

AMENDED IN SENATE JUNE 27, 2012
AMENDED IN ASSEMBLY APRIL 30, 2012
AMENDED IN ASSEMBLY APRIL 17, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2363

Introduced by Assembly Member Chesbro
(Coauthors: Senators Evans and La Malfa)

February 24, 2012

An act to amend Sections 8103 ~~and~~, 8276.2, 8276.5, 8280.3, and 13103 of, and to add and repeal Section 9002.5 of, the Fish and Game Code, relating to commercial fishing, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2363, as amended, Chesbro. Commercial~~Fishing~~. *Fishing: Dungeness crab.*

(1) Existing law authorizes the Director of the Department of Fish and Game to authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab for the purpose of quality testing, as provided. Existing law prohibits the department from approving a testing program unless it is funded by the entity authorized to conduct the testing program and prohibits the sale of the crab taken for testing.

This bill would delete the above prohibitions, including the prohibition on the sale of the tested crab meat and would require the department, in consultation with specified entities, to develop suggested guidelines for the management of the funds from the sale, among other guidelines.

(2) Existing law requires the director of the department to adopt a program, as provided, for Dungeness crab trap limits for all California permits, that includes, among other things, 7 tiers of Dungeness crab trap limits based on all California landings receipts under California permits, as specified. Existing law authorizes an individual to submit an appeal of a trap tag allocation by March 31, 2014, as provided. Existing law requires the individual requesting the appeal to pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal that is heard and decided by an administrative law judge.

This bill would authorize an individual to apply to the administrative law judge for a waiver of these appeal fees. The bill would authorize the administrative law judge to consider certain factors when making this determination, including medical hardship.

(1)

(3) Existing law relating to limited entry fisheries requires the ~~Department of Fish and Game~~ department to transfer a permit for a limited entry fishery, upon application, to a parent, spouse, child, or sibling of a permittee whose death was the result of an accident that occurred after January 1, 1986.

This bill would require the department to transfer a permit for a limited entry fishery, upon application, to a parent, spouse, child, sibling, domestic partner, or other natural person who is an heir of a permittee whose death occurred after January 1, 2010, without reference to the cause of death.

(2)

(4) Existing law regulating the Dungeness crab fishery permits the owner of a vessel to whom a Dungeness crab vessel permit has been issued, upon the written approval of the department, to temporarily transfer the permit to another replacement vessel for which use in the Dungeness crab fishery is not permitted, for a period of not more than 6 months during the current permit year, under specified circumstances. Existing law also permits the transfer of a permit to another vessel in the event of loss or destruction of a permitted vessel, within 2 years after the loss or damage of the original vessel.

This bill would require the owner of a vessel to whom a Dungeness crab vessel permit has been issued to have had Dungeness crab landings of not less than 5,000 pounds cumulative for the past 2 years. The bill

also would require the replacement vessel to be equivalent in size and capacity, as specified, to the vessel from which the permit is transferred.

(3)

(5) Existing law regulating commercial fishing traps makes it unlawful, except as specified, to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number.

This bill would authorize a ~~person holding a commercial fishing license~~ *commercially permitted Dungeness crab vessel* to retrieve and bring to shore Dungeness crab traps in ocean waters under specified circumstances. The bill would authorize the department, in consultation with Dungeness crab permit holders or their representatives, to establish regulations as necessary to implement and enforce the trap retrieval provisions. Those provisions would become inoperative on April 1, 2019, and would be repealed on January 1, 2020.

(6) *Existing law authorizes expenditures from the fish and wildlife propagation fund of any county to be made for specified purposes, including for reasonable administrative costs, as provided. Existing law defines “reasonable cost” as an amount that does not exceed 3% of the average amount received by the fund during the previous 3-year period, or \$3,000 annually, whichever is greater, as provided.*

This bill would instead define “reasonable cost” as an amount that does not exceed 15% of the average amount received by the fund during the previous 3-year period, or \$10,000 annually, whichever is greater.

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

Vote: ~~majority~~^{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 8103 of the Fish and Game Code is
2 amended to read:

3 8103. (a) The Legislature finds and declares as follows:

4 (1) The death of a limited entry permittee results in great
5 hardships on the permittee’s family.

