

AMENDED IN ASSEMBLY JUNE 10, 2013

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 814

**Introduced by Committee on Natural Resources and Water
(Senators Pavley (Chair), Cannella, Evans, Fuller, Jackson, Lara,
Monning, and Wolk)**

February 26, 2013

An act to amend ~~Section~~ *Sections 8405.2 and 12025* of the Fish and Game Code, and to amend Sections 607, 2774, 2790, and ~~30333~~ 30333, and 30620 of the Public Resources Code, and to amend Section 2810.2 of the Vehicle Code, relating to administration of ~~natural~~ public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as amended, Committee on Natural Resources and Water. Public resources: administration.

Existing

(1) *Existing* law prohibits sea cucumbers from being taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit. Existing law authorizes a sea cucumber permit to be transferred if specified conditions are met, including requiring that an application for transfer be submitted to the Department of Fish and Wildlife and the payment of a transfer fee.

This bill would authorize, upon the death of a sea cucumber permitholder, a sea cucumber permit to be transferred by the permitholder's heirs, assignees, or estate to a qualified person as specified.

(2) *Existing* law imposes various civil fines and penalties for a violation of specified provisions of the Fish and Game Code in

connection with the production or cultivation of a controlled substance, as defined, on land within the jurisdiction of specified state, local, and federal agencies or within the ownership of a timberland production zone, as prescribed.

Existing law also authorizes a peace officer, as described, to stop a vehicle transporting agricultural irrigation supplies, as defined, that are in plain view on a rock road or unpaved road that is located in a county that elects to implement these provisions, and within the jurisdiction of specified state, local, or federal agencies or within the ownership of a timberland production zone and to inspect the bills of lading, shipping, or delivery papers, or other evidence, to determine whether the driver is in legal possession of the load. Existing law authorizes the peace officer, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended.

This bill would revise these provisions to instead specify their application to lands under the management of these various state, local, and federal agencies.

(3) Under existing law, the California Coastal Commission is authorized to amend or adopt rules and regulations related to duties of the commission in accordance with specified provisions of law. Existing law requires the commission to prepare interim procedures for coastal development permit applications and claims of exemption, as specified, including interpretive guidelines to determine how policies of the California Coastal Act are applied in the coastal zone prior to the certification of local coastal programs.

This bill would require the interpretive guidelines to also include how the policies are applied through the preparation and amendment of local coastal programs and would make various technical, nonsubstantive changes to these California Coastal Commission provisions.

~~Under~~

(4) Under existing law, the Department of Conservation is divided between various entities, including the Division of Oil, Gas, and Geothermal Resources and the Office of Mine Reclamation. The Surface Mining and Reclamation Act of 1975, administered by the department, prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a reclamation plan is submitted to and approved by the lead agency for the operation. The act requires

every lead agency to adopt ordinances that establish procedures for the review and approval of reclamation plans, and, before approving a reclamation plan, to submit the plan to the Director of Conservation. The act also authorizes the State Mining and Geology Board to designate specific geographic areas of the state as areas of statewide or regional significance, as specified.

~~Under existing law, the California Coastal Commission is authorized to amend or adopt rules and regulations related to duties of the commission in accordance with specified provisions of law.~~

This bill would make technical, nonsubstantive changes to these Department of Conservation and California Coastal Commission provisions.

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 8405.2 of the Fish and Game Code is
2 amended to read:

3 8405.2. (a) A sea cucumber permit may be transferred by the
4 permittee if the permittee has previously held a valid sea cucumber
5 permit for any four permit years and landed at least 100 pounds
6 of sea cucumbers in each of those permit years, as documented by
7 landing receipts with the name of the permittee shown on the
8 receipts.

9 (b) A sea cucumber permit may be transferred only to a person
10 who has a valid commercial fishing license issued pursuant to
11 Section 7852, that has not been suspended or revoked. A sea
12 cucumber permit shall not be transferred to a person who has had
13 a sea cucumber permit suspended or revoked while the suspension
14 or revocation is in effect.

15 (c) An application for transfer shall be submitted to the
16 department, with reasonable proof as the department may require
17 to establish the qualifications of the permitholder and the person
18 the permit is to be transferred to, accompanied by payment to the
19 department of a nonrefundable transfer fee of two hundred dollars
20 (\$200). The transfer shall take effect on the date notice of approval
21 of the application is given to the transferee by the department.

