

## Senate Bill No. 364

### CHAPTER 785

An act to add and repeal Article 9.7 (commencing with Section 8420) of Chapter 2 of Part 3 of Division 6 of, and to repeal Section 8425 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor October 7, 1997. Filed  
with Secretary of State October 8, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 364, Sher. Commercial fishing: squid.

(1) Existing law authorizes the taking of squid for commercial purposes north of Point Conception subject to regulations adopted by the Fish and Game Commission specifying the days of the week and the times of the day when squid may be taken. Existing law also prohibits certain activities relating to taking of squid for commercial purposes in Fish and Game District 10.

This bill would, until April 1, 2001, authorize the taking of market squid north of Point Conception only between noon on Sunday and noon on Friday. The bill would prohibit a person from using a vessel, on or after April 1, 1998, to take or land market squid with dip, purse seine, or lampara nets for commercial purposes, unless the owner of the vessel holds a commercial market squid vessel permit that has been issued for that vessel to the vessel's record owner under conditions specified in the bill.

The bill would require applications for commercial market squid vessel permits for the 1998-99 permit year to be received by the department on or before April 30, 1998, or to be postmarked by that date. Under the bill, permits may be renewed annually on or before April 30 of each year by applicants who were issued a commercial market squid vessel permit in the immediately preceding year. The bill would require the Department of Fish and Game to establish the fee for the commercial market squid vessel permit in an amount not to exceed the reasonable cost incurred by the department in administering the permit program, as specified, or \$2,500, whichever is less. Under the bill, applications that do not meet the April 30 deadline in any year, but that are received by May 31 of that year, are subject to an additional \$250 fee. The bill would prohibit the sale, trade, or transfer of the permit to another person.

The bill also would require the department to establish a fee for a commercial squid light boat owner's permit in an amount not to exceed the reasonable cost incurred by the department in administering that provision, as specified, or \$2,500, whichever is less.

The bill would require applications for commercial squid light boat owner's permits for the 1998 permit year to be received by the department on or before April 30, 1998, or to be postmarked by that date. Under the bill, permits may be renewed on or before April 30 of each year by applicants who were issued a commercial squid light boat owner's permit in the immediately preceding year. Under the bill, applications that do not meet the April 30 deadline in any year, but that are received by May 31 of that year, are subject to an additional \$250 fee.

The bill would allow a commercial market squid vessel permit or a commercial squid light boat owner's permit to be transferred to another vessel owned by the permitholder if the permitted vessel was lost, destroyed, stolen, or suffered a major mechanical breakdown, and other conditions are met, as specified.

The bill would make it unlawful to attract squid by light displayed from a vessel, as specified, unless the vessel used for the activity has been issued a commercial market squid vessel permit or the person holds a commercial squid light boat owner's permit.

The bill would require the commission, on or after April 1, 1998, and annually thereafter, until April 1, 2001, to adopt regulations to protect the squid resource and manage the squid fishery at a sustainable level, upon recommendation of the Director of Fish and Game after a public hearing at which findings are adopted.

The bill would provide that the director shall be responsible for the development of research protocols and the development of recommendations for the management of the squid fishery, as specified, and for the conduct of public hearings to receive information on the resource and the fishery. The bill would authorize the director to establish a Squid Research Scientific Committee, as specified, to assist in the development of research protocols. The bill would also authorize the director to establish a Squid Fishery Advisory Committee, as specified. The bill would require the director, in consultation with the advisory committee, if established, and following public hearings, to submit to the Legislature, on or before April 1, 2001, a report on the status of the market squid fishery with recommendations for a market squid conservation and management plan, as specified.

Because other provisions of existing law would make a violation of the bill a crime, the bill would impose a state-mandated local program.

(2) Existing law requires a person who receives, transports, processes, or sells fish for commercial purposes to have a commercial fish business license of one of certain classes.

Until April 1, 2001, this bill would additionally prohibit a person from purchasing squid, except as specified, from a vessel unless that person holds a commercial fishing license, as specified, employs a



certified weighmaster, and the facilities operated by the person are located on a permanent, fixed location.

(3) Under existing law, a person who receives fish from a fisherman for commercial purposes and a commercial fisherman who sells fish to other than a licensed fish receiver is required to pay a landing tax in certain amounts based on the type of fish sold.

