

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JULY 5, 2011

AMENDED IN ASSEMBLY JUNE 22, 2011

SENATE BILL

No. 369

Introduced by Senator Evans

February 15, 2011

An act to amend Sections 8276.2, 8276.3, 8279.1, 8280.1, 8280.2, 8280.3, 8280.4, 8280.5, and 8280.6 of, and to add and repeal Sections 8276.4 and 8276.5 of, the Fish and Game Code, relating to commercial fishing.

LEGISLATIVE COUNSEL'S DIGEST

SB 369, as amended, Evans. Dungeness crab.

(1) Existing law regulates the Dungeness crab fishery and, among other things, permits the Director of Fish and Game to delay the opening of the fishery in specified situations and regulates the taking of crab during those delays. Existing law sets forth the qualifications for a Dungeness crab vessel permit, and provides that no person shall use a vessel to take, possess, or land Dungeness crab for commercial purposes without a Dungeness crab vessel permit. Existing law sets forth requirements for the issuance, transfer, and revocation of a vessel permit, and prescribes fees for each permit or permit transfer. Under existing law, the holder of a Dungeness crab vessel permit, upon approval of the ~~department~~ *Department of Fish and Game*, is authorized to temporarily transfer the permit to a replacement vessel for a period of up to 6 months during the current permit year, if the permitted vessel is seriously damaged, suffers major mechanical breakdown, or is lost

or destroyed. Existing law requires the director to convene a Dungeness crab review panel for the purpose of reviewing applications for vessel permits and permit transfers, if the ~~Department of Fish and Game~~ *department* makes a specified determination. Existing law provides that those provisions shall become inoperative on April 1, 2012, and, as of January 1, 2013, are repealed.

This bill would extend the operation of those provisions until April 1, ~~2018; 2019~~, and would repeal those provisions on January 1, ~~2019~~ 2020.

The bill would subject a person who fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab vessel permit to fish illegally on a vessel other than the permitted one, to specified penalties. The bill would authorize a person to whom a Dungeness crab vessel permit is issued to retain the permit, and to transfer the permit to another vessel owned by that person, during a period of 2 years, in the event that the vessel for which the permit was originally issued is lost, destroyed, or seriously damaged, subject to approval by the department. The bill would require a permit retained under these circumstances to be revoked if it is not transferred to a replacement vessel within the 2-year period.

The bill would require the director to adopt a program, by ~~July 1, 2012; March 31, 2013~~, for Dungeness crab trap limits for all California permits. The director would be required to make specified allocations of crab trap tags. The program would require participants to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee, as provided. The bill would create the Dungeness Crab Account in the Fish and Game Preservation Fund, and would require the fees collected to be deposited in that account. The money in the account would be available, upon appropriation by the Legislature, for administering and enforcing the program. The bill would require the imposition of specified penalties for a violation of the program requirements. The bill would create a Dungeness crab task force to make recommendations relating to the program, and meet other requirements, as provided. These provisions would become inoperative on April 1, ~~2018; 2019~~, and would be repealed on January 1, ~~2019~~ 2020.

(2) Existing law authorizes the director to authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab in November of each year for the purpose of quality testing according to a testing program and prohibits the sale

of crab taken pursuant to the testing program, except for edible crabmeat, which may be used for charitable purposes.

This bill would remove that exception for edible crabmeat used for charitable purposes.

(3) Under existing law, except as expressly provided otherwise, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is a misdemeanor.

Because this bill would extend the operation of the Dungeness crab vessel permit program and thereby the crimes imposed for a violation of those provisions, and impose additional requirements the violation of which may be crimes, the bill would create a state-mandated local program by creating new crimes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 8276.2 of the Fish and Game Code is
2 amended to read:

3 8276.2. (a) The director may order a delay in the opening of
4 the Dungeness crab fishery after December 1 in Districts 6, 7, 8,
5 and 9 in any year. The delay in the opening shall not be later than
6 January 15 of any year.

7 (b) On or about November 1 of each year, the director may
8 authorize one or more operators of commercial fishing vessels to
9 take and land a limited number of Dungeness crab for the purpose
10 of quality testing according to a testing program conducted by, or
11 on behalf of, the Pacific States Marine Fisheries Commission or
12 an entity approved by the department. The department shall not
13 approve a testing program unless it is funded by the entity
14 authorized to conduct the testing program. Crab taken pursuant to
15 this section shall not be sold.

16 (c) The director shall order the opening of the Dungeness crab
17 season in Districts 6, 7, 8, and 9 on December 1 if the quality tests
18 authorized in subdivision (b) indicate the Dungeness crabs are not

1 soft-shelled or low quality. The entity authorized to conduct the
2 approved testing program may test, or cause to be tested, crabs
3 taken for quality and soft shells pursuant to the approved testing
4 program. If the tests are conducted on or about November 1 and
5 result in a finding that Dungeness crabs are soft-shelled or low
6 quality, the director shall authorize a second test to be conducted
7 on or about November 15 pursuant to the approved testing program.
8 If the second test results in a finding that Dungeness crabs are
9 soft-shelled or low quality, the director may order the season
10 opening delayed for a period of 15 days and may authorize a third
11 test to be conducted on or about December 1. If the third test results
12 in a finding that Dungeness crabs remain soft-shelled or of low
13 quality, the director may order the season opening delayed for a
14 period of an additional 15 days and authorize a fourth test to be
15 conducted. This procedure may continue to be followed, except
16 that tests shall not be conducted after January 1 for that season,
17 and the season opening shall not be delayed by the director later
18 than January 15.

