation of this subdivision. Vessels permitted as commercial salmon fishing
28 vessels pursuant to ~~Section 8234~~ Article 4.5 (commencing with Section 8230) of
29 Chapter 2 are exempt from the requirements of this subdivision.

30 (b) Notwithstanding ~~Section 4053~~ 1053.1, the department may issue to the owner
31 or operator of a vessel licensed pursuant to this article, upon application and
32 payment of the fees prescribed in subdivision (c) of Section 7860, one commercial
33 fishing salmon stamp for the operator and not more than one additional commercial
34 salmon stamp for each crewmember required by the United States Coast Guard
35 regulations. The commercial fishing salmon stamps issued under this subdivision
36 shall be affixed to the vessel's commercial passenger fishing boat license issued
37 pursuant to this article.

38 **Comment.** Subdivision (a) of Section 7925 is amended to more clearly identify statutory
39 permitting authority cross-referenced in the subdivision.

40 Subdivision (b) is amended to update an obsolete cross-reference.

41 The section is also otherwise amended for clarity.

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

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

3 8032. (a) A multi-function commercial fish business license shall be issued that
4 authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The
5 annual fee for this license is one thousand three hundred seventy-three dollars
6 (\$1,373).

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

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

11 (2) Marine aquaria receiver's license, issued to any person engaged in the business
12 of receiving live marine species indigenous to California waters from a person
13 required to be a licensed commercial fisherman for the purpose of wholesaling or
14 retailing those species for pet industry or hobby purposes as provided in Section
15 8033.1.

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

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

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

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

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

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

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

30 8037. (a) A person who engages in business involving fish which business activity
31 would require more than one class of license under this article shall obtain either a
32 commercial fish business license issued under subdivision (a) of Section 8032 or
33 each of the specialty licenses which are required for the classes of activities engaged
34 in. Each plant, facility, or other place of business in which an activity occurs that is
35 required to be licensed shall have a copy of the required license on the premises.

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

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

38 **• Fish & Game Code § 8050 (amended). Accounting records**

39 SEC. _____. Section 8050 of the Fish and Game Code is amended to read:

40 8050. (a) In addition to the receipt required ~~in~~ by Section 8043, every person
41 licensed under Article 7 (commencing with Section 8030), and any commercial

1 fisherman who sells fish to persons who are not licensed under Article 7
2 (commencing with Section 8030), and any person who deals in fresh or frozen fish
3 for profit, shall keep accounting records in which all of the following shall be
4 recorded:

5 (1) ~~The names of the~~ name as designated by the department of each different
6 species of fish sold, distributed, or taken, or if not designated, the commonly used
7 name of each species.

8 (2) The number of pounds sold, distributed, or taken of each different species.

9 (3) The name of the person to whom the fish were sold or distributed.

10 (4) The name, address, and phone number of the seller or distributor.

11 (5) The date of sale.

12 (6) The price paid.

13 (7) The intended use.

14 (b) Accounting record information required by this section that is transmitted
15 from any person identified in subdivision (a) to any business that deals in fish for
16 profit shall be in the English language.

17 (c) The accounting records shall be maintained by both buyer and seller for a
18 period of three years and upon request, shall be open for inspection during normal
19 business hours by the department. The accounting records shall be maintained
20 within the State of California.

21 ~~(d) The names used for designating the species of fish shall be those in common~~
22 ~~usage unless otherwise designated by the department.~~

23 **Comment.** Paragraph (1) of subdivision (a) of Section 8050 is amended to incorporate the
24 substance of subdivision (d).

25 Subdivision (a) is also amended to make a technical correction.

26 **Fish & Game Code § 8104 (amended). Transfer of permit of deceased permittee**

27 SEC. _____. Section 8104 of the Fish and Game Code is amended to read:

28 8104 8552.65. (a) Upon the death of a ~~limited-entry~~ herring permittee, the permit
29 shall vest in the permittee's estate or in the surviving community estate, and may be
30 transferred by the executor, administrator, personal representative, or surviving
31 spouse to a qualified pointholder pursuant to Section 8552.2, or to a ~~partner~~ qualified
32 partner, pursuant to Section 8552.6. ~~This~~

33 (b) The transfer shall be initiated by notice to the department, in writing, sent by
34 certified mail, within one year of the date of death.

35 (c) If no transfer is initiated within one year of the date of death, the permit shall
36 revert to the department for disposition pursuant to Section 8552.4, and ~~shall be~~
37 thereafter be treated as a herring permit that has not been renewed.

38 (d) The department may, upon written application, grant an extension of time up
39 to one additional year for the transfer to be initiated.

40 **Comment.** Section 8104 is amended and renumbered as Section 8552.65 to clarify its intended
41 application to herring permittees.

42 The section is also amended for clarity, and to add subdivision designations.

1 **Fish & Game Code § 8233.5 (amended). Change of ownership of permitted vessel**

2 SEC. ____ . Section 8233.5 of the Fish and Game Code is amended to read:

3 8233.5. (a) Except as otherwise provided in this article, the department shall
4 change the designation of the holder of a permit, and with it shall go all rights,
5 privileges, and obligations of a permit holder, including rights of renewal, upon
6 receipt of a notice of change of ownership to a new owner of a permitted vessel. A
7 permit changed pursuant to this section is valid for the permit year during which it
8 is issued to the new owner of a permitted vessel upon receipt of a notice of change
9 of ownership of the permitted vessel, whether the change of ownership is by
10 contract, by operation of law, or otherwise.

11 (b) The permit shall not be transferred to any other vessel, except by the issuance
12 of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections
13 8239 to 8241, inclusive.

14 (c) The owner of the permitted vessel may seek to retire the permitted vessel from
15 the commercial salmon fishery and apply for transfer of the permit, to be issued
16 pursuant to Section 8241, for use of a replacement vessel.

17 (d) A permit changed pursuant to this section is valid for the permit year during
18 which it is issued.

19 (e) Upon change of the designation of the holder of the permit, all rights,
20 privileges, and obligations of a permit holder, including rights of renewal, are
21 transferred to the new owner of a permitted vessel.

22 **Comment.** Section 8233.5 is amended to incorporate the provisions of former Section 8237.

23 **Fish & Game Code § 8237 (repealed). Use of vessel permit after change of ownership**

24 SEC. ____ . Section 8237 of the Fish and Game Code is repealed.

25 ~~8237. (a) The department shall change the designation of the holder of a permit to~~
26 ~~the new owner of a permitted vessel upon change of ownership of the permitted~~
27 ~~vessel, whether the change of ownership is by contract, by operation of law, or~~
28 ~~otherwise.~~

29 ~~(b) The permit shall not be transferred to any other vessel, except by the issuance~~
30 ~~of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections~~
31 ~~8239 to 8241, inclusive.~~

32 ~~(c) The owner of the permitted vessel may seek to retire the permitted vessel from~~
33 ~~the commercial salmon fishery and apply for transfer of the permit, to be issued~~
34 ~~pursuant to Section 8241, for use of a replacement vessel.~~

35 **Comment.** Section 8237 is repealed. Its provisions are incorporated in Section 8233.5.

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

38 SEC. ____ . Section 8246 of the Fish and Game Code is amended to read:

39 8246. (a) At any time after notice of an order suspending or revoking of a person's
40 commercial salmon fishing privilege is issued by the commission, and before the
41 order of suspension or revocation is final, the commission may, with the agreement

1 of the person subject to the action, compromise or dismiss the action to suspend or
2 revoke the commercial salmon fishing privilege in the best interests of the state, or
3 the commission may compromise or dismiss the action with the agreement of the
4 person subject to the action on terms and conditions, which may include, but are not
5 limited to, the payment of civil damages, the reduction of a revocation to a
6 suspension for a specified period of time, or any other terms and conditions.

