

AMENDED IN ASSEMBLY JUNE 5, 2008

AMENDED IN SENATE MARCH 26, 2007

**SENATE BILL**

**No. 899**

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**Introduced by Senator Simitian**

February 23, 2007

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~~An act to add Chapter 11 (commencing with Section 108930) to Part 3 of Division 104 of the Health and Safety Code, relating to toxic materials. An act to add Section 5523 to the Fish and Game Code, relating to fishing.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 899, as amended, Simitian. ~~Toxic packaging materials. Fishing gear.~~

*(1) Existing law grants to the Fish and Game Commission powers relating to the protection and propagation of fish and game. Existing law establishes the Department of Fish and Game in the Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code. The department administers a commercial fishing licensing program and carries out various other functions relating to fishing.*

*This bill would require the department, by January 1, 2010, to recommend to the commission sustainable funding sources for a program for the prevention of the loss of fishing gear and for the recovery of derelict fishing gear, as defined. The department would be required, by January 1, 2010, to include on all fishing licenses and in all appropriate official brochures a toll-free telephone number for the purpose of reporting derelict fishing gear and the address for an Internet Web site that maintains a reporting system for derelict fishing gear. The bill, on and after July 1, 2011, would require a person who loses*

commercial fishing gear, and certain commercial passenger fishing vessels, to report, in the manner prescribed by the department, the location and type of fishing gear within 48 hours of the loss. By July 1, 2011, the department would be required to establish and maintain, or support, a database of known derelict fishing gear. The department would be required to take certain action to establish or achieve specified targets for the removal and disposal of derelict fishing gear. On and after July 1, 2011, all traps and trawl nets deployed in the waters of the state would be required to be coded with specified information to aid in the identification of the source of any derelict fishing gear. The bill would provide that, if the department does not have sufficient personnel to carry out these provisions, the department would be required to contract with appropriate parties for those services if funds are available for that purpose.

Because, under existing law, a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(2) 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.

~~Existing law generally prohibits the manufacture, processing, or distribution in commerce, of a product containing more than a specified amount of polybrominated diphenyl ether (PBDES).~~

~~This bill would enact the “Toxic Free Oceans Act of 2007” and would prohibit, on and after June 1, 2015, a person from manufacturing, processing, or distributing in commerce plastic packaging containing toxic materials, as defined.~~

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Ocean-based sources are a significant source of plastic
- 4 marine debris, including lost and abandoned “derelict” fishing
- 5 gear that can be dangerous to wildlife, boaters, and divers.

1 (b) Fishing gear such as commercial and recreational nets,  
2 lines, traps, pots, and other fishing equipment that is lost or  
3 abandoned may continue to catch marine organisms long after  
4 the gear is lost and may threaten sensitive marine habitats and  
5 ecosystems.

6 (c) “Ghost fishing,” where marine animals are trapped in lost  
7 or abandoned nets or traps, is a lead cause of marine mammal  
8 deaths each year.

9 (d) Lost or abandoned nets and gear have been found to drift  
10 thousands of miles trapping and killing fish, turtles, seabirds, and  
11 other marine life.

12 (e) Marine debris such as derelict fishing gear has impacted at  
13 least 267 species worldwide through ingestion and entanglement.

14 (f) Fishing nets and fishing gear are often made from synthetic  
15 materials that take a long time to degrade and may never degrade.

16 (g) Lost fishing gear poses a hazard and economic burden for  
17 boaters and fishing operations and is a safety hazard for surfers,  
18 swimmers, and divers.

19 (h) The California Lost Fishing Gear Recovery Project has  
20 developed a strategy to address derelict fishing gear by working  
21 cooperatively with fishermen and local leaders for the recovery  
22 of gear and the prevention of further gear losses. Through a pilot  
23 program for gear removal, the recovery project retrieved nearly  
24 10 tons of gear from around the Channel Islands in May 2006.

25 SEC. 2. Section 5523 is added to the Fish and Game Code, to  
26 read:

27 5523. (a) For purposes of this section, the following terms  
28 have the following meanings:

29 (1) “Commercial fishing gear” means fishing gear used by a  
30 commercial fisherman who has a valid, unrevoked commercial  
31 fishing license issued pursuant to Section 7850.

32 (2) “Commercial passenger fishing vessel” means a boat from  
33 which persons are allowed to sport fish pursuant to a commercial  
34 fishing license.

35 (3) “Derelict fishing gear” means lost or abandoned fishing  
36 nets, fishing lines, and other commercial and recreational fishing  
37 equipment, and does not include lost or abandoned vessels.

38 (4) “Fishing gear” means fishing nets, fishing lines, and other  
39 commercial and recreational fishing equipment.

1 (b) The department may apply for, and accept, funds from local,  
2 state, federal, and private sources to establish and implement a  
3 fishing gear loss prevention and derelict fishing gear recovery  
4 program, or to facilitate and support an existing program.

5 (c) The department, on or before January 1, 2010, shall  
6 recommend to the commission sustainable funding sources for a  
7 fishing gear loss prevention and derelict fishing gear recovery  
8 program. The recommended funding sources may include the  
9 adoption of fees, and the imposition of penalties on persons having  
10 significant and chronic gear loss and those not reporting lost gear  
11 pursuant to subdivision (e), to assist in defraying the cost of the  
12 program.

