

AMENDED IN SENATE JULY 8, 1998  
AMENDED IN ASSEMBLY MAY 18, 1998  
AMENDED IN ASSEMBLY APRIL 28, 1998  
AMENDED IN ASSEMBLY APRIL 14, 1998  
AMENDED IN ASSEMBLY MARCH 31, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1625**

**Introduced by Assembly Member Richter**

January 5, 1998

---

---

An act to ~~amend Section 6400 of, and to add Sections 12022, 12023, 12024, and 12026 to,~~ the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

AB 1625, as amended, Richter. Fish and game: penalties.

(1) Existing law makes it a crime to place, plant, or cause to be placed or planted, in any of the waters of this state, any live fish, any fresh or salt water animal, or any aquatic plant, without first obtaining written permission from the Department of Fish and Game. Under existing law, punishment for *the that* crime ~~described in (1)~~ is a fine of not more than \$1,000, imprisonment in the county jail for not more than 6 months, or both the fine and imprisonment.

~~(2)~~

~~This bill would make the attempt of that crime also unlawful.~~

~~This bill would, instead, impose a fine of up to \$20,000 and authorize imprisonment in the county jail for not more than 6 months for each violation. The bill would also provide for revocation of the defendant's state fishing privileges for 5 years. In addition, the bill would make the defendant liable for all resulting damages, as specified, that were caused by his or her unlawful activity.~~

~~(3) Existing law defines "aquatic nuisance species" to mean a nonindigenous species that threatens the viability or abundance of a native species, the ecological stability of waters inhabited by those species, or the viability of commercial, agricultural, aquacultural, or recreational activities that depend on those waters.~~

~~This bill would make it a misdemeanor or felony to use or to attempt to use aquatic nuisance species to commit the crimes described in (1). Under the bill, punishment for a misdemeanor conviction would be imprisonment in the county jail for up to one year, or, for a felony conviction, imprisonment in the state prison for 16 months, 2 years, or 3 years,~~

*This bill, instead, would make any person who violates the provision described in the first paragraph through the use of an aquatic nuisance species guilty of a misdemeanor, punishable as prescribed, including a fine of not more than \$50,000, and revocation of all of the defendant's licenses and permits issued under the Fish and Game Code. The bill would also authorize the court to impose a fine of up to \$50,000 for each violation.* In addition, the bill would make the defendant liable for all resulting damages, as specified, that were caused by his or her unlawful activity. The bill would except from this provision, the placement of any live fish, any fresh or salt water animal, or any aquatic plant from the discharge or exchange of ballast water from any vessel, as defined.

The bill would also except from its provisions, the placement of an aquatic plant by a person who was unaware that he or she was in possession of the plant.

~~(4)~~

(2) Existing law authorizes the Director of Fish and Game to pay a reward from available funds, as specified, to any person who furnishes information leading to an arrest, a



criminal conviction, or a specified punishment for any violation of the Fish and Game Code or any regulation adopted pursuant to that code.

This bill would specify that any person whom the department determines has provided evidence or information leading to the arrest and conviction of a person found guilty of committing the crime described in (1) would be eligible to obtain an award of up to \$50,000.

~~(5)~~

(3) 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. The Legislature finds and hereby  
2 declares that the state’s sport and commercial fisheries  
3 are resources of great economic and recreational  
4 importance. These resources are jeopardized by the  
5 introduction of a variety of aquatic organisms, and  
6 especially by the introduction of nonindigenous species  
7 that threaten the viability or abundance of a native  
8 species, the ecological stability of waters inhabited by  
9 those species, or the sustainability of commercial,  
10 agricultural, aquacultural, or recreational activities and  
11 the fisheries that depend on those waters. The  
12 Legislature therefore declares that the people of the state  
13 have a primary interest in regulating the placement,  
14 planting, and the attempted placement or planting of any  
15 live fish, any fresh or saltwater animal, or any aquatic  
16 plant in any waters of this state *that is an aquatic nuisance*  
17 *species as defined in Section 6431 of the Fish and Game*  
18 *Code.*