This bill would, until April 1, 2001, authorize the landing taxes collected for squid to be used for purposes of the bill.

(4) Existing law requires fees and landing taxes collected by the department to be deposited in the Fish and Game Preservation Fund and continuously appropriates the fund to the department and the commission to carry out the Fish and Game Code.

Because the bill would add new fees to be deposited in the fund, would authorize new expenditures from landing taxes in the fund, and would impose new duties on the department and the commission, the bill would make an appropriation.

(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.

Appropriation: yes.

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

SECTION 1. Article 9.7 (commencing with Section 8420) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 9.7. Market Squid

8420. The Legislature finds and declares that the fishery for market squid (*Loligo opalescens*) is the state's largest fishery by volume, generating millions of dollars of income to the state annually from domestic and foreign sales. In addition to supporting an important commercial fishery, the market squid resource is important to the recreational fishery and is forage for other fish taken for commercial and recreational purposes. The growing international market for squid and declining squid production from other parts of the world has resulted in an increased demand for California market squid, which, in turn, has led to newer, larger, and more efficient vessels entering the fishery and increased processing capacity. The Legislature finds that the lack of research on market squid and the lack of annual at-sea surveys to determine the status of the resource, combined with the increased demand for, and fishing effort on, market squid could result in overfishing of the resource,



damaging the resource, and financially harming those persons engaged in the taking, landing, processing, and sale of market squid. The Legislature further finds that many individuals, vessels, and processing plants engaged in the market squid fishery have no other viable alternative fisheries available to them and that a decline or a loss of the market squid resource would cause economic devastation to the individuals or corporations engaged in the market squid fishery. The Legislature declares that to prevent excessive fishing effort in the market squid fishery and to develop a plan for the sustainable harvest of market squid, it is necessary to limit the number of days of the week market squid may be taken and to develop a plan for a sustainable California market squid fishery.

8420.5. North of a line extending due west magnetic from Point Conception, market squid may be taken for commercial purposes only between noon on Sunday and noon on Friday of each week.

8421. (a) On or after April 1, 1998, no person shall use a vessel to take or land market squid with dip nets (commonly referred to as scoop nets), purse seine nets, or lampara nets for commercial purposes unless the owner of that vessel has been issued a commercial market squid vessel permit by the department that has not been suspended or revoked.

(b) A commercial market squid vessel permit shall be issued only for vessels employing dip, purse seine, or lampara nets for the taking of market squid for commercial purposes. No permit is required for any vessel taking or landing market squid for commercial purposes if the amount taken by the vessel does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only. No other nets shall be used for the taking of market squid from a vessel for commercial purposes. Furthermore, it is unlawful to possess in excess of two tons of incidentally taken squid per trip.

(c) A commercial market squid vessel permit shall be issued to a person only if that person is the owner of record of the commercial fishing vessel for which the permit is issued and the vessel is registered with the department pursuant to Section 7881.

(d) A commercial market squid vessel permit shall be issued only to the person who owns the vessel at the time of application for that permit. For purposes of this subdivision, an owner includes any person who has a lease-purchase agreement for the purchase of a vessel.

(e) No person who is issued a commercial market squid vessel permit shall sell, trade, or transfer the permit to another person.

(f) A commercial market squid vessel permit shall be issued annually, commencing with the permit for the 1998–99 permit year.

(g) A violation of this section does not constitute a misdemeanor; however, pursuant to Section 7857, the commission may revoke or suspend the commercial market squid vessel permit or commercial fishing license held by any person who violates this section.



(h) Squid landed in excess of the limit specified in subdivision (b) of Section 8421 without a permit shall be forfeited to the department by the signing of an official release of property form. The squid shall be sold or disposed of in a manner to be determined by the department. The proceeds from all sales shall be paid into the Fish and Game Preservation Fund.

8421.5. If a commercial market squid vessel permit is issued for a vessel that is owned by a bona fide partnership or corporation, that partnership or corporation shall designate the individual who is the operator and shall provide that information to the department annually at the time of issuing the permit. If there is a dissolution of the partnership or the corporation, the partnership or corporation shall notify the department of the name of the partner or shareholder who is the successor permitholder and the department shall reissue the permit to that partner or shareholder.

