

AMENDED IN ASSEMBLY JULY 10, 1995

AMENDED IN SENATE APRIL 20, 1995

AMENDED IN SENATE MARCH 29, 1995

SENATE BILL

No. 458

Introduced by Senator Beverly

February 16, 1995

An act to amend Sections 7704, 8576, and 8757 of the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

SB 458, as amended, Beverly. Fish.

(1) Existing law prohibits causing or permitting any deterioration or waste of any fish and, with exceptions, to use any fish or fish part, except fish offal, in or by a reduction plant.

This bill would, with a specified exception, make it unlawful to sell, purchase, deliver for commercial purposes, or possess on any commercial fishing vessel registered, as specified, any sharkfins or tails, or portions thereof that have been removed from the carcass of a shark ~~prior to landing~~. Because a violation of this prohibition would be a crime under other provisions of existing law, the bill would impose a state-mandated local program.

(2) Existing law prohibits the use of drift gill nets to take shark or swordfish for commercial purposes except under a shark and swordfish permit issued by the Department of Fish and Game, prohibits the use or possession aboard a vessel or in the water of a drift gill net with mesh size less than 14 inches

and more than 8 inches in stretched mesh, and prescribes the season when those nets may be used for that purpose.

This bill would also authorize the use of drift gill nets, under a general gill net permit with a mesh size smaller than 8 inches in stretched mesh and twine size number 18 or smaller, to take sharks other than thresher shark, shortfin mako shark, and white shark during the shark and swordfish season. The bill would authorize the incidental taking of not more than 2 thresher sharks and 2 shortfin mako sharks for possession and sale. The bill would specify the conditions for that incidental taking.

(3) Existing law prohibits the use of round haul nets in specified areas, except, among other uses, for live bait in District 19B, but not within 750 feet of specified public piers.

This bill would also exempt the use of round haul nets to take live bait in District 19A, and would condition the exemption from that prohibition in Districts 19A and 19B to exclude the use of those nets within 750 feet of any public pier.

(4) 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.

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. Section 7704 of the Fish and Game Code
 2 is amended to read:
 3 7704. (a) It is unlawful to cause or permit any
 4 deterioration or waste of any fish taken in the waters of
 5 this state, or brought into this state, or to take, receive or
 6 agree to receive more fish than can be used without
 7 deterioration, waste, or spoilage.
 8 (b) Except as permitted by this code, it is unlawful to
 9 use any fish, or part thereof, except fish offal, in a
 10 reduction plant or by a reduction process.



1 (c) Except as permitted by this code, it is unlawful to
2 sell, purchase, deliver for commercial purposes, or possess
3 on any commercial fishing vessel registered pursuant to
4 Section 7881 any shark fin or shark tail or portion thereof
5 that has been removed from the carcass ~~before landing~~
6 ~~the fish~~. However, thresher shark tails and fins that have
7 been removed from the carcass and whose original shape
8 remain unaltered may be possessed on a registered
9 commercial fishing vessel if the corresponding carcass is
10 in possession for each tail and fin.

11 SEC. 2. Section 8576 of the Fish and Game Code is
12 amended to read:

13 8576. (a) Drift gill nets shall not be used to take shark
14 or swordfish from February 1 to April 30, inclusive.

15 (b) Drift gill nets shall not be used to take shark or
16 swordfish in ocean waters within 75 nautical miles from
17 the mainland coastline between the westerly extension of
18 the California-Oregon boundary line and the westerly
19 extension of the United States-Republic of Mexico
20 boundary line from May 1 to August 14, inclusive.

21 (c) Subdivisions (a) and (b) apply to any drift gill net
22 used pursuant to a permit issued under Section 8561 or
23 8681, except that drift gill nets with a mesh size smaller
24 than eight inches in stretched mesh and twine size
25 number 18, or the equivalent of this twine size, or smaller,
26 used pursuant to a permit issued under Section 8681, may
27 be used to take species of sharks other than thresher
28 shark, shortfin mako shark, and white shark during the
29 periods specified in subdivisions (a) and (b). However,
30 during the periods of time specified in subdivisions (a)
31 and (b), not more than two thresher sharks and two
32 shortfin mako sharks may be possessed and sold if taken
33 incidentally in drift gill nets while fishing for barracuda
34 or white seabass and if at least 10 barracuda or five white
35 seabass are possessed and landed at the same time as the
36 incidentally taken thresher or shortfin mako shark. No
37 thresher shark or shortfin mako shark taken pursuant to
38 this subdivision shall be transferred to another vessel
39 prior to landing the fish. Any vessel possessing thresher or
40 shortfin mako sharks pursuant to this section shall not



1 have any gill or trammel net aboard that is constructed
2 with a mesh size greater than eight inches in stretched
3 mesh and twine size greater than number 18, or the
4 equivalent of a twine size greater than number 18.

5 (d) Notwithstanding the closure from May 1 to August
6 14, inclusive, provided by subdivision (b), a permittee
7 may land swordfish or thresher shark taken in ocean
8 waters more than 75 nautical miles from the mainland
9 coastline in that period if, for each landing during that
10 closed period, the permittee signs a written declaration
11 under penalty of perjury that the fish landed were taken
12 more than 75 nautical miles from the mainland coastline.

13 (e) If any person is convicted of falsely swearing a
14 declaration under subdivision (d), in addition to any
15 other penalty prescribed by law, the following penalties
16 shall be imposed:

17 (1) The fish landed shall be forfeited, or, if sold, the
18 proceeds from the sale shall be forfeited, pursuant to
19 Sections 12159, 12160, 12161, and 12162.

20 (2) All shark or swordfish gill nets possessed by the
21 permittee shall be seized and forfeited pursuant to
22 Section 8630 or 12157.

23 (f) From August 15 of the year of issue to January 31,
24 inclusive, of the following year, swordfish may be taken
25 under a permit issued pursuant to this article.

26 SEC. 3. Section 8757 of the Fish and Game Code is
27 amended to read:

28 8757. Notwithstanding Section 8661, and in addition
29 to Sections 8754, 8755, and 8780, round haul nets may be
30 used to take fish in those portions of Districts 19 and 20
31 that are closed to the use of round haul nets by Sections
32 8754 and 8755 and in Districts 19A and 19B, but only for
33 use or sale of those fish for live bait and subject to the
34 following restrictions:

35 (a) In Districts 19A and 19B, round haul nets may not
36 be used within 750 feet of any public pier.

37 (b) It is unlawful to buy, sell, or possess in any place of
38 business where fish are bought, sold, or processed, any
39 dead fish taken under the authority of this section.



1 SEC. 4. No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution because the only costs that may be incurred
4 by a local agency or school district will be incurred
5 because this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section
8 17556 of the Government Code, or changes the definition
9 of a crime within the meaning of Section 6 of Article
10 XIII B of the California Constitution.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

