

Assembly Bill No. 1217

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

Passed the Senate September 2, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 35550 and 35650 of, and to add Section 35617 to, the Public Resources Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1217, Monning. Ocean Protection Council: sustainable seafood.

The California Ocean Protection Act establishes the Ocean Protection Council in state government and provides that the council consists of the Secretary of the Natural Resources Agency, the Secretary for Environmental Protection, the Chair of the State Lands Commission, and 2 public members appointed by the Governor. The act requires the council, among other things, to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems and to establish policies to coordinate the collection and sharing of scientific data related to coast and ocean resources between agencies.

The act also creates the California Ocean Protection Council Trust Fund in the State Treasury and authorizes moneys deposited in the fund, upon appropriation by the Legislature, to be expended by the council for projects and activities authorized by the council consistent with the purposes of the act.

This bill would require the council to develop and implement a specified voluntary sustainable seafood promotion program. The program would, among other things, consist of a protocol to guide entities on how to be independently certified to internationally accepted standards for sustainable seafood, as defined, a marketing assistance program, and a competitive grant and loan program. It would prohibit seafood produced through aquaculture or fish farming from being certified as sustainable under these provisions until nationally or internationally accepted sustainability standards have been developed and implemented.

The bill also would provide that moneys in the trust fund may be expended for grants or loans to a private entity for projects or

activities that further public purposes consistent with the voluntary sustainable seafood promotion program.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the Legislature's intent in enacting this act to encourage California fisheries to seek certification in accordance with internationally accepted standards for sustainability and to promote the purchase and consumption of certified California sustainable seafood.

(b) The world's oceans provide the people of California with a wealth of ecological resources, including seafood.

(c) Unsustainable fishing practices can have adverse consequences on ocean ecosystems, placing wildlife and resources at risk.

(d) Within the commercial fishing sector there are a variety of existing methods and practices that can reduce the environmental impacts of seafood production.

(e) California fisheries have been at the forefront of efforts to protect and restore fish stocks and engage in responsible and sustainable fishing practices.

(f) Internationally accepted standards for sustainable seafood have been developed and implemented; however, no such standards have yet been developed or implemented for aquaculture or fish farming.

(g) Market-based approaches informed by consumer demand, including product differentiation, labeling, and marketing, can provide incentives to improve the sustainability of seafood production.

(h) The State of California is a major producer and consumer of seafood that is marketed in the United States and abroad.

(i) Some California fisheries have adopted sustainable practices consistent with internationally accepted standards and should be recognized in the marketplace and others should be encouraged to do so.

SEC. 2. Section 35550 of the Public Resources Code is amended to read:

35550. Unless the context requires otherwise, the following definitions govern this division:

(a) “Council” means the Ocean Protection Council established pursuant to Section 35600.

(b) “Fund” means the California Ocean Protection Trust Fund established pursuant to Section 35650.

(c) “Internationally accepted standards for sustainable seafood” means standards that meet all of the following criteria:

(1) Meet or exceed the Guidelines for the Ecolabeling of Fish and Fishery Products from Marine Capture Fisheries promulgated by the Food and Agriculture Organization of the United Nations (FAO).

(2) Conform to all of the following principles:

(A) A fishery must be conducted in a manner that does not lead to overfishing or depletion of the exploited populations and, for those populations that are depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery.

(B) Fishing operations should allow for the maintenance of the structure, productivity, function, and diversity of the ecosystem, including habitat and associated dependent and ecologically related species on which the fishery depends.

(C) The fishery is subject to an effective management system that respects local, national, and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable.

(d) “Public agency” means a city, county, city and county, district, or the state or any agency or department of the state.

(e) “Sustainable” and “sustainability” mean both of the following:

(1) Continuous replacement of resources, taking into account fluctuations in abundance and environmental variability.

(2) Securing the fullest possible range of present and long-term economic, social, and ecological benefits, while maintaining biological diversity.

SEC. 3. Section 35617 is added to the Public Resources Code, to read:

35617. (a) The Ocean Protection Council shall develop and implement a voluntary sustainable seafood promotion program for the state.

(b) The program shall consist of all of the following:

(1) A protocol to guide entities on how to be independently certified to internationally accepted standards for sustainable seafood. The protocol must be developed in a transparent process and adopted by the council in a public meeting. The council shall identify in a public document that the provisions of subdivision (c) of Section 35550 have been met.

(2) (A) A marketing assistance program for seafood caught in California that is independently certified to internationally accepted standards for sustainable seafood. The council shall consult with the Department of Food and Agriculture in implementing this paragraph.

