

AMENDED IN SENATE MAY 19, 2009

SENATE BILL

No. 670

Introduced by Senator Wiggins

(Principal coauthor: Assembly Member Huffman)

(Coauthor: Senator Wolk)

(Coauthors: Assembly Members Evans and Jones)

February 27, 2009

An act to add Section 5653.1 to the Fish and Game Code, relating to dredging, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 670, as amended, Wiggins. Vacuum or suction dredge equipment.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Game. Under existing law, it is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges. A violation of the permit requirement is a misdemeanor. The department is authorized to close areas otherwise open for dredging and for which permits have been issued if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources. Existing law requires the department to adopt regulations to implement certain of the vacuum or suction dredge equipment requirements and authorizes the department to issue regulations with respect to other requirements. Existing law requires that the regulations be adopted in accordance with the requirements of the California Environmental Quality Act (CEQA).

CEQA requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental

impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. The act exempts from its provisions, among other things, certain types of ministerial projects proposed to be carried out or approved by public agencies, and emergency repairs to public service facilities necessary to maintain service.

This bill would prohibit the use of any vacuum or suction dredge equipment in any river, stream, or lake until the director of the department certifies to the Secretary of State that (1) the department has completed an environmental review of its existing vacuum or suction dredge equipment regulations as ordered by the court in a specified court action, (2) the department has transmitted for filing with the Secretary of State a certified copy of new regulations, *as necessary*, and (3) the new regulations are operative.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 5653.1 is added to the Fish and Game
2 Code, to read:
3 5653.1. ~~(a) (1) The program of the department governing the~~
4 ~~issuance of permits to operate vacuum or suction dredge equipment~~
5 ~~is a project pursuant to the California Environmental Quality Act~~
6 ~~(Division 13 (commencing with Section 21000) of the Public~~
7 ~~Resources Code) and may proceed only if the department has~~
8 ~~caused to be prepared, and certified the completion of, a~~
9 ~~programmatic environmental impact report on the project.~~
10 (2) ~~The issuance of permits pursuant to Section 5630 is not a~~
11 ~~ministerial act pursuant to the California Environmental Quality~~
12 ~~Act (Division 13 (commencing with Section 21000) of the Public~~
13 ~~Resources Code), and permits shall not be issued by the department~~
14 ~~pursuant to the program when a subsequent or supplemental~~
15 ~~environmental impact report is required to be prepared and certified~~
16 ~~pursuant to Section 21166 of the Public Resources Code.~~
17 (3) ~~This subdivision does not constitute a change in, but is~~
18 ~~declaratory of, existing law.~~

1 5653.1. (a) *The issuance of permits to operate vacuum or*
2 *suction dredge equipment is a project pursuant to the California*
3 *Environmental Quality Act (Division 13 (commencing with Section*
4 *21000) of the Public Resources Code) and permits may only be*
5 *issued, and vacuum or suction dredge mining may only occur as*
6 *authorized by any existing permit, if the department has caused*
7 *to be prepared, and certified the completion of, an environmental*
8 *impact report for the project pursuant to the court order and*
9 *consent judgment entered in the case of Karuk Tribe of California*
10 *et al. v. California Department of Fish and Game et al., Alameda*
11 *County Superior Court Case No. RG 05211597.*

12 (b) Notwithstanding Section 5653, the use of any vacuum or
13 suction dredge equipment in any river, stream, or lake of this state
14 is prohibited until the director certifies to the Secretary of State
15 that all of the following have occurred:

16 (1) The department has completed the environmental review of
17 its existing suction dredge mining regulations, as ordered by the
18 court in the case of Karuk Tribe of California et al. v. California
19 Department of Fish and Game et al., Alameda County Superior
20 Court Case No. RG 05211597.

21 (2) The department has transmitted for filing with the Secretary
22 of State pursuant to Section 11343 of the Government Code, a
23 certified copy of ~~the new regulations adopted~~ *new regulations*
24 *adopted, as necessary*, pursuant to Chapter 3.5 (commencing with
25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
26 Code, ~~whichever occurs first.~~

27 (3) The new regulations *described in paragraph (2)* are
28 operative.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 ~~The Department of Fish and Game is issuing permits for the~~
34 ~~operation of vacuum or suction dredging equipment in violation~~
35 ~~of a court order and the California Environmental Quality Act and~~
36 ~~threatens water quality and at-risk fish and other species.~~

37 *The Legislature finds that suction or vacuum dredge mining*
38 *results in various adverse environmental impacts to protected fish*
39 *species, the water quality of this state, and the health of the people*
40 *of this state, and, in order to protect the environment and the*

1 *people of California pending the completion of a court-ordered*
2 *environmental review by the Department of Fish and Game and*
3 *the operation of new regulations, as necessary, it is necessary that*
4 *this act take effect immediately.*

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