19 (d) This section shall become inoperative on April 1, ~~2018~~ 2019,
20 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
21 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
22 deletes or extends the dates on which it becomes inoperative and
23 is repealed.

24 SEC. 2. Section 8276.3 of the Fish and Game Code is amended
25 to read:

26 8276.3. (a) If there is any delay ordered by the director
27 pursuant to Section 8276.2 in the opening of the Dungeness crab
28 fishery in Districts 6, 7, 8, and 9, a vessel shall not take or land
29 crab within Districts 6, 7, 8, and 9 during any closure.

30 (b) If there is any delay in the opening of the Dungeness crab
31 season pursuant to Section 8276.2, the opening date in Districts
32 6, 7, 8, and 9 shall be preceded by a 36 hour gear setting period,
33 as ordered by the director.

34 (c) This section shall become inoperative on April 1, ~~2018~~ 2019,
35 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
36 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
37 deletes or extends the dates on which it becomes inoperative and
38 is repealed.

39 SEC. 3. Section 8276.4 is added to the Fish and Game Code,
40 to read:

1 8276.4. (a) The Ocean Protection Council shall make a grant,
2 upon appropriation of funding by the Legislature, for the
3 development and administration of a Dungeness crab task force.
4 The membership of the Dungeness crab task force shall be
5 comprised of all of the following:
6 (1) Two members representing sport fishing interests.
7 (2) Two members representing crab processing interests.
8 (3) One member representing commercial passenger fishing
9 vessel interests.
10 (4) Two ~~ex-officio~~ *nonvoting* members representing
11 nongovernmental organization interests.
12 (5) One ~~ex-officio~~ *nonvoting* representative of Sea Grant.
13 (6) Two ~~ex-officio~~ *nonvoting* members representing the
14 department.
15 (7) Seventeen members representing commercial fishery
16 interests, elected by licensed persons possessing valid Dungeness
17 crab permits in their respective ports and production levels, as
18 follows:
19 (A) Four members from Crescent City.
20 (B) One member from Trinidad.
21 (C) Two members from Eureka.
22 (D) Two members from Fort Bragg.
23 (E) Two members from Bodega Bay.
24 (F) Two members from San Francisco.
25 (G) Two members from Half Moon Bay.
26 (H) One member from ports south of Half Moon Bay.
27 (I) One member who has a valid California nonresident crab
28 permit.
29 (b) For ports with more than one representative, elected members
30 and their alternates shall represent both the upper and lower, and
31 in some cases middle, production levels. Production levels shall
32 be based on the average landing during the previous five years, of
33 valid crab permitholders who landed a minimum of 25,000 pounds
34 of crab during the same period.
35 (c) The Dungeness crab task force shall do all of the following:
36 (1) Review and evaluate the Dungeness crab management
37 measures described in Section 8276.5, with initial
38 recommendations to the Joint Committee on Fisheries and
39 Aquaculture, the department, and the commission, no later than

1 January 15, ~~2014~~ 2015, and final recommendations to those entities
2 no later than January 15, ~~2016~~ 2017.

3 (2) Make recommendations by January 15, ~~2014~~ 2015, on all
4 of the following: the need for a permanent Dungeness crab advisory
5 committee, the economic impact of the program described in
6 Section 8276.5 on permit holders of different tiers and the
7 economies of different ports, the cost of the program to the
8 department, including enforcement costs, the viability of a buyout
9 program for the permit holders described in subparagraph (G) of
10 paragraph (1) of subdivision (a) of Section 8276.5, refining sport
11 and commercial Dungeness crab management, and the need for
12 statutory changes to accomplish task force objectives.

13 (3) In considering Dungeness crab management options,
14 prioritize the review of pot limit restriction options, current and
15 future sport and commercial fishery effort, season modifications,
16 essential fishery information needs, and short- and long-term
17 objectives for improved management.

18 (d) The task force may establish subcommittees of specific user
19 groups from the task force membership to focus on issues specific
20 to sport fishing, commercial harvest, or crab processing. The
21 subcommittees shall report their recommendations, if any, to the
22 task force.

23 (e) The Ocean Protection Council may include in a grant funding
24 to cover department staffing costs, as well as ~~task force participant~~
25 ~~travel~~ *travel costs for task force participants as specified in*
26 *paragraph (6) of subdivision (a).*

27 (f) Except as otherwise provided in Section 8276.5, a
28 recommendation shall be forwarded to the Joint Committee on
29 Fisheries and Aquaculture, the department, and the commission
30 upon an affirmative vote of at least two-thirds of the task force
31 members.

