

AMENDED IN ASSEMBLY AUGUST 18, 2016

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1287

Introduced by Senator McGuire

(Coauthors: Assembly Members Achadjian, Levine, and Wood)

February 19, 2016

An act to amend Sections 5654, 8276.5, 8279.1, and 9002.5 of, and to amend and renumber Section 7715 of, the Fish and Game Code, and to amend Section 131052 of the Health and Safety Code, relating to fishing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1287, as amended, McGuire. Fishing.

(1) Existing law authorizes the Director of Fish and Wildlife to order the closure of any waters or otherwise restrict the taking under a commercial fishing license in state waters of species of fish if the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that the species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances. The closure or restriction is required to be adopted by emergency regulation, as specified. Under existing law, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is generally a misdemeanor.

This bill would expand this authority to all fishing. The bill would require the Director of Fish and Wildlife, after ordering the closure of any waters or restricting the taking of any species of fish, to notify the Fish and Game Commission and request that the commission schedule a public discussion of the closure or restriction at its next scheduled full meeting. The bill would remove the requirement that the closure or restriction be adopted by emergency regulation and would instead exempt a closure or restriction from the Administrative Procedure Act. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law regulates the Dungeness crab fishery and requires the Director of Fish and Wildlife to adopt a program for Dungeness crab trap limits for all California permits. The program requires participants to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee on a biennial basis, as provided, and requires a Dungeness crab trap that is fished to contain a trap tag that is fastened to the main buoy, and an additional tag attached to the trap. Existing law makes the program inoperative on April 1, 2019.

This bill would require the department to issue a waiver from the biennial crab trap tag fee to a participant who is unable to fish due to mandatory military service, as provided. The bill would authorize a vessel to transit state waters with Dungeness crab traps that are not marked in the above-described manner if traps contain either valid Oregon or Washington tags, no crab is onboard the vessel, and the traps are not deployed in state waters.

(3) Existing law prohibits a person from using any vessel to take Dungeness crab for commercial purposes without a Dungeness crab vessel permit. Existing law prohibits a person from taking Dungeness crab for commercial purposes from a vessel in specified ocean waters for 30 days after the opening of the Dungeness crab fishing season if the opening of the season has been delayed in those waters and that person has taken, possessed, or landed Dungeness crab in other specified waters prior to that opening. Existing law requires the Fish and Game Commission to revoke the Dungeness crab vessel permit of any person who violates these provisions. Existing law makes these provisions inoperative on April 1, 2019.

This bill would limit the 30-day start prohibition to a situation in which a person uses the same vessel that was used to take Dungeness crab in specified waters before the delayed opening of the season in the areas subject to the prohibition.

(4) Existing law regulating commercial fishing traps makes it unlawful, except as specified, to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number. Existing law, until April 1, 2019, authorizes the department, in consultation with the Dungeness crab task force, to develop regulations as necessary to provide for the retrieval of lost or abandoned commercial crab traps.

This bill would require the department, as part of the above-described regulations, to establish a retrieval permit program that would grant a person who obtains a retrieval permit the authority to retrieve during the closed season of the Dungeness crab commercial fishery lost or abandoned Dungeness crab traps belonging to another person and to receive compensation for that retrieval on a per trap basis. The bill would require the department to establish a fee to be charged to a Dungeness crab vessel permit holder for each trap belonging to the permit holder that is retrieved through the program. The bill would prohibit the department from renewing a Dungeness crab vessel permit until any fee imposed pursuant to the program has been paid.

(5) 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.

(6) *This bill would incorporate additional changes in Section 131052 of the Health and Safety Code, proposed by SB 1473, to be operative only if SB 1473 and this bill are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.*

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. (a) The Legislature finds and declares all of the
2 following:

3 (1) The Dungeness crab task force supports the Department of
4 Fish and Wildlife issuing citations for abandoning traps in the
5 ocean and for fishing during the closed season of the Dungeness
6 crab commercial fishery in addition to charging fees for the
7 retrieval of Dungeness crab traps pursuant to the program
8 established by this act.

