

Memorandum 2022-47

Fish and Game Law: Cumulative Draft

In this study, the Commission¹ has been directed by the Legislature to recommend technical improvements to the Fish and Game Code, without making any significant substantive change to the law's effect.²

Pursuant to that directive, the Commission has been developing a draft of proposed legislation that would revise multiple sections of the existing Fish and Game Code.³ The draft is being compiled based on a multi-step evaluation⁴ of extensive public comment received on revisions proposed by the Commission in a tentative recommendation in the study.⁵

Once a revision in the form of a proposed amendment of an existing code section has been approved by a commenter without objection from any other commenter, and has been approved by the Commission, the amendment is added to a cumulative draft of proposed legislation.

The current version of that cumulative draft is attached to this memorandum as an Exhibit.⁶

Respectfully submitted,

Steve Cohen
Staff Counsel

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

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

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

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

4. See Memorandum 2021-16, pp. 2-3; Minutes (Mar. 2021), p. 4.

5. All received comments were submitted by the Fish and Game Commission and the Department of Fish and Wildlife.

6. The new proposed amendments added to this latest version of the cumulative draft are temporarily identified as "[NEW]" in their headlines.

PROPOSED LEGISLATION

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

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

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

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PROPOSED LEGISLATION

FISH AND GAME CODE

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

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

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

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

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

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

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

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

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

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

29 456. The department shall biennially report to the Legislature and to the Fish and
30 Game Commission on the progress that is being made toward the restoration and
31 maintenance of California’s deer herds. ~~The first report shall be submitted on or~~
32 ~~before October 1, 1989.~~ The report shall include program activities regarding deer
33 habitat, particularly addressing problems dealing with identification and
34 preservation of critical deer habitat areas; the amount of revenue derived from the

1 sale of deer tags during the two previous fiscal years; a list of expenditures during
2 the two previous fiscal years and proposed expenditures during the current fiscal
3 year; and a report of general benefits accrued to the deer resources as a result of the
4 program.

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

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

7 SEC. ____ . Section 711 of the Fish and Game Code is amended to read:

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

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

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

19 (3) The costs of hunting and sportfishing programs shall be provided out of
20 hunting and sportfishing revenues and reimbursements and federal funds received
21 for hunting and sportfishing programs, and other funds appropriated by the
22 Legislature for this purpose. These revenues, reimbursements, and federal funds
23 shall not be used to support commercial fishing programs, free hunting and fishing
24 license programs, or nongame fish and wildlife programs.

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

29 (5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted
30 annually to an amount equal to that computed pursuant to Section 713. However, a
31 substantial increase in the aggregate of hunting and sportfishing programs shall be
32 reflected by appropriate amendments to the sections of this code that establish the
33 base sport license fee levels. The inflationary index provided in Section 713 shall
34 not be used to accommodate a substantial increase in the aggregate of hunting and
35 sportfishing programs.

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

41 (b) The director and the Secretary of the Natural Resources Agency, with the
42 department's annual budget submittal to the Legislature, shall submit a report on the

1 fund condition, including the expenditures and revenue, for all accounts and
2 subaccounts within the Fish and Game Preservation Fund. The department shall also
3 update its cost allocation plan to reflect the costs of program activities.

4 (c) For purposes of this ~~article~~ section, “substantial increase” means an increase
5 in excess of 5 percent of the Fish and Game Preservation Fund portion of the
6 department’s current year support budget, excluding cost-of-living increases
7 provided for salaries, staff benefits, and operating expenses.

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

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

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

12 ~~1068. (a) Beginning November 1, 1991, the director shall make a grant in~~
13 ~~installments to a nonprofit organization of sea urchin divers in an amount not to~~
14 ~~exceed four hundred thousand dollars (\$400,000), for the organization to~~
15 ~~accomplish the following purposes:~~

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

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

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

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

30 ~~(b) Prior to making the grant, the director shall verify from the nonprofit~~
31 ~~organization’s bylaws that it is established for, among other purposes, the~~
32 ~~protection, conservation, enhancement, and promotion of the sea urchin fishery, and~~
33 ~~that its membership, including its board of directors, is composed solely of licensed~~
34 ~~commercial sea urchin divers.~~

35 ~~(c) The grant shall be funded from revenues received pursuant to former~~
36 ~~subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995.~~
37 ~~If the department determines that the revenue received from former subdivision (b)~~
38 ~~of Section 8051.1, as that subdivision read on December 31, 1995, is not sufficient~~
39 ~~to fund the amount of the grant, including departmental overhead charges which~~
40 ~~shall be recovered from the revenues received pursuant to that former subdivision~~
41 ~~(b) of Section 8051.1, the department shall reduce the amount of the grant~~
42 ~~accordingly. The revenue received pursuant to that former subdivision (b) of Section~~

1 ~~8051.1 shall remain available for funding of the grant program pursuant to this~~
2 ~~subdivision until that revenue is fully encumbered, or the authorized amount of the~~
3 ~~grant program is expended, whichever event is later.~~

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

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

8 **Fish & Game Code § 2001 (amended). Season and possession limits**

9 SEC. _____. Section 2001 of the Fish and Game Code is amended to read:

10 2001. (a) It is unlawful to take a mammal, bird, fish, reptile, or amphibian outside
11 of an established season or to exceed a bag limit or possession limit established in
12 this code or by a regulation adopted by the commission. Violation of an established
13 season, bag limit, or possession limit may be charged as a violation of this section
14 or of the specific code section or regulation that establishes the season or limit.

15 (b) Unless otherwise provided, it is unlawful to possess a fish, reptile, or
16 amphibian, except during the open season where the fish, reptile, or amphibian was
17 taken or during the 10-day period immediately following that open season. A
18 possession limit applicable during the open season applies during that 10-day
19 period.

20 (c) Except as provided in Section 3080, it is unlawful to possess a mammal or
21 game bird ~~or mammal~~ except during the open season where taken.

22 **Comment.** Subdivision (c) of Section 2001 is amended to clarify that the subdivision applies to
23 all mammals as defined in this code, rather than only game mammals. See Section 54.

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

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

26 2003. (a) Except as specified in subdivisions (b), (c), (d), and (e), it is unlawful to
27 offer a prize or other inducement as a reward for the taking of a game bird, or the
28 taking of any mammal, fish, reptile, or amphibian, in an individual contest,
29 tournament, or derby.

30 (b) The department may issue a permit to a person authorizing that person to offer
31 a prize or other inducement as a reward for the taking of a game fish, as defined by
32 the commission by regulation, if it finds that there would be no detriment to the
33 resource. The permit is subject to regulations adopted by the commission. The
34 application for the permit shall be accompanied by a fee in the amount determined
35 by the department as necessary to cover the reasonable administrative costs incurred
36 by the department in issuing the permit. However, the department may waive the
37 permit fee if the contest, tournament, or derby is for persons who are under 16 years
38 of age or have a physical or mental disability, and the primary purpose of the contest,
39 tournament, or derby is to introduce those anglers to or educate them about fishing.

1 All permits for which the fee is waived pursuant to this subdivision shall comply
2 with all other requirements set forth in this section.

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

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

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

11 (A) "Event" means a competition event on lands managed by the department.

12 (B) "Prize compensation" includes prize or purse money, other prizes, goods, or
13 other compensation.

14 (2) The department, for any event that awards prize compensation to competitors
15 in gendered categories, shall require as a condition of a permit pursuant to this
16 section that, for any participant level that receives prize compensation, the prize
17 compensation for each gendered category be identical at each participant level. The
18 department shall not approve a permit for an event that does not comply with this
19 condition.

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

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

24 SEC. ____ . Section 2014 of the Fish and Game Code is amended to read:

25 2014. (a) It is the policy of this state to conserve its natural resources and to
26 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
27 amphibia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 2021. (a) As used in this section “shark fin” means the raw, dried, or otherwise
31 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
32 an elasmobranch.

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

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

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

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

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

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

3 SEC. ____ . Section 2021.5 of the Fish and Game Code is amended to read:

4 2021.5. (a) Notwithstanding Section 2021, all of the following provisions apply:

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

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

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

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

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

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

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

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

25 2124. (a) The department may reimburse eligible local entities, pursuant to a
26 memorandum of understanding entered into pursuant to this section, for costs
27 incurred by the eligible local entities in the administration and enforcement of any
28 provision concerning the possession of, handling of, care for, or holding facilities
29 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

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

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

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

1 **Comment.** Subdivisions (a) and (b) of Section 2124 are amended to conform to statutory
2 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
3 2185, 2190.