32 (g) Eligibility to take crab in state waters and offshore for
33 commercial purposes may be subject to restrictions, including, but
34 not limited to, restrictions on the number of traps utilized by that
35 person, if either of the following occurs:

36 (1) A person holds a California Dungeness crab permit with
37 California landings of less than 5,000 pounds between November
38 15, 2003, and July 15, 2008, inclusive, as reported in California
39 landings receipts.

1 (2) A person has purchased a Dungeness crab permit on or after
2 July 15, 2008, from a permitholder whose California landings were
3 less than 5,000 pounds between November 15, 2003, and July 15,
4 2008, inclusive, as reported in California landings receipts.

5 (h) This section shall become inoperative on April 1, ~~2018~~ 2019,
6 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
7 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
8 deletes or extends the dates on which it becomes inoperative and
9 is repealed.

10 SEC. 4. Section 8276.5 is added to the Fish and Game Code,
11 to read:

12 8276.5. (a) In consultation with the Dungeness crab task force,
13 or its appointed representatives, the director shall adopt a program,
14 by ~~July 1, 2012~~ *March 31, 2013*, for Dungeness crab trap limits
15 for all California permits. Unless the director finds that there is
16 consensus in the Dungeness crab industry that modifications to
17 the following requirements are more desirable, with evidence of
18 consensus, including, but not limited to, the record of the
19 Dungeness crab task force, the program shall include all of the
20 following requirements:

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

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

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

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

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

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

38 (F) The remaining California permits with the next highest
39 California landings to those in subparagraph (E), which are not

1 described in paragraph (1) or (2) of subdivision (h) of Section
2 8276.4, shall receive a maximum allocation of 250 trap tags.

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

7 (2) Notwithstanding paragraph (1), the director shall not remove
8 a permit holder from a tier described in paragraph (1), if after an
9 allocation is made pursuant to paragraph (1) an appeal pursuant
10 to paragraph (6) places a permit holder in a tier different than the
11 original allocation.

12 (3) Participants in the program shall meet all of the following
13 requirements:

14 (A) Pay a biennial fee for each trap tag issued pursuant to this
15 section to pay the pro rata share of costs of the program, including,
16 but not limited to, informing permit holders of the program,
17 collecting fees, acquiring and sending trap tags to permit holders,
18 paying for a portion of enforcement costs, and monitoring the
19 results of the program. The fee shall not exceed five dollars (\$5)
20 per trap, per two-year period. All of the trap tags allocated to each
21 permit pursuant to subdivision (a) shall be purchased by the
22 permit holder or the permit shall be void.

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

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

28 (D) A Dungeness crab trap that is fished shall contain a trap tag
29 that is fastened to the main buoy, and an additional tag provided
30 by the permit holder attached to the trap. The department shall
31 mandate the information that is required to appear on both buoy
32 and trap tags.

33 (4) The department shall annually provide an accounting of all
34 costs associated with the crab trap limit program. Excess funds
35 collected by the department shall be used to reduce the cost of the
36 crab trap limit permit fee or tag fee in subsequent years of the
37 program.

38 (5) Permit holders may replace lost tags by application to the
39 department and payment of a fee not to exceed the reasonable costs

1 incurred by the department. The department may waive or reduce
2 a fee in the case of catastrophic loss of tags.

3 (6) An individual may submit an appeal of a trap tag allocation
4 received pursuant to this section, by ~~July 1, 2013~~ *March 31, 2014*,
5 to the director on a permit-by-permit basis for the purpose of
6 revising upward or downward any trap tag allocation based on
7 evidence that a permit's California landings during the period
8 between November 15, 2003, and July 15, 2008, inclusive, were
9 reduced as a result of unusual circumstances and that these
10 circumstances constitute an unfair hardship, taking into account
11 the overall California landings history as indicated by landing
12 receipts associated with the permit. The director shall initiate the
13 appeal process within 12 months of receiving an appeal request.
14 The appeal shall be heard and decided by an administrative law
15 judge of the Office of Administrative Hearings, whose decision
16 shall constitute the final administrative decision. An individual
17 requesting an appeal shall pay all expenses, including a
18 nonrefundable filing fee, as determined by the department, to pay
19 for the department's reasonable costs associated with the appeal
20 process described in this paragraph.

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

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

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

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

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

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

1 (c) For the purposes of this section, a proposed recommendation
2 that receives an affirmative vote of at least 15 of the non-ex officio
3 members of the Dungeness crab task force may be transmitted to
4 the director or the Legislature as a recommendation, shall be
5 considered to be the consensus of the task force, and shall be
6 considered to be evidence of consensus in the Dungeness crab
7 industry. Any proposed recommendation that does not receive a
8 vote sufficient to authorize transmittal to the director or Legislature
9 as a recommendation shall be evidence of a lack of consensus by
10 the Dungeness crab task force, and shall be considered to be
11 evidence of a lack of consensus in the crab industry.

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

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

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

33 (f) For purposes of meeting the necessary expenses of initial
34 organization and operation of the program until fees may be
35 collected, or other funding sources may be received, the department
36 may borrow money as needed for these expenses from the council.
37 The borrowed money shall be repaid within one year from the fees
38 collected or other funding sources received. The council shall give
39 high priority to providing funds or services to the department, in
40 addition to loans, to assist in the development of the program,

1 including, but not limited to, the costs of convening the Dungeness
2 crab task force, environmental review, and the department’s costs
3 of attending meetings with task force members.