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

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

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

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

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

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

20 8246.2. (a) The commission, in consultation with the department, shall adopt
21 regulations for the determination of civil damages provided for in subdivision ~~(b)~~
22 (a) of Section 8246 that give due consideration to the appropriateness of the civil
23 damages with respect to all of the following factors:

- 24 (1) The gravity of the violation.
- 25 (2) The good faith of the convicted licensee.
- 26 (3) The history of previous violations.
- 27 (4) The damage to the fishery.
- 28 (5) The cost of restoration of the fishery.

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

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

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

33 SEC. _____. Section 8276.5 of the Fish and Game Code is amended to read:

34 8276.5. (a) In consultation with the Dungeness crab task force, or its appointed
35 representatives, the director shall adopt a program, by March 31, 2013, for
36 Dungeness crab trap limits for all California permits. Unless the director finds that
37 there is consensus in the Dungeness crab industry that modifications to the
38 following requirements are more desirable, with evidence of consensus, including,
39 but not limited to, the record of the Dungeness crab task force, the program shall
40 include all of the following requirements:

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

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

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

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

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

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

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

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

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

25 ~~(3)~~ (2) Participants in the program shall meet all of the following requirements:

26 (A) Unless a participant receives a waiver pursuant to paragraph ~~(4)~~ (3), pay a
27 biennial fee for each trap tag issued pursuant to this section to pay the pro rata share
28 of costs of the program, including, but not limited to, informing permit holders of
29 the program, collecting fees, acquiring and sending trap tags to permit holders,
30 paying for a portion of enforcement costs, and monitoring the results of the program.
31 The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the
32 trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by
33 the permit holder or the permit shall be void.

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

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

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

1 (4) (3) The department shall issue a participant a waiver from the biennial fee for
2 each trap tag described in subparagraph (A) of paragraph (3) (2) if the participant is
3 unable to fish due to mandatory military service and the participant submits a
4 request for a waiver to the department at the same time that the participant renews
5 the permit issued pursuant to subparagraph (B) of paragraph (3) (2). A participant
6 who receives a waiver pursuant to this paragraph shall not apply to the department
7 to fish for Dungeness crab during the first year of the waiver, but may apply to fish
8 for Dungeness crab during the second year of the waiver if the participant pays the
9 full cost of the biennial fee for each trap tag. The department shall not limit the
10 number of times a participant may request a waiver.

11 (5) (4) Notwithstanding subparagraph (D) of paragraph (3) (2), a vessel may
12 transit state waters with Dungeness crab traps that are not tagged pursuant to
13 subparagraph (D) of paragraph (3) (2) if the traps contain either a valid Oregon or
14 Washington trap tag, no crab species are onboard the vessel, and the traps are not
15 deployed in state waters.

16 (6) (5) The department shall annually provide an accounting of all costs associated
17 with the crab trap limit program. The department shall use excess funds collected to
18 reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the
19 program.

20 (7) (6) Permitholders may replace lost tags by application to the department and
21 payment of a fee not to exceed the reasonable costs incurred by the department. The
22 department may waive or reduce a fee in the case of catastrophic loss of tags.

23 ~~(8) Any Dungeness crab permit holder may submit to the director an appeal of a~~
24 ~~trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-~~
25 ~~by-permit basis for the purpose of revising upward or downward any trap tag~~
26 ~~allocation. Any appeal to revise upward a trap tag allocation shall be based on~~
27 ~~evidence that a permit's California landings during the period between November~~
28 ~~15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual~~
29 ~~circumstances and that these circumstances constitute an unfair hardship, taking into~~
30 ~~account the overall California landings history as indicated by landing receipts~~
31 ~~associated with the permit. The director shall initiate the appeal process within 12~~
32 ~~months of receiving an appeal request. The appeal shall be heard and decided by an~~
33 ~~administrative law judge of the Office of Administrative Hearings, whose decision~~
34 ~~shall constitute the final administrative decision. Except as provided in~~
35 ~~subparagraph (B), any Dungeness crab permit holder requesting an appeal to revise~~
36 ~~upward the permit holder's trap tag allocation shall pay all expenses, including a~~
37 ~~nonrefundable filing fee, as determined by the department, to pay for the~~
38 ~~department's reasonable costs associated with the appeal process described in this~~
39 ~~paragraph.~~

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

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

4 (B) Conviction of a second offense shall result in a fine of not less than five
5 hundred dollars (\$500) and not more than two thousand five hundred dollars
6 (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one
7 year.

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

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

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

17 (c) For the purposes of this section, a proposed recommendation that receives an
18 affirmative vote of at least two-thirds of the voting members of the Dungeness crab
19 task force may be transmitted to the director or the Legislature as a recommendation,
20 shall be considered to be the consensus of the task force, and shall be considered to
21 be evidence of consensus in the Dungeness crab industry. Any proposed
22 recommendation that does not receive a vote sufficient to authorize transmittal to
23 the director or Legislature as a recommendation shall be evidence of a lack of
24 consensus by the Dungeness crab task force, and shall be considered to be evidence
25 of a lack of consensus in the crab industry.

26 (d) The director may modify the program adopted pursuant to subdivision (a), if
27 consistent with the requirements of this section, after consultation with the
28 Dungeness crab task force or its representatives and after the task force has had 60
29 days or more to review the proposed modifications and recommend any proposed
30 changes. The director may implement the modifications earlier than 60 days after it
31 is sent to the Dungeness crab task force for review, if recommended by the task
32 force.

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

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

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

1 (f) For purposes of meeting the necessary expenses of initial organization and
2 operation of the program until fees may be collected, or other funding sources may
3 be received, the department may borrow money as needed for these expenses from
4 the council. The borrowed money shall be repaid within one year from the fees
5 collected or other funding sources received. The council shall give high priority to
6 providing funds or services to the department, in addition to loans, to assist in the
7 development of the program, including, but not limited to, the costs of convening
8 the Dungeness crab task force, environmental review, and the department’s costs of
9 attending meetings with task force members.

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

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

20 (h) For purposes of this section, “council” means the Ocean Protection Council
21 established pursuant to Section 35600 of the Public Resources Code.

22 (i) This section shall become inoperative on April 1, 2029, and, as of January 1,
23 2030, is repealed, unless a later enacted statute, that becomes operative on or before
24 January 1, 2030, deletes or extends the dates on which it becomes inoperative and
25 is repealed.

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

28 **Fish & Game Code § 8398 (amended). Take in Tomales Bay**

29 SEC. _____. Section 8398 of the Fish and Game Code is amended to read:

30 8398. (a) It is unlawful to take fish for commercial purposes in that portion of
31 Tomales Bay in District 10 between a line drawn from the most northern tip of
32 Tomales Point northeast, 47° magnetic, to the opposite shore in the vicinity of Dillon
33 Beach, and a line drawn west from the western tip of Tom’s Point, 252° magnetic,
34 to the opposite eastern shore of Tomales Point.

35 (b) This section does not apply to the taking of oysters by ~~persons licensed under~~
36 ~~Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6 from their~~
37 ~~allotted areas~~ a person who has obtained a state water bottom lease pursuant to
38 Chapter 5 (commencing with Section 15400) of Division 12 for the cultivation of
39 oysters, in their lease site.

40 **Comment.** Subdivision (b) of Section 8398 is amended to revise an incorrect cross-reference,
41 and reflect that the taking of oysters is presently authorized and governed by Chapter 5
42 (commencing with Section 15400) of Division 12 of this code.

1 The section is also amended to add subdivision designations.

2 • **Fish & Game Code § 8403 (amended). Take of marine species of fin fish**

3 SEC. ____ . Section 8403 of the Fish and Game Code is amended to read:

4 8403. (a) To the extent not in conflict with Section 8607, marine species of fin
5 fish ~~which that~~ are classified as groundfish may be taken under the regulations of
6 the commission.