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

5 SEC. _____. Section 2125 of the Fish and Game Code is amended to read:

6 2125. (a) In addition to any other penalty provided by law, any person who
7 violates this chapter or any regulations implementing this chapter, is subject to a
8 civil penalty of not less than five hundred dollars (\$500) nor more than ten thousand
9 dollars (\$10,000) for each violation. Except as otherwise provided, any violation of
10 this chapter or of any regulations implementing this chapter is a misdemeanor
11 punishable by imprisonment in a county jail for not more than six months, or by a
12 fine of not more than one thousand dollars (\$1,000).

13 (b) The Attorney General, or the city attorney of the city or the district attorney or
14 county counsel of the county in which a violation of this article occurs, may bring a
15 civil action to recover the civil penalty in subdivision (a) and the costs of seizing
16 and holding the animal ~~listed in~~ enumerated in or designated pursuant to Section
17 2118, except to the extent that those costs have already been collected as provided
18 by subdivision (d). The civil action shall be brought in the county in which the
19 violation occurs and any penalty imposed shall be transferred to the Controller for
20 deposit in the Fish and Game Preservation Fund in accordance with Section 13001.

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

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

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

41 (3) The amount of the payments described in paragraphs (1) and (2) shall be
42 determined by the department, and shall be based on the current reasonable costs to
43 feed, provide medical care for, and house the animal. If the person claiming the

1 animal complies with the terms of ~~his or her~~ their permit and regains possession of
2 the animal, any unused portion of the payments required pursuant to paragraphs (1)
3 and (2) shall be returned to the person claiming the animal no later than 90 days
4 after the date on which the person regains possession of the animal.

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

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

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

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

10 2126. (a) Except as otherwise authorized by this code or regulations made
11 pursuant thereto, it is unlawful for any person to take any mammal ~~as identified by~~
12 enumerated in or designated pursuant to Section 2118.

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

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

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

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

19 2127. (a) The department may reimburse eligible local entities, pursuant to a
20 memorandum of understanding entered into pursuant to this section, for costs
21 incurred by the eligible local entities in the administration and enforcement of any
22 provision concerning the possession of, handling of, care for, or holding facilities
23 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

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

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

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

34 **Comment.** Subdivisions (a) and (b) of Section 2127 are amended to conform to statutory
35 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
36 2185, 2190.

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

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

39 2150.3. (a) The director shall appoint a committee to advise the director on the
40 humane care and treatment of wild animals.

41 (b) The committee shall make recommendations to the director for the
42 establishment of standards of performance for administration and enforcement,

1 which shall include, but are not limited to, requiring that the eligible local entity
2 possess a knowledge of humane wild animal training methods.

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

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

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

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

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

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

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

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

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

24 2576. It is unlawful to knowingly capture for sale, transport for sale or sell wild
25 rodents, except as provided in Article ~~4-5~~ 1 (commencing with Section 1000) of
26 Chapter 3 of Division 2.

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

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

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

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

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

39 (2) Unlawfully export, import, transport, sell, possess, receive, acquire, or
40 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,

1 transporting, sale, possession, receiving, acquisition, or purchasing of any plants,
2 insects, or other species listed pursuant to the California Endangered Species Act
3 (Chapter 1.5 (commencing with Section 2050)), which are taken or possessed in
4 violation of this code or the regulations adopted pursuant to this code.

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

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

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

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

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

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

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

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

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

38 2583. (a) Except as provided in subdivision (b), any person who violates this code
39 or any regulation adopted to carry out this code, and, with the exercise of due care,
40 should have known that the birds, mammals, amphibians, reptiles, or fish, or the
41 endangered or threatened species, or the fully protected birds, mammals, or fish
42 were taken, possessed, transported, imported, received, purchased, acquired, or sold

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

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

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

14 **[NEW] Fish & Game Code § 2584 (amended). Procedure for imposition of administrative**
15 **penalty**

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

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

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

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

24 ~~(2) A retired judge of the Superior Court who is knowledgeable in fish and wildlife~~
25 ~~law.~~

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

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

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

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

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

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

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

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

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

1 a copy. Copies of the order shall be provided to any person within 10 days of receipt
2 of a written request from that person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 2588. All ~~civil~~ administrative penalties and revenues from forfeitures collected
6 pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

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

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

10 SEC. _____. Section 3004.5 of the Fish and Game Code 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, game birds, nongame
29 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

1 ammunition at no charge, the commission shall set the value of the reduced charge
2 coupon at the maximum value possible through available funding, up to the average
3 cost within this state for nonlead ammunition, as determined by the commission.

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

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

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

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

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

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

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

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

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

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

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

2 SEC. _____. Section 3040 of the Fish and Game Code is amended to read:

3 3040. (a) Notwithstanding Section 3031, the director may designate two days per
4 year as “Free Hunting Days.” One free hunting day may be established during the
5 fall hunting season, and the other free hunting day may be established during the
6 winter hunting season. The department shall publish the exact dates of the free
7 hunting days in annual publications of the department regarding current hunting
8 regulations.

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

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

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

24 (2) Any required tags or report cards.

25 (3) Any required federal entitlements.

26 (4) Any required entry permits.

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

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

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

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

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

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

40 SEC. _____. Section 3049 of the Fish and Game Code is amended to read:

1 3049. (a) It is the intent of the Legislature in enacting this article to ensure the
2 health and safety of its citizens engaged in activities requiring the use of hunting
3 implements.

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

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

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

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

14 SEC. _____. Section 3051 of the Fish and Game Code is amended to read:

15 3051. (a) The department shall provide for a course of instruction in hunter
16 education, principles of conservation, and ~~sportsmanship~~ positive sporting behavior,
17 and for this purpose may cooperate with any reputable association or organization
18 having as one of its objectives the promotion of hunter safety, principles of
19 conservation, and ~~sportsmanship~~ positive sporting behavior.

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

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

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

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

31 (f) In order to recruit and retain hunter education instructors, the department shall
32 offer special hunting opportunities to qualified hunter education instructors by
33 providing a limited number of existing tags and other hunting opportunities. The
34 department may provide these tags and hunting opportunities through any of the
35 following methods:

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

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

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

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

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

5 (g) The department shall determine eligibility criteria for hunter education
6 instructors seeking the hunting opportunities offered pursuant to subdivision (f). The
7 department shall offer hunting opportunities to eligible hunter education instructors
8 only by random drawing.

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

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

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

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

13 3200. Any person engaged in raising or importing, or who keeps in captivity, in
14 this state domesticated game birds or domesticated game mammals which normally
15 exist in the wild in this state shall procure a domesticated game breeder's license if
16 the birds or mammals are kept more than 30 days after acquisition. No license is,
17 however, required of any of the following:

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

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

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

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

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

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

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

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

31 3270. ~~(a)~~ In order to provide additional hunting by stocking domestically
32 propagated game birds, and to permit the taking of game birds under conditions that
33 will not conflict with the public interest, any person who owns or controls the
34 hunting rights on a tract of land may apply to the department for a game bird club
35 license authorizing the taking of game birds upon that land in accordance with the
36 regulations of the commission for the administration, including the implementation
37 and enforcement, of this section.

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

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

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

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

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

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

6 (2) California quail and varieties thereof.

7 (3) Gambel’s or desert quail.

8 (4) Mountain quail and varieties thereof.

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

10 (6) Ruffed grouse.

11 (7) Sage hens or sage grouse.

12 (8) Hungarian partridges.

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

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

15 (11) Wild turkeys of the order Galliformes.

16 (12) White-tailed ptarmigan.

17 (b) Migratory game birds are as follows:

18 (1) Ducks and geese.

19 (2) Coots and gallinules.

20 (3) Jacksnipe.

21 (4) Western mourning doves.

22 (5) White-winged doves.

23 (6) Band-tailed pigeons.

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

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

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

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

32 3681. (a) In Districts 8 and 9, it is unlawful to take ~~ducks or geese in any manner~~
33 a duck or goose below the incoming or outgoing tidewater’s edge, or from any blind,
34 boat, floating device, island, islet, or exposed tidal flat ~~except~~ .

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

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

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

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

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

1 3700.1. (a) It is unlawful for any person, except a person licensed pursuant to
2 paragraph (2) of subdivision (a) of Section 3031, to take ~~any migratory game bird,~~
3 ~~except jacksnipe, coots, gallinules, western mourning doves, white-winged doves,~~
4 ~~and band-tailed pigeons,~~ a duck or goose without first procuring a state duck hunting
5 validation as provided in subdivision (b), and having that validation in ~~his or her~~
6 their possession while taking those birds.

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

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

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

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

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

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

17 3701. All funds derived from the sale of state duck hunting validations ~~and~~ state
18 duck stamps, and related items authorized by ~~subdivision (e) of Section 3700 or~~
19 subdivision (g) of Section 3700.2, shall be deposited in the State Duck Stamp
20 Account in the Fish and Game Preservation Fund to permit separate accountability
21 for the receipt and expenditure of these funds. An amount not to exceed 6 percent
22 of the amount annually deposited in the account may be used for administrative
23 overhead related to the use of those funds and for implementation of the federal
24 Migratory Bird Harvest Program.

