

AMENDED IN SENATE JUNE 20, 1995
AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1636

Introduced by Assembly Member Cortese

February 24, 1995

An act to amend Sections 15000, 15101, 15700, 15701, and 15702 of, to amend the heading of Chapter 8 (commencing with Section 15700) of Division 12 of, to add Section 1123.5 to, and to repeal Chapter 9 (commencing with Section 15800) of Division 12 of, the Fish and Game Code, to amend Sections 23.5, 54004, 55403, 56109, 56806, 57007, 58003, 58101.5, 58381, 58554, 58605, and 59504 of, and to add Section 25.5 to, the Food and Agricultural Code, ~~and~~ to amend Section 30411 of the Public Resources Code, *and to add Section 14959 to the Water Code*, relating to aquaculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1636, as amended, Cortese. Aquaculture products.

(1) Under existing law, the business of aquaculture, including raising fish and aquatic plants is exempt from the provisions of the Fish and Game Code relating to commercial fishing.

This bill would enact the California Aquaculture Promotion Act of 1995. The bill would require, with specified exceptions, the transfer of the administration of the laws relating to the processing, distribution, and marketing of aquaculture

products from the Department of Fish and Game to the Secretary of Food and Agriculture and would define aquaculture. The bill would include aquaculture within the definition of farm product for the purposes of various statutes regulating agriculture. The bill would abolish the Interagency Committee for Aquaculture Development and would rename the Aquaculture Industry Advisory Committee to be the Aquaculture Development Committee. The bill would require the committee to report to the ~~department~~ *Department of Fish and Game* on or before January 1, 1997, on its recommendations to improve the effectiveness and eliminate overlapping responsibilities in state and local regulatory requirements on the commercial aquaculture industry. The bill would also provide that the annual registration of information by an aquaculture facility owner is not a project for purposes of the California Environmental Quality Act. The bill would require the department to prepare programmatic environmental impact reports for commercial aquaculture operations, as specified.

(2) Existing law authorizes the Fish and Game Commission to establish hatcheries for stocking the waters of this state with fish and requires the department to maintain and operate those hatcheries. Existing law also authorizes the commission to issue a permit to a nonprofit organization to construct and operate an anadromous fish hatchery.

This bill would, notwithstanding that law or any other provision of law, require ~~the department~~ *all funds allocated for fish purchases for the department's urban fishing program to be used to purchase by contract* all fish and other aquatic organisms ~~needed to stock fishing lakes in urban areas by contract, as specified,~~ from private registered aquaculture facilities within the state unless the director makes specified determinations.

(3) *Under the Shellfish Protection Act of 1993, a regional water quality control board is required to order appropriate action to abate pollution affecting a commercial shellfish growing area, defined as an area certified by the State Director of Health Services as being in compliance with specified rules and regulations. A regional board is also*



required to prescribe waste discharge requirements for treatment plant effluent.

This bill would require any treatment works treating domestic sewage and discharging effluent into a commercial shellfish growing area to meet specified effluent limitations.

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. This act shall be known and may be cited
2 as the California Aquaculture Promotion Act of 1995.

3 SEC. 2. The Legislature finds and declares that while
4 commercial aquaculture continues to provide
5 considerable benefit to the people of the state, the growth
6 of the industry has been impaired in part by duplicate and
7 costly regulations and illegal importation and trading in
8 aquaculture products. The Legislature further finds and
9 declares that commercial aquaculture shall be promoted
10 through the clarification of respective government
11 responsibilities and statutory requirements, use of private
12 aquaculture for the stocking of urban lakes, and the
13 effective enforcement of unauthorized importation and
14 trade in aquaculture products.

15 SEC. 3. Section 1123.5 is added to the Fish and Game
16 Code, to read:

17 1123.5. Notwithstanding Section 1120 or any other
18 provision of law, ~~the department shall purchase all funds~~
19 *allocated for fish purchases for the department's urban*
20 *fishing program shall be used to purchase all fish and*
21 *aquatic organisms* by contract, pursuant to the
22 requirements of the Public ~~Contract Code, all fish and~~
23 ~~other aquatic organisms needed to stock fishing lakes in~~
24 ~~urban areas from private Contract Code from private~~
25 registered aquaculture facilities within the state unless
26 the ~~director~~ *department* determines one of the following
27 conditions exists:

28 (a) After reasonable notice, the private facilities are
29 unable to provide the specified fish or aquatic organism.



1 (b) The fish or aquatic organism is infected or
2 diseased.