7 (b) Marine species of fin fish, including, but not limited to, fin fish ~~which that~~ are
8 classified as groundfish, may be taken with fin fish traps, subject to Article 1
9 (commencing with Section 9000) of Chapter 4, under regulations of the
10 commission. The regulations may limit the number of fin fish traps ~~which that~~ any
11 vessel may use, designate the areas in which the traps may be used, and prescribe
12 other limitations on the use of fin fish traps.

13 (c) ~~Any other species not~~ Except as otherwise prohibited, any species may be
14 taken in a fin fish trap.

15 **Comment.** Section 8403 is amended for clarity.

16 **Fish & Game Code § 8429 (amended). Revocation of privileges for materially false**
17 **statements**

18 SEC. ____ . Section 8429 of the Fish and Game Code is amended to read:

19 8429. (a) Any statement made to the department, orally or in writing, relating to
20 a permit issued under this article, shall be made under penalty of perjury.

21 (b) The commission shall revoke the commercial fishing license, the commercial
22 boat registration of any vessel, and, if applicable, any licenses issued pursuant to
23 Section 8032, 8033, or 8034 that are held by any person submitting material false
24 statements, as determined by the commission, for the purpose of obtaining a
25 commercial market squid vessel permit or a commercial squid light boat owner's
26 permit.

27 **Comment.** Subdivision (b) of Section 8429 is amended for clarity.

28 The section is also amended to add subdivision designations.

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

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

31 8494. (a) Any vessel using bottom trawl gear in state-managed halibut fisheries,
32 as described in subdivision (a) of Section 8841, shall possess a valid California
33 halibut bottom trawl vessel permit that has not been suspended or revoked and that
34 is issued by the department authorizing the use of trawl gear by that vessel for the
35 take of California halibut.

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

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

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

6 (2)(A) Before the implementation of a halibut trawl restricted access program, the
7 department may consider requests from a vessel permitholder or the permitholder's
8 conservator or estate representative, as applicable, to transfer a vessel permit to a
9 vessel consistent with the requirements of subparagraph (B) or (C). The department
10 may request information that it determines is reasonably necessary from the
11 permitholder or the permitholder's conservator or heirs or estate for the purpose of
12 verifying statements in the request before authorizing the transfer of the permit.

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

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

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

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

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

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

29 (vi) The replacement vessel is registered with the department pursuant to Section
30 7881 at the time the application is submitted pursuant to clause (i).

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

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

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

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

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

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

5 (I) The person has a valid commercial fishing license issued pursuant to Section
6 7852 that has not been suspended or revoked.

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

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

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

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

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

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

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

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

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

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

36 SEC. ____ . Section 8603 of the Fish and Game Code is amended to read:

37 8603. It is unlawful to use or operate or assist in using or operating any net, trap,
38 line, spear, or appliance, other than in connection with angling, in taking fish, except
39 as ~~provided in this chapter or Chapter 4 of this part~~ authorized by this code.

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

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

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

3 ~~8606.1. (a) The Legislature finds and declares that the use of nearshore trawl nets~~
4 ~~was authorized through the experimental gear permit process and the alternative~~
5 ~~gear development program as a potential alternative to the use of gill and trammel~~
6 ~~nets in areas where the use of that gear type has been prohibited.~~

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

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

10 • **Fish & Game Code § 8614 (repealed). Revocation or non-renewal of permit**

11 SEC. _____. Section 8614 of the Fish and Game Code is repealed.

12 ~~8614. (a) If an experimental permit is revoked or not renewed, pursuant to a~~
13 ~~judgment, a decision of the commission, or a legislative enactment, and the~~
14 ~~permittee has an outstanding loan with the State Coastal Conservancy under Section~~
15 ~~31125 of the Public Resources Code, as added by Chapter 910 of the Statutes of~~
16 ~~1986, for the purchase of alternative fishing gear, the unpaid balance of the loan~~
17 ~~shall be excused from the date of revocation or nonrenewal of the permit, or from~~
18 ~~the date of any judgment, decision, or enactment which terminates the permit, if the~~
19 ~~permittee relinquishes the permit and returns the collateral fishing gear to the~~
20 ~~department, in which case the department shall take possession of the alternative~~
21 ~~fishing gear for the State Coastal Conservancy. Any alternative gear received by the~~
22 ~~department due to a revocation, nonrenewal, or termination of an experimental~~
23 ~~permit may be resold by the State Coastal Conservancy at fair market value to other~~
24 ~~experimental permit applicants or holders under this article. If the permittee chooses~~
25 ~~to keep the alternative gear and repay the loan, the rate of interest shall be reduced~~
26 ~~to 3 percent for the remaining balance of the loan.~~

27 ~~(b) If the Legislature approves the permanent use or type of gear and the~~
28 ~~commercial fishing permit or the license for the permanent use or type of gear is~~
29 ~~revoked for a violation of the terms and conditions under which the fishery is~~
30 ~~conducted, the permittee shall be responsible for any remaining balance on any~~
31 ~~outstanding loan with the State Coastal Conservancy for the purchase of alternative~~
32 ~~fishing gear.~~

33 **Comment.** Section 8614 is repealed as obsolete. See Section 1022.

34 • **Fish & Game Code § 8615 (repealed). Request to terminate permit**

35 SEC. _____. Section 8615 of the Fish and Game Code is repealed.

36 ~~8615. (a)(1) Within the first six months of operation pursuant to an experimental~~
37 ~~permit and after a reasonable and concerted effort to utilize a new type of~~
38 ~~commercial fishing gear, the permittee may request that the experimental permit be~~
39 ~~terminated if it is economically infeasible to harvest the target species or if the~~
40 ~~alternative gear is impractical, inefficient, or ineffective within the fishery or~~
41 ~~regional area selected. The permittee shall submit copies of all landing receipts, a~~

1 financial statement setting forth the expenses and any revenue generated by the
2 operation of the alternative fishing gear, and a brief summary from any observers,
3 monitors, and employees regarding the operation of the alternative fishing gear to
4 the department. The department shall review the permittee's submitted material.

5 (2) ~~If the submitted material supports the claim that the new type of commercial
6 fishing gear utilized by the permittee was either inefficient, impractical, or
7 ineffective, or that it was not economically feasible for the permittee to harvest the
8 target species, the department shall terminate the experimental permit and submit
9 its findings to the State Coastal Conservancy. Upon receiving the department's
10 report, the State Coastal Conservancy may terminate the permittee's loan. If the
11 permittee returns the collateral fishing gear to the department, the State Coastal
12 Conservancy shall reimburse the permittee from the loan fund for the principal
13 amount of the loan repaid by the permittee. The department shall take possession of
14 the fishing gear for the State Coastal Conservancy, which may resell the gear as set
15 forth in subdivision (a) of Section 8614.~~

16 (3) ~~If the information does not support the claim made by the permittee, the
17 department may still terminate the experimental permit. The State Coastal
18 Conservancy may terminate the remaining balance on the loan if the permittee
19 returns the collateral fishing gear to the department, but the State Coastal
20 Conservancy shall not reimburse the permittee for previous loan payments.~~

21 (b) ~~After six months of operation pursuant to an experimental permit, any request
22 to terminate the permit for the reasons set forth in subdivision (a) shall include, in
23 addition to the information required by paragraph (1) of subdivision (a), an
24 explanation of the changed circumstances or reasons that cause the new type of gear
25 to become inefficient, impractical, or ineffective or economically infeasible to
26 harvest the target species after the initial six-month operating period. The
27 department shall review the request and make its recommendation to the State
28 Coastal Conservancy following the procedures set forth in subdivision (a). If the
29 department terminates the experimental gear permit, the State Coastal Conservancy
30 may terminate the remaining balance on the loan if the permittee returns the
31 collateral fishing gear to the department, but it shall not reimburse the permittee for
32 any loan payments received. The department shall take possession of the alternative
33 fishing gear for the State Coastal Conservancy, which may resell the gear as set
34 forth in subdivision (a) of Section 8614.~~

35 **Comment.** Section 8615 is repealed as obsolete. See Section 1022.

