

AMENDED IN SENATE JULY 2, 2013
AMENDED IN ASSEMBLY APRIL 4, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 497

Introduced by Assembly Member Chesbro

February 20, 2013

An act to amend Sections 206, 207, 8276.3, and 8283 of, to add ~~Section~~ *Sections 106 and 205.1* to, and to add Article 1.8 (commencing with Section 7695) to Chapter 1 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 497, as amended, Chesbro. Fish and wildlife.

(1) Existing law requires the Fish and Game Commission to form a marine resources committee from its membership consisting of at least one commissioner and requires the committee to report to the commission from time to time on its activities, to make recommendations on all marine resource matters considered by the commission, and to have the committee or its designee, to the extent practicable, attend meetings of the Department of Fish and Wildlife's staff, including meetings of the department staff with interested parties, in which significant marine living resource management documents are being developed.

This bill would require the commission to form a wildlife resources committee from its membership consisting of at least one commissioner, to report to the commission from time to time on its activities, to make recommendations on all nonmarine resource matters considered by the

commission, and to have the committee or its designee, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant wildlife resource management documents are being developed.

(2) The California Constitution creates the Fish and Game Commission. Existing law establishes the commission in the Natural Resources Agency to perform specified functions. Existing law requires the commission to hold no fewer than 10 regular meetings per year, if the commission has adequate funding for related travel, including funding for department travel, with no more than 3 regular meetings to be held in Sacramento per year. Existing law requires the commission to cause the notice of the schedule for regular meetings, and notice of any change in the date and location of a meeting, to be disseminated to the public in a manner that will result in broad dissemination, including, but not limited to, electronic distribution, mailings to interested parties, and publication in local newspapers of the affected communities.

This bill would reduce the number of regular meetings required per year to 8 and would delete the limitation that no more than 3 regular meetings be held in Sacramento per year. The bill would also delete the requirement that the broad dissemination of the notices regarding meetings be achieved in a specific manner *but would require the commission to disseminate notices regarding meetings to the public in a manner that complies with specified provisions of the Administrative Procedure Act.*

(3) Existing law requires the commission, except for emergency regulations, to consider and adopt regulations at a series of no fewer than 3 meetings and requires that these meetings, whether regular or special meetings, be duly noticed to the public in accordance with specified provisions of state law. Existing law provides that at the 3rd meeting the commission may choose to hear additional public discussion regarding the regulations it intends to adopt and requires that either at that meeting or within 20 days after that meeting, the commission add, amend, or repeal regulations relating to any recommendation received at the initial meeting it deems necessary to preserve, properly utilize, and maintain each species or subspecies.

This bill would delete the 20-day period after the 3rd meeting during which the commission would have been authorized to add, amend, or repeal.

(4) Existing law authorizes the commission to annually adopt regulations, as specified, pertaining to migratory birds to conform with

or to further restrict the rules and regulations prescribed pursuant to the Migratory Bird Treaty Act. Existing law provides that migratory game birds may be taken in conformity with federal laws and regulations and the regulations of the commission, as specified, and, if no regulations are prescribed by the proper federal agency, authorizes the commission to determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of migratory game birds, under such rules and regulations as the commission may prescribe.

~~This bill would add similar provisions that would authorize the commission to annually adopt regulations, as specified, pertaining to salmon and groundfish to conform with or to further restrict the rules and regulations prescribed pursuant to the federal Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Fishery Management Council established pursuant to that act or its successor agency. The bill would also add similar provisions that authorize the commission to determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of salmon and groundfish, as specified, if no regulations are prescribed by the proper federal agency. The bill would require that when regulations are to be adopted under either of these provisions, the commission must hold at least one duly noticed public hearing before the regulations are adopted.~~

This bill would add similar provisions that would authorize the commission to establish by regulation an automatic process to conform its sport fishing regulations to federal regulations and would require the Department of Fish and Wildlife to provide public notice of any conforming action implemented pursuant to this provision.

The bill would also provide that regulations that the commission may be authorized to adopt pertaining to salmon and groundfish are not subject to specified provisions of the Administrative Procedure Act and would require the commission to hold at least one duly noticed public hearing before any regulations are adopted under these provisions.

