

Introduced by Senator Alpert

February 19, 2004

An act to add Section 8841 to, and to repeal Sections 8495 and 8836 of, the Fish and Game Code, relating to fishing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1459, as introduced, Alpert. Fishing: trawl nets.

(1) Existing law generally permits the use of trawl nets, as defined, for the taking of fish and other marine life, except as otherwise prohibited for specific species or in various areas of the state. Existing law specifically authorizes the taking of shrimps and sea cucumbers by use of a trawl net under a permit issued by the Department of Fish and Game.

This bill would require, commencing April 1, 2006, all vessels using bottom trawl gear to maintain a current bottom trawl permit, and would require an application for a bottom trawl permit for the 2006–07 fishing season to be received by the Department of Fish and Game not later than January 1, 2006. The bill would require that, commencing with the 2007–08 fishing season, in order to obtain a bottom trawl permit, the applicant have previously held a bottom trawl permit. The bill would prohibit the transfer of bottom trawl permits, except to another vessel owned by the permitholder if the department determines the vessel is of comparable capacity and if the originally permitted vessel was lost, stolen, destroyed, or suffered a major irreparable mechanical breakdown. The bill would require the department to consider any valid pink shrimp trawl vessel permit or any valid sea cucumber trawl permit as the equivalent of the bottom trawl permit.

The bill would prohibit the use of roller gear that is more than 8 inches in diameter. The bill would also prohibit, commencing April 1, 2006, a person from fishing commercially for prawns or pink shrimp unless an approved bycatch reduction device is used with each net, and would prohibit the tampering with bycatch reduction devices in a manner that interferes with the ability of the device to allow fish to escape from the trawl net.

The bill would require the Fish and Game Commission to facilitate the conversion of bottom trawlers to gear that sustains fish resources, if the commission determines that the conversion will not contribute to overcapacity or overfishing. The bill would authorize the commission to participate in and encourage programs that support the conversion of bottom trawlers to lower-impact gear or capacity reduction by trawl fleets, but would prohibit the department from issuing new permits to replace bottom trawlers retired through a conversion program.

The bill would require the commission and the department, as soon as practicable, but not later than May 1, 2005, to submit to the Pacific Fishery Management Council, and the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service, a request for federal management measures for the pink shrimp fishery.

(2) Existing law designates the ocean waters lying between one and 3 nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu as the California halibut trawl grounds. Existing law also designates specified fish and game districts in which trawl nets may be used in waters not less than 3 nautical miles from the nearest point of land on the mainland shore, including those portions of Monterey Bay, Estero Bay, and San Luis Obispo Bay which lie within those districts.

This bill would repeal those provisions.

(3) Existing law makes a violation of the Fish and Game Code a misdemeanor punishable by fine, imprisonment, or both.

By creating new crimes, this bill would impose a state-mandated local program.

(4) 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.

(5) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and to the commission to pay all necessary expenses incurred in carrying out programs and policies contained in the Fish and Game Code and to pay the compensation and expenses of the commissioners, and employees of the commission.

By expanding the parameters of, and imposing new duties on, the commission and the department, and by increasing fine revenues to being deposited in this continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 8841 is added to the Fish and Game
2 Code, to read:

3 8841. (a) The Legislature hereby finds and declares all of the
4 following:

5 (1) It is necessary to grant the commission authority over all
6 state-managed bottom trawl fisheries to ensure that resources are
7 sustainably managed, to protect the health of ecosystems, and to
8 provide for an orderly transition to sustainable gear types in
9 situations where bottom trawling may not be compatible with
10 these goals.

11 (b) The commission is hereby granted authority to manage all
12 of the following fisheries, and all bottom trawl gear not currently
13 managed by the National Oceanic and Atmospheric
14 Administration (NOAA), National Marine Fisheries Service,
15 consistent with the requirements of this section and in accordance
16 with the requirements of Part 1.7 (commencing with Section
17 7050), including, but not limited to, the following:

18 (1) California halibut.

19 (2) Sea cucumber.

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

21 (c) Commencing April 1, 2006, except as described in
22 subdivision (d), all vessels using bottom trawl gear shall maintain
23 a bottom trawl permit that has not been suspended or revoked



1 expressly and that authorizes the use of that gear in a fishery. An
2 application for a bottom trawl permit for the 2006–07 season shall
3 be received by the department not later than January 1, 2006.

4 (1) A bottom trawl vessel permit shall be issued annually,
5 commencing with the permit for the 2006 permit year.
6 Commencing with the 2007–08 season, in order to be eligible for
7 a bottom trawl permit an applicant shall have previously held a
8 valid California bottom trawl permit.

9 (2) Permits issued under this section are not transferable, unless
10 the commission establishes a capacity reduction program under a
11 fishery management plan adopted pursuant to Chapter 5
12 (commencing with Section 7070) of Part 1.7.