1 (2) The commercial Dungeness crab fishing industry does not
2 tolerate strings of gear left in the ocean after the season closes.
3 The program established by this act will provide an incentive to
4 retrieve traps from the ocean.

5 (3) Establishing this program will help reduce the risk of whale
6 entanglements in commercial Dungeness crab fishing gear.

7 (4) The program established pursuant to this act should be
8 efficient and cost effective, and should utilize entities in addition
9 to the Department of Fish and Wildlife, including nongovernmental
10 organizations, to help implement the program.

11 (b) This act shall be known and may be cited as the Whale
12 Protection and Crab Gear Retrieval Act.

13 SEC. 2. Section 5654 of the Fish and Game Code is amended
14 to read:

15 5654. (a) (1) Notwithstanding Section 5523 and except as
16 provided in paragraph (2), the director, within 24 hours of
17 notification of a spill or discharge, as those terms are defined in
18 ~~subdivision (a)~~ of Section 8670.3 of the Government Code, where
19 any fishing, including all commercial, recreational, and nonlicensed
20 subsistence fishing, may take place, or where aquaculture
21 operations are taking place, shall close to the take of all fish and
22 shellfish all waters in the vicinity of the spill or discharge or where
23 the spilled or discharged material has spread, or is likely to spread.
24 In determining where a spill or discharge is likely to spread, the
25 director shall consult with the Administrator of the Office of Spill
26 Prevention and Response. At the time of closure, the department
27 shall make all reasonable efforts to notify the public of the closure,
28 including notification to commercial and recreational fishing
29 organizations, and posting of warnings on public piers and other
30 locations where subsistence fishing is known to occur. The
31 department shall coordinate, when possible, with local and regional
32 agencies and organizations to expedite public notification.

33 (2) Closure pursuant to paragraph (1) is not required if, within
34 24 hours of notification of a spill or discharge, the Office of
35 Environmental Health Hazard Assessment finds that a public health
36 threat does not or is unlikely to exist.

37 (b) Within 48 hours of notification of a spill or discharge subject
38 to subdivision (a), the director, in consultation with the Office of
39 Environmental Health Hazard Assessment, shall make an
40 assessment and determine all of the following:

1 (1) The danger posed to the public from fishing in the area where
2 the spill or discharge occurred or spread, and the danger of
3 consuming fish taken in the area where the spill or discharge
4 occurred or spread.

5 (2) Whether the areas closed for the take of fish or shellfish
6 should be expanded to prevent any potential take or consumption
7 of any fish or shellfish that may have been contaminated by the
8 spill or discharge.

9 (3) The likely period for maintaining a closure on the take of
10 fish and shellfish in order to prevent any possible contaminated
11 fish or shellfish from being taken or consumed or other threats to
12 human health.

13 (c) Within 48 hours after receiving notification of a spill or
14 discharge subject to subdivision (a), or as soon as is feasible, the
15 director, in consultation with the Office of Environmental Health
16 Hazard Assessment, shall assess and determine the potential danger
17 from consuming fish that have been contained in a recirculating
18 seawater tank onboard a vessel that may become contaminated by
19 the vessel's movement through an area where the spill or discharge
20 occurred or spread.

21 (d) If the director finds in his or her assessment pursuant to
22 subdivision (b) that there is no significant risk to the public or to
23 the fisheries, the director may immediately reopen the closed area
24 and waive the testing requirements of subdivisions (e) and (f).

25 (e) Except under the conditions specified in subdivision (d),
26 after complying with subdivisions (a) and (b), the director, in
27 consultation with the Office of Environmental Health Hazard
28 Assessment, but in no event more than seven days from the
29 notification of the spill or discharge, shall order expedited tests of
30 fish and shellfish that would have been open for take for
31 commercial, recreational, or subsistence purposes in the closed
32 area if not for the closure, to determine the levels of contamination,
33 if any, and whether the fish or shellfish is safe for human
34 consumption.