4 (g) (1) It is the intent of the Legislature that the department,
5 the council, and the Dungeness crab task force work with the
6 Pacific States Marine Fisheries Commission and the Tri-state
7 Dungeness Crab Commission to resolve any issues pertaining to
8 moving the fair start line south to the border of California and
9 Mexico.

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

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

21 (i) This section shall become inoperative on April 1, ~~2018~~ 2019,
22 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
23 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
24 deletes or extends the dates on which it becomes inoperative and
25 is repealed.

26 SEC. 5. Section 8279.1 of the Fish and Game Code is amended
27 to read:

28 8279.1. (a) A person shall not take, possess onboard, or land
29 Dungeness crab for commercial purposes from any vessel in ocean
30 waters in District 6, 7, 8, or 9 for 30 days after the opening of the
31 Dungeness crab fishing season in California, if both of the
32 following events have occurred:

33 (1) The opening of the season has been delayed pursuant to state
34 law in California.

35 (2) The person has taken, possessed onboard, or landed
36 Dungeness crab for commercial purposes, from ocean waters
37 outside of District 6, 7, 8, or 9, prior to the opening of the season
38 in those districts.

39 (b) A person shall not take, possess onboard, or land Dungeness
40 crab for commercial purposes from any vessel in ocean waters

1 south of the border between Oregon and California for 30 days
2 after the opening of the Dungeness crab fishing season in
3 California, if both of the following events have occurred:

4 (1) The opening of the season has been delayed pursuant to state
5 law in California.

6 (2) The person has taken, possessed onboard, or landed
7 Dungeness crab for commercial purposes in Oregon or Washington
8 prior to the opening of the season in California.

9 (c) A person shall not take, possess onboard, or land Dungeness
10 crab for commercial purposes from any vessel in ocean waters
11 north of the border between Oregon and California for 30 days
12 after the opening of the Dungeness crab fishing season in Oregon
13 or Washington, if both of the following events have occurred:

14 (1) The opening of the season has been delayed in Oregon or
15 Washington.

16 (2) The person has taken, possessed onboard, or landed
17 Dungeness crab for commercial purposes in California prior to the
18 opening of the season in ocean waters off Oregon or Washington.

19 (d) A person shall not take, possess onboard, or land Dungeness
20 crab for commercial purposes from any vessel in ocean waters off
21 Washington, Oregon, or California for 30 days after the opening
22 of the Dungeness crab fishing season in California, Oregon, or
23 Washington, if both of the following events have occurred:

24 (1) The opening of the season has been delayed in Washington,
25 Oregon, or California.

26 (2) The person has taken, possessed onboard, or landed
27 Dungeness crab for commercial purposes in either of the two other
28 states prior to the delayed opening in the ocean waters off any one
29 of the three states.

30 (e) A violation of this section does not constitute a misdemeanor.
31 Pursuant to Section 7857, the commission shall revoke the
32 Dungeness crab vessel permit held by any person who violates
33 this section.

34 (f) This section shall become inoperative on April 1, ~~2018~~ 2019,
35 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
36 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
37 deletes or extends the dates on which it becomes inoperative and
38 is repealed.

39 SEC. 6. Section 8280.1 of the Fish and Game Code is amended
40 to read:

1 8280.1. (a) A person shall not use a vessel to take, possess, or
2 land Dungeness crab for commercial purposes using Dungeness
3 crab traps authorized pursuant to Section 9011, unless the owner
4 of that vessel has a Dungeness crab vessel permit for that vessel
5 that has not been suspended or revoked.

6 (b) A Dungeness crab vessel permit may be issued only to the
7 following persons for use on qualifying vessels:

8 (1) A person, who has a commercial fishing license issued
9 pursuant to Section 7852 or Article 7 (commencing with Section
10 8030) of Chapter 1 that has not been suspended or revoked, who
11 is the owner of a commercial fishing vessel that has been registered
12 with the department pursuant to Section 7881 in each of the
13 1991–92, 1992–93, and 1993–94 permit years and a minimum of
14 four landings in each of three Dungeness crab seasons in the period
15 from November 1, 1984, to April 1, 1994, have been made from
16 that vessel. This paragraph includes any person purchasing a vessel
17 qualifying pursuant to this paragraph.

18 (2) A person who has a commercial fishing license issued
19 pursuant to Section 7852 or Article 7 (commencing with Section
20 8030) of Chapter 1 that has not been suspended or revoked, who
21 is the owner of a commercial fishing vessel that has been registered
22 with the department pursuant to Section 7881 in each of the
23 1991–92, 1992–93, and 1993–94 permit years and a minimum of
24 four landings in one of the Dungeness crab seasons in the period
25 from November 1, 1984, to April 1, 1994, have been made from
26 that vessel in this state as documented by landing receipts delivered
27 to the department pursuant to Section 8046, who the department
28 finds to have been unable, due to illness or injury or any other
29 hardship, to make a minimum of four landings in each of two of
30 the previous three Dungeness crab seasons, and who, in good faith,
31 intended to participate in the Dungeness crab fishery in those
32 seasons.