36 **Fish & Game Code § 8623 (amended). Use of purse seines or round haul nets**

37 SEC. _____. Section 8623 of the Fish and Game Code is amended to read:

38 8623. (a) It is unlawful to use any purse seine or round haul net to take yellowtail,
39 barracuda, or white sea bass.

40 (b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except
41 those taken south of the international boundary between the United States and
42 Mexico, and imported into the state under regulations of the commission as provided

1 in Section 2362, on any boat carrying or using any purse seine or round haul net,
2 including, but not limited to, a bait net as described in Section 8780.

3 (c) Gill nets with meshes of a minimum length of 3¹/₂ inches may be used to take
4 yellowtail and barracuda.

5 (d) Gill nets with meshes of a minimum length of six inches may be used to take
6 white sea bass; however, during the period from June 16 to March 14, inclusive, not
7 more than 20 percent by number of a load of fish may be white seabass 28 inches
8 or more in total length, up to a maximum of 10 white seabass per load, if taken in
9 gill nets or trammel nets with meshes from 3¹/₂ to 6 inches in length.

10 (e) Notwithstanding ~~the provisions of this section~~ subdivision (b), the department
11 may issue permits to hook and line commercial fishermen to possess a bona fide
12 bait net on their vessels for the purpose of taking bait for their own use only.

13 **Comment.** Section 8623 is amended to clarify the application of subdivision (e) of the section.

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

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

16 8625. (a) Except as otherwise provided in this code, set gill nets and trammel nets
17 with mesh size of not less than 8¹/₂ inches may be used to take California halibut.

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

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

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

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

30 **Fish & Game Code § 8626 (amended). Nets for halibut in specified areas**

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

32 8626. (a) Notwithstanding Section 8625, and where consistent with the
33 determination made pursuant to subdivisions (b) and (c), the director may reduce
34 the minimum mesh size permitted for gill and trammel nets used to take California
35 halibut from 8¹/₂ inches to not less than 8 inches in any or all areas south of a line
36 extending 240° magnetic from the boundary line between the Counties of Los
37 Angeles and Ventura.

38 (b) If, on or before October 1, 1990, the department determines that commercial
39 landings of California halibut taken south of the line extending 240° magnetic from
40 the boundary line between the Counties of Los Angeles and Ventura in the period
41 between September 1, 1989, and August 31, 1990, decline by 10 percent or more

1 compared with landings of California halibut taken in this area during the period
2 between September 1, 1988, and August 31, 1989, the department shall assess the
3 impact of the 8¹/₂ inch minimum mesh size restriction on the California halibut
4 fishery in the area described in subdivision (a). The assessment shall include, but is
5 not limited to, an analysis of landing data, including landings of California halibut
6 in Los Angeles, Orange, and San Diego Counties, the age and size composition of
7 the catch, and the department's monitoring at sea of the gill and trammel net fishery.

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

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

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

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

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

18 8752. In Districts 6, 7, 8, 9, 10, and 11, ~~purse and~~ round haul nets may be used.

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

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

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

23 8754. (a) In Districts 16, 17, 18, and 19, ~~purse and~~ round haul nets may be used,
24 except that purse seines or ring nets may not be used in that portion of District 19
25 lying within three miles offshore from the line of the high-water mark along the
26 coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to
27 September 10, inclusive.

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

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

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

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

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

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

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

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

40 8755. In Districts 20A and 21, ~~purse and~~ round haul nets may be used.

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

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

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

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

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

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

20 8756. Salmon, steelhead, striped bass, or shad may not be taken with ~~purse or~~
21 round haul nets.

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

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

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

26 8780. (a) As used in this chapter, the term “bait net” means a lampara or round
27 haul type net, the mesh of which is constructed of twine not exceeding Standard No.
28 9 medium cotton seine twine or synthetic twine of equivalent size or strength.
29 Notwithstanding Section 8757, except for drum seines and other round haul nets
30 authorized under a permit issued by the department pursuant to this section, the nets
31 may not have rings along the lead line or any method of pursuing the bottom of the
32 net.

33 (b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13,
34 16, 17, 18, 19, ~~19A,~~ 19B, 20A, 21, 118, and 118.5.

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

38 (d) No other species of fish may be taken on any boat carrying a bait net in District
39 19A, except that loads or lots of fish may contain not more than 18 percent, by
40 weight of the fish, of other bait fish species taken incidentally to other fishing
41 operations and that are mixed with other fish in the load or lot.

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

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

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

6 8841. (a) The commission is hereby granted authority over all state-managed
7 bottom trawl fisheries not managed under a federal fishery management plan
8 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
9 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7
10 (commencing with Section 7050), to ensure that resources are sustainably managed,
11 to protect the health of ecosystems, and to provide for an orderly transition to
12 sustainable gear types in situations where bottom trawling may not be compatible
13 with these goals.

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

- 17 (1) California halibut.
- 18 (2) Sea cucumber.
- 19 (3) Ridge-back, spot, and golden prawn.
- 20 (4) Pink shrimp.

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

25 (d) Every commercial bottom trawl vessel issued a state permit is subject to the
26 requirements and policies of the federal groundfish observer program (50 C.F.R.
27 660.360).

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

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

34 (g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or
35 pink shrimp, unless an approved bycatch reduction device is used with each net. On
36 or before April 1, 2006, the commission shall approve one or more bycatch
37 reduction devices for use in the bottom trawl fishery. For purposes of this
38 subdivision, a rigid grate fish excluder device is the approved type of bycatch
39 reduction device unless the commission, the Pacific Marine Fishery Management
40 Council, or the National Marine Fisheries Service determines that a different type
41 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
42 the commission does not approve a bycatch reduction device prior to April 1, 2006,

1 then a device that is approved by the Pacific Marine Fishery Management Council
2 or the National Marine Fisheries Service shall be deemed approved by the
3 commission.

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

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

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

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

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

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

23 Subdivision (k) is deleted as obsolete.

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

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

26 9001.7. Finfish, other than sablefish and hagfish, may be taken under a general
27 trap permit if all of the following criteria are also met:

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

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

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

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

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

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

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

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

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

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

11 (1) Lobster.

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

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

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

22 **Comment.** Subdivision (g) of Section 9001.7 is amended to delete a reference to a Fish and
23 Game District that does not exist.

24 Subdivision (k) is amended to correct the form of a cross-reference.

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

26 SEC. _____. Section 9011 of the Fish and Game Code is amended to read:

27 9011. (a)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2,
28 Dungeness crab, as defined in Section 8275, may be taken with Dungeness crab
29 traps.

30 (2) A Dungeness crab trap may have any number of openings of any size.
31 However, every Dungeness crab trap shall have at least two rigid circular openings
32 of not less than 4¹/₄ inches, inside diameter, on the top or side of the trap. If both of
33 the openings are located on the side of the trap, at least one of the openings shall be
34 located so that at least one-half of the opening is in the upper half of the trap.

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

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

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

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

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

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

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

32 • **Fish & Game Code § 9027.5 (amended). Additional restrictions on use of fishing line in**
33 **specified areas**

34 SEC. ____ . Section 9027.5 of the Fish and Game Code is amended to read:

35 9027.5. (a) (1) Notwithstanding Section 9026, 9028, or 9029 in the area described
36 in subdivision (b), it is unlawful to use more than 150 hooks on a vessel to take fish
37 for commercial purposes when using fishing lines authorized pursuant to this article.

