

AMENDED IN SENATE APRIL 17, 2001

SENATE BILL

No. 540

Introduced by Senator Sher

February 22, 2001

An act to add Section 4582.76 to the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 540, as amended, Sher. Timber harvest plan: endangered species.

The existing Z'berg-Nejedly Forest Practice Act of 1973 generally prohibits any person from conducting timber operations on timberland unless the person has submitted a timber harvesting plan to the Department of Forestry and Fire Protection and received approval of that plan from the Director of Forestry and Fire Protection. The federal Endangered Species Act of 1973 prohibits any person to take any endangered species and defines "take" as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in this conduct.

This bill would require the director to disapprove a timber harvesting plan if implementation of the plan, as proposed, would result in a take as defined in the federal act. The bill would require the Board of Forestry and Fire Protection to adopt regulations, initially as emergency regulations, to set forth guidelines for determining whether a proposed timber harvesting plan would result in a take. The bill would provide that the minimum standards the board would be required to adopt in the regulations are those of the National Marine Fisheries Service governing the take of coho salmon, steelhead trout, and other applicable species, including a in a specified document, including those governing

take pursuant to an incidental take permit *under the federal act* and based on an approved habitat conservation plan.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 4582.76 is added to the Public Utilities
2 Resources Code, to read:

3 4582.76. (a) The director shall disapprove a timber
4 harvesting plan if implementation of the plan, as proposed, would
5 result in a take, as defined in paragraph 19 of Section 1532 of Title
6 16 of the United States Code, of any species listed by the National
7 Marine Fisheries Service pursuant to the federal Endangered
8 Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), including, but
9 not limited to, coho salmon ~~and~~, steelhead trout, *and Chinook*
10 *salmon* that is prohibited by the federal act.

11 (b) The board shall adopt regulations, initially as emergency
12 regulations in accordance with subdivision (c), setting forth
13 guidelines for determining whether a proposed timber harvesting
14 plan would result in a take, as defined in paragraph 19 of Section
15 1532 of Title 16 of the United States Code, of any species listed by
16 the National Marine Fisheries Service pursuant to the federal
17 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.). At
18 a minimum, the regulations shall meet the standards ~~adopted by the~~
19 ~~National Marine Fisheries Service governing the take of coho~~
20 ~~salmon, steelhead trout, and other applicable species, including a~~
21 ~~take allowed and guidelines developed by the National Marine~~
22 ~~Fisheries Service for timber harvesting plans within the coastal~~
23 ~~California range of federally listed coho, steelhead, and chinook~~
24 ~~salmon, including (1) the guidelines in the document titled~~
25 ~~Salmonid Guidelines for Forestry Practices in California~~
26 ~~(February 8, 2000), and (2) the guidelines in that document~~
27 ~~relating to the take of coho, steelhead, and Chinook salmon~~
28 pursuant to an incidental take permit issued under the federal act
29 and based on an approved habitat conservation plan.

30 (c) The board shall adopt regulations, pursuant to subdivision
31 (b), as emergency regulations in accordance with Chapter 3.5
32 (commencing with Section 11340) of Part 1 of Division 3 of Title
33 2 of the Government Code. For purposes of that chapter of the



1 Government Code, including Section 11349.6 of the Government
2 Code, the adoption of the regulations shall be considered by the
3 Office of Administrative Law to be necessary for the immediate
4 preservation of the public peace, health and safety, and general
5 welfare.

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