19 ~~SEC. 2. Section 6400 of the Fish and Game Code is~~  
20 ~~amended to read:~~



1 ~~6400. It is unlawful to place, plant, or cause to be~~  
 2 ~~placed or planted, or to attempt to place, plant, or cause~~  
 3 ~~to be placed or planted, in any of the waters of this state,~~  
 4 ~~any live fish, any fresh or salt water animal, or any aquatic~~  
 5 ~~plant, whether taken without or within the state, without~~  
 6 ~~first submitting it for inspection to, and securing the~~  
 7 ~~written permission of, the department.~~

8 ~~SEC. 3. Section 12022 is added to the Fish and Game~~  
 9 ~~Code, to read:~~

10 ~~12022. (a) Notwithstanding Section 12002, a person~~  
 11 ~~who violates Section 6400 shall be liable for a fine of up to~~  
 12 ~~twenty thousand dollars (\$20,000) and may be sentenced~~  
 13 ~~to imprisonment in the county jail for not more than six~~  
 14 ~~months for each violation. In addition, that person's state~~  
 15 ~~fishing license privileges shall be suspended for five years.~~

16 ~~(b) In addition to subdivision (a), a person who~~  
 17 ~~personally or through another violates Section 6400 is~~  
 18 ~~liable to the owner of any privately or publicly owned~~  
 19 ~~property for any damages to that property caused by the~~  
 20 ~~violation. A person who violates Section 6400 shall also be~~  
 21 ~~liable for all monetary damages directly, indirectly, and~~  
 22 ~~proximately caused thereby, including, but not limited to,~~  
 23 ~~damages to any commercial fishery, sport fishery, or to~~  
 24 ~~the public communities that depend upon those fisheries~~  
 25 ~~for a portion of their annual income. The Attorney~~  
 26 ~~General may file a civil action on behalf of the fisheries~~  
 27 ~~or communities that are damaged as a result of the~~  
 28 ~~violation. In addition, a private citizen who suffers~~  
 29 ~~damages as a result of the violation may file a civil action~~  
 30 ~~against the violator.~~

31 ~~(c) This section does not apply to the placement of an~~  
 32 ~~aquatic plant by a person who was unaware that he or she~~  
 33 ~~was in possession of the plant. This exception includes~~  
 34 ~~circumstances in which a plant becomes unknowingly~~  
 35 ~~and temporarily attached or affixed to a boat, boat trailer,~~  
 36 ~~or boat motor.~~

37 ~~SEC. 4.—~~

38 ~~SEC. 2. Section 12023 is added to the Fish and Game~~  
 39 ~~Code, to read:~~



1 ~~12023. (a) A person who violates Section 6400~~  
2 ~~through the use or attempted use of an aquatic nuisance~~  
3 ~~species, as defined in Section 6431, is guilty of a~~  
4 ~~misdemeanor or felony. The punishment for this~~  
5 ~~misdemeanor or felony shall include all of the following:~~

6 ~~(1) Imprisonment in the county jail for not more than~~  
7 ~~one year for a misdemeanor conviction, or imprisonment~~  
8 ~~in the state prison for 16 months, 2 years, or 3 years for a~~  
9 ~~felony conviction. The court may also impose a fine of up~~  
10 ~~to fifty thousand dollars (\$50,000) for each violation.~~

11 *12023. (a) Notwithstanding Section 12002, any*  
12 *person who violates Section 6400 through the use of an*  
13 *aquatic nuisance species, as defined in Section 6431, is*  
14 *guilty of a misdemeanor, punishable by all of the*  
15 *following:*

16 *(1) Imprisonment in the county jail for not less than six*  
17 *months or more than one year, a fine of not more than*  
18 *fifty thousand dollars (\$50,000) for each violation, or both*  
19 *that imprisonment and fine.*

20 *(2) Revocation of all of the defendant's licenses and*  
21 *permits issued pursuant to this code.*