38 (2) In the area described in subdivision (b), not more than 15 hooks shall be
39 attached to any one fishing line, and no fishing line shall be attached to another
40 fishing line, while those lines are being used for commercial fishing pursuant to this
41 article.

1 (3) Each fishing line used pursuant to this article that is not attached to a vessel
2 fishing in the area described in subdivision (b) shall be buoyed, and the commercial
3 fishing license identification number issued pursuant to Section 7852 to the
4 permittee who is using the fishing line shall be marked on, and visible on the upper
5 one-half of each buoy, in numbers not less than two inches in height.

6 (b) This section applies only to waters within one mile of the mainland shore in
7 Fish and Game Districts 17, 18, and 19.

8 ~~(c) Subdivision (a) does not apply to persons who are fishing south of a line
9 extending due west from Point Conception and who are fishing for halibut, white
10 sea bass, sharks, skates, or rays. The exemption in this subdivision does not apply
11 if all of the fish possessed by persons aboard the vessel consist of at least 80 percent
12 by number of halibut, white sea bass, sharks, skates, and rays.~~

13 Subdivision (a) does not apply to persons who are fishing for halibut, white sea
14 bass, sharks, skates, or rays, south of a line extending due west from Point
15 Conception, if at least 80 percent of the fish possessed by persons aboard the vessel
16 are, by number, halibut, white sea bass, sharks, skates, or rays.

17 **Comment.** Section 9027.5 is amended for clarity.

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

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

20 9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be used
21 to take mollusks, sand crabs, and shrimps in Districts 1, 1^{1/2}, 2, 2^{1/2}, 3, 3^{1/2}, 4, 4^{1/8},
22 4^{3/4}, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as
23 specified in ~~Sections~~ Section 7332 ~~and 8303~~, and except that freshwater clams shall
24 not be taken by means of such appliances on any levee or on the berm of any levee.

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

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

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

28 10000. (a) Every person engaged in the business of canning, curing, preserving,
29 packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon
30 for human consumption shall obtain a sturgeon egg processing license from the
31 department for that purpose. The license required by this division is in addition to
32 any other license, permit, or other authorization required by this code or by any
33 other provision of law.

34 (b) Possession of a sturgeon egg processing license issued pursuant to this division
35 authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at
36 wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or
37 lawfully possessed pursuant to Section 7230 or ~~8374~~ 7370.

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

1 • **Fish & Game Code § 10002 (amended). Required documentation**

2 SEC. _____. Section 10002 of the Fish and Game Code is amended to read:

3 10002. Every person licensed pursuant to this division shall make a true and
4 legible record of each transaction involving the eggs of sturgeon. This
5 documentation shall show all of the following:

6 (a) The weight of the eggs received by the licensee.

7 (b) The date the eggs were received by the licensee.

8 (c) The name and address of the person from whom the licensee received the eggs
9 ~~were received, and, if different, the~~.

10 (d) If any of the sturgeon that produced the eggs were artificially propagated by a
11 person other than the person named pursuant to subdivision (c), the name and
12 address of the person who artificially propagated the sturgeon ~~from which the eggs~~
13 ~~were obtained or the~~.

14 (e) If the person named pursuant to subdivision (c) received any of the sturgeon
15 that produced the eggs from another person, the name and address of the ~~that~~ person
16 ~~from whom the sturgeon were received from which the eggs were obtained.~~

17 (e) ~~The date of receipt.~~

18 (d) (f) If any of the sturgeon that produced the eggs were imported into this state,
19 the place where the ~~those~~ sturgeon were taken.

20 (e) (g) Whether the eggs are to be processed by the recipient licensee or sold by
21 him or her to another person for processing, and, in addition, if the eggs are to be
22 sold to another person for processing by another, the name and address of that
23 person.

24 (f) (h) Such Any other information as that the department may require and specify
25 as required on the any form provided.

26 **Comment.** Section 10002 is amended for clarity.

27 • **Fish & Game Code § 10653 (amended). Transport of animals**

28 SEC. _____. Section 10653 of the Fish and Game Code is amended to read:

29 10653. In the San Francisco Fish and Game Refuge, birds, mammals, fish,
30 amphibians, and reptiles legally possessed may be carried openly by persons
31 traveling through the refuge on public roads, between one-half hour before sunrise
32 and one-half hour after sunset.

33 **Comment.** Section 10653 is amended to correct an erroneously named refuge.

34 • **Fish & Game Code § 10654 (amended). Use of land for water supply purposes**

35 SEC. _____. Section 10654 of the Fish and Game Code is amended to read:

36 10654. Nothing in this division prevents the full use of the land included in the
37 San Francisco Fish and Game Refuge for water supply purposes, nor prohibits any
38 authorized employee of the San Francisco water department from carrying out such
39 reasonable measures as may be necessary for the protection of the water supply or
40 the prevention of pollution of the streams or reservoirs.

1 **Comment.** Section 10654 is amended to correct an erroneously named refuge.

2 • **Fish & Game Code § 10843 (amended). Farallon Islands Game Refuge**

3 SEC. ____ . Section 10843 of the Fish and Game Code is amended to read:

4 10843. (a) The following constitutes the Farallon Islands Game Refuge: the
5 Southeast Farallons, including Maintop Island, Middle Farallon, the North
6 Farallons, Noonday Rock, and the waters lying around each island within one
7 nautical mile from the coastline of each island.

8 (b) Section 10513 shall have no application in this refuge.

9 (c) Notwithstanding the provisions of Section 10500, persons on commercial
10 vessels may possess unloaded firearms when traveling through the navigable waters
11 of this refuge. Fishermen, however, may not take any seal or sea lion while in this
12 refuge, notwithstanding the provisions of Section 4500 or 4500.5.

13 **Comment.** Section 10843 is amended to delete a cross-reference to former Section 4500.5 as
14 obsolete.

15 The section is also amended to add subdivision designations.

16 • **Fish & Game Code § 10844 (amended). Education and outreach**

17 SEC. ____ . Section 10844 of the Fish and Game Code is amended to read:

18 10844. (a) The department shall undertake appropriate education and outreach
19 regarding the current location of existing game refuges, agency contacts for
20 statutory notices in Sections 10506 and 10507, and the potential closure of all state
21 game refuges, except the California Sea Otter Game Refuge and the Farallon Islands
22 Game Refuge.

23 (b) The department shall provide an opportunity for public comment concerning
24 the potential elimination of game refuges.

25 (c) The department shall provide information about game refuge boundaries,
26 including, but not limited to, maps available both on the department's Internet Web
27 site and in hardcopy format.

28 (d) The department shall also provide Internet Web site contact information for
29 the public to contact the department in accordance with state law.

30 (e) The department may conduct regional workshops as it determines to be
31 necessary to provide public information about the proposed elimination of game
32 refuges.

33 ~~(b) The department, on or before January 1, 2011, shall prepare and submit to the~~
34 ~~Legislature a description of the public education and outreach effort undertaken~~
35 ~~pursuant to subdivision (a), and a summary of any information provided by the~~
36 ~~public that is relevant to the potential closure of all state game refuges except the~~
37 ~~California Sea Otter Game Refuge and the Farallon Islands Game Refuge.~~

38 **Comment.** Section 10844 is amended to delete subdivision (b) of the section as obsolete.

39 The section is also amended to add new subdivision designations.

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

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

3 11018. The following constitutes Fish and Game District 10:

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

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

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

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

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

18 12001.5. (a) In addition to any other penalty or fine imposed pursuant to this code,
19 if a person has been convicted of one or more offenses that was a violation of a
20 section listed in subdivision (b) separate from the offense before the court, the court
21 may order as a condition of probation upon conviction of the offense before the
22 court that is also a violation of a section listed in subdivision (b), that the person
23 attend the hunter education course designated in Section 3051 and perform
24 community service, preferably relating to natural resources if that type of
25 community service is available, as follows:

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

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

30 (b) This section applies to violations relating to a taking in Sections 3007, ~~3700~~
31 3700.1, 4330, and 4750, and a sale or purchase of parts of a bear in Section 4758.