35 (f) (1) Within 24 hours of receiving a notification from the
36 Office of Environmental Health Hazard Assessment that no threat
37 to human health exists from the spill or discharge or that no
38 contaminant from the spill or discharge is present that could
39 contaminate fish or shellfish, the director shall reopen the areas
40 closed pursuant to this section. The director may maintain a closure

1 in any remaining portion of the closed area where the Office of
2 Environmental Health Hazard Assessment finds contamination
3 from the spill or discharge persists that may adversely affect human
4 health.

5 (2) The director, in consultation with the commission, may also
6 maintain a closure in any remaining portion of the closed area
7 where commercial fishing or aquaculture occurs and where the
8 department determines, pursuant to this paragraph, that
9 contamination from the spill or discharge persists that may cause
10 the waste of commercial fish or shellfish as regulated by Section
11 7701.

12 (g) To the extent feasible, the director shall consult with
13 representatives of commercial and recreational fishing associations
14 and subsistence fishing communities regarding the extent and
15 duration of a closure, testing protocols, and findings. If a spill or
16 discharge occurs within the lands governed by a Native American
17 tribe or affects waters flowing through tribal lands, or tribal
18 fisheries, the director shall consult with the affected tribal
19 governments.

20 (h) The director shall seek full reimbursement from the
21 responsible party or parties for the spill or discharge for all
22 reasonable costs incurred by the department in carrying out this
23 section, including, but not limited to, all testing.

24 SEC. 3. Section 7715 of the Fish and Game Code is amended
25 and renumbered to read:

26 5523. (a) (1) If the Director of Environmental Health Hazard
27 Assessment, in consultation with the State Public Health Officer,
28 determines, based on thorough and adequate scientific evidence,
29 that any species or subspecies of fish is likely to pose a human
30 health risk from high levels of toxic substances, the Director of
31 Fish and Wildlife may order the closure of any waters or otherwise
32 restrict the taking in state waters of that species.

33 (2) After the Director of Fish and Wildlife orders the closure
34 of any waters or restricts the taking of any species of fish pursuant
35 to paragraph (1), he or she shall notify the commission and request
36 that the commission schedule a public discussion of the closure
37 or restriction at its next scheduled full commission meeting.

38 (b) (1) When the Director of Environmental Health Hazard
39 Assessment, in consultation with the State Public Health Officer,
40 determines that a health risk no longer exists, the Director of

1 Environmental Health Hazard Assessment shall notify the Director
2 of Fish and Wildlife and shall request that any waters closed
3 pursuant to subdivision (a) be reopened for fishing and any
4 restrictions imposed pursuant to subdivision (a) be lifted.

5 (2) Upon receiving the notification and request pursuant to
6 paragraph (1), the Director of Fish and Wildlife shall open any
7 waters closed pursuant to subdivision (a) and lift any restrictions
8 imposed pursuant to subdivision (a) in a manner that promotes a
9 fair and orderly fishery.

10 (c) Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code does not apply to
12 actions taken pursuant to this section.

13 SEC. 4. Section 8276.5 of the Fish and Game Code is amended
14 to read:

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

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

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

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

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

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

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

1 (F) The remaining California permits with the next highest
2 California landings to those in subparagraph (E), which are not
3 described in paragraph (1) or (2) of subdivision (g) of Section
4 8276.4, shall receive a maximum allocation of 250 trap tags.

