

AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 637**

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**Introduced by Senator Allen**

February 27, 2015

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An act to *amend Section 5653 of the Fish and Game Code, and to add Section 13172.5 to the Water Code, relating to ~~water quality dredging.~~*

LEGISLATIVE COUNSEL'S DIGEST

SB 637, as amended, Allen. ~~Water quality: suction~~ *Suction* dredge mining: permits.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Wildlife. *Existing law requires the department to issue a permit, if the department determines that the use of a vacuum or suction dredge will not be deleterious to fish, upon the payment of a specified fee.*

*This bill would instead require the department to issue a permit if the department determines that the use does not cause any significant effects on fish and wildlife and would authorize the department to adjust the specified fee to an amount sufficient to cover all reasonable costs of the department in regulating suction dredging activities.*

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act). The state act, with certain exceptions, requires a waste discharger to file certain information with the appropriate regional board and to pay an annual fee. The state act additionally requires a person, before discharging

mining waste, to submit to the regional board a report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination and a report that evaluates the potential of the mining waste discharge to produce acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

This bill would require, by July 1, 2017, the State Water Resources Control board to establish a permitting process for suction dredge mining and related mining activities in rivers and streams in the state, consistent with requirements of the state act. The bill would require that the regulations, at a minimum, address cumulative and water quality impacts of specified issues. A person who violates these regulations would be liable for an unspecified penalty. The bill would provide that the state board is not prohibited from adopting regulations that would prohibit suction dredge mining, if the state board makes a certain finding relating to water quality objectives, to the extent consistent with federal law. The bill would prohibit these provisions from affecting any other law, including the California Environmental Quality Act and specified provisions relating to streambed alteration requirements.

*The bill would specify that a suction dredge contains any of specified components for purposes of permits issued by the Department of Fish and Wildlife and for purposes of the permitting process established by the state board.*

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 5653 of the Fish and Game Code is  
2     amended to read:  
3     5653. (a) The use of ~~any~~ a vacuum or suction dredge  
4     equipment by ~~any~~ a person in ~~any~~ a river, stream, or lake of this  
5     state is prohibited, except as authorized under a permit issued to  
6     that person by the department in compliance with the regulations  
7     adopted pursuant to Section 5653.9. Before ~~any~~ a person uses ~~any~~  
8     a vacuum or suction dredge equipment in ~~any~~ a river, stream, or  
9     lake of this state, that person shall submit an application for a  
10    permit for a vacuum or suction dredge to the department, specifying  
11    the type and size of equipment to be used and other information  
12    as the department may require.

1 (b) Under the regulations adopted pursuant to Section 5653.9,  
 2 the department shall designate waters or areas wherein vacuum or  
 3 suction dredges may be used pursuant to a permit, waters or areas  
 4 closed to those dredges, the maximum size of those dredges that  
 5 may be used, and the time of year when those dredges may be  
 6 used. If the department determines, pursuant to the regulations  
 7 adopted pursuant to Section 5653.9, that the operation will not be  
 8 deleterious to fish use of a vacuum or suction dredge does not  
 9 cause any significant effects to fish and wildlife, it shall issue a  
 10 permit to the applicant. If any a person operates any equipment  
 11 other than that authorized by the permit or conducts the operation  
 12 in any waters or area or at any time that is not authorized by the  
 13 permit, or if any person conducts the operation without securing  
 14 the permit, that person is guilty of a misdemeanor.

15 (c) ~~The~~(1) Except as provided in paragraph (2), the department  
 16 shall issue a permit upon the payment, in the case of a resident, of  
 17 a base fee of twenty-five dollars (\$25), as adjusted under Section  
 18 713, when an onsite investigation of the project size is not deemed  
 19 necessary by the department, and a base fee of one hundred thirty  
 20 dollars (\$130), as adjusted under Section 713, when the department  
 21 deems that an onsite investigation is necessary. ~~In~~ Except as  
 22 provided in paragraph (2), in the case of a nonresident, the base  
 23 fee shall be one hundred dollars (\$100), as adjusted under Section  
 24 713, when an onsite investigation is not deemed necessary, and a  
 25 base fee of two hundred twenty dollars (\$220), as adjusted under  
 26 Section 713, when an onsite investigation is deemed necessary.

27 (2) The department may adjust the base fees for a permit  
 28 described in this subdivision to an amount sufficient to cover all  
 29 reasonable costs of the department in regulating suction dredging  
 30 activities.

31 (d) It is unlawful to possess a vacuum or suction dredge in areas,  
 32 or in or within 100 yards of waters, that are closed to the use of  
 33 vacuum or suction dredges.

34 (e) For purposes of this section and Section 5653.1, a suction  
 35 dredge contains any of the following:

- 36 (1) A hose that vacuums sediment from a river, stream, or lake.
- 37 (2) A motorized pump.
- 38 (3) A motorized sluice box.

39 ~~SECTION 1.~~

40 SEC. 2. Section 13172.5 is added to the Water Code, to read:

1 13172.5. (a) On or before July 1, 2017, the state board shall  
2 establish by regulation a permitting process for suction dredge  
3 mining and related mining activities in rivers and streams in the  
4 state. The regulations shall be consistent with the requirements of  
5 this division and, at a minimum, address cumulative and water  
6 quality impacts of each of the following:

7 (1) Mercury loading to downstream reaches of rivers and streams  
8 affected by suction dredge mining.

9 (2) Methylmercury formation in water bodies.

10 (3) Bioaccumulation of mercury in aquatic organisms.

11 (b) A person who violates a regulation adopted pursuant to this  
12 section shall be liable in the amount of \_\_\_\_ (\$\_\_\_\_).

13 (c) Nothing in subdivision (a) shall prohibit the state board from  
14 adopting regulations that prohibit suction dredge mining if the  
15 state board finds that prohibition is necessary to regulate waste  
16 discharges that violate or impair water quality objectives or other  
17 criteria under this division, to the extent consistent with federal  
18 law. In making this determination, the state board may consider,  
19 but is not limited to, soil types, fueling and refueling activities,  
20 and horsepower limitations.

21 (d) This section does not affect any other law, including the  
22 California Environmental Quality Act (Division 13 (commencing  
23 with Section 21000) of the Public Resources Code) and the  
24 Department of Fish and Wildlife's streambed alteration  
25 requirements described in Chapter 6 (commencing with Section  
26 1600) of the Fish and Game Code.

27 (e) *For purposes of this section, a suction dredge contains any*  
28 *of the following:*

29 (1) *A hose that vacuums sediment from a river, stream, or lake.*

30 (2) *A motorized pump.*

31 (3) *A motorized sluice box.*