13 (d) The department, on or before January 1, 2010, shall include  
14 the following information on all fishing licenses and in all  
15 appropriate official brochures:

16 (1) A toll-free telephone number for the purpose of reporting  
17 derelict fishing gear.

18 (2) The address for an Internet Web site that maintains a  
19 reporting system for derelict fishing gear.

20 (e) On and after July 1, 2011, a person who loses commercial  
21 fishing gear, and a commercial passenger fishing vessel operator  
22 on which vessel five or more passengers have lost fishing gear at  
23 the same location, within the waters of the state and offshore shall  
24 report, in the manner that the department shall prescribe by  
25 regulation, the location, including latitude and longitude, and type  
26 of lost fishing gear within 48 hours of losing the fishing gear.

27 (f) On or before July 1, 2011, the department shall establish  
28 and maintain, or support, a database of known derelict fishing  
29 gear, including the location and type of derelict fishing gear. The  
30 department shall identify on its Internet Web site areas in which  
31 large amounts of derelict fishing gear have been abandoned.

32 (g) On or before January 1, 2012, and annually thereafter, the  
33 department shall prioritize the derelict fishing gear that has been  
34 reported and identified for removal and disposal, to achieve the  
35 target reductions for derelict fishing gear removal and disposal  
36 established by the Ocean Protection Council pursuant to Section  
37 35615 of the Public Resources Code. If, on or before January 1,  
38 2010, the Ocean Protection Council has not established those  
39 targets, the department shall establish target reductions for the  
40 removal and disposal of derelict fishing gear.

1 (h) On and after July 1, 2011, all traps and trawl nets deployed  
2 in waters of the state shall be tagged or coded with the fisherman's  
3 identification to aid in the identification of the source of derelict  
4 fishing gear.

5 (i) If the department does not have sufficient personnel available  
6 to carry out this section, the department shall contract with  
7 appropriate parties for those services if funds are available for  
8 that purpose.

9 SEC. 3. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.

18 SECTION 1. ~~Chapter 11 (commencing with Section 108930)~~  
19 ~~is added to Part 3 of Division 104 of the Health and Safety Code,~~  
20 ~~to read:~~

21

22 CHAPTER 11. TOXIC FREE OCEANS ACT OF 2007

23

24 ~~108930. (A) The Legislature finds and declares all of the~~  
25 ~~following:~~

26 ~~(1) Marine debris pollutes the state's waterways and beaches~~  
27 ~~and harms the state's "ocean economy" which is valued at~~  
28 ~~forty-three billion dollars (\$43,000,000,000).~~

29 ~~(2) According to the Ocean Protection Council, despite global~~  
30 ~~treaties and state and federal laws to prevent dumping in~~  
31 ~~waterways, the quantity of marine debris in the world's oceans is~~  
32 ~~increasing, and 60 to 80 percent of all marine debris is plastic.~~

33 ~~(3) According to the California Coastal Commission, plastic~~  
34 ~~marine debris is responsible for injuring or killing at least 267~~  
35 ~~species world-wide, including 86 percent of all sea turtle species,~~  
36 ~~44 percent of all sea bird species, and 43 percent of marine mammal~~  
37 ~~species.~~

38 ~~(4) Because plastic can take more than a hundred years to break~~  
39 ~~down, it can present a persistent and cumulative threat to our~~  
40 ~~oceans and their inhabitants.~~

1 ~~(5) Plastic contains chemicals that may pollute the water,~~  
2 ~~contaminate marine life, and can present a threat to human health.~~

3 ~~(6) According to the California Coastal Commission, almost~~  
4 ~~every marine organism, from the tiniest plankton to whales and~~  
5 ~~polar bears, is contaminated with man-made chemicals, such as~~  
6 ~~those chemicals used in consumer products, including plastics.~~

7 ~~(7) In recognition of the severity of the marine debris problem,~~  
8 ~~on February 8, 2007, the Ocean Protection Council adopted a~~  
9 ~~comprehensive resolution on marine debris that outlines specific~~  
10 ~~actions for California to prevent and reduce marine debris,~~  
11 ~~including a provision to plan for the phased ban of toxic plastic~~  
12 ~~packaging.~~

13 ~~(b) This chapter may be known, and shall be cited, as the “Toxic~~  
14 ~~Free Oceans Act of 2007.”~~

15 ~~108931. For purposes of this chapter, the following definitions~~  
16 ~~shall apply:~~

17 ~~(a) “Plastic packaging” means any plastic package having a~~  
18 ~~relatively inflexible finite shape or form, with a minimum capacity~~  
19 ~~of eight fluid ounces or its equivalent volume and a maximum~~  
20 ~~capacity of five fluid gallons or its equivalent volume, that is~~  
21 ~~capable of maintaining its shape while holding other products,~~  
22 ~~including, but not limited to, bottles, cartons, and other receptacles,~~  
23 ~~for sale or distribution in the state.~~

24 ~~(b) “Toxic material” means a material that contains styrene,~~  
25 ~~bisphenol-A, perfluorooctanoic acid, vinyl chloride, nonylphenol,~~  
26 ~~or alkylphenol.~~

27 ~~108932. On and after January 1, 2015, a person shall not~~  
28 ~~manufacture, process, or distribute in commerce any plastic~~  
29 ~~packaging that contains a toxic material.~~