

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Huffman

February 18, 2011

An act to add Chapter 9 (commencing with Section 7095) to Part 1.7 of Division 6 of the Fish and Game Code, relating to marine fisheries.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as introduced, Huffman. Marine fisheries: forage species.

Existing law, enacted as part of the Marine Life Management Act of 1998, generally establishes a comprehensive plan for the management of marine life resources. Existing law requires the Department of Fish and Game to develop a fishery management master plan, and provides for the preparation and approval of fishery management plans, which form the primary basis for managing California's sport and commercial marine fisheries.

This bill would enact the Forage Species Conservation and Management Act of 2011. The act would state the policy of the state with regard to forage species, as defined. The act would require management decisions of, and regulations promulgated by, the department, including, but not limited to, new fishery management plans and amendments to existing fishery management plans to be consistent with that policy. The bill would require state representatives on the Pacific Fishery Management Council and in similar roles to advocate for policies and management consistent with that policy. The bill would require the Fish and Game Commission to restrict the development of an emerging fishery, or the expansion of an existing fishery, for a forage species, unless it makes specified findings.

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

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

1 SECTION 1. Chapter 9 (commencing with Section 7095) is
2 added to Part 1.7 of Division 6 of the Fish and Game Code, to
3 read:

4

5 CHAPTER 9. FORAGE SPECIES

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7 7095. This chapter shall be known, and may be cited, as the
8 Forage Species Conservation and Management Act of 2011.

9 7096. The Legislature finds and declares all of the following:

10 (a) Forage species are an integral part of the California Current
11 Large Marine Ecosystem and are of great ecological, economic,
12 aesthetic, recreational, educational, scientific, nutritional, social,
13 and historic importance to the people of California.

14 (b) Populations of forage species lack baseline scientific data
15 and face a multitude of risks, including, but not limited to, ocean
16 acidification, pollution, overfishing, global climate change, and
17 demand for feeds in the agriculture and aquaculture industries.

18 7097. As used in this chapter:

19 (a) “Ecosystem-based management” means a management
20 approach that recognizes the full array of interactions within an
21 ecosystem, including humans, rather than considering single issues,
22 species, or ecosystem services in isolation.

23 (b) “Emerging fishery,” in regard to a marine fishery, means
24 both of the following:

25 (1) A fishery that the director has determined is an emerging
26 fishery, based on criteria that are approved by the commission and
27 are related to a trend of increased landings or participants in the
28 fishery and the degree of existing regulation of the fishery.

29 (2) A fishery that is not an established fishery. “Established
30 fishery,” in regard to a marine fishery, means, prior to January 1,
31 1999, one or more of the following:

32 (A) A restricted access fishery that has been established in this
33 code or in regulations adopted by the commission.

1 (B) A fishery, for which a federal fishery management plan
2 exists, and in which the catch is limited within a designated time
3 period.

4 (C) A fishery for which a population estimate and catch quota
5 is established annually.

6 (D) A fishery for which regulations for the fishery are considered
7 at least biennially by the commission.

8 (E) A fishery for which this code or regulations adopted by the
9 commission prescribes at least two management measures
10 developed for the purpose of sustaining the fishery. Management
11 measures include minimum or maximum size limits, seasons, time,
12 gear, area restriction, and prohibition on sale or possession of fish.

13 (c) “Existing fisheries” means fisheries that, as of January 1,
14 2012, are prosecuted in the state waters of California or subject to
15 management by the department in which forage species are targeted
16 or are a major component of the catch.

17 (d) “Forage species” means any fish or invertebrate species that
18 contributes significantly to the diets of fish, birds, mammals, or
19 turtles, or otherwise contributes disproportionately to ecosystem
20 function and resilience due to its role as prey.

21 (e) “Precautionary approach” means that if an action or policy
22 has the potential of causing harm to public resources, in the absence
23 of scientific consensus, the burden of proof is on the proposer of
24 the action to show the lack of harm before an action or policy is
25 implemented. If there is a threat of serious or irreversible damage
26 to a forage species or an ecosystem in which the forage species
27 plays a significant role, the lack of full scientific certainty shall
28 not constitute a reason to postpone cost-effective measures to
29 prevent environmental degradation.

30 (f) “Undeveloped fisheries” means potential fisheries for forage
31 species that are not currently pursued in state waters.

32 7098. (a) It is the policy of the state to ensure the conservation,
33 sustainable use, and, where feasible, restoration of California’s
34 forage species populations for the benefit of all citizens of the
35 state. The objective of this policy shall be to achieve
36 ecosystem-based management of marine forage species through
37 application of a precautionary approach that recognizes, prioritizes,
38 accounts for, and incorporates the ecological services rendered by
39 forage species. It is the further policy of this state, regarding
40 utilization of forage species landed in the state, to promote

1 increased human consumption prioritized over other uses, with
2 the goal of moving toward higher value products.

3 (b) (1) All management decisions of, and regulations
4 promulgated by, the department, including, but not limited to, new
5 fishery management plans and amendments to existing fishery
6 management plans, shall be consistent with the policy described
7 in subdivision (a).

8 (2) State representatives on the Pacific Fishery Management
9 Council and in similar roles shall advocate for policies and
10 management consistent with the policy described in subdivision
11 (a).

12 (3) The commission shall restrict the development of an
13 emerging fishery, or the significant expansion of an existing
14 fishery, for a forage species, unless it finds both of the following:

15 (A) There is robust scientific information on the population
16 status and ecosystem role of the forage species.

17 (B) The development or expansion of the fishery would not
18 have a negative impact on the forage species or the ecological
19 services rendered by the forage species in the larger ecosystem.