33 (3) A person who has a commercial fishing license issued
34 pursuant to Section 7852 that has not been suspended or revoked,
35 who meets the requirements of Section 8101, and who,
36 notwithstanding Section 8101, is, at the time of application, the
37 owner of a fishing vessel that is not equipped for trawling with a
38 net and that has been registered pursuant to Section 7881 in each
39 of the 1991–92, 1992–93, and 1993–94 permit years. Not more
40 than one Dungeness crab vessel permit shall be issued to any

1 person qualifying under Section 8101 and all permits issued under
2 Section 8101, notwithstanding subdivision (b) of Section 8280.3,
3 shall be nontransferable. A person qualifying for a permit under
4 this paragraph shall have participated in the Dungeness crab fishery
5 on or before March 31, 1994, as documented by landing receipts
6 that were prepared in that person's name for not less than four
7 landings of Dungeness crab taken in a crab trap in a Dungeness
8 crab season and were delivered to the department pursuant to
9 Section 8046. A person shall not be issued a permit under this
10 paragraph if that person has been issued a permit under any other
11 provision of this section for another vessel. For purposes of Section
12 8101, "participated in the fishery" means made not less than four
13 landings of Dungeness crab taken by traps in that person's name
14 in one Dungeness crab season. The department shall separately
15 identify permits issued pursuant to this paragraph and those permits
16 shall become immediately null and void upon the death of the
17 permittee. The department shall not issue or renew any permit
18 under this paragraph to a person if the person failed to meet the
19 participation requirements of four landings in one season prior to
20 April 1, 1994, or has been issued a Dungeness crab permit for a
21 vessel under any other paragraph of this subdivision.

22 (4) A person who has a commercial fishing license issued
23 pursuant to Section 7852 that has not been suspended or revoked,
24 who meets one of the following conditions:

25 (A) The person held a Dungeness crab permit issued pursuant
26 to Section 8280 as it read on April 1, 1994, and participated in the
27 Dungeness crab fishery between November 1, 1984, and April 1,
28 1994, and is the owner of a vessel that has been registered with
29 the department in each of the 1991–92, 1992–93, and 1993–94
30 permit years but did not make landings or the department records
31 do not indicate a minimum of four landings per season for three
32 Dungeness crab seasons from that vessel or in that person's name
33 because of a partnership or other working arrangement where the
34 person was working aboard another vessel engaged in the
35 Dungeness crab fishery in California.

36 (B) The person held a Dungeness crab permit issued under
37 Section 8280 as it read on April 1, 1994, and is the owner of a
38 commercial fishing vessel that has been registered with the
39 department pursuant to Section 7881 in each of the 1991–92,
40 1992–93, and 1993–94 permit years and from which a minimum

1 of four landings utilizing traps were made in at least one Dungeness
2 crab season in the period between November 1, 1984, and April
3 1, 1994, and from which either four landings were made utilizing
4 traps or landings in excess of 10,000 pounds were made utilizing
5 traps in each of two other Dungeness crab seasons in that same
6 period, as documented by landing receipts.

7 (C) The person held a Dungeness crab vessel permit issued
8 under Section 8280 as it read on April 1, 1994, or was an officer
9 in a California corporation that was licensed pursuant to Article 7
10 (commencing with Section 8030) of Chapter 1 as of April 1, 1994,
11 and began construction or reconstruction of a vessel on or before
12 January 1, 1992, for the purpose of engaging in the Dungeness
13 crab fishery, including the purchase of equipment and gear to
14 engage in that fishery in California. A person may be issued a
15 permit under this condition only if the person intended in good
16 faith to participate in the California Dungeness crab fishery, a
17 denial of a permit would create a financial hardship on that person,
18 and, for purposes of determining financial hardship, the applicant
19 is a nonresident and cannot participate with his or her vessel or
20 vessels in the Dungeness crab fishery of another state because of
21 that state's limited entry or moratorium on the issuance of permits
22 for the taking of Dungeness crab.

23 (5) A person who has a commercial fishing license issued
24 pursuant to Section 7852 that has not been suspended or revoked,
25 who held a Dungeness crab permit issued under Section 8280 as
26 it read on April 1, 1994, who made a minimum of four landings
27 of Dungeness crab taken by traps in each of three Dungeness crab
28 seasons in the period from November 1, 1984, to April 1, 1994,
29 in his or her name in this state from a vessel owned by that person,
30 as documented by landing receipts, who, between April 1, 1991,
31 and January 1, 1995, purchased, contracted to purchase, or
32 constructed a vessel, not otherwise qualifying pursuant to paragraph
33 (1), (2), or (4), who has continuously owned that vessel since its
34 purchase or construction, and who either (A) has used that vessel
35 for the taking of Dungeness crab in this state on or before March
36 31, 1995, as documented by one or more landing receipts delivered
37 to the department pursuant to Section 8046, or (B) intended in
38 good faith, based on evidence that the department and the review
39 panel may require, including investment in crab gear, to enter that
40 vessel in this state's Dungeness crab fishery not later than