3 ~~(c) It is not in the best interest of the state to purchase~~
4 ~~those fish.~~

5 SEC. 4. Section 15000 of the Fish and Game Code is
6 amended to read:

7 15000. (a) The business of aquaculture is governed
8 by this division and is exempt from Part 3 (commencing
9 with Section 7600) of Division 6 and any other provision
10 of this code relating to commercial fishing, harvesting,
11 processing, and marketing.

12 (b) Except as provided in Sections 15005, 15200, 15201,
13 and 15202, the business of aquaculture processing,
14 distribution, and marketing is administered by the
15 Secretary of Food and Agriculture.

16 (c) The director may enter into an agreement with the
17 Secretary of Food and Agriculture for the resolution of
18 any conflict that arises under subdivision (b).

19 (d) Any costs incurred by the department in
20 implementing Sections 15005, 15200, 15201, and 15202
21 shall be recovered pursuant to this division.

22 SEC. 5. Section 15101 of the Fish and Game Code is
23 amended to read:

24 15101. (a) The owner of each aquaculture facility
25 shall register all of the following information with the
26 department by March 1 of each year:

- 27 (1) The owner's name.
- 28 (2) The species grown.
- 29 (3) The location or locations of each operation or
30 operations.

31 (b) The department may provide registration forms
32 for this purpose, may establish a procedure for the review
33 of the information provided to ensure that the operation
34 will not be detrimental to native wildlife, and shall impose
35 a registration fee of four hundred dollars (\$400) to
36 recover the cost of reviewing new registrations. For
37 renewing registrations, the department shall impose a
38 registration fee of two hundred dollars (\$200). It is
39 unlawful to conduct aquaculture operations or to culture



1 approved species of aquatic plants and animals unless
2 registered under this section.

3 (c) The annual registration of information required by
4 subdivision (b) is not a project for purposes of the
5 California Environmental Quality Act (Division 13
6 commencing with Section 21000) of the Public
7 Resources Code).

8 SEC. 6. The heading of Chapter 8 (commencing with
9 Section 15700) of Division 12 of the Fish and Game Code
10 is amended to read:

11
12 CHAPTER 8. AQUACULTURE DEVELOPMENT COMMITTEE
13

14 SEC. 7. Section 15700 of the Fish and Game Code is
15 amended to read:

16 15700. The director shall appoint an Aquaculture
17 Development Committee consisting of the following
18 persons:

19 (a) At least 12 members representing all sectors of the
20 fresh and salt water aquaculture industry.

21 (b) One member representing the department and
22 one member each from and chosen by the Department
23 of Food and Agriculture, the California Coastal
24 Commission, the State Lands Commission, the State
25 Water Resources Control Board, the State Department of
26 Health Services, the University of California Cooperative
27 Extension Service, the University of California
28 aquaculture program, and the Joint Legislative
29 Committee on Fisheries and Aquaculture. The member
30 of the committee appointed by the Joint Legislative
31 Committee on Fisheries and Aquaculture shall meet and,
32 except as otherwise provided by the California
33 Constitution, advise the committee to the extent that this
34 advisory participation is not incompatible with his or her
35 position as a Member of the Legislature.

36 SEC. 8. Section 15701 of the Fish and Game Code is
37 amended to read:

38 15701. (a) The term of membership for members
39 other than representatives of public agencies shall be
40 three years. The representatives of public agencies shall



1 serve at the pleasure of the agency that the member
2 represents.

3 (b) Members of the committee shall serve without
4 compensation.

5 SEC. 9. Section 15702 of the Fish and Game Code is
6 amended to read:

7 15702. (a) The committee shall be advisory to the
8 director on all matters pertaining to aquaculture and shall
9 coordinate activities among public entities.

10 (b) The committee shall assist the director in
11 developing and implementing a state aquaculture plan,
12 identify the opportunities for regulatory relief, assist in
13 development of research and development priorities,
14 assist in the development of criteria to assure that publicly
15 financed pilot programs are compatible with industry
16 needs, and identify other opportunities for industrial
17 development.

18 (c) On or before January 1, 1997, the committee shall
19 prepare and provide to the director a report with its
20 recommendations to improve the effectiveness and
21 eliminate overlapping responsibilities in state and local
22 regulatory requirements on the commercial aquaculture
23 industry in the state.

24 SEC. 10. Chapter 9 (commencing with Section 15800)
25 of Division 12 of the Fish and Game Code is repealed.

26 SEC. 11. Section 23.5 of the Food and Agricultural
27 Code is amended to read:

28 23.5. The commercial production of aquatic plants
29 and animals propagated and raised by a registered
30 aquaculturist pursuant to Section 15101 of the Fish and
31 Game Code in the state is a growing industry and
32 provides a healthful and nutritious food product, and, as
33 a commercial operation, utilizes management, land,
34 water, and feed as do other agricultural enterprises.
35 Therefore, the commercial production of that aquatic life
36 shall be considered a branch of the agricultural industry
37 of the state for the purpose of any law that provides for
38 the benefit or protection of the agricultural industry of
39 the state except those laws relating to plant quarantine or
40 pest control.