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

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

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

29 3702.5. The department may permit individual artists to sell a limited number of
30 prints of duck stamp related artwork or posters.

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

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

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

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

35 3704. Two dollars and twenty-five cents (\$2.25) of the amount collected by the
36 department for each state duck stamp sold shall be allocated by the commission for
37 the purposes of the North American Waterfowl Management Plan in those areas of
38 Canada from which come substantial numbers of waterfowl migrating to, or
39 through, California. These funds shall be matched with federal or private funds
40 available for that purpose. The available balance of the funds shall be used for any

1 project authorized pursuant to Section 3702 in California. However, any lands
2 acquired in California with those funds shall be open to waterfowl hunting as a
3 public shooting ground or wildlife management area.

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

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

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

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

8 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are
9 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
10 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division
11 4 of the Military and Veterans Code. With the approval of the entity in control of
12 property affected by a project, the department may make grants to, or enter into
13 contracts with, nonprofit organizations for the accomplishment of those projects, or
14 the department may reimburse the controlling entity for its costs of accomplishing
15 the project.

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

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

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

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

20 3801. (a) Except as provided in Section 3000 and this section, the following
21 nongame birds may be taken or possessed at any time:

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

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

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

31 (c) All other persons taking the following nongame birds a nongame bird listed in
32 subdivision (a) shall be licensed pursuant to Section 3007. ~~The following nongame~~
33 ~~birds taken in compliance with this section may be taken and possessed by any~~
34 ~~person at any time, except as provided in Section 3000:~~

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

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

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

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

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

1 3961. Whenever an employee of the department is not present to carry out the
2 provisions of Section 3960 with respect to any dog inflicting injury or immediately
3 threatening to inflict injury to any deer, elk, or prong-horned antelope during the
4 closed season for these mammals, any property owner, lessee, person holding a
5 permit for the purpose of grazing livestock, or ~~his or her~~ their employee, may seize
6 or dispatch the dog if it is found on ~~his or her~~ their land or premises without the
7 permission of the person who is in immediate possession of the land. If the dog has
8 on it any readily visible identification tag or license tag as prescribed by Section
9 30951 of the Food and Agricultural Code, and the dog is found in the act of
10 immediately threatening to injure deer, elk, or prong-horned antelope, the dog may
11 only be dispatched under this section if the dog has, and the owner has been notified
12 that the dog has, previously threatened any of these species.

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

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

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

20 **Fish & Game Code § 4004 (amended). Seizure or dispatch generally**

21 SEC. ____. Section 4004 of the Fish and Game Code is amended to read:

22 4004. It is unlawful to do any of the following:

23 (a) Use a steel-jawed leghold trap, or use any trap with saw-toothed or spiked jaws.

24 (b) Set or maintain ~~traps a trap~~ that ~~do~~ does not bear a number or other identifying
25 mark as provided in this subdivision. ~~registered to the department or, in the case of~~
26 ~~federal, state, county, or city agency, bear the name of that agency., except that traps~~
27 If the trap is set pursuant to Section 4152 or 4180, it shall bear an identifying mark
28 in a manner specified by the department. In all other cases, the trap shall bear a
29 number or other identifying mark registered to the department, or, in the case of
30 federal, state, county, or city agency, bear the name of that agency. No registration
31 fee shall be charged pursuant to this subdivision.

32 (c) Fail to visit and remove all animals from traps at least once daily. If the trapping
33 is done pursuant to Section 4152 or 4180, the inspection and removal shall be done
34 by the person who sets the trap or the owner of the land where the trap is set or an
35 agent of either.

36 (d) Use a conibear trap that is larger than 6 inches by 6 inches, unless the trap is
37 partially or wholly submerged in water. Unless prohibited by the department as a
38 permit condition, a lawfully set conibear trap that is 10 inches by 10 inches or less
39 may be set pursuant to subdivision (g) of Section 465.5 of Title 14 of the California
40 Code of Regulations.

41 (e) When any conibear trap is set on publicly owned land or land expressly open
42 to public use, fail to post signs at ~~every~~ each entrance and exit to the property

1 indicating the presence of conibear traps, and at least four additional signs posted
2 within a radius of 50 feet of ~~the~~ each trap, one in each cardinal direction, with
3 lettering that is a minimum of three inches high stating: “Danger! Traps Set For
4 Wildlife. Keep Out.” Signs required to be posted by this subdivision shall be
5 maintained and checked daily.

6 (f) Kill any trapped mammal in accordance with this section by intentional
7 drowning, injection with any chemical not sold for the purpose of euthanizing
8 animals, or thoracic compression, commonly known as chest crushing. This
9 subdivision ~~shall not be construed to prohibit~~ does not apply to the use of a lawfully
10 set conibear traps trap that is set partially or wholly submerged in water for to trap
11 beaver or muskrat, or the use of a lawfully set colony traps trap that is set in water
12 for to trap muskrat.

13 **Comment.** Section 4004 is amended for clarity.

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

15 SEC. _____. Section 4180.1 is added to the Fish and Game Code, to read:

16 4180.1. (a) It is unlawful to use snares, hooks, or do either of the following to an
17 immature depredator mammal while it is in its den:

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

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

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

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

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

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

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

27 4180.2. As used in this article, “wild pigs” has the meaning set forth in Section
28 4650.

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

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

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

33 4181.1. (a) Any bear that is encountered while in the act of inflicting injury to,
34 molesting, or killing, livestock may be taken immediately by the owner of the
35 livestock or the owner’s employee if the taking is reported no later than the next
36 working day to the department and the carcass is made available to the department.

37 (b) Notwithstanding Section 4652, any wild pig that is encountered while in the
38 act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or
39 damaging or destroying, or threatening to immediately damage or destroy, land or
40 other property, including, but not limited to, rare, threatened, or endangered native
41 plants, wildlife, or aquatic species, may be taken immediately by the owner of the

1 livestock, land, or property or the owner's agent or employee, or by an agent or
2 employee of any federal, state, county, or city entity when acting in his or her official
3 capacity. The person taking the wild pig shall report the taking no later than the next
4 working day to the department and shall make the carcass available to the
5 department. Unless otherwise directed by the department and notwithstanding
6 Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom
7 the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant
8 to subdivision (c), may possess the carcass of the wild pig. The person in possession
9 of the carcass shall make use of the carcass, which may include an arrangement for
10 the transfer of the carcass to another person or entity, such as a nonprofit
11 organization, without compensation. The person who arranges this transfer shall be
12 deemed to be in compliance with Section 4304. ~~A violation of this subdivision is~~
13 ~~punishable pursuant to Section 12000.~~ It is the intent of the Legislature that nothing
14 in this subdivision shall be interpreted to authorize a person to take wild pigs
15 pursuant to this subdivision in violation of a state statute or regulation or a local
16 zoning or other ordinance that is adopted pursuant to other provisions of law and
17 that restricts the discharge of firearms.

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

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

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

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

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

36 SEC. ____ . Section 4332 of the Fish and Game Code is amended to read:

37 4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid
38 hunting license, may procure one tag for the taking of one deer by one person during
39 the current license year, upon payment of the base fee of ten dollars (\$10) for the
40 license year beginning July 1, 1986, and the base fee as adjusted under Section 713
41 for subsequent license years.

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

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

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

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

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

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

23 SEC. _____. Section 4651 of the Fish and Game Code is amended to read:

24 4651. (a) The department shall prepare a plan for the management of wild pigs.
25 Under the plan, the status and trend of wild pig populations shall be determined and
26 management units shall be designated within the state. The plan may establish pig
27 management zones to address regional needs and opportunities. In preparing the
28 plan, the department shall consider available, existing information and literature
29 relative to wild pigs.

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

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

32 (2) A survey of range conditions.

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

34 (4) Encouraging mitigation of depredation by sport hunting pursuant to this
35 chapter.

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

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

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

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

3 ~~4656. Revenues received pursuant to this chapter shall be deposited in the Big~~
4 ~~Game Management Account established in Section 3953. These funds shall be~~
5 ~~available for expenditure by the department as set forth in Section 3953. The~~
6 ~~department shall maintain all internal accounting measures necessary to ensure that~~
7 ~~all restrictions on these funds are met.~~

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

9 **Fish & Game Code § 5500 (amended). Explosives**

10 SEC. _____. Section 5500 of the Fish and Game Code is amended to read:

11 5500. It is unlawful to use explosives in the waters of ~~this~~ the state inhabited by
12 fish, except ~~under~~ in one of the following circumstances:

13 (a) Pursuant to a permit first obtained by the user from the department, consistent
14 with terms and conditions set by the commission, or except in case of . The
15 department's decision to grant or deny a permit may be appealed to the commission
16 by any person.

