

**Assembly Bill No. 2888**

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Passed the Assembly August 20, 2002

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*Chief Clerk of the Assembly*

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Passed the Senate August 14, 2002

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 8045, 8047, 8568, and 8569 of, to add Sections 7862.5 and 8568.5 to, and to add Article 1.3 (commencing with Section 7630) to Chapter 1 of Part 3 of Division 6 of, the Fish and Game Code, relating to fishing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

## AB 2888, Strom-Martin. Fishing.

(1) Existing law, until January 1, 2007, establishes the Commercial Salmon Trollers Advisory Committee to recommend programs and a budget from the Commercial Salmon Stamp Account to the Department of Fish and Game.

This bill would authorize the committee to recommend to the Director of Fish and Game that a nonprofit organization or the California Salmon Council be authorized to create or contract to create salmon or salmon fishing artwork and other materials based on that artwork, including a stamp, and offer those items for sale to the public during 2003 and thereafter, for the purpose of augmenting funding for the Commercial Salmon Trollers Enhancement and Restoration Program established under existing law.

The bill would prohibit the committee from recommending a nonprofit organization or the California Salmon Council, as specified, unless all of certain conditions are met.

The bill would authorize the director, upon receiving the recommendation of the committee, and upon finding that there will be no new costs to the department, to authorize the recommended entity to create or contract to create salmon or salmon fishing artwork and other materials based on that artwork, including a stamp, and offer those items for sale to the public, for the specified purposes.

The bill would prohibit any person or entity, including any nonprofit organization, from using the name of the Commercial Salmon Stamp, the Commercial Salmon Trollers Advisory Committee, or the Commercial Salmon Trollers Enhancement and Restoration Program for the sale of artwork and other materials,



unless that person or entity has been approved by the director under these provisions for that purpose. Because a violation of this prohibition would be a misdemeanor under other provisions of existing law, the bill would establish a state-mandated local program by creating a new crime.

The approval of the director under these provisions would be for one year, after which the approval could be renewed for an additional year, upon recommendation of the committee.

The bill would require that proceeds from the sales of artwork and other materials sold under these provisions, after deduction of all reasonable costs borne by the nonprofit organization or the California Salmon Council for creation of the artwork and conducting the sales, be deposited in the Commercial Salmon Stamp Account, a continuously appropriated account in the Fish and Game Preservation Fund. By requiring a new source of revenue to be deposited in a continuously appropriated fund, the bill would make an appropriation.

(2) Existing law requires each commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, to fill out a transportation receipt according to the instructions and on forms provided by the department at the time the fish are brought ashore.

This bill would authorize any fisherman's retail licensee who is selling his or her fish to a licensed receiver to use a transportation receipt to transport those fish to the licensed receiver, who would be required to complete a landing receipt for those fish. The bill would prescribe the information required to be included in the transportation receipt. Because a violation of these provisions would be a misdemeanor under other provisions of existing law, the bill would establish a state-mandated local program by expanding the scope of an existing crime.

(3) Existing law requires the names used in certain landing receipts for designating the species of fish dealt with to be those in common usage, unless otherwise designated by the department.

This bill would make that requirement applicable also to the names used in transportation receipts, and would modify various other requirements relating to transportation receipts. Because a violation of these provisions would be a misdemeanor under other



provisions of existing law, the bill would establish a state-mandated local program by expanding the scope of an existing crime.

(4) Existing law requires that a drift gill net shark and swordfish permit be issued to any prior permittee who possesses a valid drift gill net shark and swordfish permit issued under existing law, but only if the permittee meets certain requirements, including that during one of the 2 immediately preceding permit years, the permittee either have landed at least 2,500 pounds of swordfish or 1,000 pounds of shark or have landed shark or swordfish for which the permittee was paid at least \$1,000.

This bill, instead of the specified condition, would provide that any person holding a valid drift gill net shark and swordfish permit on or after January 1, 2000, who did not make, on or after January 1, 2000, the minimum landings specified above, is eligible for the specified permit when that person meets all other qualifications for the permit.

(5) Existing law continuously appropriates the money in the Fish and Game Preservation Fund to the department and the commission to carry out the Fish and Game Code.

By imposing new duties on the department and the commission, the bill would make an appropriation.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Article 1.3 (commencing with Section 7630) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:



Article 1.3. Commercial Fisheries Capacity Reduction Program

7630. It is the intent of the Legislature to enact legislation establishing a comprehensive program to allow California groundfish fishermen to participate in any federally established buy-back program for the Pacific groundfish fishery.

SEC. 2. Section 7862.5 is added to the Fish and Game Code, to read:

7862.5. (a) The Commercial Salmon Trollers Advisory Committee established under Section 7862 may recommend to the director that a nonprofit organization or the California Salmon Council be authorized to create or contract to create salmon or salmon fishing artwork and other materials based on that artwork, including, but not limited to, a stamp, and offer those items for sale to the public during 2003 and thereafter, for the purpose of augmenting funding for the Commercial Salmon Trollers Enhancement and Restoration Program established under this article.

(b) The committee may not recommend a nonprofit organization or the California Salmon Council as authorized under subdivision (a), unless all of the following conditions are met:

(1) The proposed creation and sale of the artwork is pursuant to a written business plan presented to the committee.

(2) The committee determines that a reasonable share of the sales of any stamp will be remitted to the department for deposit into the Commercial Salmon Stamp Account established in the Fish and Game Preservation Fund under Section 7861.

(3) The committee determines that the creation and sale of the artwork will act to increase public awareness and support for the salmon stamp program and the restoration of salmon and their habitats in the state.