1 SEC. 12. Section 25.5 is added to the Food and
2 Agricultural Code, to read:

3 25.5. “Aquaculture” means that form of agriculture
4 devoted to the propagation, cultivation, maintenance,
5 harvesting, processing, distribution, and marketing of
6 aquatic plants and animals in marine, brackish, and fresh
7 water. “Aquaculture” does not include species of
8 ornamental marine or freshwater plants and animals not
9 utilized for human consumption or bait purposes that are
10 maintained in closed systems for personal, pet industry,
11 or hobby purposes.

12 SEC. 13. Section 54004 of the Food and Agricultural
13 Code is amended to read:

14 54004. “Product” includes any horticultural,
15 viticultural, aquacultural, forestry, dairy, livestock,
16 poultry, bee, or farm product.

17 SEC. 14. Section 55403 of the Food and Agricultural
18 Code is amended to read:

19 55403. “Farm product” includes every agricultural,
20 horticultural, viticultural, or vegetable product of the soil,
21 honey and beeswax, oilseeds, poultry, poultry product,
22 livestock product, and livestock for immediate slaughter.
23 It does not include timber or any timber product, milk or
24 any milk product, or any aquacultural product.

25 SEC. 15. Section 56109 of the Food and Agricultural
26 Code is amended to read:

27 56109. “Farm product” includes every agricultural,
28 horticultural, viticultural, and vegetable product of the
29 soil, poultry and poultry products, livestock products and
30 livestock not for immediate slaughter, bees and apiary
31 products, hay, dried beans, honey, and cut flowers. It does
32 not, however, include any timber or timber product,
33 flower or agricultural or vegetable seed not purchased
34 from a producer, any milk product which is subject to the
35 licensing and bonding provisions of Chapter 2
36 (commencing with Section 61801) of Part 3 of Division 21,
37 or any aquacultural product.

38 SEC. 16. Section 56806 of the Food and Agricultural
39 Code is amended to read:



1 56806. “Farm product” means any fruit, nut,
2 vegetable, berry, or aquacultural product.

3 SEC. 17. Section 57007 of the Food and Agricultural
4 Code is amended to read:

5 57007. “Farm product” means any fruit, nut,
6 vegetable, berry, or aquacultural product.

7 SEC. 18. Section 58003 of the Food and Agricultural
8 Code is amended to read:

9 58003. “Product” means any agricultural,
10 aquacultural, dairy, or farm product which is produced,
11 grown, raised, manufactured, or processed within the
12 state.

13 SEC. 19. Section 58101.5 of the Food and Agricultural
14 Code is amended to read:

15 58101.5. (a) The ~~director~~ *secretary* may adopt
16 regulations to allow and encourage the direct sale by
17 farmers to consumers of all types of aquacultural and
18 agricultural products produced within the state,
19 including, but not limited to, fruits, nuts, vegetables, beef,
20 lamb, pork, poultry and poultry products, honey, and
21 wine.

22 (b) These regulations may include provisions to
23 ensure and maintain quality and wholesomeness of the
24 products.

25 SEC. 20. Section 58381 of the Food and Agricultural
26 Code is amended to read:

27 58381. It is unlawful for any person to destroy, in
28 restraint of trade, any fowl, animal, vegetable,
29 aquacultural product, or other stuff, product, or article
30 which is customary food, or which is proper for food, for
31 human beings, and is in fit sanitary condition to be used
32 as such.

33 SEC. 21. Section 58554 of the Food and Agricultural
34 Code is amended to read:

35 58554. “Agricultural commodities” means the
36 products of California farms and ranches and items
37 processed from these products, and includes forest
38 products, aquaculture products, and fish and fish
39 products produced in California and livestock fed in
40 feedlots located in California.



1 SEC. 22. Section 58605 of the Food and Agricultural
2 Code is amended to read:

3 58605. “Commodity,” except as otherwise provided
4 in Section 58747, means any agricultural, aquacultural,
5 horticultural (including floricultural), vermicultural,
6 viticultural (including wine) or vegetable product which
7 is produced in this state, any fish or seafood, or any class,
8 variety, or utilization of ~~such~~ *that* product, either in its
9 natural state or as processed by a processor or as
10 processed by a producer for the purpose of marketing
11 ~~such~~ *that* product. It includes bees, honey, and milk as
12 defined in Section 32511. It does not, however, include
13 timber or any timber product.