17 (b) In an emergency, to remove an accidental obstruction to the flow of water.
18 ~~Any person may appeal the department's decision to grant or deny a permit to the~~
19 ~~commission.~~

20 **Comment.** Section 5500 is amended for clarity, and to add subdivision designations.

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

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

23 5650.1. (a) A person who violates Section 5650 is subject to a civil penalty of not
24 more than twenty-five thousand dollars (\$25,000) for each violation.

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

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

39 (d) Every civil action brought under this section shall be brought by the Attorney
40 General upon complaint by the department, or by the district attorney or city

1 attorney in the name of the people of the State of California, and any actions relating
2 to the same violation may be joined or consolidated.

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

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

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

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

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

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

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

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

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

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

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

3 5671. The ~~State Department of Health Services~~ State Department of Public Health
4 may:

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

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

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

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

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

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

13 5672. (a) Upon the determination by the ~~State Department of Health Services~~
14 State Department of Public Health that the area is or may be subject to sewage
15 contamination, and that the taking of shellfish from it does or may constitute a
16 menace to the lives or health of human beings, it shall ascertain as accurately as it
17 can the bounds of the contamination, and shall post notices on or in the area
18 describing its bounds and prohibiting the taking of shellfish therefrom.

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

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

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

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

25 5674. The ~~State Department of Health Services~~ State Department of Public Health
26 shall enforce the provisions of this article, and for that purpose the inspectors and
27 employees of that agency may enter at all times upon public or private property
28 upon which shellfish may be located.

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

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

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

33 5700. Notwithstanding Sections 5670, 5672, 8341, and 9050, native and
34 nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to
35 be purified for human consumption under such rules and regulations as shall be
36 established by the commission. Such regulations may include, but are not limited
37 to, bag limits, methods of harvest, and provisions for public use. Mollusks taken
38 under this section shall not be used for human consumption unless such use is
39 approved by the ~~State Department of Health Services~~ State Department of Public
40 Health.

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

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

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

5 5701. The ~~State Department of Health Services~~ State Department of Public Health
6 may make sanitary surveys of mollusk-growing areas or may use sanitary surveys
7 of mollusk-growing areas made by qualified state or county agencies, and based on
8 such information may classify such areas for purposes of harvesting and moving
9 mollusks which are to be purified for human consumption in accordance with
10 Section 5700. The ~~State Department of Health Services~~ State Department of Public
11 Health shall adopt such rules and regulations as are necessary to implement this
12 section.

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

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

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

17 5701.5. If examinations are conducted by the ~~State Department of Health Services~~
18 State Department of Public Health pursuant to this article for purposes of certifying
19 the quality of shellfish-growing waters, certification of water quality shall be
20 commenced within 30 days and completed within six months of the filing of an
21 application by an aquaculturist.

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

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

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

26 7120. It is unlawful for any person to possess more than one daily bag limit of any
27 fish, amphibian, or reptile taken under a license issued pursuant to Article 3
28 (commencing with Section 7145) unless authorized by regulations adopted by the
29 commission.

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

31 **[NEW] Fish & Game Code § 7149.05 (amended). Sport fishing license**

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

33 7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile,
34 or amphibian anywhere in this state for purposes other than profit shall be issued to
35 any of the following:

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

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

7 (B) The director may authorize the issuance of a license under subparagraph (A)
8 that is valid for the period of 12 consecutive months beginning on the date specified
9 on the license instead of only for the calendar year.

10 (3) A nonresident, 16 years of age or older, for ~~the a~~ period of 10 designated
11 consecutive days beginning on the date specified on the license, upon payment of
12 the fee set forth in paragraph (1). Notwithstanding Section 1053.1, more than one
13 10-day license for different 10-day periods may be issued to, or possessed by, a
14 person at one time.

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

20 (5) A resident or nonresident, 16 years of age or older, for one designated day,
21 upon payment of a base fee of ten dollars (\$10). Notwithstanding Section 1053.1,
22 more than one one-day license for different days may be issued to, or possessed by,
23 a person at one time.

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

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

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

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

36 (f)(1) The director shall provide the Legislature, on or before January 1, 2025,
37 recommendations for increasing fees for all sport fishing licenses to levels that
38 provide adequate resources to fund sport fishing, including all necessary supporting
39 activities, at the department.

40 (2) The director shall submit to the Legislature, on or before July 1, 2028, a written
41 report evaluating all sport fishing licenses issued pursuant to this section, including
42 sales information, the cost of administering and implementing sport fishing licenses
43 to the department and commission, and evidence of any changes in the number of

1 new or renewing sport fishing license participants. The director shall collect all
2 relevant, appropriate, and sufficient data necessary to evaluate sport fishing licenses
3 issued pursuant to this section and to justify the amount of the license fees assessed
4 pursuant to this section, including information about data collection and
5 enforcement costs. Data collection efforts pursuant to this paragraph shall avoid
6 duplication and use data collected for other purposes, to the extent feasible.

7 (3) The requirement for submitting a report imposed under paragraph (1) is
8 inoperative on January 1, 2029, pursuant to Section 10231.5 of the Government
9 Code.

10 (4) A report to be submitted pursuant to this subdivision shall be submitted in
11 compliance with Section 9795 of the Government Code.

12 (g) This section shall remain in effect only until January 1, 2030, and as of that
13 date is repealed.

14 **Comment.** Paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05 are amended to
15 expressly state the inapplicability of Section 1053.1 to those provisions. See Section 1053.1(a)(1).

16 Paragraphs (3) and (4) of subdivision (a) are also amended for clarity.

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

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

19 7149.2. (a) In addition to Section 7149.05, the department shall issue a lifetime
20 sport fishing license under this section. A lifetime sport fishing license authorizes
21 the taking of fish, amphibians, or reptiles anywhere in this state in accordance with
22 the law for purposes other than profit for the life of the person to whom issued unless
23 revoked for a violation of this code or regulations adopted under this code. A
24 lifetime sport fishing license is valid for a one-year period from January 1 through
25 December 31 and may be renewed annually, regardless of any lapse of the license,
26 at no additional cost to the licensee. A lifetime sport fishing license is not
27 transferable. A lifetime sport fishing license does not include any special tags,
28 stamps, or fees.

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

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

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

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

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

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

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

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

12 (f) The base fees specified in this section are applicable commencing January 1,
13 2004, and shall be adjusted annually thereafter pursuant to Section 713.

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

16 **Fish & Game Code § 7151 (amended). Free sport fishing licenses**

17 SEC. _____. Section 7151 of the Fish and Game Code is amended to read:

18 7151. (a) Upon application to the department, the following persons, if they have
19 not been convicted of any violation of this code, shall be issued, free of any charge
20 or fee, a sport fishing license, that authorizes the licensee to take any fish, reptile,
21 or amphibian anywhere in this state for purposes other than profit:

22 (1) Any blind person upon presentation of proof of blindness. "Blind person"
23 means a person with central visual acuity of 20/200 or less in the better eye, with
24 the aid of the best possible correcting glasses, or central visual acuity better than
25 20/200 if the widest diameter of the remaining visual field is no greater than 20
26 degrees. Proof of blindness shall be by certification from a qualified licensed
27 optometrist or ophthalmologist or by presentation of a license issued pursuant to this
28 paragraph in any previous license year.

29 (2) Every resident Native American who, in the discretion of the department, is
30 financially unable to pay the fee required for the license.

31 (3) Any ~~developmentally disabled~~ person with a developmental disability, upon
32 presentation of certification of that disability from a qualified licensed physician, or
33 the director of a state regional center for ~~the developmentally disabled~~ persons with
34 developmental disabilities.

35 (4) Any person who is a resident of the state and who is so severely physically
36 disabled as to be permanently unable to move from place to place without the aid of
37 a wheelchair, walker, forearm crutches, or a comparable mobility-related device.
38 Proof of the disability shall be by certification from a licensed physician or surgeon
39 or, by presentation of a license issued pursuant to this paragraph in any previous
40 license year after 1996.

1 (b) Sport fishing licenses issued pursuant to paragraph (2) of subdivision (a) are
2 valid for the calendar year of issue or, if issued after the beginning of the year, for
3 the remainder thereof.

4 (c) Sport fishing licenses issued pursuant to paragraphs (1), (3), and (4) of
5 subdivision (a) are valid for five calendar years, or if issued after the beginning of
6 the first year, for the remainder thereof.