22 (d) A sea cucumber trawl permit may be transferred to a
23 qualified person as provided in subdivisions (b) and (c) to take sea

1 cucumbers by diving or by use of trawl nets. A sea cucumber dive
2 permit may be transferred to a qualified person as provided in
3 subdivisions (b) and (c) only to take sea cucumbers by diving. The
4 transferee shall specify the gear type, either trawl or dive, that the
5 transferee intends to use to take sea cucumbers. The gear type of
6 the sea cucumber permit, either trawl or dive, shall not be
7 transferable.

8 (e) Upon the death of a sea cucumber permitholder, the deceased
9 person's sea cucumber dive or trawl permit may be transferred by
10 his or her heirs, assignees, or estate to a qualified person as
11 provided in this section and upon payment of the fee described in
12 subdivision (c).

13 *SEC. 2. Section 12025 of the Fish and Game Code is amended*
14 *to read:*

15 12025. (a) In addition to any penalties imposed by any other
16 law, a person found to have violated Section 1602, 5650, or 5652
17 in connection with the production or cultivation of a controlled
18 substance on land ~~within the respective jurisdiction~~ *under the*
19 *management* of the Department of Parks and Recreation, the
20 Department of Fish and ~~Game Wildlife~~, the Department of Forestry
21 and Fire Protection, the State Lands Commission, a regional park
22 district, the United States Forest Service, or the Bureau of Land
23 Management, or within the respective ownership of a timberland
24 production zone, as defined in Chapter 6.7 (commencing with
25 Section 51100) of Division 1 of Title 5 of the Government Code,
26 of more than 50,000 acres, shall be liable for a civil penalty in the
27 following amounts:

28 (1) A person who violates Section 1602 in connection with the
29 production or cultivation of a controlled substance is subject to a
30 civil penalty of not more than ten thousand dollars (\$10,000) for
31 each violation.

32 (2) A person who violates Section 5650 in connection with the
33 production or cultivation of a controlled substance is subject to a
34 civil penalty of not more than forty thousand dollars (\$40,000) for
35 each violation.

36 (3) A person who violates Section 5652 in connection with the
37 production or cultivation of a controlled substance is subject to a
38 civil penalty of not more than forty thousand dollars (\$40,000) for
39 each violation.

1 (b) The civil penalty imposed for each separate violation
2 pursuant to this section is in addition to any other civil penalty
3 imposed for another violation of this section, or any violation of
4 any other law.

5 (c) All civil penalties collected for a separate violation pursuant
6 to this section shall not be considered to be fines or forfeitures, as
7 described in Section 13003, and shall be apportioned in the
8 following manner:

9 (1) Thirty percent shall be distributed to the county in which
10 the violation was committed pursuant to Section 13003. The county
11 board of supervisors shall first use any revenues from those
12 penalties to reimburse the costs incurred by the district attorney
13 or city attorney in investigating and prosecuting the violation.

14 (2) Thirty percent shall be distributed to the investigating agency
15 to be used to reimburse the cost of any investigation directly related
16 to the violations described in this section.

17 (3) Forty percent shall be distributed to the agency performing
18 the cleanup or abatement of the cultivation or production site for
19 the reimbursement for all reasonable costs associated with the
20 cleanup or abatement.

21 (d) For the purposes of this section, “controlled substance” has
22 the same meaning as defined in Section 11007 of the Health and
23 Safety Code.

24 ~~SEC. 2.~~

25 *SEC. 3.* Section 607 of the Public Resources Code is amended
26 to read:

27 607. The work of the department shall be divided into at least
28 the following:

- 29 (a) California Geological Survey.
- 30 (b) Division of Oil, Gas, and Geothermal Resources.
- 31 (c) Division of Land Resource Protection.
- 32 (d) Office of Mine Reclamation.

33 ~~SEC. 3.~~

34 *SEC. 4.* Section 2774 of the Public Resources Code is amended
35 to read:

36 2774. (a) Every lead agency shall adopt ordinances in
37 accordance with state policy that establish procedures for the
38 review and approval of reclamation plans and financial assurances
39 and the issuance of a permit to conduct surface mining operations,
40 except that any lead agency without an active surface mining

1 operation in its jurisdiction may defer adopting an implementing
2 ordinance until the filing of a permit application. The ordinances
3 shall establish procedures requiring at least one public hearing and
4 shall be periodically reviewed by the lead agency and revised, as
5 necessary, to ensure that the ordinances continue to be in
6 accordance with state policy.