(4) Any other conditions deemed necessary by the committee for determining whether to recommend approval to the director have been met.

(c) The director, upon receiving the recommendation of the committee, and upon finding that there will be no new costs to the department, may authorize the recommended entity to create or contract to create salmon or salmon fishing artwork and other materials based on that artwork, including, but not limited to, a



stamp, and offer those items for sale to the public, for the purpose described in subdivision (a).

(d) No person or entity, including, but not limited to, any nonprofit organization, may use the name of the Commercial Salmon Stamp, the Commercial Salmon Trollers Advisory Committee, or the Commercial Salmon Trollers Enhancement and Restoration Program for the sale of artwork and other materials, unless that person or entity has been approved by the director under this section for that purpose. The approval of the director under this section shall be for one year, after which the approval may be renewed for an additional year, upon recommendation of the committee.

(e) No artwork sold in the form of a stamp under this section conveys to the purchaser any entitlement to engage in the commercial salmon fishery.

(f) Proceeds from the sales of artwork and other materials sold under this section, after deduction of all reasonable costs borne by the nonprofit organization or California Salmon Council for creation of the artwork and conducting the sales, shall be deposited in the Commercial Salmon Stamp Account.

SEC. 3. Section 8045 of the Fish and Game Code is amended to read:

8045. The names used in the landing receipt and transportation receipt made under Sections 8043 and 8047 for designating the species of fish dealt with shall be those in common usage unless otherwise designated by the department.

SEC. 4. Section 8047 of the Fish and Game Code is amended to read:

8047. (a) (1) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Sections 8043 and 8043.1 at the time the fish are brought ashore. The original signed copy of the landing receipt shall be delivered by the licensee to the department on or before the 16th day or the last day of the month in which the fish were landed, whichever date occurs first after landing. A copy of the landing receipt shall be retained by the licensee for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the



persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. The receiver shall complete a landing receipt for those fish. A person who sells his or her fish to the ultimate consumer shall complete a landing receipt pursuant to Sections 8043 and 8043.2. Transportation receipts shall be completed at the time the fish are transferred from the fishing vessel.

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing tax imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(c) (1) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt according to the instructions and on forms provided by the department at the time the fish are brought ashore.

(2) The original signed copy of the transportation receipt shall be delivered by the commercial fisherman to the department on or



before the 16th day or the last day of the month in which the fish were landed, whichever date occurs first after landing. A copy of the transportation receipt shall be retained by the commercial fisherman who filled it out for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the transportation receipt shall be given to and retained by the person transporting the fish until the fish are sold fresh, processed, or otherwise disposed of.

(3) The transportation receipt is required only for transit purposes.

(4) A person transporting fish from the point of first landing under a transportation receipt is not required to be licensed to conduct the activities of a fish receiver as described in Section 8033.

(5) The transportation book receipt shall be issued to an individual fisherman and is not transferable.

(d) The transportation receipt shall contain all of the following information:

(1) The name of each species of fish, pursuant to Section 8045.

(2) The date and time of the receipt.

(3) The accurate weight of the species of fish being transported. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.

(4) The name and identification number of the fisherman. The signature of the fisherman authorizing transportation.

(5) The name of the person transporting the fish.

(6) The name of the fish business, the fish business identification number, and the corresponding landing receipt number issued by the fish business to the commercial fisherman.

(7) The department registration number of the vessel and the name of the vessel.

(8) The department origin block number where the fish were caught.

(9) The port of first landing.

(10) Any other information the department may prescribe.

(e) The numbered transportation receipt forms in each individual transportation receipt book shall be completed sequentially. A voided fish transportation receipt shall have the



word “VOID” plainly and noticeably written on the face of the receipt. A voided fish transportation receipt shall be submitted to the department in the same manner as a completed fish transportation receipt is submitted to the department. A commercial fisherman who is no longer conducting business as a licensed fisherman shall forward all unused transportation receipts and transportation receipt books to the department immediately upon terminating his or her business activity.

SEC. 5. Section 8568 of the Fish and Game Code is amended to read:

8568. Drift gill net shark and swordfish permits shall be issued to any prior permittee who possesses a valid drift gill net shark and swordfish permit issued pursuant to this section, but only if the permittee meets both of the following requirements:

(a) Possesses a valid permit for the use of gill nets authorized pursuant to Section 8681.

(b) Possessed a valid drift gill net shark and swordfish permit during the preceding season and that permit was not subsequently revoked.

SEC. 6. Section 8568.5 is added to the Fish and Game Code, to read:

8568.5. Any person holding a valid drift gill net shark and swordfish permit on or after January 1, 2000, who did not make, on or after January 1, 2000, the minimum landings required under subdivision (c) of Section 8568, as amended by Section 11 of Chapter 525 of the Statutes of 1998, is eligible for that permit when that person meets all other qualifications for the permit.

SEC. 7. Section 8569 of the Fish and Game Code is amended to read:

8569. The commission may establish conditions for the issuance of a permit if the person’s drift gill net shark and swordfish permit was revoked during a preceding season or if the person possessed a valid permit during the preceding season but did not apply for renewal of his or her permit on or before April 30. The applicant for a permit under this section may appeal to the director for the issuance of the permit under those conditions.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or



infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the sale of salmon stamps and other material to the public, to permit fisherman's retail licensees to use transportation receipts, to require that names of species used in transportation receipts be those in common usage, to permit the Fish and Game Commission to waive certain landing requirements, and to establish a commercial fisheries capacity reduction program, as soon as possible, it is necessary that this act take effect immediately.



Approved \_\_\_\_\_, 2002

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*Governor*