7 (d) Upon application to the department, the department may issue, ~~free of any~~
8 ~~charge or fee,~~ a group sport fishing license, free of any charge or fee, to groups of
9 mentally or physically handicapped persons a group of persons with mental or
10 physical disabilities who are under the care of a any of the following entities:

11 (1) A certified federal, state, county, city, or private licensed care center that is a
12 community care facility as defined in subdivision (a) of Section 1502 of the Health
13 and Safety Code, ~~to organizations .~~

14 (2) An organization exempt from taxation under Section 501(c)(3) of the federal
15 Internal Revenue Code, ~~or to schools or school districts.~~

16 (3) A school or school district.

17 (e) ~~Any~~ The organization that applies for a group fishing license listed in
18 subdivision (d) shall provide evidence that it is a legitimate private licensed care
19 center, tax-exempt organization, school, or school district.

20 (f) The license shall be issued to the person in charge of the group and shall be in
21 ~~his or her~~ that person's possession when the group is fishing.

22 (g) ~~Employees of private licensed care centers, tax-exempt organizations, schools,~~
23 ~~or school districts are exempt from Section 7145 only while assisting physically or~~
24 ~~mentally disabled persons fishing under the authority of a valid license issued~~
25 ~~pursuant to this section.~~ The license shall include identify the location where the
26 activity will take place, and the date or dates ~~of the activity~~ for which fishing is
27 authorized, and the maximum number of people that may be included in the group
28 that will be fishing. The licenseholder shall notify the local department office before
29 sport fishing and indicate where, when, and how long the group will ~~fish~~ be sport
30 fishing.

31 (h) Employees of the organization listed in subdivision (d) are exempt from
32 Section 7145 while assisting the group that is sport fishing pursuant to the license.

33 (e) (i) Upon application to the department, the department may issue, free of any
34 charge or fee, a sport fishing license to a nonprofit organization for day-fishing trips
35 that provide recreational rehabilitation therapy for active duty members of the
36 United States military who are currently receiving inpatient care in a military or
37 Veterans Administration hospital and veterans with service-connected disabilities.
38 The license shall be valid for the calendar year of issue or, if issued after the
39 beginning of the year, for the remainder of that year. The license shall be issued to
40 the person in charge of the group, and shall be in the licenseholder's possession
41 when the group is fishing. The organization shall notify the local department office
42 before fishing and indicate where, when, and how long the group will fish. To be
43 eligible for a license under this subdivision, an organization shall be registered to

1 do business in this state or exempt from taxation under Section 501(c) of the federal
2 Internal Revenue Code.

3 ~~(f)~~ (j) On January 15 of each year, the department shall determine the number of
4 free sport fishing licenses in effect during the preceding year under subdivisions (a),
5 (d), and ~~(e)~~ (i).

6 ~~(g)~~ (k) There shall be appropriated from the General Fund a sum equal to two
7 dollars (\$2) per free sport fishing license in effect during the preceding license year
8 under subdivisions (a) and (d), as determined by the department pursuant to
9 subdivision ~~(f)~~ (j). That sum may be appropriated annually in the Budget Act for
10 transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act
11 from the Fish and Game Preservation Fund to the department for the purposes of
12 this part.

13 **Comment.** Section 7151 is amended for clarity. The section is also amended to make it gender
14 neutral.

15 **[NEW] Fish & Game Code § 7180.1 (amended). Fishing on Colorado River**

16 SEC. _____. Section 7180.1 of the Fish and Game Code is amended to read:

17 7180.1. (a) Any person taking fish or amphibia for purposes other than profit from
18 or on a boat or other floating device on the waters of the Colorado River ~~and~~ or on
19 adjacent waters, except canals, drains, or ditches used to transport water used for
20 irrigation or domestic purposes, shall have in ~~his or her~~ their possession a valid
21 sportfishing license issued by either the State of Arizona or State of California.

22 ~~(b) In addition to either of the licenses, a person taking fish or amphibia as~~
23 ~~indicated shall have in his or her possession a Colorado River special use validation.~~
24 ~~If he or she is a person having in his or her possession a valid California sportfishing~~
25 ~~license, he or she shall have an Arizona special use validation to fish legally the~~
26 ~~waters described above. If he or she is a person having in his or her possession a~~
27 ~~valid Arizona sportfishing license, he or she shall have a California special use~~
28 ~~validation to fish legally the waters described above.~~

29 ~~(c) A special use validation, when accompanied by the proper license, permits~~
30 ~~fishing in any portion of those waters, and permit fishermen to enter the waters from~~
31 ~~any point. The fee for a Colorado River special use validation is three dollars (\$3).~~

32 ~~(d)~~ (b) This section applies only to licenses, permits, reservations, tags, and other
33 entitlements issued through the Automated License Data System.

34 **Comment.** Subdivision (a) of Section 7180.1 is amended to correct a grammatical error, and to
35 eliminate gendered pronouns.

36 Subdivisions (b) and (c) are deleted to reflect the discontinuation of Colorado River special use
37 validations issued by the state of California.

38 **[NEW] Fish & Game Code § 7181.1 (amended). Colorado River shoreline fishing**

39 SEC. _____. Section 7181.1 of the Fish and Game Code is amended to read:

40 7181.1. (a) A person fishing from the shore in the waters of the Colorado River
41 located in Arizona or California shall have in ~~his or her~~ their possession a valid

1 sportfishing license issued by the state that has jurisdiction over that shore. That
2 shoreline fishing does not require a Colorado River special use validation as long as
3 the fisherman remains on the shore and does not embark on the water. Any person,
4 however, having in his or her possession a valid Arizona sportfishing license and a
5 California special use validation may fish from the shore in the waters of the
6 Colorado River, or adjacent waters, except canals, drains, and ditches used to
7 transport water used for irrigation or domestic purposes, located in California,
8 without a sport fishing license issued by the State of California.

9 (b) This section applies only to licenses, permits, reservations, tags, and other
10 entitlements issued through the Automated License Data System.

11 **Comment.** Section 7181.1 is amended to reflect the discontinuation of Colorado River special
12 use validations issued by the state of California, and to eliminate gendered pronouns.

13 **[NEW] Fish & Game Code § 7182.1 (repealed). Colorado River special use validations**

14 SEC. _____. Section 7182.1 of the Fish and Game Code is repealed.

15 ~~7182.1. (a) Arizona Colorado River special use validations shall be issued by~~
16 ~~California authorized license agents under the supervision of the department in the~~
17 ~~same manner as sportfishing licenses are issued, and California sportfishing licenses~~
18 ~~and California Colorado River special use validations shall be issued by Arizona~~
19 ~~license dealers under the supervision of the Arizona Game and Fish Commission.~~

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

22 **Comment.** Section 7182.1 is repealed based on the discontinuation of Colorado River special
23 use validations issued by the state of California.

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

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

26 7232. (a) Notwithstanding Section 7121 any offal from a fish taken under a sport
27 fishing license which is delivered by the license holder to a fish canner or fish
28 processor may be processed, used, or sold by that fish canner or fish processor.

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

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

34 The section is also amended to add subdivision designations.

35 **Fish & Game Code § 7706 (amended). Complaint alleging violation**

36 SEC. _____. Section 7706 of the Fish and Game Code is amended to read:

37 7706. (a) A written complaint may be made to the commission against any person
38 who violates Section 7700 to 7705, inclusive, 7707, 7708, or 8075 to 8080,
39 inclusive, ~~or 8153~~, or any regulation adopted thereunder, by any person having
40 information or knowledge of the violation. If the person charged in the complaint is
41 found guilty of the offense charged, the commission may suspend, for a period not

1 to exceed 90 days, any license issued by any state board or officer to that person to
2 take, buy, sell, can, or preserve fish or fishery products. No other license shall be
3 issued to that person during the period of suspension.

4 (b) The proceedings on a complaint shall be conducted at one of the commission's
5 regularly scheduled meetings.

6 **Comment.** Section 7706 is amended for clarity, and to delete a cross-reference to a repealed
7 provision.

8 The section is also amended to add subdivision designations.

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

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

11 7850. (a) Excepting persons expressly exempted under this code, no person shall
12 use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or
13 other appliance to take fish or amphibia for commercial purposes, and no person
14 shall cause to be brought ashore, any fish or amphibia at any point in the state for
15 the purpose of selling them in a fresh state or shall contribute materially to the
16 activities on board the commercial fishing vessel, unless the person holds a
17 commercial fishing license issued by the department.

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

22 (c) As used in this section, "~~person~~" ~~does not include persons who are less than~~
23 ~~16 years of age, a partnership, corporation, or association~~ means a natural person 16
24 years of age or greater. Any person, partnership, corporation, limited liability
25 company, or association may pay the fees for a license issued to any person.

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

29 **Comment.** Subdivision (c) of Section 7850 is amended to clarify the definition of the term
30 "person" as used in the section.