6 (2) Under the law as it existed immediately prior to January 1,
7 1987, if a member of the permittee’s family has not been actively
8 working in the fishery, the limited entry permit could not be
9 transferred to a member of the family, an action that deprives the

1 family of the opportunity to continue to derive a livelihood from
2 the fishery and that imposes greater hardships.

3 (3) When there is a death of a limited entry permittee, a
4 transition period is necessary to allow a family member to join the
5 fishery and to become acclimated, knowledgeable, and experienced
6 in the fishery.

7 (b) Notwithstanding Section 8102, the department shall transfer
8 a permit for a limited entry fishery, upon application, to a parent,
9 spouse, child, sibling, domestic partner, or other natural person
10 who is an heir of a permittee whose death occurred after January
11 1, 2010.

12 (c) Application for the transfer of a permit pursuant to
13 subdivision (b) shall be made on or before July 1, 2013, or not
14 more than one year after the death of the permittee, whichever is
15 later.

16 (d) The director may authorize another person, when requested
17 by the new permittee, to serve in the place of the new permittee
18 and to engage in fishing activities under the authority of the limited
19 entry permit for not more than two years from the date of the permit
20 transfer.

21 *SEC. 2. Section 8276.2 of the Fish and Game Code is amended*
22 *to read:*

23 8276.2. (a) The director may order a delay in the opening of
24 the Dungeness crab fishery after December 1 in Districts 6, 7, 8,
25 and 9 in any year. The delay in the opening shall not be later than
26 January 15 of any year.

27 (b) (1) On or about November 1 of each year, the director may
28 authorize one or more operators of commercial fishing vessels to
29 take and land a limited number of Dungeness crab for the purpose
30 of quality testing according to a testing program conducted by, or
31 on behalf of, the Pacific States Marine Fisheries Commission or
32 an entity approved by the department. ~~The department shall not~~
33 ~~approve a testing program unless it is funded by the entity~~
34 ~~authorized to conduct the testing program. Crab taken pursuant to~~
35 ~~this section shall not be sold.~~

36 (2) (A) *The meat extracted from Dungeness crab tested pursuant*
37 *to paragraph (1) may be sold by the Pacific States Marine*
38 *Fisheries Commission or the entity approved by the department*
39 *for purposes of managing the testing program.*

1 (B) For purposes of the testing program, the department shall
2 develop guidelines by consulting with the California Dungeness
3 crab industry, which shall include members of the California
4 delegates of the Tri-State Dungeness Crab Committee, the
5 California Dungeness Crab Task Force, or both. The guidelines
6 shall include the following:

7 (i) Suggested guidelines for the management of the funds
8 received from the sale of the crab meat pursuant to subparagraph
9 (A), including the suggested guideline that funds in excess of the
10 program costs may be donated for charitable purposes.

11 (ii) Guidelines for the testing of the crab meat.

12 (iii) Guidelines that establish measures to track crab caught
13 for purposes of the testing program, including the guideline that
14 all crab caught and sold for the testing program shall be canned.

15 (c) The director shall order the opening of the Dungeness crab
16 season in Districts 6, 7, 8, and 9 on December 1 if the quality tests
17 authorized in subdivision (b) indicate the Dungeness crabs are not
18 soft-shelled or low quality. The entity authorized to conduct the
19 approved testing program may test, or cause to be tested, crabs
20 taken for quality and soft shells pursuant to the approved testing
21 program. If the tests are conducted on or about November 1 and
22 result in a finding that Dungeness crabs are soft-shelled or low
23 quality, the director shall authorize a second test to be conducted
24 on or about November 15 pursuant to the approved testing program.
25 If the second test results in a finding that Dungeness crabs are
26 soft-shelled or low quality, the director may order the season
27 opening delayed for a period of 15 days and may authorize a third
28 test to be conducted on or about December 1. If the third test results
29 in a finding that Dungeness crabs remain soft-shelled or of low
30 quality, the director may order the season opening delayed for a
31 period of an additional 15 days and authorize a fourth test to be
32 conducted. This procedure may continue to be followed, except
33 that tests shall not be conducted after January 1 for that season,
34 and the season opening shall not be delayed by the director later
35 than January 15.

36 (d) This section shall become inoperative on April 1, 2019, and,
37 as of January 1, 2020, is repealed, unless a later enacted statute,
38 that becomes operative on or before January 1, 2020, deletes or
39 extends the dates on which it becomes inoperative and is repealed.