8422. (a) Notwithstanding subdivision (d) of Section 1050, the department shall establish the fee for a commercial market squid vessel permit in an amount not to exceed the reasonable costs incurred by the department in administering this article, including any necessary biological assessments of the market squid resource, or two thousand five hundred dollars (\$2,500), whichever is less. On and after January 1, 1999, the department may reduce the permit renewal fee if it determines that sufficient revenues exist from both private and public sources to cover the cost incurred by the department in administering this article.

(b) All applications for a commercial market squid vessel permit for the 1998–99 permit year shall be received by the department on or before April 30, 1998, or, if mailed, shall be postmarked by April 30, 1998. In order to renew a permit, an applicant shall have been issued a commercial market squid vessel permit in the immediately preceding year. Applications for renewal of the permit shall be received by the department on or before April 30 of each year, or, if mailed, shall be postmarked by April 30 of each year.

(c) Notwithstanding Section 7852.2, a penalty of two hundred fifty dollars (\$250) shall be paid in addition to the fee required under subdivision (a) for applications that do not meet the deadline specified in subdivision (b) but that are received by the department on or before May 31 of any year.

(d) The department shall deny all applications received after May 31 of each year, and the application shall be returned to the applicant who may appeal the denial to the commission. If the commission issues a permit following an appeal, it shall assess the late penalty prescribed by subdivision (c).

8423. (a) No person shall operate a squid light boat unless the owner of the boat has been issued a commercial squid light boat owner's permit by the department and a permit number is affixed to the boat in the manner prescribed by the department.



(b) The department shall issue a commercial squid light boat owner's permit to a person who submits an application, pays the permit fee, and meets the other requirements of this section.

(c) The department may regulate the use of squid light boats consistent with the regulations established for commercial squid vessels.

(d) Notwithstanding subdivision (d) of Section 1050, the department shall establish the fee for a commercial squid light boat owner's permit in an amount not to exceed the reasonable costs incurred by the department in administering this article, including any necessary regulations controlling the use of squid light boats, or two thousand five hundred dollars (\$2,500), whichever is less. On and after January 1, 1999, the department may reduce the renewal permit fee if it determines that sufficient revenues exist from both private and public sources to cover costs incurred by the department in administering this article.

(e) It is unlawful for a person to engage in the following activities, unless the vessel used for the activity has been issued a commercial market squid vessel permit or the person holds a commercial squid light boat owner's permit:

(1) Attracting squid by light displayed from a vessel, except from a vessel deploying nets for the take, possession, and landing of squid or except from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.

(2) Attracting squid by light displayed from a vessel whose primary purpose is other than the deployment, or assistance in the deployment, of nets for the take, possession, and landing of squid.

(f) A commercial squid light boat owner's permit shall be issued to a person who is the owner of record of a vessel that is registered with the department pursuant to Section 7881. For purposes of this subdivision, an owner includes any person who has a lease-purchase agreement for the purchase of a vessel.

8423.5. (a) All applications for a commercial squid light boat owner's permit for the 1998 permit year shall be received by the department on or before April 30, 1998, or, if mailed, shall be postmarked by April 30, 1998. In order to renew a permit, an applicant shall have been issued a commercial squid light boat owner's permit in the immediately preceding year. Applications for renewal of the permit shall be received by the department on or before April 30 of each year, or, if mailed, shall be postmarked by April 30 of each year.

(b) Notwithstanding Section 7852.2, a penalty of two hundred fifty dollars (\$250) shall be paid in addition to the fee required under subdivision (a) for applications that do not meet the deadline specified in subdivision (b) but that are received by the department on or before May 31 of any year.



(c) The department shall deny all applications received after May 31 of each year, and the application shall be returned to the applicant who may appeal the denial to the commission. If the commission issues a license following an appeal, it shall assess the late penalty prescribed by subdivision (b).

8424. (a) No person shall purchase squid from a vessel or vessels unless that person holds a license issued pursuant to Section 8032 or 8033, employs a certified weighmaster, and the facilities operated by the person are located on a permanent, fixed location.

(b) Notwithstanding any other provision of law, this section shall not apply to the transfer at sea of squid for live bait in an amount less than 200 pounds in a calendar day.

8425. On or after April 1, 1998, and annually thereafter, the commission, upon the recommendation of the director, after a public hearing at which findings are adopted, shall adopt regulations to protect the squid resource and manage the squid fishery at a sustainable level, taking into account the level of fishing effort and ecological factors, including but not limited to, the species' role in the marine ecosystem and oceanic conditions.

