

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Fong and Ma)

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 amended, 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, *and submit to the Fish and Game Commission for its approval*, 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 and the Fish and Game Commission, including, but not limited to, new fishery management plans and amendments to existing fishery management plans that significantly affect an established or~~

~~emerging fishery, as defined, in which forage species are a significant component of the catch new fishery management plans and amendments to existing fishery management plans for forage species completed after January 1, 2012, to be consistent with that policy, to the extent that scientific data is readily available for that purpose. The bill would require department representatives on the Pacific Fishery Management Council and in other relevant intergovernmental processes to advocate for policies and management consistent with that policy and for a fair share of allocation to the California fisheries, using best available science in accordance with applicable federal laws. The bill would require the Fish and Game Commission to restrict the development of an emerging fishery or the expansion of an established fishery, where forage species are a significant component of the catch, 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
6

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) Forage species are important because they transfer energy
15 and nutrients from plankton to larger predatory fish, including
16 those that are a part of important commercial and recreational
17 fisheries, seabirds, and marine mammals, thereby contributing
18 disproportionately to the functioning and resilience of ocean
19 ecosystems.

20 (c) Many populations of forage species lack baseline scientific
21 data and face a multitude of risks, including, but not limited to,

1 ocean acidification, pollution, fishing pressure, global climate
2 change, and demand for feeds in the agriculture and aquaculture
3 industries.

4 (d) Most forage species have great nutritional value, including
5 high levels of certain long chain omega-3 polyunsaturated fatty
6 acids, which have been shown to reduce the risk of cardiac events
7 in adults and offer significant developmental benefits for pregnant
8 and nursing women and children.

9 (e) Regarding utilization of forage species landed in the state,
10 it is the intent of the Legislature to promote higher value uses for
11 these species, such as use for human consumption, over other uses.

12 (f) The department and the Ocean Protection Council are
13 encouraged to work together collaboratively, and coordinate with
14 appropriate federal agencies, to achieve the policy objectives of
15 this chapter, including conservation, sustainable use, and
16 ecosystem-based management of forage species, consistent with
17 the duties and responsibilities of the department under this part,
18 and the duties and responsibilities of the Ocean Protection Council
19 under Chapter 3 (commencing with Section 35600) of Division
20 26.5 of the Public Resources Code, including, but not limited to,
21 Section 35620 of the Public Resources Code.

22 (g) California's wetfish industry provides more than 3,000 jobs
23 in the fishing and processing sectors, contributing up to 95 percent
24 of the seafood volume landed in the ports of Monterey, Moss
25 Landing, Ventura, Port Hueneme, and Los Angeles, including San
26 Pedro and Terminal Island, and represents a cultural icon in those
27 fishing communities.

28 (h) Through their ecological roles, forage species support
29 California's ocean-based recreational and tourism sectors, including
30 recreational fisheries and other commercial fisheries, which
31 together provide over 250,000 jobs and generate approximately
32 \$12 billion annually to the state, maintaining a rich natural and
33 cultural heritage for current and future generations of California
34 citizens.

35 7097. As used in this chapter:

36 (a) "Ecosystem-based management" means a management
37 approach that recognizes the array of interactions within an
38 ecosystem, including humans, rather than considering single issues,
39 species, or ecosystem services in isolation.

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

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

~~(2) A fishery that is not an established fishery. “Established fishery,” in regard to a marine fishery, means, prior to January 1, 2012, one or more of the following:~~

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

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

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

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

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

~~(c) “Forage species” means both of the following:~~

~~(1) For an established fishery, Pacific herring (*Clupea pallasii*), Pacific sardine (*Sardinops sagax*), northern anchovy (*Engraulis mordax*), Pacific mackerel (*Scomber japonicus*), jack mackerel (*Trachurus symmetricus*), and market squid (*Doryteuthis opalescens*).~~

~~(2) For an emerging fishery, a planktivorous fish or invertebrate species.~~

(b) (1) “Forage species” includes Pacific herring (Clupea pallasii), Pacific sardine (Sardinops sagax), northern anchovy (Engraulis mordax), Pacific mackerel (Scomber japonicus), jack mackerel (Trachurus symmetricus), market squid (Doryteuthis opalescens), shortbelly rockfish (Sebastes jordani), smelts (Osmeridae), silversides (Antherinidae), lanternfish (Myctophidae), Pacific saury (Scomberesocidae); American shad (Alosa sapidissima), Pacific tomcod (Microgadus proximus), Pacific hake (Merluccius productus), sandlance (Ammodytidae),