1 *SEC. 3. Section 8276.5 of the Fish and Game Code is amended*
2 *to read:*

3 8276.5. (a) In consultation with the Dungeness crab task force,
4 or its appointed representatives, the director shall adopt a program,
5 by March 31, 2013, for Dungeness crab trap limits for all California
6 permits. Unless the director finds that there is consensus in the
7 Dungeness crab industry that modifications to the following
8 requirements are more desirable, with evidence of consensus,
9 including, but not limited to, the record of the Dungeness crab task
10 force, the program shall include all of the following requirements:

11 (1) The program shall contain seven tiers of Dungeness crab
12 trap limits based on California landings receipts under California
13 permits between November 15, 2003, and July 15, 2008, as follows:

14 (A) The 55 California permits with the highest California
15 landings shall receive a maximum allocation of 500 trap tags.

16 (B) The 55 California permits with the next highest California
17 landings to those in subparagraph (A) shall receive a maximum
18 allocation of 450 trap tags.

19 (C) The 55 California permits with the next highest California
20 landings to those in subparagraph (B) shall receive a maximum
21 allocation of 400 trap tags.

22 (D) The 55 California permits with the next highest California
23 landings to those in subparagraph (C) shall receive a maximum
24 allocation of 350 trap tags.

25 (E) The 55 California permits with the next highest California
26 landings to those in subparagraph (D) shall receive a maximum
27 allocation of 300 trap tags.

28 (F) The remaining California permits with the next highest
29 California landings to those in subparagraph (E), which are not
30 described in paragraph (1) or (2) of subdivision (h) of Section
31 8276.4, shall receive a maximum allocation of 250 trap tags.

32 (G) The California permits described in paragraphs (1) and (2)
33 of subdivision (g) of Section 8276.4 shall receive a maximum
34 allocation of 175 tags. The tags in this tier shall not be transferable
35 for the first two years of the program.

36 (2) Notwithstanding paragraph (1), the director shall not remove
37 a permitholder from a tier described in paragraph (1), if after an
38 allocation is made pursuant to paragraph (1) an appeal pursuant
39 to paragraph (6) places a permitholder in a tier different than the
40 original allocation.

1 (3) Participants in the program shall meet all of the following
2 requirements:

3 (A) Pay a biennial fee for each trap tag issued pursuant to this
4 section to pay the pro rata share of costs of the program, including,
5 but not limited to, informing permitholders of the program,
6 collecting fees, acquiring and sending trap tags to permitholders,
7 paying for a portion of enforcement costs, and monitoring the
8 results of the program. The fee shall not exceed five dollars (\$5)
9 per trap, per two-year period. All of the trap tags allocated to each
10 permit pursuant to subdivision (a) shall be purchased by the
11 permitholder or the permit shall be void.

12 (B) Purchase a biennial crab trap limit permit of not more than
13 one thousand dollars (\$1,000) per two-year period to pay for the
14 department's reasonable regulatory costs.

15 (C) Not lease a crab trap tag, and transfer a tag only as part of
16 a transaction to purchase a California permitted crab vessel.

17 (D) A Dungeness crab trap that is fished shall contain a trap tag
18 that is fastened to the main buoy, and an additional tag provided
19 by the permitholder attached to the trap. The department shall
20 mandate the information that is required to appear on both buoy
21 and trap tags.

22 (4) The department shall annually provide an accounting of all
23 costs associated with the crab trap limit program. Excess funds
24 collected by the department shall be used to reduce the cost of the
25 crab trap limit permit fee or tag fee in subsequent years of the
26 program.

27 (5) Permitholders may replace lost tags by application to the
28 department and payment of a fee not to exceed the reasonable costs
29 incurred by the department. The department may waive or reduce
30 a fee in the case of catastrophic loss of tags.