22 *(b) A person who personally or through another*  
23 *violates Section 6400, through the use or attempted use of*  
24 *an aquatic nuisance species, is liable to the owner of any*  
25 *privately or publicly owned property for any damages to*  
26 *that property caused by the violation. A person who*  
27 *violates Section 6400 through the use of an aquatic*  
28 *nuisance species shall also be liable for all monetary*  
29 *damages directly, indirectly, and proximately caused*  
30 *thereby, including, but not limited to, damages to any*  
31 *commercial fishery, sport fishery, or to the public*  
32 *communities which depend upon those fisheries for a*  
33 *portion of their annual income. The Attorney General*  
34 *may file a civil action on behalf of the fisheries or*  
35 *communities that are damaged as a result of the violation.*  
36 *In addition, a private citizen who suffers damages as a*  
37 *result of the violation may file a civil action against the*  
38 *violation.*

39 *(c) A person who allows an aquatic nuisance species to*  
40 *escape from his or her property to the property of*



1 another, whether privately or publicly owned, is liable to  
2 the owner of the intruded upon property for any damages  
3 caused by the species.

4 (d) This section shall not apply to the placement of any  
5 live fish, any fresh or salt water animal, or any aquatic  
6 plant from the discharge or exchange of ballast water  
7 from any vessel as defined by Section 21 of the Harbors  
8 and Navigation Code.

9 (e) This section does not apply to the placement of an  
10 aquatic plant by a person who was unaware that he or she  
11 was in possession of the plant. This exception includes  
12 circumstances in which a plant becomes unknowingly  
13 and temporarily attached or affixed to a boat, boat trailer,  
14 or boat motor.

15 ~~SEC. 5.—~~

16 *SEC. 3.* Section 12024 is added to the Fish and Game  
17 Code, to read:

18 12024. (a) In addition to ~~Sections 12022 and~~ *Section*  
19 *12023*, a person who violates Section 6400 *through the use*  
20 *of an aquatic nuisance species* is liable for all public and  
21 private response, treatment, and remediation efforts  
22 resulting from the violation. The cost of these efforts shall  
23 constitute a debt of that person, and shall be collectible  
24 by the federal, state, county, public agency, or private  
25 individual or individuals, incurring those costs in the same  
26 manner as in the case of an obligation under a contract,  
27 expressed or implied.

28 (b) Public agencies participating in a response to a  
29 violation of Section 6400 *through the use of an aquatic*  
30 *nuisance species* may designate one or more of the  
31 participating agencies to bring an action to recover costs  
32 incurred by all of the participating agencies.

33 (c) The costs relating to an accounting for a violation  
34 of Section 6400 *through the use of an aquatic nuisance*  
35 *species* and the collection of any funds, including, but not  
36 limited to, the administrative, legal, and public relations  
37 costs of operating a response and remediation program  
38 may also be the subject of an action to recover costs which  
39 are charged against the responsible person.

40 ~~SEC. 6.—~~



1 SEC. 4. Section 12026 is added to the Fish and Game  
2 Code, to read:

3 12026. Any person whom the department determines  
4 has provided evidence or information leading to the  
5 arrest and conviction of a person or persons found guilty  
6 of violating Section 6400 *through the use of an aquatic*  
7 *nuisance species*, is eligible to obtain a reward of up to  
8 fifty thousand dollars (\$50,000) pursuant to Section 2586.

9 ~~SEC. 7.—~~

10 SEC. 5. No reimbursement is required by this act  
11 pursuant to Section 6 of Article XIII B of the California  
12 Constitution because the only costs that may be incurred  
13 by a local agency or school district will be incurred  
14 because this act creates a new crime or infraction,  
15 eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition  
18 of a crime within the meaning of Section 6 of Article  
19 XIII B of the California Constitution.

20 Notwithstanding Section 17580 of the Government  
21 Code, unless otherwise specified, the provisions of this act  
22 shall become operative on the same date that the act  
23 takes effect pursuant to the California Constitution.