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

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

14 (3) Participants in the program shall meet all of the following
15 requirements:

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

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

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

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

36 (4) The department shall issue a participant a waiver from the
37 biennial fee for each trap tag described in subparagraph (A) of
38 paragraph (3) if the participant is unable to fish due to mandatory
39 military service and the participant submits a request for a waiver
40 to the department at the same time that the participant renews the

1 permit issued pursuant to subparagraph (B) of paragraph (3). A
2 participant who receives a waiver pursuant to this paragraph shall
3 not apply to the department to fish for Dungeness crab during the
4 first year of the waiver, but may apply to fish for Dungeness crab
5 during the second year of the waiver if the participant pays the full
6 cost of the biennial fee for each trap tag. The department shall not
7 limit the number of times a participant may request a waiver.

8 (5) Notwithstanding subparagraph (D) of paragraph (3), a vessel
9 may transit state waters with Dungeness crab traps that are not
10 tagged pursuant to subparagraph (D) of paragraph (3) if the traps
11 contain either a valid Oregon or Washington trap tag, no crab
12 species are onboard the vessel, and the traps are not deployed in
13 state waters.

14 (6) The department shall annually provide an accounting of all
15 costs associated with the crab trap limit program. The department
16 shall use excess funds collected to reduce the cost of the crab trap
17 limit permit fee or tag fee in subsequent years of the program.

18 (7) Permitholders may replace lost tags by application to the
19 department and payment of a fee not to exceed the reasonable costs
20 incurred by the department. The department may waive or reduce
21 a fee in the case of catastrophic loss of tags.

22 (8) (A) Any Dungeness crab permitholder may submit to the
23 director an appeal of a trap tag allocation received pursuant to this
24 section, by March 31, 2014, on a permit-by-permit basis for the
25 purpose of revising upward or downward any trap tag allocation.
26 Any appeal to revise upward a trap tag allocation shall be based
27 on evidence that a permit's California landings during the period
28 between November 15, 2003, and July 15, 2008, inclusive, were
29 reduced as a result of unusual circumstances and that these
30 circumstances constitute an unfair hardship, taking into account
31 the overall California landings history as indicated by landing
32 receipts associated with the permit. The director shall initiate the
33 appeal process within 12 months of receiving an appeal request.
34 The appeal shall be heard and decided by an administrative law
35 judge of the Office of Administrative Hearings, whose decision
36 shall constitute the final administrative decision. Except as
37 provided in subparagraph (B), any Dungeness crab permitholder
38 requesting an appeal to revise upward the permitholder's trap tag
39 allocation shall pay all expenses, including a nonrefundable filing
40 fee, as determined by the department, to pay for the department's

1 reasonable costs associated with the appeal process described in
2 this paragraph.

3 (B) Any Dungeness crab permit holder requesting an appeal may
4 apply to the administrative law judge for a waiver of the appeal
5 fees. In making the determination, the administrative law judge
6 may only consider medical hardship or military service occurring
7 during the tier qualifying window period of November 15, 2003,
8 through July 15, 2008.

9 (C) An appeal to revise downward a trap tag allocation shall be
10 decided by the department.

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

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

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

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

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

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

31 (c) For the purposes of this section, a proposed recommendation
32 that receives an affirmative vote of at least 15 of the non-ex officio
33 members of the Dungeness crab task force may be transmitted to
34 the director or the Legislature as a recommendation, shall be
35 considered to be the consensus of the task force, and shall be
36 considered to be evidence of consensus in the Dungeness crab
37 industry. Any proposed recommendation that does not receive a
38 vote sufficient to authorize transmittal to the director or Legislature
39 as a recommendation shall be evidence of a lack of consensus by

1 the Dungeness crab task force, and shall be considered to be
2 evidence of a lack of consensus in the crab industry.

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

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

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

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

35 (g) (1) It is the intent of the Legislature that the department,
36 the council, and the Dungeness crab task force work with the
37 Pacific States Marine Fisheries Commission and the Tri-state
38 Dungeness Crab Commission to resolve any issues pertaining to
39 moving the fair start line south to the border of California and
40 Mexico.