(B) Consistent with subparagraph (A), the marketing assistance program shall consist of competitive grants and loans for discrete and limited activities to benefit participants in the fishing industry in California.

(3) A competitive grant and loan program, only in years in which funds are appropriated by the Legislature to the California Ocean Protection Trust Fund, for eligible entities, including, but not limited to, fishery groups and associations, for the purpose of assisting California fisheries in qualifying for certification to internationally accepted standards for sustainable seafood. This program may be implemented in coordination with other state and private programs to maximize its effectiveness.

(4) The design of a label or labels that may be used exclusively to identify seafood caught in California that is certified to internationally accepted standards as sustainable seafood.

(c) Seafood produced through aquaculture or fish farming shall not be certified as sustainable under this division until nationally or internationally accepted sustainability standards have been developed and implemented.

SEC. 4. Section 35650 of the Public Resources Code is amended to read:

35650. (a) The California Ocean Protection Trust Fund is established in the State Treasury.

(b) Moneys deposited in the fund may be expended, upon appropriation by the Legislature, for both of the following:

(1) Projects and activities authorized by the council consistent with Chapter 3 (commencing with Section 35600).

(2) Upon authorization by the council, for grants or loans to public agencies, nonprofit corporations, or private entities for, or

direct expenditures on, projects or activities that do one or more of the following:

(A) Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and species.

(B) Improve the management of fisheries through grants or loans for the development and implementation of fishery management plans pursuant to Part 1.7 (commencing with Section 7050) of Division 6 of the Fish and Game Code, a part of the Marine Life Management Act of 1998, that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability. Eligible projects and activities include, but are not limited to, innovative community-based or cooperative management and allocation strategies that create incentives for ecosystem improvement. Eligible expenditures include, but are not limited to, costs related to activities identified in subdivisions (a), (b), and (d) of Section 7075 of the Fish and Game Code, fishery research, monitoring, data collection and analysis to support adaptive management, and other costs related to the development and implementation of a fishery management plan developed pursuant to this subparagraph.

(C) Foster sustainable fisheries, including grants or loans for one or more of the following:

(i) Projects that encourage the development and use of more selective fishing gear.

(ii) The design of community-based or cooperative management mechanisms that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability.

(iii) Collaborative research and demonstration projects between fishery participants, scientists, and other interested parties.

(iv) Promotion of value-added wild fisheries to offset economic losses attributable to reduced fishing opportunities.

(v) The creation of revolving loan programs for the purpose of implementing sustainable fishery projects.

(D) Improve coastal water quality.

(E) Allow for increased public access to, and enjoyment of, ocean and coastal resources, consistent with sustainable, long-term protection and conservation of those resources.

(F) Improve management, conservation, and protection of coastal waters and ocean ecosystems.

(G) Provide monitoring and scientific data to improve state efforts to protect and conserve ocean resources.

(H) Protect, conserve, and restore coastal waters and ocean ecosystems, including any of the following:

(i) Acquisition, installation, and initiation of monitoring and enforcement systems.

(ii) Acquisition from willing sellers of vessels, equipment, licenses, harvest rights, permits, and other rights and property, to reduce threats to ocean ecosystems and resources.

(I) Address coastal water contamination from biological pathogens, including collaborative projects and activities to identify the sources of pathogens and develop detection systems and treatment methods.

(J) (i) Provide funding for adaptive management, planning, coordination, monitoring, research, and other necessary activities to minimize the adverse impacts of climate change on California's ocean ecosystem, including, but not limited to, the effects of sea level rise, changes in ocean productivity, and ocean acidification on coastal and ocean habitat, wildlife, fisheries, chemistry, and other key attributes of ocean ecosystems and to increase the state's understanding of the ocean's role in carbon sequestration. Adaptive management strategies, planning, research, monitoring, or other activities shall be designed to improve the management of coastal and ocean resources or aid the state to adapt to climate change impacts.

(ii) Information or activities developed under clause (i), to the extent appropriate, shall provide guidance to the State Air Resources Board for the adoption of early action measures for the elimination or reduction of emissions from sources or categories of sources pursuant to the California Global Warming Solutions Act (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(c) Grants or loans may be made to a private entity pursuant to this section only for projects or activities that further public purposes consistent with Sections 35510, 35515, and 35617.

(d) Consistent with the purposes specified in Section 35515, and in furtherance of the findings in Sections 7059 and 7060 of the Fish and Game Code, the council, in authorizing grants or loans

for projects or expenditures pursuant to this section, shall promote coordination of state programs and activities that protect and conserve ocean resources to avoid redundancy and conflicts to ensure that the state's programs and activities are complementary.

Approved _____, 2009

Governor