

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE APRIL 19, 2004

AMENDED IN SENATE MARCH 22, 2004

**SENATE BILL**

**No. 1459**

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**Introduced by Senator Alpert**  
(Coauthor: Assembly Member Harman)

February 19, 2004

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An act to amend ~~Section 13220 of~~, to add Section 8841 to, and to repeal Sections 8495 and 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 not managed under a federal or state fishery management plan. The bill would require, commencing April 1, 2006, all vessels using bottom trawl gear, except those with a valid pink shrimp trawl permit or a valid sea cucumber trawl permit, to

maintain a current bottom trawl permit. The bill 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 require the commission to establish trawl permit fees, as specified. The bill would prohibit the transfer of bottom trawl permits, except to another vessel owned by the permitholder, provided 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 authorize the transfer of bottom trawl permits when the commission adopts a capacity reduction program under an adopted fishery management plan. The bill would require the department to consider any valid pink shrimp trawl permit or any valid sea cucumber trawl permit as the equivalent of the bottom trawl permit.

The bill would authorize holders of federal groundfish trawl permits to retain and land less than 100 pounds of halibut without a halibut trawl permit in accordance with federal and state regulations, would prohibit issuance of bottom trawl permits in the habitat fishery except for vessels meeting prescribed criteria, and would prohibit transfer of these permits before a capacity reduction plan is adopted for that fishery.

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.

The bill would require the 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.

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 the additional authority relating to the use of trawl nets in those portions of District 18.

(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.

(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.

(6) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department for payment of refunds of sums it determines have been erroneously deposited in the fund and for the payment of all necessary expenses incurred in carrying out the Fish and Game Code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish, and to the Fish and Game Commission to pay the compensation and expenses of the commissioners and employees of the commission.

~~This bill would instead, commencing with the 2005–06 fiscal year, make the money in the Fish and Game Preservation Fund available for~~



~~expenditure by the department and the commission only upon appropriation by the Legislature for those purposes.~~

By expanding the parameters of, and imposing new duties on, the commission and the department, and by increasing fine revenues to be deposited in the currently 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 commission is hereby granted authority over  
4 all state-managed bottom trawl fisheries not managed under a  
5 federal fishery management plan pursuant to the  
6 Magnuson-Stevens Fishery Conservation and Management Act  
7 (16 U.S.C. Sec. 1801 et seq.) or a state fishery management plan  
8 pursuant to the Marine Life Management Act (Chapter 1052 of the  
9 Statutes of 1998), to ensure that resources are sustainably  
10 managed, to protect the health of ecosystems, and to provide for  
11 an orderly transition to sustainable gear types in situations where  
12 bottom trawling may not be compatible with these goals.

13 (b) The commission is hereby granted authority to manage all  
14 of the following fisheries in a manner that is consistent with the  
15 requirements of this section and in accordance with the  
16 requirements of Part 1.7 (commencing with Section 7050),  
17 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 (e), all vessels using bottom trawl gear in  
23 state-managed bottom trawl fisheries, as described in subdivision  
24 (a), shall maintain a bottom trawl permit that has not been  
25 suspended or revoked expressly and that authorizes the use of that  
26 gear in a fishery. An application for a bottom trawl permit for the  
27 2006–07 season shall be received by the department not later than  
28 January 1, 2006.



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

6 (2) Permits issued under this section, except those pink shrimp  
7 trawl or sea cucumber trawl permits described in subdivision (e),  
8 may become transferable when the commission adopts a capacity  
9 reduction program pursuant to Chapter 5 (commencing with  
10 Section 7070) of Part 1.7 in a manner that is consistent with any  
11 regulations adopted pursuant to that capacity reduction program.

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

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

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

29 (6) A permit issued in the halibut trawl fishery may not be  
30 transferred until a capacity reduction program is adopted for that  
31 fishery pursuant to paragraph (2).

32 (d) The department may not issue a bottom trawl permit  
33 pursuant to this section for use in the halibut fishery unless that  
34 vessel has landed a minimum of 100 pounds of California halibut  
35 and reported that landing on fish tickets as being caught with  
36 bottom trawl gear in at least three years of the years 1995 to 2003,  
37 inclusive.

38 (e) The department shall consider any valid pink shrimp trawl  
39 permit or a valid sea cucumber trawl permit as the equivalent of  
40 the bottom trawl permit described in subdivision (c) and may not



1 require any pink shrimp or sea cucumber trawl permit holder to  
2 obtain a bottom trawl permit pursuant to subdivision (c). All other  
3 subdivisions in this section apply to pink shrimp trawl and sea  
4 cucumber trawl permit holders.

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

8 (g) The commission shall establish trawl permit fees based on  
9 the recommendations of the department, and utilizing the  
10 guidelines outlined in subdivision (b) of Section 711 to cover the  
11 costs of administering this section.

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

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

18 (j) Commencing April 1, 2006, it is unlawful to fish  
19 commercially for prawns or pink shrimp, unless an approved  
20 bycatch reduction device is used with each net. For the purposes  
21 of this subdivision, a rigid grate fish excluder device is the  
22 approved type of bycatch reduction device, unless the  
23 commission, the Pacific Fishery Management Council, or NOAA  
24 Fisheries determines that a different type of fish excluder device  
25 has an equal or greater effectiveness at reducing bycatch.

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

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

30 (m) The commission shall facilitate the conversion of bottom  
31 trawlers to gear that is more sustainable if the commission  
32 determines that conversion will not contribute to overcapacity or  
33 overfishing. The commission may participate in and encourage  
34 programs that support conversion to low-impact gear or capacity  
35 reduction by trawl fleets. The department may not issue new  
36 permits to bottom trawlers to replace any that are retired through  
37 a conversion program.

38 (n) As soon as practicable, and not later than May 1, 2005, the  
39 commission and the department shall submit to the Pacific Fishery  
40 Management Council and NOAA Fisheries a request for federal



1 management measures for the pink shrimp fishery as the  
2 commission and the department determine is needed to reduce  
3 bycatch or protected habitat, to account for uncertainty, or to  
4 otherwise ensure consistency with federal groundfish  
5 management.

6 (o) Individuals holding a federal groundfish trawl permit may  
7 retain and land less than 100 pounds of halibut without a halibut  
8 trawl permit in accordance with federal and state regulations,  
9 including regulations developed under a halibut fishery  
10 management plan.

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

12 SEC. 3. Section 8836.5 of the Fish and Game Code is  
13 repealed.

14 ~~SEC. 4. Section 13220 of the Fish and Game Code is amended~~  
15 ~~to read:~~

16 ~~13220. Except as provided in Section 13230, the money in the~~  
17 ~~Fish and Game Preservation Fund, commencing with the 2005-06~~  
18 ~~fiscal year, is available for expenditure, upon appropriation by the~~  
19 ~~Legislature, for all of the following purposes:~~

20 ~~(a) To the department for payment of refunds of sums~~  
21 ~~determined by it to have been erroneously deposited in the fund,~~  
22 ~~including, but not limited to, money received or collected in~~  
23 ~~payment of fees, licenses, permits, taxes, fines, forfeitures, or~~  
24 ~~services.~~

25 ~~(b) To the department for expenditure in accordance with law~~  
26 ~~for the payment of all necessary expenses incurred in carrying out~~  
27 ~~this code and any other laws for the protection and preservation of~~  
28 ~~birds, mammals, reptiles, and fish.~~

29 ~~(c) To the commission for expenditure in accordance with law~~  
30 ~~for the payment of the compensation and expenses of the~~  
31 ~~commissioners and employees of the commission.~~

32 ~~SEC. 5.~~

33 SEC. 4. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within



1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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