1 December 1, 1995. Not more than one permit may be issued to
2 any one person under this paragraph.

3 (6) A person who held a Dungeness crab permit issued under
4 Section 8280 as it read on April 1, 1994, who made a minimum
5 of four landings utilizing traps in this state in each of three
6 Dungeness crab seasons in the period between November 1, 1984,
7 and April 1, 1994, in his or her name from a vessel operated by
8 that person as documented by landing receipts, who currently does
9 not own a vessel in his or her name, and who has not sold or
10 transferred a vessel otherwise qualifying for a permit under this
11 section. A permit may be issued under this paragraph for a vessel
12 not greater in size than the vessel from which the previous landings
13 were made, and, in no event, for a vessel of more than 60 feet in
14 overall length, to be placed on a vessel that the person purchases
15 or contracts for construction on or before April 1, 1996. A permit
16 issued under this paragraph shall be nontransferable and shall not
17 be used for a vessel not owned by that person, and shall be revoked
18 if the person (A) fails to renew the permit or annually renew his
19 or her commercial fishing license issued pursuant to Section 7852
20 or (B) is or becomes the owner of another vessel permitted to
21 operate in the Dungeness crab fishery pursuant to this section.

22 (c) The department may require affidavits offered under penalty
23 of perjury from persons applying for permits under subdivision
24 (b) or from witnesses corroborating the statements of a person
25 applying for a Dungeness crab vessel permit. Affidavits offered
26 under penalty of perjury shall be required of an applicant if the
27 department cannot locate records required to qualify under
28 subdivision (b).

29 (d) A person shall not be issued a Dungeness crab vessel permit
30 under this section for any vessel unless that person has a valid
31 commercial fishing license issued pursuant to Section 7852 that
32 has not been suspended or revoked.

33 (e) Notwithstanding Section 7852.2 or subdivision (e) of Section
34 8280.2, the department may issue a Dungeness crab vessel permit
35 that has not been applied for by the application deadline if the
36 department finds that the failure to apply was a result of a mistake
37 or hardship, as established by evidence the department may require,
38 the late application is made not later than October 15, 1995, and
39 payment is made by the applicant of a late fee of two hundred fifty
40 dollars (\$250) in addition to all other fees for the permit.

1 (f) The department may waive the requirement that a person
2 own a commercial fishing vessel that has been registered with the
3 department pursuant to Section 7881 in each of the 1991–92,
4 1992–93, and 1993–94 permit years for one of those required years
5 under this section only if the vessel was registered and used in the
6 California Dungeness crab fishery during the registration year
7 immediately prior to the year for which the waiver is sought and
8 was registered and used in the California Dungeness crab fishery
9 after the year for which the waiver is sought and if the reason for
10 the failure to register in the year for which the waiver is sought
11 was due to a death, illness, or injury, or other hardship, as
12 determined by the review panel, that prevented the vessel from
13 being registered and operated in the fishery for that registration
14 year.

15 (g) (1) If any person submits false information for the purposes
16 of obtaining a Dungeness crab vessel permit under this section,
17 the department shall revoke that permit, if issued, revoke the
18 person’s commercial fishing license that was issued pursuant to
19 Section 7850 for a period of not less than five years, and revoke
20 the commercial boat registration for a period of not less than five
21 years of any vessel registered to that person pursuant to Section
22 7881 of which that person is the owner.

23 (2) In addition to criminal penalties authorized by law, a person
24 who fishes without a Dungeness crab vessel permit, or who uses
25 a Dungeness crab vessel permit to fish illegally on another vessel
26 other than the permitted one, shall be subject to a fine not more
27 than twenty thousand dollars (\$20,000) and, at the discretion of
28 the department, revocation of the person’s fishing license for a
29 period not to exceed five years and revocation of the commercial
30 boat registration license for a period not to exceed five years.

31 (h) This section shall become inoperative on April 1, ~~2018~~ 2019,
32 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
33 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
34 deletes or extends the dates on which it becomes inoperative and
35 is repealed.

36 SEC. 7. Section 8280.2 of the Fish and Game Code is amended
37 to read:

38 8280.2. (a) The owner of a Dungeness crab vessel, for purposes
39 of this section, may include a person with a bona fide contract for
40 the purchase of a vessel who otherwise meets all other

1 qualifications for a Dungeness crab vessel permit. If a contract is
2 found to be fraudulent or written or entered into for the purposes
3 of circumventing qualification criteria for the issuance of a permit,
4 the applicant shall be permanently ineligible for a Dungeness crab
5 vessel permit.

6 (b) A Dungeness crab vessel permit shall be issued only to the
7 person owning the vessel at the time of application for that permit.
8 A person shall not be issued more than one permit for each vessel
9 owned by that person and qualifying for a permit pursuant to
10 Section 8280.1.

11 (c) A Dungeness crab vessel permit shall be issued only to the
12 owner of a vessel taking crab by traps. A permit shall not be issued
13 to the owner of a vessel using trawl or other nets unless the owner
14 of that vessel qualifies for a permit pursuant to paragraph (1) of
15 subdivision (b) of Section 8280.1. A trawl or other net vessel
16 authorized under this code to take Dungeness crab incidental to
17 the taking of fish in trawl or other nets shall not be required to
18 possess a Dungeness crab vessel permit.