13 (3) A bottom trawl vessel permit may be transferred to another
14 vessel owned by the same permitholder, if the vessel is of
15 comparable capacity, as determined by the department based on
16 the United States Coast Guard documentation papers, and if the
17 originally permitted vessel was lost, stolen, destroyed, or suffered
18 a major irreparable mechanical breakdown.

19 (4) The department may not issue a permit for a replacement
20 vessel if the department determines that the originally permitted
21 vessel was fraudulently reported as lost, stolen, destroyed, or
22 damaged.

23 (5) Only the permitholder at the time of the loss, theft,
24 destruction, or irreparable mechanical breakdown of a vessel may
25 apply to transfer the vessel permit. Evidence that a vessel is lost,
26 stolen, or destroyed shall be in the form of a copy of the report filed
27 with the United States Coast Guard, or any other law enforcement
28 agency or fire department that conducted an investigation of the
29 loss.

30 (6) Every vessel issued a bottom trawl permit is subject to the
31 requirements and policies of the federal groundfish observer
32 program (50 C.F.R. 660.360).

33 (d) The department shall consider any valid pink shrimp trawl
34 vessel permit or a valid sea cucumber trawl permit as the
35 equivalent of the bottom trawl permit described in subdivision (c)
36 and may not require any pink shrimp or sea cucumber trawl vessel
37 permitholder to obtain a bottom trawl permit pursuant to
38 subdivision (c). All other subdivisions in this section apply to pink
39 shrimp trawl and sea cucumber trawl permitholders.



1 (e) The commission shall establish trawl permit fees based on
2 the recommendations of the department, and utilizing the
3 guidelines outlined in subdivision (b) of Section 711 to cover the
4 costs of administering this section, including, but not limited to,
5 the cost of issuing permits, fishery observers, and collection and
6 analysis of essential fishery information.

7 (f) The department may not issue a bottom trawl permit
8 pursuant to this section for use in the halibut fishery unless that
9 vessel has landed a minimum of 100 pounds of California halibut
10 and reported that landing on fish tickets as being caught with
11 bottom trawl gear in at least three years of the years 1999 to 2003,
12 inclusive.

13 (g) The commission may not authorize additional fishing areas
14 for bottom trawls, unless the commission determines that adequate
15 evidence establishes that additional fishing areas are sustainable,
16 do not harm bottom habitat, and do not conflict with other users.

17 (h) It is unlawful to use roller gear more than eight inches in
18 diameter.

19 (i) Commencing April 1, 2006, it is unlawful to fish
20 commercially for prawns or pink shrimp, unless an approved
21 bycatch reduction device is used with each net. For the purposes
22 of this subdivision, a nordmore grate fish excluder device is the
23 approved bycatch reduction device, unless the commission, the
24 Pacific Fishery Management Council, or NOAA Fisheries
25 determines that a different type of fish excluder device is more
26 effective at reducing bycatch and adopts that device as an approved
27 bycatch reduction device through regulation.

28 (j) It is unlawful to tamper with bycatch reduction devices in a
29 manner that interferes with their ability to allow fish to escape
30 from the trawl net, except for testing of the bycatch reduction
31 device authorized by the department.

32 (k) It is unlawful to engage in bottom trawling in ocean waters
33 of the state.

34 (l) This section does not apply to the use of trawl nets pursuant
35 to a scientific research permit.

36 (m) The commission shall facilitate the conversion of bottom
37 trawlers to gear that is more sustainable if the commission
38 determines that conversion will not contribute to overcapacity or
39 overfishing. The commission may participate in and encourage
40 programs that support conversion to low-impact gear or capacity



1 reduction by trawl fleets. The department may not issue new
2 permits to bottom trawlers to replace any that are retired through
3 a conversion program.

4 (n) As soon as practicable, and not later than May 1, 2005, the
5 commission and the department shall submit to the Pacific Fishery
6 Management Council and NOAA Fisheries a request for federal
7 management measures for the pink shrimp fishery as the
8 commission and the department determine is needed to reduce
9 bycatch or protected habitat, to account for uncertainty, or to
10 otherwise ensure consistency with federal groundfish
11 management.

12 SEC. 2. Section 8495 of the Fish and Game Code is repealed.
13 ~~8495. The following area is designated as the California~~
14 ~~halibut trawl grounds:~~

15 ~~The ocean waters lying between one and three nautical miles~~
16 ~~from the mainland shore lying south and east of a line running due~~
17 ~~west (270° true) from Point Arguello and north and west of a line~~
18 ~~running due south (180° true) from Point Mugu.~~

19 SEC. 3. Section 8836 of the Fish and Game Code is repealed.
20 ~~8836. In Districts 17, 18, and 118.5, trawl nets may be used~~
21 ~~in waters not less than three nautical miles from the nearest point~~
22 ~~of land on the mainland shore, including those portions of~~
23 ~~Monterey Bay, Estero Bay, and San Luis Obispo Bay which lie~~
24 ~~within those districts.~~

25 SEC. 4. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