7 (b) The lead agency shall conduct an inspection of a surface
8 mining operation within six months of receipt by the lead agency
9 of the surface mining operation's report submitted pursuant to
10 Section 2207, solely to determine whether the surface mining
11 operation is in compliance with this chapter. In no event shall a
12 lead agency inspect a surface mining operation less than once in
13 any calendar year. The lead agency may cause an inspection to be
14 conducted by a state licensed geologist, state licensed civil
15 engineer, state licensed landscape architect, or state licensed
16 forester, who is experienced in land reclamation and who has not
17 been employed by a surface mining operation within the
18 jurisdiction of the lead agency in any capacity during the previous
19 12 months. All inspections shall be conducted using a form
20 developed by the department and approved by the board that shall
21 include the professional licensing and disciplinary information of
22 the person who conducted the inspection. The operator shall be
23 solely responsible for the reasonable cost of the inspection. The
24 lead agency shall notify the director within 30 days of the date of
25 completion of the inspection that the inspection has been
26 conducted. The notice shall contain a statement regarding the
27 surface mining operation's compliance with this chapter, shall
28 include a copy of the completed inspection form, and shall specify
29 which aspects of the surface mining operations, if any, are
30 inconsistent with this chapter. If the surface mining operation has
31 a review of its reclamation plan, financial assurances, or an interim
32 management plan pending under subdivision (b), (c), (d), or (h)
33 of Section 2770, or an appeal pending before the board or lead
34 agency governing body under subdivision (e) or (h) of Section
35 2770, the notice shall so indicate. The lead agency shall forward
36 to the operator a copy of the notice, a copy of the completed
37 inspection form, and any supporting documentation, including,
38 but not limited to, any inspection report prepared by the geologist,
39 civil engineer, landscape architect, or forester, who conducted the
40 inspection.

1 (c) Before approving a surface mining operation’s reclamation
2 plan, financial assurances, including existing financial assurances
3 reviewed by the lead agency pursuant to subdivision (c) of Section
4 2770, or any amendments, the lead agency shall submit the plan,
5 assurances, or amendments to the director for review. All
6 documentation for that submission shall be submitted to the director
7 at one time. When the lead agency submits a reclamation plan or
8 plan amendments to the director for review, the lead agency shall
9 also submit to the director, for use in reviewing the reclamation
10 plan or plan amendments, information from any related document
11 prepared, adopted, or certified pursuant to Division 13
12 (commencing with Section 21000), and shall submit any other
13 pertinent information. The lead agency shall certify to the director
14 that the reclamation plan is in compliance with the applicable
15 requirements of this chapter and Article 1 (commencing with
16 Section 3500) of Chapter 8 of Division 2 of Title 14 of the
17 California Code of Regulations and the lead agency’s mining
18 ordinance in effect at the time that the reclamation plan is submitted
19 to the director for review.

20 (d) (1) The director shall have 30 days from the date of receipt
21 of a reclamation plan or plan amendments submitted pursuant to
22 subdivision (c), and 45 days from the date of receipt of financial
23 assurances submitted pursuant to subdivision (c), to prepare written
24 comments, if the director so chooses. The lead agency shall
25 evaluate written comments received from the director relating to
26 the reclamation plan, plan amendments, or financial assurances
27 within a reasonable amount of time.

28 (2) The lead agency shall prepare a written response to the
29 director’s comments describing the disposition of the major issues
30 raised by the director’s comments, and submit the lead agency’s
31 proposed response to the director at least 30 days prior to approval
32 of the reclamation plan, plan amendment, or financial assurance.
33 The lead agency’s response to the director’s comments shall
34 describe whether the lead agency proposes to adopt the director’s
35 comments to the reclamation plan, plan amendment, or financial
36 assurance. If the lead agency does not propose to adopt the
37 director’s comments, the lead agency shall specify, in detail, why
38 the lead agency proposes not to adopt the comments. Copies of
39 any written comments received and responses prepared by the lead
40 agency shall be forwarded to the operator. The lead agency shall

1 also give the director at least 30 days' notice of the time, place,
 2 and date of the hearing before the lead agency at which time the
 3 reclamation plan, plan amendment, or financial assurance is
 4 scheduled to be approved by the lead agency. If no hearing is
 5 required by this chapter, or by the local ordinance, or other state
 6 law, then the lead agency shall provide 30 days' notice to the
 7 director that it intends to approve the reclamation plan, plan
 8 amendment, or financial assurance. The lead agency shall send to
 9 the director its final response to the director's comments within
 10 30 days following its approval of the reclamation plan, plan
 11 amendment, or financial assurance during which period the
 12 department retains all powers, duties, and authorities of this
 13 chapter.