31 **Fish & Game Code § 7852 (amended). Age requirement and fee for commercial fishing**
32 **license**

33 SEC. ____ . Section 7852 of the Fish and Game Code is amended to read:

34 7852. (a) ~~The department shall issue a commercial fishing license to any resident~~
35 ~~who is 16 years of age or older, upon payment of a base fee of ninety-five dollars~~
36 ~~(\$95) for each resident vessel crewmember or resident vessel operator.~~

37 (b) ~~The department shall issue a commercial fishing license to any nonresident~~
38 ~~who is 16 years of age or older, upon payment of a base fee of two hundred eighty-~~
39 ~~five dollars (\$285) for a nonresident vessel crewmember or nonresident vessel~~
40 ~~operator.~~

1 (a) An applicant for a commercial fishing license must be at least 16 years of age
2 on the date the license is issued.

3 (b) The fee for a commercial fishing license is as follows:

4 (1) For a resident, a base fee of ninety-five dollars (\$95).

5 (2) For a nonresident, a base fee of two hundred eighty-five dollars (\$285).

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

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

12 (e) Nothing in this section affects any other provision of law relating to the
13 employment of minors.

14 **Comment.** Section 7852 is amended for clarity.

15 **Fish & Game Code § 7856 (amended). Preparation of fish on commercial fishing vessel for**
16 **human consumption**

17 SEC. _____. Section 7856 of the Fish and Game Code is amended to read:

18 7856. Notwithstanding any other provision of this division, except as provided in
19 subdivision (f) and except when prohibited by federal law, fish may be prepared for
20 human consumption aboard a commercial fishing vessel only under the following
21 conditions:

22 (a) The fish are taken under all existing commercial fishing laws and regulations
23 and, except as provided in subdivision (f), the fish is of a species and size that can
24 be lawfully taken under sportfishing regulations in the area where taken and are
25 taken incidental to normal commercial fishing operations.

26 (b) The fish is separated from other fish and stored with other foodstuff for
27 consumption by the crew and passengers aboard the vessel.

28 (c) The fish shall not be bought, sold, offered for sale, transferred to another
29 person, landed, brought ashore, or used for a purpose other than consumption by the
30 crew and passengers.

31 (d)(1) All fish shall be maintained in a condition that the species can be
32 determined, and the size or weight can be determined if a size or weight limit
33 applies, until the fish is prepared for immediate consumption.

34 (2) If the fish is filleted, a patch of skin shall be retained on each fillet as prescribed
35 by the commission in the sportfishing regulations until the fish is prepared for
36 immediate consumption.

37 (3) Fillets from fish possessed under sportfishing regulations shall be of the
38 minimum length prescribed by commission regulations.

39 ~~(e) A fish that may be possessed under sportfishing regulations shall not be~~
40 ~~possessed in excess of the sport bag limit for each crew member and passenger~~ The
41 quantity of fish prepared shall not exceed the aggregate sportfishing bag limit for

1 that fish applicable to the total number of crew members and passengers on board
2 the vessel.

3 (f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted
4 bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be
5 possessed aboard a commercial fishing vessel while that vessel is on a commercial
6 fishing trip. Lobster, salmon, or abalone shall not be possessed aboard a commercial
7 fishing vessel while that vessel is on a commercial fishing trip for preparation for
8 human consumption pursuant to this section unless that lobster, salmon, or abalone
9 is taken and possessed in compliance with all applicable laws pertaining to
10 commercial fishing methods of take, licenses, permits, and size limits. Sturgeon or
11 striped bass shall not be possessed aboard a commercial fishing vessel. A person
12 shall not take or possess a fish on a commercial fishing vessel under a sportfishing
13 license while that vessel is engaged in a commercial fishing activity, including going
14 to or from an area where fish are taken for commercial purposes.

15 **Comment.** Subdivision (e) of Section 7856 is amended for clarity.

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

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

18 7921. The base fee for a commercial passenger fishing ~~boat~~ vessel license is two
19 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
20 annually thereafter pursuant to Section 713. The commercial passenger fishing
21 vessel license shall be issued to the holder of a commercial boat registration issued
22 pursuant to Section 7881.

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

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

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

27 8032. (a) A multi-function commercial fish business license shall be issued that
28 authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The
29 annual fee for this license is one thousand three hundred seventy-three dollars
30 (\$1,373).

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

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

35 (2) Marine aquaria receiver's license, issued to any person engaged in the business
36 of receiving live marine species indigenous to California waters from a person
37 required to be a licensed commercial fisherman for the purpose of wholesaling or
38 retailing those species for pet industry or hobby purposes as provided in Section
39 8033.1.

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

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

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

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

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

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

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

13 8037. (a) A person who engages in business involving fish which business activity
14 would require more than one class of license under this article shall obtain either a
15 commercial fish business license issued under subdivision (a) of Section 8032 or
16 each of the specialty licenses which are required for the classes of activities engaged
17 in. Each plant, facility, or other place of business in which an activity occurs that is
18 required to be licensed shall have a copy of the required license on the premises.

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

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

21 **Fish & Game Code § 8233.5 (amended). Change of ownership of permitted vessel**

22 SEC. _____. Section 8233.5 of the Fish and Game Code is amended to read:

23 8233.5. (a) ~~Except as otherwise provided in this article, the department shall~~
24 ~~change the designation of the holder of a permit, and with it shall go all rights,~~
25 ~~privileges, and obligations of a permit holder, including rights of renewal, upon~~
26 ~~receipt of a notice of change of ownership to a new owner of a permitted vessel. A~~
27 ~~permit changed pursuant to this section is valid for the permit year during which it~~
28 ~~is issued to the new owner of a permitted vessel upon receipt of a notice of change~~
29 of ownership of the permitted vessel, whether the change of ownership is by
30 contract, by operation of law, or otherwise.

31 (b) The permit shall not be transferred to any other vessel, except by the issuance
32 of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections
33 8239 to 8241, inclusive.

34 (c) The owner of the permitted vessel may seek to retire the permitted vessel from
35 the commercial salmon fishery and apply for transfer of the permit, to be issued
36 pursuant to Section 8241, for use of a replacement vessel.

37 (d) A permit changed pursuant to this section is valid for the permit year during
38 which it is issued.

39 (e) Upon change of the designation of the holder of the permit, all rights,
40 privileges, and obligations of a permit holder, including rights of renewal, are
41 transferred to the new owner of a permitted vessel.

42 **Comment.** Section 8233.5 is amended to incorporate the provisions of former Section 8237.

1 **Fish & Game Code § 8237 (repealed). Use of vessel permit after change of ownership**

2 SEC. _____. Section 8237 of the Fish and Game Code is repealed.

3 ~~8237. (a) The department shall change the designation of the holder of a permit to~~
4 ~~the new owner of a permitted vessel upon change of ownership of the permitted~~
5 ~~vessel, whether the change of ownership is by contract, by operation of law, or~~
6 ~~otherwise.~~

7 ~~(b) The permit shall not be transferred to any other vessel, except by the issuance~~
8 ~~of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections~~
9 ~~8239 to 8241, inclusive.~~

10 ~~(c) The owner of the permitted vessel may seek to retire the permitted vessel from~~
11 ~~the commercial salmon fishery and apply for transfer of the permit, to be issued~~
12 ~~pursuant to Section 8241, for use of a replacement vessel.~~

13 **Comment.** Section 8237 is repealed. Its provisions are incorporated in Section 8233.5.

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

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

17 8246. (a) At any time after notice of an order suspending or revoking of a person's
18 commercial salmon fishing privilege is issued by the commission, and before the
19 order of suspension or revocation is final, the commission may, with the agreement
20 of the person subject to the action, compromise or dismiss the action to suspend or
21 revoke the commercial salmon fishing privilege in the best interests of the state, or
22 the commission may compromise or dismiss the action with the agreement of the
23 person subject to the action on terms and conditions, which may include, but are not
24 limited to, the payment of civil damages, the reduction of a revocation to a
25 suspension for a specified period of time, or any other terms and conditions.

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

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

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

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

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

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

39 8246.2. (a) The commission, in consultation with the department, shall adopt
40 regulations for the determination of civil damages provided for in subdivision ~~(b)~~

1 (a) of Section 8246 that give due consideration to the appropriateness of the civil
2 damages with respect to all of the following factors:

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

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

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

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

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

13 8276.5. (a) In consultation with the Dungeness crab task force, or its appointed
14 representatives, the director shall adopt a program, by March 31, 2013, for
15 Dungeness crab trap limits for all California permits. Unless the director finds that
16 there is consensus in the Dungeness crab industry that modifications to the
17 following requirements are more desirable, with evidence of consensus, including,
18 but not limited to, the record of the Dungeness crab task force, the program shall
19 include all of the following requirements:

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

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

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

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

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

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

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

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

40 ~~(2) Notwithstanding paragraph (1), the director shall not remove a permit holder~~
41 ~~from a tier described in paragraph (1), if, after an allocation is made pursuant to~~

1 paragraph (1), an appeal pursuant to paragraph (8) places a permit holder in a tier
2 different than the original allocation.

