

Assembly Bill No. 1625

CHAPTER 431

An act to add Sections 12023, 12024, and 12026 to the Fish and Game Code, relating to fish.

[Approved by Governor September 12, 1998. Filed
with Secretary of State September 14, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1625, 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 that crime 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.

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 additionally 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. 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.

(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) through the use of an aquatic nuisance species, would be eligible to obtain an award of up to \$50,000.

(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.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and hereby declares that the state's sport and commercial fisheries are resources of great economic and recreational importance. These resources are jeopardized by the introduction of a variety of aquatic organisms, and especially by the introduction of nonindigenous species that threaten the viability or abundance of a native species, the ecological stability of waters inhabited by those species, or the sustainability of commercial, agricultural, aquacultural, or recreational activities and the fisheries that depend on those waters. The Legislature therefore declares that the people of the state have a primary interest in regulating the placement, planting, and the attempted placement or planting of any live fish, any fresh or saltwater animal, or any aquatic plant in any waters of this state that is an aquatic nuisance species as defined in Section 6431 of the Fish and Game Code.

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

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

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

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

(b) A person who personally or through another violates Section 6400, through the use of an aquatic nuisance species, is liable to the owner of any privately or publicly owned property for any damages to that property caused by the violation. A person who violates Section 6400 through the use of an aquatic nuisance species shall also be liable for all monetary damages directly, indirectly, and proximately caused thereby, including, but not limited to, damages to any commercial fishery, sport fishery, or to the public communities which depend upon those fisheries for a portion of their annual income. The Attorney General may file a civil action on behalf of the fisheries or communities that are damaged as a result of the violation.



In addition, a private citizen who suffers damages as a result of the violation may file a civil action against the violator.

(c) A person who allows an aquatic nuisance species to escape from his or her property to the property of another, whether privately or publicly owned, is liable to the owner of the intruded upon property for any damages caused by the species.

(d) This section shall not apply to 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 by Section 21 of the Harbors and Navigation Code.

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

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

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

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

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

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

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

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,



eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