(5) Existing law, until April 1, 2019, authorizes the Director of the Department of Fish and Wildlife to order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year and prohibits the delay in the opening from being later than January 15 of any year. Under existing law, if the director orders this delay, the opening date of the Dungeness crab fishery in those districts

is required to be preceded by a 36-hour gear setting period, as ordered by the director.

This bill instead would require a 64-hour gear setting period.

(6) Existing law requires the director, if requested on or before November 10 of any year, to consult with the Dungeness crab industry and to specify by public announcement on or before November 20 of that year when crab traps may be set and baited prior to the opening date of the Dungeness crab season in Districts 6, 7, 8, and 9.

This bill would eliminate the above requirements and instead would authorize crab traps to be set and baited 64 hours prior to the opening date of the Dungeness crab season in Districts 6, 7, 8, and 9.

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. Section 106 is added to the Fish and Game Code,
2 to read:

3 106. The commission shall form a wildlife resources committee
4 from its membership consisting of at least one commissioner. The
5 committee shall report to the commission from time to time on its
6 activities and shall make recommendations on all nonmarine
7 resource matters considered by the commission. The committee
8 or its designee shall, to the extent practicable, attend meetings of
9 the department staff, including meetings of the department staff
10 with interested parties, in which significant wildlife resource
11 management documents are being developed.

12 SEC. 2. Section 205.1 is added to the Fish and Game Code, to
13 read:

14 205.1. (a) The Legislature finds and declares all of the
15 following:

16 (1) The federal Magnuson-Stevens Fishery Conservation and
17 Management Act (16 U.S.C. Sec. 1801 et seq.) authorizes fishery
18 management plans and regulations that require close coordination
19 with state fishery managers.

20 (2) The Secretary of Commerce routinely adopts federal fishery
21 rules that require the State of California to make timely conforming
22 changes to its fishery regulations in order to maintain continuity
23 of management and enforcement, and to avoid preemption.

1 (3) *Since 1976, a mechanism for federal conformance has*
2 *existed in this code for commercial fishing and a similar*
3 *mechanism is now required for sport fishing.*

4 (b) *The commission may establish by regulation an automatic*
5 *process to conform its sport fishing regulations to federal*
6 *regulations.*

7 (c) *The department shall provide public notice of any*
8 *conforming action implemented pursuant to this section.*

9 ~~SEC. 2.~~

10 SEC. 3. Section 206 of the Fish and Game Code is amended
11 to read:

12 206. (a) The commission shall hold no fewer than eight regular
13 meetings per calendar year, if the commission has adequate funding
14 for related travel, including funding for department travel. The
15 commission may also hold special meetings or hearings to receive
16 additional input from the department and the public.

17 (b) The commission shall announce the dates and locations of
18 meetings for the year by January 1 of that year, or 60 days prior
19 to the first meeting, whichever comes first. Meeting locations shall
20 be accessible to the public and located throughout the state. To the
21 extent feasible, meetings shall be held in state facilities. In setting
22 the dates and locations for regular meetings, the commission shall
23 also consider the following factors:

24 (1) Recommendations of the department.

25 (2) Opening and closing dates of fishing and hunting seasons.

26 (3) The schedules of other state and federal regulatory agencies
27 whose regulations affect the management of fish and wildlife of
28 this state.

29 (c) The commission shall cause the notice of the schedule for
30 regular meetings, and notice of any change in the date and location
31 of a meeting, to be disseminated to the public in a manner that will
32 result in broad dissemination *and that complies with the*
33 *Administrative Procedure Act (Chapter 3.5 (commencing with*
34 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
35 *Code).*

36 ~~SEC. 3.~~

37 SEC. 4. Section 207 of the Fish and Game Code is amended
38 to read:

39 207. (a) Except for emergency regulations, the commission
40 shall consider and adopt regulations pursuant to Sections 203 and

1 205 at a series of no fewer than three meetings. These meetings
2 may be regular or special meetings that are duly noticed to the
3 public in accordance with subdivision (c) of Section 206 and the
4 Administrative Procedure Act (Chapter 3.5 (commencing with
5 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
6 Code).

7 (b) At the first meeting, the commission shall receive
8 recommendations for regulations from its own members and staff,
9 the department, other public agencies, and the public.