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

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

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

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

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

21 ~~(4)~~ (3) The department shall issue a participant a waiver from the biennial fee for
22 each trap tag described in subparagraph (A) of paragraph ~~(3)~~ (2) if the participant is
23 unable to fish due to mandatory military service and the participant submits a
24 request for a waiver to the department at the same time that the participant renews
25 the permit issued pursuant to subparagraph (B) of paragraph ~~(3)~~ (2). A participant
26 who receives a waiver pursuant to this paragraph shall not apply to the department
27 to fish for Dungeness crab during the first year of the waiver, but may apply to fish
28 for Dungeness crab during the second year of the waiver if the participant pays the
29 full cost of the biennial fee for each trap tag. The department shall not limit the
30 number of times a participant may request a waiver.

31 ~~(5)~~ (4) Notwithstanding subparagraph (D) of paragraph ~~(3)~~ (2), a vessel may
32 transit state waters with Dungeness crab traps that are not tagged pursuant to
33 subparagraph (D) of paragraph ~~(3)~~ (2) if the traps contain either a valid Oregon or
34 Washington trap tag, no crab species are onboard the vessel, and the traps are not
35 deployed in state waters.

36 ~~(6)~~ (5) The department shall annually provide an accounting of all costs associated
37 with the crab trap limit program. The department shall use excess funds collected to
38 reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the
39 program.

40 ~~(7)~~ (6) Permit holders may replace lost tags by application to the department and
41 payment of a fee not to exceed the reasonable costs incurred by the department. The
42 department may waive or reduce a fee in the case of catastrophic loss of tags.

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

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

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

24 (B) Conviction of a second offense shall result in a fine of not less than five
25 hundred dollars (\$500) and not more than two thousand five hundred dollars
26 (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one
27 year.

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

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

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

37 (c) For the purposes of this section, a proposed recommendation that receives an
38 affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab
39 task force may be transmitted to the director or the Legislature as a recommendation,
40 shall be considered to be the consensus of the task force, and shall be considered to
41 be evidence of consensus in the Dungeness crab industry. Any proposed
42 recommendation that does not receive a vote sufficient to authorize transmittal to
43 the director or Legislature as a recommendation shall be evidence of a lack of

1 consensus by the Dungeness crab task force, and shall be considered to be evidence
2 of a lack of consensus in the crab industry.

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

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

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

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

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

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

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

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

41 (i) This section shall become inoperative on April 1, 2029, and, as of January 1,
42 2030, is repealed, unless a later enacted statute, that becomes operative on or before

1 January 1, 2030, deletes or extends the dates on which it becomes inoperative and
2 is repealed.

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

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

6 SEC. _____. Section 8494 of the Fish and Game Code is amended to read:

7 8494. (a) Any vessel using bottom trawl gear in state-managed halibut fisheries,
8 as described in subdivision (a) of Section 8841, shall possess a valid California
9 halibut bottom trawl vessel permit that has not been suspended or revoked and that
10 is issued by the department authorizing the use of trawl gear by that vessel for the
11 take of California halibut.

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

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

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

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

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

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

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

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

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

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

4 (vi) The replacement vessel is registered with the department pursuant to Section
5 7881 at the time the application is submitted pursuant to clause (i).

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

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

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

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

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

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

21 (I) The person has a valid commercial fishing license issued pursuant to Section
22 7852 that has not been suspended or revoked.

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

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

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

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

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

41 (e) Individuals holding a federal groundfish trawl permit may retain and land up
42 to 150 pounds of California halibut per trip without a California halibut trawl permit

1 in accordance with federal and state regulations, including, but not limited to,
2 regulations developed under a halibut fishery management plan.

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

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

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

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

10 SEC. _____. Section 8603 of the Fish and Game Code is amended to read:

11 8603. It is unlawful to use or operate or assist in using or operating any net, trap,
12 line, spear, or appliance, other than in connection with angling, in taking fish, except
13 as ~~provided in this chapter or Chapter 4 of this part~~ authorized by this code.

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

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

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

18 ~~8606.1. (a) The Legislature finds and declares that the use of nearshore trawl nets~~
19 ~~was authorized through the experimental gear permit process and the alternative~~
20 ~~gear development program as a potential alternative to the use of gill and trammel~~
21 ~~nets in areas where the use of that gear type has been prohibited.~~

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

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

25 **Fish & Game Code § 8623 (amended). Use of purse seines or round haul nets**

26 SEC. _____. Section 8623 of the Fish and Game Code is amended to read:

27 8623. (a) It is unlawful to use any purse seine or round haul net to take yellowtail,
28 barracuda, or white sea bass.

29 (b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except
30 those taken south of the international boundary between the United States and
31 Mexico, and imported into the state under regulations of the commission as provided
32 in Section 2362, on any boat carrying or using any purse seine or round haul net,
33 including, but not limited to, a bait net as described in Section 8780.

34 (c) Gill nets with meshes of a minimum length of 3¹/₂ inches may be used to take
35 yellowtail and barracuda.

36 (d) Gill nets with meshes of a minimum length of six inches may be used to take
37 white sea bass; however, during the period from June 16 to March 14, inclusive, not
38 more than 20 percent by number of a load of fish may be white seabass 28 inches
39 or more in total length, up to a maximum of 10 white seabass per load, if taken in
40 gill nets or trammel nets with meshes from 3¹/₂ to 6 inches in length.

1 (e) Notwithstanding ~~the provisions of this section~~ subdivision (b), the department
2 may issue permits to hook and line commercial fishermen to possess a bona fide
3 bait net on their vessels for the purpose of taking bait for their own use only.

4 **Comment.** Section 8623 is amended to clarify the application of subdivision (e) of the section.

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

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

7 8625. (a) Except as otherwise provided in this code, set gill nets and trammel nets
8 with mesh size of not less than 8½ inches may be used to take California halibut.

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

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

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

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

21 **Fish & Game Code § 8626 (amended). Nets for halibut in specified areas**

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

23 8626. (a) Notwithstanding Section 8625, and where consistent with the
24 determination made pursuant to subdivisions (b) and (c), the director may reduce
25 the minimum mesh size permitted for gill and trammel nets used to take California
26 halibut from 8½ inches to not less than 8 inches in any or all areas south of a line
27 extending 240° magnetic from the boundary line between the Counties of Los
28 Angeles and Ventura.

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

40 (c) If the department determines that the 8½ inch minimum mesh size, established
41 pursuant to Section 8625 has directly resulted in a decline of 10 percent or more in

1 landings of California halibut south of the line extending 240° magnetic from the
2 boundary between the Counties of Los Angeles and Ventura, the director shall hold
3 a public hearing in the area affected to make findings and take public testimony
4 prior to taking any action pursuant to subdivision (a).

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

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

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

8 SEC. ____ . Section 8752 of the Fish and Game Code is amended to read:

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

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

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

13 SEC. ____ . Section 8754 of the Fish and Game Code is amended to read:

14 8754. (a) In Districts 16, 17, 18, and 19, ~~purse and~~ round haul nets may be used,
15 except that purse seines or ring nets may not be used in that portion of District 19
16 lying within three miles offshore from the line of the high-water mark along the
17 coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to
18 September 10, inclusive.

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

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

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

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

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

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

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

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

31 8755. In Districts 20A and 21, ~~purse and~~ round haul nets may be used.

32 (a) In District 20, ~~Purse and~~ round haul nets may be used, except (1) from sunrise
33 Saturday to sunset Sunday, in ~~that portion of District 20~~ the area from a line
34 extending three nautical miles east magnetically from the extreme easterly end of
35 Santa Catalina Island southwesterly and northerly to a line extending three nautical
36 miles southwest magnetically from the most southerly promontory of China Point
37 and (2) at any time during the period commencing on June 1st and ending on
38 September 10 in each year, ~~that portion of District 20~~ the area from a line extending
39 three nautical miles east magnetically from the extreme easterly end of Santa
40 Catalina Island southerly to a line extending three nautical miles southeasterly

1 magnetically from the United States government light on the southeasterly end of
2 Santa Catalina Island.

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

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

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

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

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

11 8756. Salmon, steelhead, striped bass, or shad may not be taken with ~~purse or~~
12 round haul nets.

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

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

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

17 8780. (a) As used in this chapter, the term “bait net” means a lampara or round
18 haul type net, the mesh of which is constructed of twine not exceeding Standard No.
19 9 medium cotton seine twine or synthetic twine of equivalent size or strength.
20 Notwithstanding Section 8757, except for drum seines and other round haul nets
21 authorized under a permit issued by the department pursuant to this section, the nets
22 may not have rings along the lead line or any method of pursuing the bottom of the
23 net.