14 (3) To the extent that there is a conflict between the comments
 15 of a trustee agency or a responsible agency that are based on the
 16 agency's statutory or regulatory authority and the comments of
 17 other commenting agencies which are received by the lead agency
 18 pursuant to Division 13 (commencing with Section 21000)
 19 regarding a reclamation plan or plan amendments, the lead agency
 20 shall consider only the comments of the trustee agency or
 21 responsible agency.

22 (e) ~~Lead agencies~~ A lead agency shall notify the director of the
 23 filing of an application for a permit to conduct surface mining
 24 operations within 30 days of an application being filed with the
 25 lead agency. By July 1, 1991, each lead agency shall submit to the
 26 director for every active or idle mining operation within its
 27 jurisdiction, a copy of the mining permit required pursuant to
 28 Section 2774, and any conditions or amendments to those permits.
 29 By July 1 of each subsequent year, the lead agency shall submit
 30 to the director for each active or idle mining operation a copy of
 31 any permit or reclamation plan amendments, as applicable, or a
 32 statement that there have been no changes during the previous
 33 year. Failure to file with the director the information required under
 34 this section shall be cause for action under Section 2774.4.

35 ~~SEC. 4.~~

36 SEC. 5. Section 2790 of the Public Resources Code is amended
 37 to read:

38 2790. After receipt of mineral information from the State
 39 Geologist pursuant to subdivision (d) of Section 2761, the board
 40 may, by regulation adopted after a public hearing, designate

1 specific geographic areas of the state as areas of statewide or
2 regional significance and specify the boundaries of the geographic
3 areas. The designation shall be included as a part of the state policy
4 and shall indicate the reason for which the particular area
5 designated is of significance to the state or region, the adverse
6 effects that might result from premature development of
7 incompatible land uses, the advantages that might be achieved
8 from extraction of the minerals of the area, and the specific goals
9 and policies to protect against the premature incompatible
10 development of the area.

11 ~~SEC. 5.~~

12 *SEC. 6.* Section 30333 of the Public Resources Code is
13 amended to read:

14 30333. (a) Except as provided in Section 18930 of the Health
15 and Safety Code, the commission may adopt or amend, by vote of
16 a majority of the appointed membership of the commission, rules
17 and regulations to carry out the purposes and provisions of this
18 division, and to govern procedures of the commission.

19 (b) Except as provided in Section 18930 of the Health and Safety
20 Code and paragraph (3) of subdivision (a) of Section 30620, these
21 rules and regulations shall be adopted in accordance with the
22 provisions of Chapter 3.5 (commencing with Section 11340) of
23 Part 1 of Division 3 of Title 2 of the Government Code. These
24 rules and regulations shall be consistent with this division and
25 other applicable law.

26 *SEC. 7. Section 30620 of the Public Resources Code is*
27 *amended to read:*

28 30620. (a) By January 30, 1977, the commission shall,
29 consistent with this chapter, prepare interim procedures for the
30 submission, review, and appeal of coastal development permit
31 applications and of claims of exemption. These procedures shall
32 include, but are not limited to, all of the following:

33 (1) Application and appeal forms.

34 (2) Reasonable provisions for notification to the commission
35 and other interested persons of ~~any~~ *an* action taken by a local
36 government pursuant to this chapter, in sufficient detail to ensure
37 that a preliminary review of that action for conformity with this
38 chapter can be made.

39 (3) Interpretive guidelines designed to assist local governments,
40 the commission, and persons subject to this chapter in determining

1 how the policies of this division shall be applied in the coastal
2 zone prior to the certification, *and through the preparation and*
3 *amendment*, of local coastal programs. However, the guidelines
4 shall not supersede, enlarge, or diminish the powers or authority
5 of the commission or any other public agency.

6 (b) Not later than May 1, 1977, the commission shall, after
7 public hearing, adopt permanent procedures that include the
8 components specified in subdivision (a) and shall transmit a copy
9 of those procedures to each local government within the coastal
10 zone and make them readily available to the public. The
11 commission may thereafter, from time to time, and, except in cases
12 of emergency, after public hearing, modify or adopt additional
13 procedures or guidelines that the commission determines to be
14 necessary to better carry out the purposes of this division.

15 (c) (1) The commission may require a reasonable filing fee and
16 the reimbursement of expenses for the processing by the
17 commission of ~~any~~ *an* application for a coastal development permit
18 under this division and, except for local coastal program submittals,
19 for any other filing, including, but not limited to, a request for
20 revocation, categorical exclusion, or boundary adjustment, *that is*
21 submitted for review by the commission.