14 The Legislature hereby declares that the addition of
15 the phrase “(including wine)” in this section is made for
16 the purpose of clarification only and ~~is in nowise to shall~~
17 *not* be construed or interpreted as an indication that wine
18 is not a commodity as originally defined by Chapter 404,
19 Statutes of 1937, and as heretofore amended. The
20 Legislature further declares that at the time of the
21 original enactment of the definition of the term
22 “commodity” and at all times since, it intended that wine
23 be, and wine was, included within the definition of the
24 term. Every marketing order issued, signed, or declared
25 effective prior to July 15, 1941, and every act of the
26 director prior to such date which was performed
27 pursuant to the provisions of this chapter and consistent
28 with the declarations which are contained in this
29 paragraph are hereby confirmed, ratified, and validated.

30 SEC. 23. Section 59504 of the Food and Agricultural
31 Code is amended to read:

32 59504. “Commodity” means any horticultural,
33 viticultural, or vegetable product of the soil, aquacultural,
34 livestock and livestock products, and poultry and poultry
35 products. It does not, however, include milk or milk
36 products.

37 SEC. 24. Section 30411 of the Public Resources Code
38 is amended to read:

39 30411. (a) The Department of Fish and Game and
40 the Fish and Game Commission are the principal state



1 agencies responsible for the establishment and control of
2 wildlife and fishery management programs and the
3 commission shall not establish or impose any controls with
4 respect thereto that duplicate or exceed regulatory
5 controls established by these agencies pursuant to specific
6 statutory requirements or authorization.

7 (b) The Department of Fish and Game, in
8 consultation with the commission and the Department of
9 Boating and Waterways, may study degraded wetlands
10 and identify those which can most feasibly be restored in
11 conjunction with development of a boating facility as
12 provided in subdivision (a) of Section 30233. Any such
13 study shall include consideration of all of the following:

14 (1) Whether the wetland is so severely degraded and
15 its natural processes so substantially impaired that it is not
16 capable of recovering and maintaining a high level of
17 biological productivity without major restoration
18 activities.

19 (2) Whether a substantial portion of the degraded
20 wetland, but in no event less than 75 percent, can be
21 restored and maintained as a highly productive wetland
22 in conjunction with a boating facilities project.

23 (3) Whether restoration of the wetland's natural
24 values, including its biological productivity and wildlife
25 habitat features, can most feasibly be achieved and
26 maintained in conjunction with a boating facility or
27 whether there are other feasible ways to achieve such
28 values.

29 (c) The Legislature finds and declares that salt water
30 or brackish water aquaculture is a coastal-dependent use
31 which should be encouraged to augment food supplies
32 and to further the policies set forth in Chapter 4
33 (commencing with Section 825) of Division 1. The
34 Department of Fish and Game may identify coastal sites
35 it determines to be appropriate for aquaculture facilities.
36 If the department identifies these sites, it shall transmit
37 information identifying the sites to the commission and
38 the relevant local government agency. The commission,
39 and where appropriate, local governments, shall,
40 consistent with the coastal planning requirements of this



1 division, provide for as many coastal sites identified by the
2 Department of Fish and Game for any uses that are
3 consistent with the policies of Chapter 3 (commencing
4 with Section 30200) of this division.

5 (d) Any agency of the state owning or managing land
6 in the coastal zone for public purposes shall be an active
7 participant in the selection of suitable sites for
8 aquaculture facilities and shall make the land available for
9 use in aquaculture when feasible and consistent with
10 other policies of this division and other ~~provision~~
11 *provisions* of law.

12 (e) The Department of Fish and Game shall, in
13 consultation with the Aquaculture Development
14 Committee, prepare programmatic environmental
15 impact reports for existing and potential commercial
16 aquaculture operations in both coastal and inland areas of
17 the state if both of the following conditions are met:

18 (1) Funds are appropriated to the department for this
19 purpose.

20 (2) Matching funds are provided by the aquaculture
21 industry.

22 *SEC. 25. Section 14959 is added to the Water Code, to*
23 *read:*

24 *14959. Any treatment works treating domestic*
25 *sewage and discharging waste effluent into a commercial*
26 *shellfish growing area shall comply with the following*
27 *effluent limitations:*

28 (a) *Suspended solids:*

29 (1) *The 30-day average shall not exceed 30 mg./l.*

30 (2) *The seven-day average shall not exceed 45 mg./l.*

31 (3) *The 30-day average percent removal shall not be*
32 *less than 85 percent.*

33 (b) *Bacteriological: The effluent levels for bacteria*
34 *and viruses shall meet the regulations adopted by the*
35 *State Department of Health Services for the protection*
36 *of shellfish growing areas pursuant to Section 28503 of the*
37 *Health and Safety Code.*