8426. (a) The director shall be responsible for the development of research protocols and the development of recommendations for the management of the squid fishery as set forth in subdivision (c) and for the conduct of public hearings to receive information on the resource and the fishery. The director may establish a Squid Research Scientific Committee consisting of persons with scientific knowledge or expertise on the squid resource or fishery, who may be employed by academic institutions, public or private research institutions, or the private sector. The committee, if established, shall assist in the development of research protocols and the preparation and review of the market squid conservation and management plan as described in subdivision (c). The department shall pay, from revenues derived pursuant to this article, the necessary costs of the committee, including a per diem to all members, as determined by the department.

(b) The director may establish a Squid Fishery Advisory Committee consisting of members representing licensed squid fishermen, squid processors, the recreational fishing industry, squid light boat owners, marine conservation organizations, and the Sea Grant Marine Advisory Program.

(c) The director shall hold public hearings to take testimony on interim measures, squid research needs, and the development of the management recommendations to be included in the report to the Legislature. Notwithstanding Section 7550.5 of the Government Code, on or before April 1, 2001, in consultation with the Squid Fishery Advisory Committee, if established, and following public hearings, the director shall submit to the Legislature a report on the status of the market squid fishery with recommendations for a



market squid conservation and management plan, including, but not limited to, the following information:

(1) Whether a limited access plan to manage the amount of fishing effort in the market squid fishery is necessary and, if so, what criteria should be used to determine who may participate in the fishery, what the optimum number of vessels should be in the fishery, and the overall fleet capacity.

(2) Whether it is necessary or advisable to reduce the number of days of the week that market squid may be taken for commercial purposes in specified areas of the state to protect the squid resource.

(3) Whether there are areas, if any, that should be declared harvest replenishment areas for squid where the taking of squid would not be permitted.

(4) A research and monitoring program of the market squid resource as may be needed to assist in the management of the market squid fishery to assure sustainable harvests on an annual basis and funding for that program.

(5) The regulation of squid light boats.

(6) Coordination that may be necessary with a federal coastal pelagic species management plan, should one be adopted.

(7) Whether it is necessary or advisable to modify the method of take or the use of fishing gear.

8427. (a) A commercial market squid vessel permit issued pursuant to Section 8422 or a commercial squid light boat owner's permit issued pursuant to Section 8423 may be transferred to another vessel owned by the permitholder, if the vessel is of comparable capacity as determined by United States Coast Guard documentation papers, and only if the permitted vessel was lost, stolen, destroyed, or suffered a major mechanical breakdown.

(b) The department shall not issue a permit for a replacement vessel if the permitted vessel was reported as lost, stolen, destroyed, or damaged for fraudulent purposes.

(c) Only the permitholder at the time of the loss, theft, destruction, or mechanical breakdown of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss.

(d) The vessel owner shall submit an application for the transfer to the department on a form provided by the department and shall pay a nonrefundable transfer fee of two hundred fifty dollars (\$250) for each transfer of a market squid vessel permit or a commercial squid light boat owner's permit.

(e) The permit for the permitted vessel shall be current, and the owner of the permitted vessel shall make assurances in the transfer application that any renewal of the permit which becomes due during the application processing period will be made.



(f) The owner of the permitted vessel shall submit evidence with the transfer application sufficient to establish that he or she is the owner of the permitted vessel and the owner of the replacement vessel at the time of the application for transfer.

(g) The vessel owner shall sign the transfer application under penalty of perjury and shall certify that the information included in the application is true to the best of his or her knowledge and belief.

8428. An amount not to exceed the sum collected annually from permit fees paid pursuant to Sections 8422 and 8423 may be used for the purposes of this article, including any research that may be necessary for the development of recommendations to the Legislature.

8429. Any statement made to the department, orally or in writing, relating to a permit issued under this article, shall be made under penalty of perjury. The commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any licenses issued pursuant to Section 8032, 8033, or 8034 that are held by any person submitting material false statements, as determined by the commission, for the purpose of obtaining a commercial market squid vessel permit.

8429.5. Notwithstanding any other provision of law, nothing in this article shall prohibit or otherwise limit the authority of the director or the commission under any other law.

8429.7. This article shall become inoperative on April 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. 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.