22 (2) Any coastal development permit fees *that are* collected by
23 the commission under paragraph (1) shall be deposited in the
24 Coastal Act Services Fund established pursuant to Section 30620.1.
25 This paragraph does not authorize an increase in fees or create any
26 new authority on the part of the commission.

27 (d) With respect to an appeal of an action taken by a local
28 government pursuant to Section 30602 or 30603, the executive
29 director shall, within five working days of receipt of an appeal
30 from a person other than a member of the commission or a public
31 agency, determine whether the appeal is patently frivolous. If the
32 executive director determines that an appeal is patently frivolous,
33 the appeal shall not be filed unless a filing fee in the amount of
34 three hundred dollars (\$300) is deposited with the commission
35 within five working days of the receipt of the executive director's
36 determination. If the commission subsequently finds that the appeal
37 raises a substantial issue, the filing fee shall be refunded.

38 *SEC. 8. Section 2810.2 of the Vehicle Code is amended to read:*

39 2810.2. (a) (1) A peace officer, as described in Chapter 4.5
40 (commencing with Section 830) of Title 3 of Part 2 of the Penal

1 Code, may stop any vehicle transporting agricultural irrigation
2 supplies that are in plain view to inspect the bills of lading,
3 shipping, or delivery papers, or other evidence to determine
4 whether the driver is in legal possession of the load, if the vehicle
5 is on a rock road or unpaved road that is located in a county that
6 has elected to implement this section and the road is located as
7 follows:

8 (A) Located ~~within the respective jurisdiction~~ *under the*
9 *management* of the Department of Parks and Recreation, the
10 Department of Fish and ~~Game Wildlife~~, the Department of Forestry
11 and Fire Protection, the State Lands Commission, a regional park
12 district, the United States Forest Service, or the Bureau of Land
13 Management.

14 (B) Located within the respective ownership of a timberland
15 production zone, as defined in Chapter 6.7 (commencing with
16 Section 51100) of Division 1 of Title 5 of the Government Code,
17 either that is larger than 50,000 acres or for which the owner of
18 more than 2,500 acres has given express written permission for a
19 vehicle to be stopped within that zone pursuant to this section.

20 (2) Upon reasonable belief that the driver of the vehicle is not
21 in legal possession, the law enforcement officer specified in
22 paragraph (1) shall take custody of the vehicle and load and turn
23 them over to the custody of the sheriff of the county that has elected
24 to implement this section where the agricultural irrigation supplies
25 are apprehended.

26 (b) The sheriff shall receive and provide for the care and
27 safekeeping of the apprehended agricultural irrigation supplies
28 that were in plain view within the boundaries of public lands under
29 the ~~jurisdiction~~ *management* of the entities listed in subparagraph
30 (A) of paragraph (1) of subdivision (a) or on a timberland
31 production zone as specified in subparagraph (B) of paragraph (1)
32 of subdivision (a), and immediately, in cooperation with the
33 department, proceed with an investigation and its legal disposition.

34 (c) Any expense incurred by the sheriff in the performance of
35 his or her duties under this section shall be a legal charge against
36 the county.

37 (d) Except as provided in subdivision (e), a peace officer shall
38 not cause the impoundment of a vehicle at a traffic stop made
39 pursuant to subdivision (a) if the driver's only offense is a violation
40 of Section 12500.

1 (e) During the conduct of pulling a driver over in accordance
2 with subdivision (a), if the peace officer encounters a driver who
3 is in violation of Section 12500, the peace officer shall make a
4 reasonable attempt to identify the registered owner of the vehicle.
5 If the registered owner is present, or the peace officer is able to
6 identify the registered owner and obtain the registered owner's
7 authorization to release the motor vehicle to a licensed driver
8 during the vehicle stop, the vehicle shall be released to either the
9 registered owner of the vehicle if he or she is a licensed driver or
10 to the licensed driver authorized by the registered owner of the
11 vehicle. If a notice to appear is issued, the name and the driver's
12 license number of the licensed driver to whom the vehicle was
13 released pursuant to this subdivision shall be listed on the officer's
14 copy of the notice to appear issued to the unlicensed driver. When
15 a vehicle cannot be released, the vehicle shall be removed pursuant
16 to subdivision (p) of Section 22651, whether a notice to appear
17 has been issued or not.

18 (f) For ~~the~~ purposes of this section, "agricultural irrigation
19 supplies" include agricultural irrigation water bladder and one-half
20 inch diameter or greater irrigation line.

21 (g) This section shall be implemented only in a county where
22 the board of supervisors adopts a resolution authorizing the
23 enforcement of this section.