31 (6) (A) An individual may submit an appeal of a trap tag
32 allocation received pursuant to this section, by March 31, 2014,
33 to the director on a permit-by-permit basis for the purpose of
34 revising upward or downward any trap tag allocation based on
35 evidence that a permit's California landings during the period
36 between November 15, 2003, and July 15, 2008, inclusive, were
37 reduced as a result of unusual circumstances and that these
38 circumstances constitute an unfair hardship, taking into account
39 the overall California landings history as indicated by landing
40 receipts associated with the permit. The director shall initiate the

1 appeal process within 12 months of receiving an appeal request.
2 The appeal shall be heard and decided by an administrative law
3 judge of the Office of Administrative Hearings, whose decision
4 shall constitute the final administrative decision. ~~An~~ *Except as*
5 *provided in subparagraph (B), an individual requesting an appeal*
6 *shall pay all expenses, including a nonrefundable filing fee, as*
7 *determined by the department, to pay for the department's*
8 *reasonable costs associated with the appeal process described in*
9 *this paragraph.*

10 *(B) An individual requesting an appeal may apply to the*
11 *administrative law judge for a waiver of the appeal fees. In making*
12 *the determination, the administrative law judge may consider*
13 *medical hardship, military service, or where the appeal is for a*
14 *permanent revision to a lower tier.*

15 (b) (1) In addition to criminal penalties authorized by law, a
16 violation of the requirements of the program created pursuant to
17 this section shall be subject to the following civil penalties:

18 (A) Conviction of a first offense shall result in a fine of not less
19 than two hundred fifty dollars (\$250) and not more than one
20 thousand dollars (\$1,000) per illegal trap or fraudulent tag.

21 (B) Conviction of a second offense shall result in a fine of not
22 less than five hundred dollars (\$500) and not more than two
23 thousand five hundred dollars (\$2,500) per illegal trap or fraudulent
24 tag, and the permit may be suspended for one year.

25 (C) Conviction of a third offense shall result in a fine of not less
26 than one thousand dollars (\$1,000) and not more than five thousand
27 dollars (\$5,000) per illegal trap or fraudulent tag, and the permit
28 may be permanently revoked.

29 (2) The severity of a penalty within the ranges described in this
30 subdivision shall be based on a determination whether the violation
31 was willful or negligent and other factors.

32 (3) The portion of monetary judgments for noncompliance that
33 are paid to the department shall be deposited in the Dungeness
34 Crab Account created pursuant to subdivision (e).

35 (c) For the purposes of this section, a proposed recommendation
36 that receives an affirmative vote of at least 15 of the non-ex officio
37 members of the Dungeness crab task force may be transmitted to
38 the director or the Legislature as a recommendation, shall be
39 considered to be the consensus of the task force, and shall be
40 considered to be evidence of consensus in the Dungeness crab

1 industry. Any proposed recommendation that does not receive a
2 vote sufficient to authorize transmittal to the director or Legislature
3 as a recommendation shall be evidence of a lack of consensus by
4 the Dungeness crab task force, and shall be considered to be
5 evidence of a lack of consensus in the crab industry.

6 (d) (1) The director shall submit a proposed program pursuant
7 to this section to the Dungeness crab task force for review, and
8 shall not implement the program until the task force has had 60
9 days or more to review the proposed program and recommend any
10 proposed changes. The director may implement the program earlier
11 than 60 days after it is submitted to the Dungeness crab task force
12 for review, if recommended by the task force.

13 (2) After the program is implemented pursuant to paragraph
14 (1), the director may modify the program, if consistent with the
15 requirements of this section, after consultation with the Dungeness
16 crab task force or its representatives and after the task force has
17 had 60 days or more to review the proposed modifications and
18 recommend any proposed changes. The director may implement
19 the modifications earlier than 60 days after it is sent to the
20 Dungeness crab task force for review, if recommended by the task
21 force.

22 (e) The Dungeness Crab Account is hereby established in the
23 Fish and Game Preservation Fund and the fees collected pursuant
24 to this section shall be deposited in that account. The money in
25 the account shall be used by the department, upon appropriation
26 by the Legislature, for administering and enforcing the program.

27 (f) For purposes of meeting the necessary expenses of initial
28 organization and operation of the program until fees may be
29 collected, or other funding sources may be received, the department
30 may borrow money as needed for these expenses from the council.
31 The borrowed money shall be repaid within one year from the fees
32 collected or other funding sources received. The council shall give
33 high priority to providing funds or services to the department, in
34 addition to loans, to assist in the development of the program,
35 including, but not limited to, the costs of convening the Dungeness
36 crab task force, environmental review, and the department's costs
37 of attending meetings with task force members.