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

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

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

35 12002. (a) Unless otherwise provided, the punishment for a violation of this code
36 that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000),
37 imprisonment in a county jail for not more than six months, or by both that fine and
38 imprisonment.

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

- 1 (1) Section 1059.
- 2 (2) Subdivision (b) of Section 4004.
- 3 (3) Section 4600.
- 4 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- 5 (5) A first violation of Section 8670.
- 6 (6) Section 10500.
- 7 (7) Unless a greater punishment is otherwise provided, a violation subject to
- 8 subdivision (a) of Section 12003.1.
- 9 (c) Except as specified in Sections 12001 and 12010, the punishment for violation
- 10 of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand
- 11 dollars (\$5,000), imprisonment in the county jail for not more than six months, or
- 12 by both that fine and imprisonment.
- 13 (d)(1) A license, tag, stamp, reservation, permit, or other entitlement or privilege
- 14 issued pursuant to this code to a defendant who fails to appear at a court hearing for
- 15 a violation of this code, or who fails to pay a fine imposed pursuant to this code,
- 16 shall be immediately suspended or revoked. The license, tag, stamp, reservation,
- 17 permit, or other entitlement or privilege shall not be reinstated or renewed, and no
- 18 other license, tag, stamp, reservation, permit, or other entitlement or privilege shall
- 19 be issued to that person pursuant to this code, until the court proceeding is completed
- 20 or the fine is paid.
- 21 (2) This subdivision does not apply to any violation of Section 1052, 1059, 1170,
- 22 5650, ~~5653.9~~, 6454, 6650, or 6653.5.
- 23 **Comment.** Paragraph (2) of subdivision (d) of Section 12002 is amended to delete an erroneous
- 24 cross-reference.

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

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

27 12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of

28 the following is an infraction, punishable by a fine of not less than fifty dollars (\$50),

29 or more than two hundred fifty dollars (\$250), for a first offense:

- 30 (1) Subdivision (a) of Section 6596.1.
- 31 (2) Subdivision (a) of Section 7149.45.
- 32 (3) Subdivision (b) of Section 7180.1.
- 33 ~~(4) Section 1.18 of Title 14 of the California Code of Regulations.~~

34 (b) If a person is convicted of a violation of any of the sections listed in

35 subdivision (a) within five years of a separate offense resulting in a conviction of a

36 violation of any of those sections, that person shall be punished by a fine of not less

37 than one hundred dollars (\$100) or more than five hundred dollars (\$500).

38 (c) If a person convicted of a violation of any of the sections listed in subdivision

39 (a) produces in court the applicable ~~sport fishing ocean enhancement stamp~~, sport

40 fishing ocean enhancement validation, ~~second rod sport fishing stamp~~, second rod

41 sport fishing validation, ~~Colorado River special use stamp~~, or Colorado River

42 special use validation, ~~Bay Delta Sport Fishing Enhancement Stamp~~ or Bay Delta

1 ~~Sport Fishing Enhancement validation~~ issued pursuant to this code and valid at the
2 time of the person's arrest, and if the taking was otherwise lawful with respect to
3 season, limit, time, and area, the court may reduce the fine imposed for the violation
4 to twenty-five dollars (\$25).

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

6 **Fish & Game Code § 12002.4 (amended). Commercial boat registration suspension for**
7 **unlawful sale or purchase of fish**

8 SEC. ____ . Section 12002.4 of the Fish and Game Code is amended to read:

9 12002.4. (a) ~~Notwithstanding Sections 12000, 12001, and 12002, a~~ In addition to
10 any other applicable penalty, the commercial boat registration of a commercial
11 passenger fishing boat may be revoked or suspended by the commission, when
12 requested by the department, for a period not to exceed one year, upon conviction
13 of the registrant, or the registrant's agent, servant, employee, or any other person
14 acting under the registrant's direction or control, for a violation of Section 7121 or
15 ~~the regulations~~ a regulation adopted pursuant ~~thereto~~ to that section, if the violation
16 in question ~~involved a vessel licensed pursuant to Section 7920~~ involves that boat.

17 (b) ~~Notwithstanding Sections 12000, 12001, and 12002, a~~ In addition to any other
18 applicable penalty, the commercial boat registration of a ~~vessel licensed pursuant to~~
19 ~~Section 7920~~ commercial passenger fishing boat may be revoked or suspended by
20 the commission, when requested by the department, for a period not to exceed one
21 year, upon conviction of any ~~other~~ person other than the person specified in
22 subdivision (a), for a violation of Section 7121, if the fish or ~~amphibia~~ amphibians
23 involved in the violation were taken from ~~the vessel~~ that boat, and ~~that the~~ the person
24 committing the violation had committed a prior violation of Section 7121 involving
25 that boat within the previous three years ~~on the vessel~~.

26 (c) ~~The~~ A commercial boat registration shall not be revoked under this section for
27 a violation ~~which is unrelated to the vessel for which the commercial boat~~
28 ~~registration is to be revoked. Any violation~~ committed without the knowledge of the
29 master, or an agent or employee of the registrant, ~~is unrelated to the vessel~~.

30 **Comment.** Section 12002.4 is amended for clarity. Principles of collateral estoppel may have
31 application to a license revocation or suspension proceeding under this section. *Cf. People v. Sims*
32 (1982) 32 Cal.3d 468, 651 P.2d 321, 186 Cal.Rptr. 77 (welfare fraud); *Gikas v. Zolin* (1993)
33 6 Cal.4th 841, 863 P.2d 745, 25 Cal.Rptr.2d 500 (driving under the influence).

34 • **Fish & Game Code § 12002.5 (amended). Required possession of wildlife area pass**

35 SEC. ____ . Section 12002.5 of the Fish and Game Code is amended to read:

36 12002.5. (a) Notwithstanding subdivision (a) of Section 12002, a violation of
37 Section 1764 is an infraction, not a misdemeanor, punishable by a fine of not less
38 than one hundred dollars (\$100) and not more than five hundred dollars (\$500). If a
39 person convicted of a violation of Section 1764 is granted probation, the court shall
40 impose as a condition of probation that the person pay at least the minimum fine
41 prescribed in this subdivision.

1 (b) If a person is convicted of a violation of Section 1764 and produces in court a
2 valid wildlife area pass, the court may reduce the fine imposed for the violation of
3 Section 1764 to fifty dollars (\$50).

4 **Comment.** Subdivision (a) of Section 12002.5 is amended to clarify a cross-reference.

5 **Fish & Game Code § 12002.6 (amended). Suspension or revocation of registration for**
6 **specified violations**

7 SEC. _____. Section 12002.6 of the Fish and Game Code is amended to read:

8 12002.6. (a) ~~Notwithstanding Sections 12000, 12001, and 12002~~ In addition to
9 any other applicable penalty, a commercial boat registration may be revoked or
10 suspended by the commission, when requested by the department, for a period not
11 to exceed one year, upon the second conviction in three years of the registrant, or
12 the registrant's agent, servant, employee, or any other person acting under the
13 registrant's direction or control, for a violation of any of the following provisions or
14 regulations adopted pursuant thereto:

15 (1) Section 5521 or 5521.5.

16 (2) Article 2 (commencing with Section ~~8150~~ 8150.5), Article 3 (commencing
17 with Section 8180), Article 4 (commencing with Section ~~8210~~ 8210.2), Article 5
18 (commencing with Section 8250), Article 6 (commencing with Section 8275),
19 Article 9 (commencing with Section 8370), Article 13 (commencing with Section
20 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of
21 Division 6.