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

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

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

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

18 8279.1. (a) A person shall not take, possess onboard, or land
19 Dungeness crab for commercial purposes from a vessel in ocean
20 waters in District 6, 7, 8, or 9 for 30 days after the opening of the
21 Dungeness crab fishing season in California, if both of the
22 following events have occurred:

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

25 (2) The same vessel was used to take, possess onboard, or land
26 Dungeness crab for commercial purposes, from ocean waters
27 outside of District 6, 7, 8, or 9, prior to the opening of the season
28 in those districts.

29 (b) A person shall not take, possess onboard, or land Dungeness
30 crab for commercial purposes from a vessel in ocean waters south
31 of the border between Oregon and California for 30 days after the
32 opening of the Dungeness crab fishing season in California, if both
33 of the following events have occurred:

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

36 (2) The same vessel was used to take, possess onboard, or land
37 Dungeness crab for commercial purposes in Oregon or Washington
38 prior to the opening of the season in California.

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

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

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

6 (2) The same vessel was used to take, possess onboard, or land
7 Dungeness crab for commercial purposes in California prior to the
8 opening of the season in ocean waters off Oregon or Washington.

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

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

16 (2) The same vessel was used to take, possess onboard, or land
17 Dungeness crab for commercial purposes in either of the two other
18 states prior to the delayed opening in the ocean waters off any one
19 of the three states.

20 (e) A violation of this section does not constitute a misdemeanor.
21 Pursuant to Section 7857, the commission shall revoke the
22 Dungeness crab vessel permit that was issued for use on the vessel
23 that was used in violation of this section.

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

28 SEC. 6. Section 9002.5 of the Fish and Game Code is amended
29 to read:

30 9002.5. (a) Notwithstanding Section 9002, the department, in
31 consultation with the Dungeness crab task force, shall develop
32 regulations as necessary to provide for the retrieval of lost or
33 abandoned commercial crab traps.

34 (b) (1) As part of the regulations adopted pursuant to
35 subdivision (a), the department shall establish a retrieval permit
36 program that facilitates the removal of lost or abandoned crab gear
37 in an efficient and cost-effective manner consistent with all of the
38 following:

39 (A) The department shall establish a retrieval permit that grants
40 a person who obtains a retrieval permit the authority to retrieve

1 during the closed season of the Dungeness crab commercial fishery
2 lost or abandoned Dungeness crab traps belonging to another
3 person and to receive compensation for that retrieval on a per trap
4 basis from the revenue generated by the fee established pursuant
5 to subparagraph (B).

6 (B) The department shall establish a fee to be charged to a
7 Dungeness crab vessel permitholder for each trap belonging to the
8 permitholder that is retrieved through the program. The department
9 shall set the fee at a level sufficient to cover the reasonable
10 regulatory costs associated with the program and to provide
11 reasonable compensation to a retrieval permitholder on a per trap
12 basis. The reasonable regulatory costs associated with the program
13 include, but are not limited to, administrative costs, storage costs,
14 and costs associated with disposing unusable traps or traps whose
15 owner cannot be identified.

16 (C) The department may use entities in addition to the
17 department, including, but not limited to, nongovernmental
18 organizations, to help implement the program.

19 (D) A Dungeness crab trap shall not be returned to the owner
20 of the trap until the owner has paid the fee established pursuant to
21 subparagraph (B).

22 (E) The department shall not renew a Dungeness crab vessel
23 permit until any fee imposed pursuant to subparagraph (B) has
24 been paid.

25 (2) The department may adopt additional requirements necessary
26 to implement the program described in this subdivision.

27 (3) The department shall submit the proposed program
28 developed pursuant to this subdivision to the Dungeness crab task
29 force for review, and shall not implement the program until the
30 task force has had 60 days or more to review the proposed program
31 and recommend any proposed changes. The director may
32 implement the program earlier than 60 days after it is submitted
33 to the Dungeness crab task force for review, if recommended by
34 the task force.