38 (g) (1) It is the intent of the Legislature that the department,
39 the council, and the Dungeness crab task force work with the
40 Pacific States Marine Fisheries Commission and the Tri-state

1 Dungeness Crab Commission to resolve any issues pertaining to
 2 moving the fair start line south to the border of California and
 3 Mexico.

4 (2) For the purposes of this subdivision, the resolution of issues
 5 pertaining to the fair start line shall be limited to assessing the
 6 positive and negative implications of including District 10 in the
 7 tri-state agreement, including working with the Tri-state Dungeness
 8 Crab Commission to amend Oregon and Washington laws to
 9 include District 10 in the regular season fair start clause, and
 10 discussion of providing different rules for District 10 with regard
 11 to preseason quality testing.

12 (h) For purposes of this section, “council” means the Ocean
 13 Protection Council established pursuant to Section 35600 of the
 14 Public Resources Code.

15 (i) This section shall become inoperative on April 1, 2019, and,
 16 as of January 1, 2020, is repealed, unless a later enacted statute,
 17 that becomes operative on or before January 1, 2020, deletes or
 18 extends the dates on which it becomes inoperative and is repealed.

19 ~~SEC. 2.~~

20 *SEC. 4.* Section 8280.3 of the Fish and Game Code is amended
 21 to read:

22 8280.3. (a) Notwithstanding Article 9 (commencing with
 23 Section 8100) of Chapter 1 and except as provided in this section,
 24 a Dungeness crab vessel permit shall not be transferred.

25 (b) The owner of a vessel to whom a Dungeness crab vessel
 26 permit has been issued shall transfer the permit for the use of that
 27 vessel upon the sale of the vessel by the permitholder to the person
 28 purchasing the vessel. Thereafter, upon notice to the department,
 29 the person purchasing the vessel may use the vessel for the taking
 30 and landing of Dungeness crab for any and all of the unexpired
 31 portion of the permit year, and that person is eligible for a permit
 32 pursuant to Section 8280.1 for the use of that vessel in subsequent
 33 years. The person purchasing the vessel shall not transfer the permit
 34 for use of that vessel in the Dungeness crab fishery to another
 35 replacement vessel during the same permit year.

36 (c) The owner of a vessel to whom the Dungeness crab vessel
 37 permit has been issued may transfer the permit to a replacement
 38 vessel of equivalent capacity, except as specified in this section.
 39 Thereafter, upon notice to the department and payment of the
 40 transfer fee specified in Section 8280.6, the replacement vessel

1 may be used for the taking and landing of Dungeness crab for any
2 and all of the unexpired portion of the permit year and that person
3 is eligible for a permit pursuant to Section 8280.1 for the use of
4 that replacement vessel in subsequent years.

5 (d) The owner of a permitted vessel may transfer the permit to
6 a vessel of greater capacity that was owned by that person on or
7 before November 15, 1995, not to exceed 10 feet longer in length
8 overall than the vessel for which the permit was originally issued
9 or to a vessel of greater capacity purchased after November 15,
10 1995, not to exceed 5 feet longer in length overall than the vessel
11 for which the permit was originally issued.

12 (e) The department, upon recommendation of the Dungeness
13 crab review panel, may authorize the owner of a permitted vessel
14 to transfer the permit to a replacement vessel that was owned by
15 that person on or before April 1, 1996, that does not fish with trawl
16 nets that is greater than five feet longer in length overall than the
17 vessel for which the permit was originally issued, if all of the
18 following conditions are satisfied:

19 (1) A vessel of a larger size is essential to the owner for
20 participation in another fishery other than a trawl net fishery.

21 (2) The owner held a permit on or before January 1, 1995, for
22 the fishery for which a larger vessel is needed and has participated
23 in that fishery.

24 (3) The permit for the vessel from which the permit is to be
25 transferred qualified pursuant to paragraph (1) of subdivision (b)
26 of Section 8280.1.

27 (4) The vessel to which the permit is to be transferred does not
28 exceed 20 feet longer in length overall than the vessel for which
29 the permit was originally issued and the vessel to which the permit
30 is to be transferred does not exceed 60 feet in overall length.