24 (b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13,
25 16, 17, 18, 19, ~~19A~~, 19B, 20A, 21, 118, and 118.5.

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

29 (d) No other species of fish may be taken on any boat carrying a bait net in District
30 19A, except that loads or lots of fish may contain not more than 18 percent, by
31 weight of the fish, of other bait fish species taken incidentally to other fishing
32 operations and that are mixed with other fish in the load or lot.

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

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

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

38 8841. (a) The commission is hereby granted authority over all state-managed
39 bottom trawl fisheries not managed under a federal fishery management plan
40 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
41 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7

1 (commencing with Section 7050), to ensure that resources are sustainably managed,
2 to protect the health of ecosystems, and to provide for an orderly transition to
3 sustainable gear types in situations where bottom trawling may not be compatible
4 with these goals.

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

8 (1) California halibut.

9 (2) Sea cucumber.

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

11 (4) Pink shrimp.

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

16 (d) Every commercial bottom trawl vessel issued a state permit is subject to the
17 requirements and policies of the federal groundfish observer program (50 C.F.R.
18 660.360).

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

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

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

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

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

41 (j) The commission shall facilitate the conversion of bottom trawlers to gear that
42 is more sustainable if the commission determines that conversion will not contribute
43 to overcapacity or overfishing. The commission may participate in, and encourage

1 programs that support, conversion to low-impact gear or capacity reduction by trawl
2 fleets. The department may not issue new permits to bottom trawlers to replace those
3 retired through a conversion program.

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

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

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

13 Subdivision (k) is deleted as obsolete.

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

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

16 9001.7. Finfish, other than sablefish and hagfish, may be taken under a general
17 trap permit if all of the following criteria are also met:

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

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

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

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

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

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

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

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

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

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

42 (1) Lobster.

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

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

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

11 **Comment.** Subdivision (g) of Section 9001.7 is amended to delete a reference to a Fish and
12 Game District that does not presently exist.

13 Subdivision (k) is amended to clarify its meaning.

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

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

16 9011. (a)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2,
17 Dungeness crab, as defined in Section 8275, may be taken with Dungeness crab
18 traps.

19 (2) A Dungeness crab trap may have any number of openings of any size.
20 However, every Dungeness crab trap shall have at least two rigid circular openings
21 of not less than 4¹/₄ inches, inside diameter, on the top or side of the trap. If both of
22 the openings are located on the side of the trap, at least one of the openings shall be
23 located so that at least one-half of the opening is in the upper half of the trap.

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

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

33 (2) A rock crab trap may have any number of openings of any size. However, a
34 rock crab trap constructed of wire mesh with an inside mesh measurement of not
35 less than 1⁷/₈ inches by 3⁷/₈ inches, with the 3⁷/₈ inch measurement parallel to the
36 floor, shall have at least one rigid circular opening of not less than 3¹/₄ inches, inside
37 diameter, located on any outside wall of the rearmost chamber of the crab trap and
38 shall be located so that at least one-half of the opening is in the upper half of the
39 trap. Rock crab traps constructed of other material shall have at least two rigid
40 circular openings of not less than 3¹/₄ inches, inside diameter, on the top or side of
41 the rearmost chamber of the trap. If both of the openings are located on the side of
42 the trap, at least one of the openings shall be located so that at least one-half of the

1 opening is in the upper half of the trap. No rigid circular opening, as required, shall
2 extend more than 1/2 inch beyond the plane of the wall side or top of the trap in
3 which it is located, and it shall be clearly accessible to any crab which may be in the
4 trap.

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

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

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

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

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

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

22 9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be used
23 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},
24 4^{3/4}, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as
25 specified in ~~Sections~~ Section 7332 and 8303, and except that freshwater clams shall
26 not be taken by means of such appliances on any levee or on the berm of any levee.

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

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

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

30 10000. (a) Every person engaged in the business of canning, curing, preserving,
31 packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon
32 for human consumption shall obtain a sturgeon egg processing license from the
33 department for that purpose. The license required by this division is in addition to
34 any other license, permit, or other authorization required by this code or by any
35 other provision of law.

36 (b) Possession of a sturgeon egg processing license issued pursuant to this division
37 authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at
38 wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or
39 lawfully possessed pursuant to Section 7230 or ~~8374~~ 7370.

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

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~~ 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 § 12002.6 (amended). Suspension or revocation of registration for**
35 **specified violations**

36 SEC. _____. Section 12002.6 of the Fish and Game Code is amended to read:

37 12002.6. (a) ~~Notwithstanding Sections 12000, 12001, and 12002~~ In addition to
38 any other applicable penalty, a commercial boat registration may be revoked or
39 suspended by the commission, when requested by the department, for a period not
40 to exceed one year, upon the second conviction in three years of the registrant, or
41 the registrant's agent, servant, employee, or any other person acting under the

1 registrant's direction or control, for a violation of any of the following provisions or
2 regulations adopted pursuant thereto:

3 (1) Section 5521 or 5521.5.

4 (2) Article 2 (commencing with Section ~~8150~~ 8150.5), Article 3 (commencing
5 with Section 8180), Article 4 (commencing with Section ~~8210~~ 8210.2), Article 5
6 (commencing with Section 8250), Article 6 (commencing with Section 8275),
7 Article 9 (commencing with Section 8370), Article 13 (commencing with Section
8 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of
9 Division 6.

10 (3) Article 1 (commencing with Section 8601), Article 2 (commencing with
11 Section ~~8620~~ 8623), Article 4 (commencing with Section 8660), Article 5
12 (commencing with Section ~~8685~~ 8680), Article 6 (commencing with Section 8720),
13 Article 7 (commencing with Section 8750), Article 8 (commencing with Section
14 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of
15 Division 6.

16 (4) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division
17 6.

18 (b) The commercial boat registration shall not be revoked unless both the first and
19 second convictions are related to the boat for which the commercial boat registration
20 is to be revoked, and are for violations ~~which~~ that occurred when the person
21 convicted was the registrant or the registrant's agent, servant, or employee, or acting
22 under the registrant's direction or control.

23 **Comment.** Section 12002.6 is amended for clarity, to make a technical correction, and to correct
24 four erroneous cross-references.

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

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

27 12023. (a) Notwithstanding ~~Section~~ Sections 12002 and 12007, any person who
28 violates Section 6400 through the use of an aquatic nuisance species, as defined in
29 Section 6431, is guilty of a misdemeanor, punishable by all of the following:

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

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

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

1 behalf of the fisheries or communities that are damaged as a result of the violation.
2 In addition, a private citizen who suffers damages as a result of the violation may
3 file a civil action against the violator.

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

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

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

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

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

19 **Fish & Game Code § 15512 (amended). Compensation to owner of destroyed plant or**
20 **animal**

21 SEC. ____ . Section 15512 of the Fish and Game Code is amended to read:

22 15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e)
23 of Section 15505, and a claim is submitted pursuant to Section 15513, the owner
24 shall be promptly paid from the General Fund an amount equal to 75 percent of the
25 replacement value of the plants or animals, less the value determined by the
26 department of any replacement stock provided by the department under subdivision
27 (b) ~~if the claim is submitted pursuant to Section 15513~~. If the replacement value is
28 not settled between the owner and the department, the replacement value shall be
29 determined by an appraiser appointed by the director and an appraiser appointed by
30 the owner. Appraiser's fees shall be paid by the appointing party. Disputes between
31 these two appraisers shall be submitted to arbitration under the Commercial
32 Arbitration Rules of the American Arbitration Association.

33 (b) If the department provides replacement stock to an aquaculturist whose plants
34 or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount
35 to be paid to the aquaculturist pursuant to this section shall be reduced by the value
36 of the replacement stock, as determined by the department.

37 (c) The result of the arbitration or the amount settled between the owner and the
38 department, reduced by the value determined by the department of any replacement
39 stock provided under subdivision (b), may be submitted as a claim by the owner to
40 the Department of General Services pursuant to Section 15513.

41 **Comment.** Section 15512 is amended for clarity.

1 **Fish & Game Code § 15601 (amended). Compensation to owner of destroyed plant or**
2 **animal**

3 SEC. _____. Section 15601 of the Fish and Game Code is amended to read:
4 15601. A written application for the importation of a live aquatic plant or animal
5 that is submitted in conformance with the procedural requirements established by
6 the commission is deemed to be approved ~~where~~ if it has not been denied within 60
7 days.

8 **Comment.** Section 15601 is amended for clarity. The added language provides context, drawn
9 from preceding Section 15600.

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

11 SEC. _____. Section 15700 of the Fish and Game Code is amended to read:
12 15700. The director shall appoint an Aquaculture Development Committee
13 consisting of the following persons:

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

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

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

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