19 (d) Dungeness crab vessel permits shall not be combined or
20 otherwise aggregated for the purpose of replacing smaller vessels
21 in the fishery with a larger vessel, and a permit shall not be divided
22 or otherwise separated for the purpose of replacing a vessel in the
23 fishery with two or more smaller vessels.

24 (e) Applications for renewal of all Dungeness crab vessel
25 permits shall be received by the department, or, if mailed,
26 postmarked, by April 30 of each year. In order for a vessel to retain
27 eligibility, a permit shall be obtained each year subsequent to the
28 initial permit year and the vessel shall be registered pursuant to
29 Section 7881. The vessel owner shall have a valid commercial
30 fishing license issued to that person pursuant to Section 7852 that
31 has not been suspended or revoked. Minimum landings of
32 Dungeness crab shall not be required annually to be eligible for a
33 Dungeness crab vessel permit.

34 (f) This section shall become inoperative on April 1, ~~2018~~ 2019,
35 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
36 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
37 deletes or extends the dates on which it becomes inoperative and
38 is repealed.

39 SEC. 8. Section 8280.3 of the Fish and Game Code is amended
40 to read:

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

4 (b) The owner of a vessel to whom a Dungeness crab vessel
5 permit has been issued shall transfer the permit for the use of that
6 vessel upon the sale of the vessel by the permitholder to the person
7 purchasing the vessel. Thereafter, upon notice to the department,
8 the person purchasing the vessel may use the vessel for the taking
9 and landing of Dungeness crab for any and all of the unexpired
10 portion of the permit year, and that person is eligible for a permit
11 pursuant to Section 8280.1 for the use of that vessel in subsequent
12 years. The person purchasing the vessel shall not transfer the permit
13 for use of that vessel in the Dungeness crab fishery to another
14 replacement vessel during the same permit year.

15 (c) The owner of a vessel to whom the Dungeness crab vessel
16 permit has been issued may transfer the permit to a replacement
17 vessel of equivalent capacity, except as specified in this section.
18 Thereafter, upon notice to the department and payment of the
19 transfer fee specified in Section 8280.6, the replacement vessel
20 may be used for the taking and landing of Dungeness crab for any
21 and all of the unexpired portion of the permit year and that person
22 is eligible for a permit pursuant to Section 8280.1 for the use of
23 that replacement vessel in subsequent years.

24 (d) The owner of a permitted vessel may transfer the permit to
25 a vessel of greater capacity that was owned by that person on or
26 before November 15, 1995, not to exceed 10 feet longer in length
27 overall than the vessel for which the permit was originally issued
28 or to a vessel of greater capacity purchased after November 15,
29 1995, not to exceed 5 feet longer in length overall than the vessel
30 for which the permit was originally issued.

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

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

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

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

7 (4) The vessel to which the permit is to be transferred does not
8 exceed 20 feet longer in length overall than the vessel for which
9 the permit was originally issued and the vessel to which the permit
10 is to be transferred does not exceed 60 feet in overall length.

11 (f) A transfer of a permit to a larger vessel shall not be allowed
12 more than one time. If a permit is transferred to a larger vessel,
13 any Dungeness crab vessel permit for that permit year or any
14 subsequent permit years for that larger vessel shall not be
15 transferred to another larger vessel. The department shall not
16 thereafter issue a Dungeness crab vessel permit for the use of the
17 original vessel from which the permit was transferred, except that
18 the original vessel may be used to take or land Dungeness crab
19 after that transfer if its use is authorized pursuant to another
20 Dungeness crab vessel permit subsequently transferred to that
21 vessel pursuant to this paragraph.

22 (g) (1) Upon the written approval of the department, the owner
23 of a vessel to whom the Dungeness crab vessel permit has been
24 issued may temporarily transfer the permit to another replacement
25 vessel, for which use in the Dungeness crab fishery is not permitted
26 pursuant to this section or Section 8280.1, for a period of not more
27 than six months during the current permit year if the vessel for
28 which the permit was issued is seriously damaged, suffers major
29 mechanical breakdown, or is lost or destroyed, as determined by
30 the department, upon approval of the director. The owner of the
31 vessel shall submit proof that the department may reasonably
32 require to establish the existence of the conditions of this
33 paragraph. Upon approval by the director, the owner of a lost or
34 destroyed vessel granted a six-month temporary transfer under this
35 section may be granted an additional six-month extension of the
36 temporary transfer.

37 (2) Notwithstanding subdivision (e) of Section 8280.2, in the
38 event of loss or destruction of a vessel for which a Dungeness crab
39 vessel permit was issued, or serious damage that renders the vessel
40 inoperable, and upon written approval of the department, the owner

1 of the vessel to whom the permit was issued may retain the permit
2 and may transfer the permit to another vessel during the period of
3 two years after the loss or damage of the vessel for which the
4 permit was originally issued. The owner of the lost or damaged
5 vessel shall submit proof that the department may reasonably
6 require to establish the loss or damage of the vessel. If the permit
7 is not transferred to another vessel owned by the person to whom
8 the vessel permit was originally issued within two years of the loss
9 or damage, the permit shall be revoked.