1 *neon flying squid (Ommastrephes bartrami), boreal clubhook squid*
 2 *(Onychoteuthis borealijaponica), jellyfish (Medusozoa), mysid*
 3 *shrimp (Mysida), meso-zooplankton, and any species designated*
 4 *by the commission pursuant to paragraph (2).*

5 (2) *The commission may designate additional species as forage*
 6 *species, if it finds that a species comprises a major component in*
 7 *the diets of fish, birds, mammals, or turtles, and contributes*
 8 *disproportionately to ecosystem functions and resilience due to*
 9 *its role as prey.*

10 7098. (a) It is the policy of the state to ensure the conservation,
 11 sustainable use, and, where applicable, restoration of California's
 12 forage species populations, including their habitats and associated
 13 water quality, for the benefit of all citizens of the state. The
 14 objective of this policy shall be to achieve ecosystem-based
 15 management of marine forage species that recognizes, prioritizes,
 16 accounts for, and incorporates the ecological services rendered by
 17 forage species, including the dependence of predator species on
 18 those forage species.

19 ~~(b) (1) Commencing January 1, 2012, management decisions~~
 20 ~~of, and regulations promulgated by, the department and the~~
 21 ~~commission, including, but not limited to, new fishery management~~
 22 ~~plans and amendments to existing fishery management plans that~~
 23 ~~significantly affect an established or emerging fishery in which~~
 24 ~~forage species are a significant component of the catch, shall be~~
 25 ~~consistent with the policy described in subdivision (a). In~~
 26 ~~determining consistency with subdivision (a), and in implementing~~
 27 ~~subdivision (d) of Section 7080, the department shall review the~~
 28 ~~best readily available scientific information to do all of the~~
 29 ~~following:~~

30 (b) *New fishery management plans for forage species and*
 31 *amendments to existing fishery management plans for forage*
 32 *species completed after January 1, 2012, shall be consistent with*
 33 *the policy described in subdivision (a) to the extent that scientific*
 34 *data is readily available for that purpose. It is the intent of the*
 35 *Legislature to not require the reconsideration of regulations or*
 36 *fishery management plans in place before January 1, 2012. In*
 37 *determining consistency with subdivision (a) and in implementing*
 38 *Section 7080, the department or commission shall review the best*
 39 *readily available scientific information to do all of the following:*

40 (A) *Identify the major predators*

1 (1) *Identify the current population levels of major predators of*
2 *forage species, determine the relative contribution of the forage*
3 *species to the diets of those predators, and evaluate the effects of*
4 *management actions on those predators.*

5 (B)

6 (2) *Identify the other forage species that serve as similar prey*
7 ~~*in the forage pool of the California Current Ecosystem and evaluate*~~
8 *to the major predators identified in paragraph (1) and evaluate*
9 *their stock status.*

10 (C)

11 (3) Evaluate the long-term effects of alternative harvest
12 strategies on available indicators of ecosystem structure and
13 function.

14 (D)

15 (4) Consider the effectiveness of existing fishing regulations to
16 provide adequate forage for the populations of major predators.

17 ~~(E) Consider current population levels of major predators of~~
18 ~~those forage species.~~

19 (F)

20 (5) Consider ecological and ocean conditions, including the
21 dynamics of decadal or long-term oceanic cycles, that affect the
22 populations of forage species.

23 (G)

24 (6) Ensure sufficient availability of live and dead bait to support
25 the needs *for bait* of California commercial and recreational
26 fisheries.

27 ~~(2) Department representatives on the Pacific Fishery~~
28 ~~Management Council and in other relevant intergovernmental~~
29 ~~processes shall advocate for policies and management consistent~~
30 ~~with the policy described in subdivision (a) and for a fair share of~~
31 ~~allocation to the California fisheries, using best available science~~
32 ~~in accordance with applicable federal laws.~~

33 ~~(3) The commission shall restrict the development of an~~
34 ~~emerging fishery, or the significant expansion of an established~~
35 ~~fishery, where forage species are a significant component of the~~
36 ~~catch, unless it finds that the available scientific information~~
37 ~~indicates that the development or expansion of the fishery would~~
38 ~~be unlikely to have a significant negative impact on the population~~

- 1 ~~of the forage species or the ecological services rendered by the~~
- 2 ~~forage species in the larger ecosystem.~~

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