31 (f) A transfer of a permit to a larger vessel shall not be allowed
32 more than one time. If a permit is transferred to a larger vessel,
33 any Dungeness crab vessel permit for that permit year or any
34 subsequent permit years for that larger vessel shall not be
35 transferred to another larger vessel. The department shall not
36 thereafter issue a Dungeness crab vessel permit for the use of the
37 original vessel from which the permit was transferred, except that
38 the original vessel may be used to take or land Dungeness crab
39 after that transfer if its use is authorized pursuant to another

1 Dungeness crab vessel permit subsequently transferred to that
2 vessel pursuant to this paragraph.

3 (g) (1) Upon the written approval of the department, the owner
4 of a vessel to whom the Dungeness crab vessel permit has been
5 issued, which has had Dungeness crab landings of not less than
6 5,000 pounds cumulative for the past two years, may temporarily
7 transfer the permit to another replacement vessel of equivalent
8 size and capacity of the vessel, no greater than 10 feet in length,
9 from which the permit is transferred, for which use in the
10 Dungeness crab fishery is not permitted pursuant to this section
11 or Section 8280.1, for a period of not more than six months during
12 the current permit year if the vessel for which the permit was issued
13 is seriously damaged, suffers major mechanical breakdown, or is
14 lost or destroyed, as determined by the department, upon approval
15 of the director. The owner of the vessel shall submit proof that the
16 department may reasonably require to establish the existence of
17 the conditions of this paragraph. Upon approval by the director,
18 the owner of a lost or destroyed vessel granted a six-month
19 temporary transfer under this section may be granted an additional
20 six-month extension of the temporary transfer.

21 (2) Notwithstanding subdivision (e) of Section 8280.2, in the
22 event of loss or destruction of a vessel for which a Dungeness crab
23 vessel permit was issued, or serious damage that renders the vessel
24 inoperable, and upon written approval of the department, the owner
25 of the vessel to whom the permit was issued may retain the permit
26 and may transfer the permit to another vessel of equivalent size
27 and capacity of the vessel that was lost or damaged during the
28 period of two years after the loss or damage of the vessel for which
29 the permit was originally issued. The owner of the lost or damaged
30 vessel shall submit proof that the department may reasonably
31 require to establish the loss or damage of the vessel. If the permit
32 is not transferred to another vessel owned by the person to whom
33 the vessel permit was originally issued within two years of the loss
34 or damage, the permit shall be revoked.

35 (h) Upon written approval of the department, the owner of a
36 vessel to whom the Dungeness crab vessel permit has been issued
37 may retain that permit upon the sale of that permitted vessel for
38 the purpose of transferring the permit to another vessel to be
39 purchased by that individual within one year of the time of sale of
40 the vessel for which the permit was originally issued if the

1 requirements of this section are satisfied, including the payment
2 of transfer fees. If the permit is not transferred to a new vessel
3 owned by the person to whom the vessel permit was originally
4 issued within one year of the sale of the vessel for which it was
5 originally issued, or if the person does not retain ownership of the
6 new vessel to which the permit is transferred for a period of not
7 less than one year, the permit shall be revoked.

8 (i) In the event of the death or incapacity of a permitholder, the
9 permit shall be transferred, upon application, to the heirs or assigns,
10 or to the working partner, of the permitholder, together with the
11 transfer of the vessel for which the permit was issued, and the new
12 owner may continue to operate the vessel under the permit, renew
13 the permit, or transfer the permit upon sale of the vessel pursuant
14 to subdivision (b).

15 (j) This section shall become inoperative on April 1, 2019, and,
16 as of January 1, 2020, is repealed, unless a later enacted statute,
17 that becomes operative on or before January 1, 2020, deletes or
18 extends the dates on which it becomes inoperative and is repealed.

19 ~~SEC. 3.~~

20 *SEC. 5.* Section 9002.5 is added to the Fish and Game Code,
21 to read:

22 9002.5. (a) Notwithstanding Section 9002, ~~any person holding~~
23 ~~a commercial fishing license~~ *a commercially permitted Dungeness*
24 *crab vessel* may retrieve and bring to shore ~~any a~~ Dungeness crab
25 trap ~~or traps~~ belonging to ~~any a~~ person, where a trap ~~or traps~~ were
26 *was* lost, abandoned, or *is* otherwise present in ocean waters
27 ~~within District 10 between 96 hours after the close of the~~
28 ~~commercial Dungeness crab season until 96 hours prior to the next~~
29 ~~commercial Dungeness crab season in District 10 and, within~~
30 ~~Districts 6, 7, 8, and 9, and 10 between 96 hours after the close of~~
31 ~~the commercial Dungeness crab season until 96 hours prior to the~~
32 ~~next commercial Dungeness crab season in Districts 6, 7, 8, and~~
33 ~~9 July 16 and October 31, inclusive.~~ This section does not apply
34 to ~~traps a trap~~ used for recreational crab fishing.