10 (h) Upon written approval of the department, the owner of a
11 vessel to whom the Dungeness crab vessel permit has been issued
12 may retain that permit upon the sale of that permitted vessel for
13 the purpose of transferring the permit to another vessel to be
14 purchased by that individual within one year of the time of sale of
15 the vessel for which the permit was originally issued if the
16 requirements of this section are satisfied, including the payment
17 of transfer fees. If the permit is not transferred to a new vessel
18 owned by the person to whom the vessel permit was originally
19 issued within one year of the sale of the vessel for which it was
20 originally issued, or if the person does not retain ownership of the
21 new vessel to which the permit is transferred for a period of not
22 less than one year, the permit shall be revoked.

23 (i) In the event of the death or incapacity of a permitholder, the
24 permit shall be transferred, upon application, to the heirs or assigns,
25 or to the working partner, of the permitholder, together with the
26 transfer of the vessel for which the permit was issued, and the new
27 owner may continue to operate the vessel under the permit, renew
28 the permit, or transfer the permit upon sale of the vessel pursuant
29 to subdivision (b).

30 (j) This section shall become inoperative on April 1, ~~2018~~ 2019,
31 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
32 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
33 deletes or extends the dates on which it becomes inoperative and
34 is repealed.

35 SEC. 9. Section 8280.4 of the Fish and Game Code is amended
36 to read:

37 8280.4. (a) The commission may revoke the commercial
38 fishing license issued pursuant to Section 7852 of any person
39 owning a fishing vessel engaging in the taking or landing of
40 Dungeness crab by traps for which that person has not obtained a

1 Dungeness crab vessel permit, and the commission may revoke
2 the registration, issued pursuant to Section 7881, for that vessel.

3 (b) This section shall become inoperative on April 1, ~~2018~~ 2019,
4 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
5 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
6 deletes or extends the dates on which it becomes inoperative and
7 is repealed.

8 SEC. 10. Section 8280.5 of the Fish and Game Code is
9 amended to read:

10 8280.5. (a) The director shall convene a Dungeness crab review
11 panel for the purpose of reviewing applications for Dungeness
12 crab vessel permits pursuant to paragraphs (2) and (4) of
13 subdivision (b) of Section 8280.1 and applications for permit
14 transfers pursuant to Section 8280.3 if the department determines
15 that the additional review and advice of the panel will be helpful
16 in deciding whether to issue a permit or approve a transfer.

17 (b) The panel shall consist of one nonvoting representative of
18 the department and three public voting members selected by the
19 director to represent the Dungeness crab fishing industry. One
20 public member shall be licensed pursuant to Article 7 (commencing
21 with Section 8030) of Chapter 1 and active in Dungeness crab
22 processing in this state. Two public members shall be licensed
23 pursuant to Section 7852, one from Sonoma County or a county
24 south of Sonoma County, and one from Mendocino County or a
25 county north of Mendocino County, and active in the taking and
26 landing of Dungeness crab in this state. The public members shall
27 be reimbursed for their necessary and proper expenses to participate
28 on the panel. A public member shall serve on the panel for not
29 more than four consecutive years.

30 (c) The panel may conduct its review of applications referred
31 to it by mail or teleconference.

32 (d) The panel shall review each application for a permit or
33 permit transfer referred to it by the department and shall consider
34 all oral and written evidence presented by the applicant that is
35 pertinent to the application under review. If the panel recommends
36 issuance of a permit or approval of the transfer, the department
37 may issue a Dungeness crab vessel permit pursuant to Section
38 8280.1 or approve a permit transfer pursuant to Section 8280.3.

39 (e) All appeals of denials of Dungeness crab vessel permits shall
40 be made to the commission and may be heard by the commission

1 if the appeal of denial is filed in writing with the commission not
2 later than 90 days from the date of a permit denial. The commission
3 may order the department to issue a permit upon appeal if the
4 commission finds that the appellant qualified for a permit under
5 this chapter.

6 (f) This section shall become inoperative on April 1, ~~2018~~ 2019,
7 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
8 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
9 deletes or extends the dates on which it becomes inoperative and
10 is repealed.

11 SEC. 11. Section 8280.6 of the Fish and Game Code is
12 amended to read:

13 8280.6. (a) The department shall charge a fee for each
14 Dungeness crab vessel permit of two hundred dollars (\$200) for
15 a resident of California and four hundred dollars (\$400) for a
16 nonresident of California, for the reasonable regulatory costs of
17 the department.

18 (b) The department shall charge a nonrefundable fee of two
19 hundred dollars (\$200) for each transfer of a permit authorized
20 pursuant to subdivision (c), (h), or (i) of Section 8280.3, for the
21 reasonable regulatory costs of the department.

22 (c) This section shall become inoperative on April 1, ~~2018~~ 2019,
23 and, as of January 1, ~~2019~~ 2020, is repealed, unless a later enacted
24 statute, that becomes operative on or before January 1, ~~2019~~ 2020,
25 deletes or extends the dates on which it becomes inoperative and
26 is repealed.

27 SEC. 12. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.