22 (3) Article 1 (commencing with Section 8601), Article 2 (commencing with
23 Section ~~8620~~ 8623), Article 4 (commencing with Section 8660), Article 5
24 (commencing with Section ~~8685~~ 8680), Article 6 (commencing with Section 8720),
25 Article 7 (commencing with Section 8750), Article 8 (commencing with Section
26 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of
27 Division 6.

28 (4) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division
29 6.

30 (b) The commercial boat registration shall not be revoked unless both the first and
31 second convictions are related to the boat for which the commercial boat registration
32 is to be revoked, and are for violations ~~which~~ that occurred when the person
33 convicted was the registrant or the registrant's agent, servant, or employee, or acting
34 under the registrant's direction or control.

35 **Comment.** Section 12002.6 is amended for clarity, to make a technical correction, and to correct
36 four erroneous cross-references.

37 **Fish & Game Code § 12002.8 (amended). Revocation of commercial fishing license or**
38 **permit**

39 SEC. _____. Section 12002.8 of the Fish and Game Code is amended to read:

1 12002.8. (a) The court shall order the department to permanently revoke and the
2 department shall permanently revoke, the commercial fishing license and any
3 commercial fishing permits of any person convicted of either of the following:

4 (1) Taking or possessing abalone out of season.

5 (2) Taking or possessing abalone taken illegally from any area north of Point Sur.

6 (b) The court shall order the department to permanently revoke and the
7 department shall permanently revoke the commercial fishing license and any
8 commercial fishing permits of any person convicted of either of the following two
9 offenses, if the person possessed more than 12 abalone at the time of the offense:

10 (1) Removing abalone from the shell or possessing abalone illegally removed
11 from the shell.

12 (2) Taking or possessing abalone that are less than the minimum size.

13 (c) Any person sentenced pursuant to subdivision (a) or (b) shall not thereafter be
14 eligible for any license or permit to take or possess fish for sport or commercial
15 purposes.

16 ~~(d) Notwithstanding Sections 12000, 12001, and 12002~~ In addition to any other
17 applicable penalty, the commercial fishing license of the master of a vessel may be
18 revoked or suspended by the commission, when requested by the department, for a
19 period not to exceed one year, upon the second conviction in three years of the
20 master or the master's agent, servant, employee, or any other person acting under
21 the master's direction or control, for a violation of any of the following provisions
22 or regulations adopted pursuant thereto:

23 (1) Article 2 (commencing with Section 8150.5), Article 3 (commencing with
24 Section 8180), Article 4 (commencing with Section ~~8210~~ 8210.2), Article 5
25 (commencing with Section 8250), Article 6 (commencing with Section 8275),
26 Article 9 (commencing with Section 8370), Article 13 (commencing with Section
27 ~~8495~~ 8494), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3
28 of Division 6.

29 (2) Article 1 (commencing with Section 8601), Article 2 (commencing with
30 Section 8623), Article 4 (commencing with Section 8660), Article 5 (commencing
31 with Section 8680), Article 6 (commencing with Section 8720), Article 7
32 (commencing with Section 8750), Article 8 (commencing with Section 8780), and
33 Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

34 (3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division
35 6.

36 (e) A master's license shall not be revoked unless both the first and second
37 convictions are for a violation by the master or a violation occurring when the person
38 convicted was acting as the master's agent, servant, employee, or acting under the
39 master's direction or control.

40 (f) The master of a vessel is the person on board the vessel who is in charge of the
41 vessel.

42 **Comment.** Subdivision (d) of Section 12002.8 is amended for clarity.

43 Paragraph (1) of subdivision (d) is amended to correct two erroneous cross-references.

1 **Fish & Game Code § 12008.1 (amended). Punishment and disposition of fine or forfeiture**
2 **relating to endangered, threatened or candidate species**

3 SEC. _____. Section 12008.1 of the Fish and Game Code is amended to read:

4 12008.1. (a) Notwithstanding subdivision (a) of Section 12002 or Section 12008,
5 the punishment for any violation of Section 2080 or 2085 is a fine of not less than
6 twenty-five thousand dollars (\$25,000) or more than fifty thousand dollars
7 (\$50,000) for each violation, or imprisonment in the county jail for not more than
8 one year, or ~~by~~ both that fine and imprisonment.

9 (b) Notwithstanding any other law, the moneys collected from any fine or
10 forfeiture imposed or collected for violating Chapter 1.5 (commencing with Section
11 2050) of Division 3 shall be deposited as follows:

12 (1) One-half in the Endangered Species Permitting Account established pursuant
13 to Section 2081.2.

14 (2) One-half in the county treasury of the county in which the violation occurred.
15 The board of supervisors shall first use revenues pursuant to this subdivision to
16 reimburse the costs incurred by the district attorney or city attorney in investigating
17 and prosecuting the violation. Any excess revenues may be expended in accordance
18 with Section 13103.

19 **Comment.** Subdivision (a) of Section 12008.1 is amended to clarify a cross-reference.

20 Subdivision (a) is also amended to make two technical corrections.

21 **Fish & Game Code § 12010 (amended). Birds of prey**

22 SEC. _____. Section 12010 of the Fish and Game Code is amended to read:

23 12010. ~~(a)~~ Notwithstanding Section 12002, the maximum punishment for each
24 violation of Section 3503.5 relating to a bird-of-prey that is either designated as
25 endangered, threatened, or fully protected, or taken from the wild and subsequently
26 reported to the department as having been bred in captivity, is a fine of five thousand
27 dollars (\$5,000) or imprisonment in the county jail for a period of not to exceed one
28 year, or both the fine and imprisonment.

29 ~~(b) Notwithstanding Section 12002, the maximum punishment for a violation of~~
30 ~~Section 3503.5 relating to any bird-of-prey that was taken from the wild and that~~
31 ~~is subsequently reported to the department as having been bred in captivity is a fine~~
32 ~~of five thousand dollars (\$5,000) or imprisonment in the county jail for a period of~~
33 ~~not to exceed one year, or both the fine and imprisonment.~~

34 **Comment.** Section 12010 is amended to eliminate duplicative text.

35 **• Fish & Game Code § 12017 (amended). Deposit of specified funds**

36 SEC. _____. Section 12017 of the Fish and Game Code is amended to read:

37 12017. (a) Notwithstanding subdivision (a) of Section 13001, any recovery or
38 settlement of money received pursuant to the following sections shall be deposited
39 in the Fish and Wildlife Pollution Account:

40 (1) Section 2014.

1 (2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division
2 6.

3 (3) Section 12015 or 12016.

4 (4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and
5 Navigation Code.

6 (5) Section 13442 of the Water Code.

7 (6) Proceeds or recoveries from pollution and abatement actions.

8 (b) Moneys in the account are continuously appropriated to the department,
9 except as provided in Section 13230.

10 (c) Funds in the account shall be expended for the following purposes:

11 (1) Abatement, cleanup, and removal of pollutants from the environment.

12 (2) Response coordination, planning, and program management.

13 (3) Resource injury determination.

14 (4) Resource damage assessment.

15 (5) Economic valuation of resources.

16 (6) Restoration or rehabilitation at sites damaged by pollution.

17 (d) Notwithstanding subdivision (c), funds in the account in excess of one million
18 dollars (\$1,000,000) as of July 1 of each year may also be expended for the
19 preservation of California plants, wildlife, and fisheries.

20 (e) Funds in the account may be expended for cleanup and abatement if a
21 reasonable effort has been made to have the responsible party pay cleanup and
22 abatement costs and funds are not available for disbursement from the emergency
23 reserve account of the Toxic Substances Control Account in the General Fund
24 pursuant to Section 78875 of the Health and Safety Code.

25 (f) The department may use funds in the account to pay the costs of consultant
26 contracts for resource injury determination or damage assessment during hazardous
27 material or oil spill emergencies. These contracts are not subject to Part 2
28 (commencing with Section 10100) of Division 2 of the Public Contract Code.