35 (b) The department, in consultation with Dungeness crab
36 permitholders or their representatives, shall establish regulations
37 as necessary to implement and enforce this section, including
38 provisions for the notification of owners of traps retrieved
39 following the close of the Dungeness crab fishery each year, any
40 retrieval fee, and the sale or auction of retrieved traps.

1 (c) This section shall become inoperative on April 1, 2019, and,
2 as of January 1, 2020, is repealed, unless a later enacted statute,
3 that becomes operative on or before January 1, 2020, deletes or
4 extends the dates on which it becomes inoperative and is repealed.

5 SEC. 6. Section 13103 of the Fish and Game Code is amended
6 to read:

7 13103. Expenditures from the fish and wildlife propagation
8 fund of any county may be made only for the following purposes:

9 (a) Public education relating to the scientific principles of fish
10 and wildlife conservation, consisting of supervised formal
11 instruction carried out pursuant to a planned curriculum and aids
12 to education such as literature, audio and video recordings, training
13 models, and nature study facilities.

14 (b) Temporary emergency treatment and care of injured or
15 orphaned wildlife.

16 (c) Temporary treatment and care of wildlife confiscated by the
17 department as evidence.

18 (d) Breeding, raising, purchasing, or releasing fish or wildlife
19 which are to be released upon approval of the department pursuant
20 to Sections 6400 and 6401 onto land or into waters of local, state,
21 or federal agencies or onto land or into waters open to the public.

22 (e) Improvement of fish and wildlife habitat, including, but not
23 limited to, construction of fish screens, weirs, and ladders; drainage
24 or other watershed improvements; gravel and rock removal or
25 placement; construction of irrigation and water distribution
26 systems; earthwork and grading; fencing; planting trees and other
27 vegetation management; and removal of barriers to the migration
28 of fish and wildlife.

29 (f) Construction, maintenance, and operation of public hatchery
30 facilities.

31 (g) Purchase and maintain materials, supplies, or equipment for
32 either the department’s ownership and use or the department’s use
33 in the normal performance of the department’s responsibilities.

34 (h) Predator control actions for the benefit of fish or wildlife
35 following certification in writing by the department that the
36 proposed actions will significantly benefit a particular wildlife
37 species.

38 (i) Scientific fish and wildlife research conducted by institutions
39 of higher learning, qualified researchers, or governmental agencies,
40 if approved by the department.

1 (j) Reasonable administrative costs, excluding the costs of audits
2 required by Section 13104, for secretarial service, travel, and
3 postage by the county fish and wildlife commission when
4 authorized by the county board of supervisors. For purposes of
5 this subdivision, “reasonable cost” means an amount which does
6 not exceed ~~3~~ 15 percent of the average amount received by the
7 fund during the previous three-year period, or ~~three thousand~~
8 ~~dollars (\$3,000)~~ *ten thousand dollars (\$10,000)* annually,
9 whichever is greater, excluding any funds carried over from a
10 previous fiscal year.

11 (k) Contributions to a secret witness program for the purpose
12 of facilitating enforcement of this code and regulations adopted
13 pursuant to this code.

14 (l) Costs incurred by the district attorney or city attorney in
15 investigating and prosecuting civil and criminal actions for
16 violations of this code, as approved by the department.

17 (m) Other expenditures, approved by the department, for the
18 purpose of protecting, conserving, propagating, and preserving
19 fish and wildlife.

20 *SEC. 7. This act is an urgency statute necessary for the*
21 *immediate preservation of the public peace, health, or safety within*
22 *the meaning of Article IV of the Constitution and shall go into*
23 *immediate effect. The facts constituting the necessity are:*

24 *Improved ability for Dungeness crab quality testing should*
25 *commence prior to the 2012–13 crab season which may begin*
26 *November 15, 2012. This improved testing will provide the Director*
27 *of the Department of Fish and Game vital information that was*
28 *lacking during the 2011–12 crab season. Without this improved*
29 *testing, the crab season could be prematurely opened or*
30 *unnecessarily closed.*