10 (c) At the second meeting, the commission shall devote time
11 for open public discussion of proposed regulations presented at
12 the first meeting. The department shall participate in this discussion
13 by reviewing and presenting its findings regarding each regulation
14 proposed by the public and by responding to objections raised
15 pertaining to its proposed regulations. After considering the public
16 discussion, the commission shall announce, prior to adjournment
17 of the meeting, the regulations it intends to add, amend, or repeal.

18 (d) At the third meeting, the commission may choose to hear
19 additional public discussion regarding the regulations it intends to
20 adopt. At the meeting, the commission shall add, amend, or repeal
21 regulations relating to any recommendation received at the initial
22 meeting it deems necessary to preserve, properly utilize, and
23 maintain each species or subspecies.

24 (e) Within 45 days after adoption, the department shall publish
25 and distribute regulations adopted pursuant to this section.

26 ~~SEC. 4.~~

27 *SEC. 5.* Article 1.8 (commencing with Section 7695) is added
28 to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code,
29 to read:

30

31 Article 1.8. Salmon and Groundfish Regulations

32

33 ~~7695. (a) The commission may, annually, adopt regulations~~
34 ~~pertaining to salmon and groundfish to conform with or to further~~
35 ~~restrict the rules and regulations prescribed pursuant to the federal~~
36 ~~Magnuson-Stevens Fishery Conservation and Management Act~~
37 ~~(16 U.S.C. Sec. 1801 et seq.) and the Pacific Fishery Management~~
38 ~~Council established pursuant to that act or its successor agency.~~

39 (b) ~~Regulations adopted under this section~~

1 7695. Regulations that the commission may be authorized to
2 adopt pursuant to this article to conform with federal regulations
3 are not subject to Sections 11343.4, 11346.1, 11346.4, and 11346.8
4 of the Government Code. The commission shall hold at least one
5 duly noticed public hearing before any regulations are adopted
6 under this section or Section 7695.5. article.

7 ~~(e) Any regulation of the commission adopted pursuant to this~~
8 ~~section shall be filed with the Secretary of State, and shall become~~
9 ~~effective upon filing unless otherwise specified in the regulations.~~

10 ~~7695.5. (a) Salmon and groundfish may be taken in conformity~~
11 ~~with the federal laws and regulations and the regulations of the~~
12 ~~commission as provided in Section 7695.~~

13 ~~(b) In the event no regulations are prescribed by the proper~~
14 ~~federal agency, the commission may determine and fix the area or~~
15 ~~areas, the seasons and hours, the species, the bag and possession~~
16 ~~limits, and the total number that may be taken during any open~~
17 ~~season for the taking of salmon and groundfish, under rules and~~
18 ~~regulations as the commission may prescribe. The rules and~~
19 ~~regulations adopted by the commission pursuant to this section~~
20 ~~shall have the same effect as if enacted by the Legislature.~~

21 ~~SEC. 5.~~

22 SEC. 6. Section 8276.3 of the Fish and Game Code is amended
23 to read:

24 8276.3. (a) If there is any delay ordered by the director
25 pursuant to Section 8276.2 in the opening of the Dungeness crab
26 fishery in Fish and Game Districts 6, 7, 8, and 9, a vessel shall not
27 take or land crab within Districts 6, 7, 8, and 9 during any closure.

28 (b) If there is any delay in the opening of the Dungeness crab
29 season pursuant to Section 8276.2, the opening date in Fish and
30 Game Districts 6, 7, 8, and 9 shall be preceded by a 64-hour gear
31 setting period, as ordered by the director.

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

36 ~~SEC. 6.~~

37 SEC. 7. Section 8283 of the Fish and Game Code is amended
38 to read:

39 8283. (a) Crab traps may be set and baited 64 hours prior to
40 the opening date of the Dungeness crab season in Fish and Game

1 Districts 6, 7, 8, and 9. Crab traps may be set and baited in advance
2 of that opening date in those districts if no other attempt is made
3 to take or possess Dungeness crab in those districts.

4 (b) Except in Fish and Game Districts 6, 7, 8, and 9, crab traps
5 may be set and baited 18 hours in advance of the opening date of
6 the Dungeness crab season, if no other attempt is made to take or
7 possess Dungeness crab.

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