

AMENDED IN SENATE MARCH 22, 2004

SENATE BILL

No. 1459

Introduced by Senator Alpert

February 19, 2004

An act to add Section 8841 to, and to repeal Sections 8495 and ~~8836~~ 8836.5 of, the Fish and Game Code, relating to fishing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1459, as amended, 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 *grant the Fish and Game Commission authority over all state-managed bottom trawl fisheries. The 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 must 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 *type of* 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~~ *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~~

This bill would repeal that provision.

(3) Existing law also designates specified fish and game districts, including District 18, 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. *Existing law, notwithstanding that limited authority, authorizes the use of trawl nets, except midwater trawl nets in that portion of District 18 between a line running due west from Yankee Point and a line running due west from*



Point Sur in water not less than one nautical mile from the nearest point of land on the mainland shore.

This bill would repeal ~~those provisions~~ *the additional authority relating to the use of trawl nets in those portions of District 18.*

~~(3) Existing~~

(4) *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~~

(5) *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~~

(6) *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 ~~8841. (a) The commission is hereby granted authority over~~
7 ~~all state-managed bottom trawl fisheries to ensure that resources~~
8 ~~are sustainably managed, to protect the health of ecosystems, and~~



1 to provide for an orderly transition to sustainable gear types in
2 situations where bottom trawling may not be compatible with
3 these goals.

4 (b) The commission is hereby granted authority to manage all
5 of the following fisheries, and all bottom trawl gear not currently
6 ~~managed by the National Oceanic and Atmospheric~~
7 ~~Administration (NOAA), National Marine Fisheries Service,~~
8 *managed under a federal fishery management plan pursuant to the*
9 *Magnuson-Stevens Fishery Conservation and Management Act*
10 *(16 U.S.C. 1801 et seq.),* consistent with the requirements of this
11 section and in accordance with the requirements of Part 1.7
12 (commencing with Section 7050), including, but not limited to, the
13 following:

14 (1) California halibut.

15 (2) Sea cucumber.

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

17 (c) Commencing April 1, 2006, except as described in
18 subdivision (d), all vessels using bottom trawl gear shall maintain
19 a bottom trawl permit that has not been suspended or revoked
20 expressly and that authorizes the use of that gear in a fishery. An
21 application for a bottom trawl permit for the 2006–07 season shall
22 be received by the department not later than January 1, 2006.

23 (1) A bottom trawl vessel permit shall be issued annually,
24 commencing with the permit for the 2006 permit year.
25 Commencing with the 2007–08 season, in order to be eligible for
26 a bottom trawl permit an applicant shall have previously held a
27 valid California bottom trawl permit.

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

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

38 (4) The department may not issue a permit for a replacement
39 vessel if the department determines that the originally permitted



1 vessel was fraudulently reported as lost, stolen, destroyed, or
2 damaged.

3 (5) Only the permit holder at the time of the loss, theft,
4 destruction, or irreparable mechanical breakdown of a vessel may
5 apply to transfer the vessel permit. Evidence that a vessel is lost,
6 stolen, or destroyed shall be in the form of a copy of the report filed
7 with the United States Coast Guard, or any other law enforcement
8 agency or fire department that conducted an investigation of the
9 loss.

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

13 (d) The department shall consider any valid pink shrimp trawl
14 vessel permit or a valid sea cucumber trawl permit as the
15 equivalent of the bottom trawl permit described in subdivision (c)
16 and may not require any pink shrimp or sea cucumber trawl vessel
17 permit holder to obtain a bottom trawl permit pursuant to
18 subdivision (c). All other subdivisions in this section apply to pink
19 shrimp trawl and sea cucumber trawl permit holders.

20 (e) *Every vessel issued a bottom trawl permit is subject to the*
21 *requirements and policies of the federal groundfish observer*
22 *program (50 C.F.R. 660.360).*

23 (f) The commission shall establish trawl permit fees based on
24 the recommendations of the department, and utilizing the
25 guidelines outlined in subdivision (b) of Section 711 to cover the
26 costs of administering this section, including, but not limited to,
27 the cost of issuing permits, fishery observers, and collection and
28 analysis of essential fishery information.

29 ~~(f)~~

30 (g) The department may not issue a bottom trawl permit
31 pursuant to this section for use in the halibut fishery unless that
32 vessel has landed a minimum of 100 pounds of California halibut
33 and reported that landing on fish tickets as being caught with
34 bottom trawl gear in at least three years of the years 1999 to 2003,
35 inclusive.

36 ~~(g)~~

37 (h) The commission may not authorize additional fishing areas
38 for bottom trawls, unless the commission determines that adequate
39 evidence establishes that additional fishing areas are sustainable,
40 do not harm bottom habitat, and do not conflict with other users.



1 ~~(h)~~

2 (i) It is unlawful to use roller gear more than eight inches in
3 diameter.

4 ~~(i)~~

5 (j) Commencing April 1, 2006, it is unlawful to fish
6 commercially for prawns or pink shrimp, unless an approved
7 bycatch reduction device is used with each net. For the purposes
8 of this subdivision, a ~~not more~~ *rigid* grate fish excluder device is
9 the approved *type of* bycatch reduction device, unless the
10 commission, the Pacific Fishery Management Council, or NOAA
11 Fisheries determines that a different type of fish excluder device
12 is more effective at reducing bycatch and adopts that device as an
13 approved bycatch reduction device through regulation.

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

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

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

22 (m) The commission shall facilitate the conversion of bottom
23 trawlers to gear that is more sustainable if the commission
24 determines that conversion will not contribute to overcapacity or
25 overfishing. The commission may participate in and encourage
26 programs that support conversion to low-impact gear or capacity
27 reduction by trawl fleets. The department may not issue new
28 permits to bottom trawlers to replace any that are retired through
29 a conversion program.

30 (n) As soon as practicable, and not later than May 1, 2005, the
31 commission and the department shall submit to the Pacific Fishery
32 Management Council and NOAA Fisheries a request for federal
33 management measures for the pink shrimp fishery as the
34 commission and the department determine is needed to reduce
35 bycatch or protected habitat, to account for uncertainty, or to
36 otherwise ensure consistency with federal groundfish
37 management.

38 SEC. 2. Section 8495 of the Fish and Game Code is repealed.

39 ~~SEC. 3. Section 8836 of the Fish and Game Code is repealed.~~



1 SEC. 3. Section 8836.5 of the Fish and Game Code is
2 repealed.

3 ~~8836.5. Notwithstanding Section 8836, trawlnets, except~~
4 ~~midwater trawlnets, may be used in that portion of District 18~~
5 ~~between a line running due west from Yankee Point and a line~~
6 ~~running due west from Point Sur in waters not less than one~~
7 ~~nautical mile from the nearest point of land on the mainland shore.~~

8 SEC. 4. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