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

39 SEC. 7. Section 131052 of the Health and Safety Code is
40 amended to read:

1 131052. In implementing the transfer of jurisdiction pursuant
2 to this article, the State Department of Public Health succeeds to
3 and is vested with all the statutory duties, powers, purposes,
4 responsibilities, and jurisdiction of the former State Department
5 of Health Services as they relate to public health as provided for
6 or referred to in all of the following provisions of law:

7 (1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5,
8 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037,
9 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the
10 Business and Professions Code.

11 (2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

12 (3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241,
13 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565,
14 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

15 (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486
16 of the Food and Agricultural Code.

17 (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909
18 of the Family Code.

19 (6) Sections 217.6, 1507, 1786, 4011, 5523, 5671, 5674, 5700,
20 5701, 5701.5, and 15700 of the Fish and Game Code.

21 (7) Sections 855, 51010, and 551017.1 of the Government Code.
22 For purposes of subdivision (s) of Section 6254 of the Government
23 Code, the term “State Department of Health Services” is hereby
24 deemed to refer to the State Department of Public Health.

25 (8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457,
26 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87,
27 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24,
28 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30,
29 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961,
30 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134,
31 26155, 26200, and 26203.

32 (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4,
33 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

34 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of
35 Part 1, Part 2 and Part 3 of Division 101.

36 (D) Division 102, including Sections 102230 and 102231.

37 (E) Division 103, including Sections 104145, 104181, 104182,
38 104182.5, 104187, 104191, 104192, 104193, 104316, 104317,
39 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350,
40 105191, 105251, 105255, 105280, 105340, and 105430.

1 (F) Division 104, including Sections 106615, 106675, 106770,
2 108115, 108855, 109282, 109910, 109915, 112155, 112500,
3 112650, 113355, 114460, 114475, 114650, 114710, 114850,
4 114855, 114985, 115061, 115261, 115340, 115736, 115880,
5 115885, 115915, 116064, 116183, 116270, 116365.5, 116366,
6 116375, 116610, 116751, 116760.20, 116825, 117100, 117924,
7 and 119300.

8 (G) Division 105, including Sections 120262, 120381, 120395,
9 120440, 120480, 120956, 120966, 121155, 121285, 121340,
10 121349.1, 121480, 122410, and 122420.

11 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter
12 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part
13 7, and Part 8 of Division 106.

14 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10,
15 10123.184, and 11520 of the Insurance Code.

16 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1,
17 6359, 6712, 9009, and 9022 of the Labor Code.

18 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515,
19 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990
20 of the Penal Code.

21 (12) Section 4806 of the Probate Code.

22 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830,
23 43210, 43308, 44103, and 71081 of the Public Resources Code.

24 (14) Section 10405 of the Public Contract Code.

25 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.

26 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863,
27 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

28 (17) Section 11020 of the Unemployment Insurance Code.

29 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle
30 Code.

31 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909,
32 and Division 24 of the Welfare and Institutions Code. Payment
33 for services provided under the Family Planning, Access, Care,
34 and Treatment (Family PACT) Waiver Program pursuant to
35 subdivision (aa) of Section 14132 and Division 24 shall be made
36 through the State Department of Health Care Services. The State
37 Department of Public Health and the State Department of Health
38 Care Services may enter into an interagency agreement for the
39 administration of those payments. This paragraph, to the extent

1 that it applies to the Family PACT Waiver Program, shall become
2 inoperative on June 30, 2012.

3 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392,
4 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528,
5 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554,
6 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827,
7 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
8 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887,
9 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3,
10 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898,
11 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026,
12 14027, and 14029 of the Water Code.

13 *SEC. 7.5. Section 131052 of the Health and Safety Code is*
14 *amended to read:*

15 131052. In implementing the transfer of jurisdiction pursuant
16 to this article, the State Department of Public Health succeeds to
17 and is vested with all the statutory duties, powers, purposes,
18 responsibilities, and jurisdiction of the former State Department
19 of Health Services as they relate to public health as provided for
20 or referred to in all of the following provisions of law:

21 (1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5,
22 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037,
23 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the
24 Business and Professions Code.