29 **Comment.** Subdivision (a) of Section 12017 is amended to correct an overbroad cross-reference.

30 • **Fish & Game Code § 12020 (amended). Failure to appear is misdemeanor**

31 SEC. _____. Section 12020 of the Fish and Game Code is amended to read:

32 12020. Any person who is charged with a violation of this code or a regulation
33 adopted pursuant to this code, who willfully ~~violating his~~ violates their written
34 promise to appear in court, or before a person authorized to receive a deposit of bail,
35 is guilty of a misdemeanor, regardless of the disposition of the charge upon which
36 he the person was originally arrested.

37 **Comment.** Section 12020 is amended to clarify its application to violations of the Fish and Game
38 Code or regulations adopted pursuant to that code.

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

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

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

1 12023. (a) Notwithstanding ~~Section~~ Sections 12002 and 12007, any person who
2 violates Section 6400 through the use of an aquatic nuisance species, as defined in
3 Section 6431, is guilty of a misdemeanor, punishable by all of the following:

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

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

9 (b) A person who personally or through another violates Section 6400, through
10 the use of an aquatic nuisance species, is liable to the owner of any privately or
11 publicly owned property for any damages to that property caused by the violation.
12 A person who violates Section 6400 through the use of an aquatic nuisance species
13 shall also be liable for all monetary damages directly, indirectly, and proximately
14 caused thereby, including, but not limited to, damages to any commercial fishery,
15 sport fishery, or to the public communities which depend upon those fisheries for a
16 portion of their annual income. The Attorney General may file a civil action on
17 behalf of the fisheries or communities that are damaged as a result of the violation.
18 In addition, a private citizen who suffers damages as a result of the violation may
19 file a civil action against the violator.

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

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

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

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

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

35 **Fish & Game Code § 12153 (amended). License forfeiture**

36 SEC. ____ . Section 12153 of the Fish and Game Code is amended to read:

37 12153. A commercial fishing license is forfeited for the violation of Sections
38 1050.1 to ~~1060~~ 1059, inclusive, or Section 2012, or of any of the provisions of this
39 code relating to the use of nets.

40 **Comment.** Section 12153 is amended to delete reference to a repealed and discontinued cross-
41 reference.

1 • **Fish & Game Code § 13011 (amended). Deposit of specified funds**

2 SEC. _____. Section 13011 of the Fish and Game Code is amended to read:

3 13011. The state portion of any recovery or settlement of money damages
4 received pursuant to any citation or charges brought under the following sections by
5 the people by or through any state or local public entity shall be deposited in the
6 following subaccounts:

7 (a) Administrative and judicially imposed fines, penalties, or punitive damages
8 resulting from either civil or criminal action or administrative civil liability for
9 violations of the oil and petroleum product control and discharge provisions of this
10 code, including, but not limited to, Sections 2014, 12011, and 12016, Chapter 6.5
11 (commencing with Section 2580) of Division 3, and Chapter 2 (commencing with
12 Section ~~5600~~ 5650) of Part 1 of Division 6, shall be deposited in the Oil Pollution
13 Administration Subaccount or the Oil Pollution Response and Restoration
14 Subaccount as determined by administrative or judicial settlement, or as provided
15 by law.

16 (b) Administrative and judicially imposed fines, penalties, or punitive damages
17 resulting from either criminal or administrative civil liability for violations of
18 hazardous materials and other pollution laws including, but not limited to, Sections
19 2014 and 12016, and Chapter 6.5 (commencing with Section 2580) of Division 3,
20 and Part 1 (commencing with Section 5500) of Division 6, shall be deposited in the
21 Hazardous Materials Administration Subaccount or the Hazardous Materials
22 Response and Restoration Subaccount as determined by administrative or judicial
23 settlement or as provided by law.

24 **Comment.** Subdivision (a) of Section 13011 is amended to correct an erroneous cross-reference.
25 The section is also amended to make technical corrections.

26 • **Fish & Game Code § 13013 (amended). Prudent reserve**

27 SEC. _____. Section 13013 of the Fish and Game Code is amended to read:

28 13013. (a) Appropriations from either the Oil Pollution Administration
29 Subaccount or the Hazardous Materials Administration Subaccount shall not exceed
30 one third of the maximum fund level established under Section 13012 in order to
31 maintain a prudent reserve for future appropriations.

32 (b) If the director or ~~his or her~~ the director's designee expends funds from the
33 prudent reserve established pursuant to subdivision (a) for activities authorized
34 under subdivision (b) of Section 13230, the director or the director's designee shall
35 ensure that there are adequate funds remaining in those subaccounts to carry out
36 their purposes. Expenditures from the prudent reserve shall be repaid in part, or in
37 full, from any funds received pursuant to Section 13011 until those reserves are fully
38 reimbursed.

39 (c) The director or ~~his or her~~ the director's designee, shall recover from the spiller,
40 responsible party, or, in the absence of those responsible parties, from a particular
41 pollution abatement or remediation account, all expenditures paid ~~from the accounts~~
42 ~~established~~ pursuant to subdivisions (b) and (d) of Section 13230, and all costs

1 incurred by the department arising from the administration and enforcement of
2 applicable pollution laws. The director or ~~his or her~~ the director's designee may
3 request, and a district attorney, city attorney, or other prosecuting agency, as part of
4 a prosecution or negotiation, may allege a claim for, these costs and expenditures
5 and shall deposit any recoveries into the fund from which they were expended.

6 (d) The director or ~~his or her~~ the director's designee shall ensure that there are
7 adequate funds in the accounts and subaccounts specified in this section to carry out
8 their purposes.

9 **Comment.** Subdivision (c) of Section 13013 is amended to delete an erroneous reference to
10 accounts established pursuant to subdivisions (b) and (d) of Section 13230.

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

12 **Fish & Game Code § 15512 (amended). Compensation to owner of destroyed plant or**
13 **animal**

14 SEC. _____. Section 15512 of the Fish and Game Code is amended to read:

15 15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e)
16 of Section 15505, and a claim is submitted pursuant to Section 15513, the owner
17 shall be promptly paid from the General Fund an amount equal to 75 percent of the
18 replacement value of the plants or animals, less the value determined by the
19 department of any replacement stock provided by the department under subdivision
20 (b) ~~if the claim is submitted pursuant to Section 15513~~. If the replacement value is
21 not settled between the owner and the department, the replacement value shall be
22 determined by an appraiser appointed by the director and an appraiser appointed by
23 the owner. Appraiser's fees shall be paid by the appointing party. Disputes between
24 these two appraisers shall be submitted to arbitration under the Commercial
25 Arbitration Rules of the American Arbitration Association.

26 (b) If the department provides replacement stock to an aquaculturist whose plants
27 or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount
28 to be paid to the aquaculturist pursuant to this section shall be reduced by the value
29 of the replacement stock, as determined by the department.

30 (c) The result of the arbitration or the amount settled between the owner and the
31 department, reduced by the value determined by the department of any replacement
32 stock provided under subdivision (b), may be submitted as a claim by the owner to
33 the Department of General Services pursuant to Section 15513.

34 **Comment.** Section 15512 is amended for clarity.

35 **Fish & Game Code § 15601 (amended). Application for importation**

36 SEC. _____. Section 15601 of the Fish and Game Code is amended to read:

37 15601. A written application for the importation of a live aquatic plant or animal
38 that is submitted in conformance with the procedural requirements established by
39 the commission is deemed to be approved ~~where~~ if it has not been denied within 60
40 days.

1 **Comment.** Section 15601 is amended for clarity. The added language provides context, drawn
2 from preceding Section 15600.

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

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

5 15700. The director shall appoint an Aquaculture Development Committee
6 consisting of the following persons:

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

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

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

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