25 (2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

26 (3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241,
27 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565,
28 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

29 (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486
30 of the Food and Agricultural Code.

31 (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909
32 of the Family Code.

33 (6) Sections ~~217.6, 1507~~, 1786, 4011, 5523, 5671, 5674, 5700,
34 5701, 5701.5, ~~7715~~, 7115, and 15700 of the Fish and Game Code.

35 (7) Sections 855, 51010, and 551017.1 of the Government Code.
36 For purposes of subdivision (s) of Section 6254 of the Government
37 Code, the term “State Department of Health Services” is hereby
38 deemed to refer to the State Department of Public Health.

39 (8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457,
40 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87,

- 1 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24,
2 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30,
3 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961,
4 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134,
5 26155, 26200, and 26203.
- 6 (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4,
7 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.
- 8 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of
9 Part 1, Part 2 and Part 3 of Division 101.
- 10 (D) Division 102, including Sections 102230 and 102231.
- 11 (E) Division 103, including Sections 104145, 104181, 104182,
12 104182.5, 104187, 104191, 104192, 104193, 104316, 104317,
13 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350,
14 105191, 105251, 105255, 105280, 105340, and 105430.
- 15 (F) Division 104, including Sections 106615, 106675, 106770,
16 108115, 108855, 109282, 109910, 109915, 112155, 112500,
17 112650, 113355, 114460, 114475, 114650, 114710, 114850,
18 114855, 114985, 115061, 115261, 115340, 115736, 115880,
19 115885, 115915, 116064, 116183, 116270, 116365.5, 116366,
20 116375, 116610, 116751, 116760.20, 116825, 117100, 117924,
21 and 119300.
- 22 (G) Division 105, including Sections 120262, 120381, 120395,
23 120440, 120480, 120956, 120966, 121155, 121285, 121340,
24 121349.1, 121480, 122410, and 122420.
- 25 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter
26 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part
27 7, and Part 8 of Division 106.
- 28 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10,
29 10123.184, and 11520 of the Insurance Code.
- 30 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1,
31 6359, 6712, 9009, and 9022 of the Labor Code.
- 32 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515,
33 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990
34 of the Penal Code.
- 35 (12) Section 4806 of the Probate Code.
- 36 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830,
37 43210, 43308, 44103, and 71081 of the Public Resources Code.
- 38 (14) Section 10405 of the Public Contract Code.
- 39 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.

1 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863,
2 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

3 (17) Section 11020 of the Unemployment Insurance Code.

4 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle
5 Code.

6 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909,
7 and Division 24 of the Welfare and Institutions Code. Payment
8 for services provided under the Family Planning, Access, Care,
9 and Treatment (Family PACT) Waiver Program pursuant to
10 subdivision (aa) of Section 14132 and Division 24 shall be made
11 through the State Department of Health Care Services. The State
12 Department of Public Health and the State Department of Health
13 Care Services may enter into an interagency agreement for the
14 administration of those payments. This paragraph, to the extent
15 that it applies to the Family PACT Waiver Program, shall become
16 inoperative on June 30, 2012.

17 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392,
18 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528,
19 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554,
20 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827,
21 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
22 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887,
23 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3,
24 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898,
25 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026,
26 14027, and 14029 of the Water Code.

27 SEC. 8. 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.

36 SEC. 9. Section 7.5 of this bill incorporates amendments to
37 Section 131052 of the Health and Safety Code proposed by both
38 this bill and Senate Bill 1473. It shall only become operative if (1)
39 both bills are enacted and become effective on or before January
40 1, 2017, (2) each bill amends Section 131052 of the Health and

- 1 *Safety Code, and (3) this bill is enacted after Senate Bill 1473, in*
- 2 *which case Section 7 of this bill shall not become operative.*

O