

AMENDED IN ASSEMBLY AUGUST 25, 1997

AMENDED IN ASSEMBLY JULY 22, 1997

AMENDED IN ASSEMBLY JUNE 24, 1997

AMENDED IN SENATE APRIL 22, 1997

AMENDED IN SENATE APRIL 9, 1997

**SENATE BILL**

**No. 463**

**Introduced by Senator Thompson**  
(Coauthor: Assembly Member Keeley)

February 19, 1997

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An act to amend ~~Section 12009 of, and to add Article 8 (commencing with Section 7400) to Chapter Sections 12002.6, 12002.8, 12006.6, and 12009 of,~~ to amend and renumber Sections 8306.7, 8311, 8313, and 8314 of, to add Sections 5520, 5521, 5521.5, 5522, 7149.8, and 7149.9 to, to add Article 3 (commencing with Section 7360) to Chapter 2 of Part 2 of Division 6 of, and to repeal Sections 8300, 8300.1, 8300.2, 8301, 8302, 8303, 8304, 8305, 8305.5, 8305.8, 8305.9, 8305.10, 8305.11, 8306, 8306.1, 8306.2, 8306.3, 8306.6, 8306.9, 8308, 8309, and 8310 of, the Fish and Game Code, relating to fish, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 463, as amended, M. Thompson. Abalone.

(1) Under existing law, the taking of abalone for purposes other than for profit is regulated by the Fish and Game Commission.

This bill would require a person taking abalone from ocean waters to have an abalone stamp obtained from the Department of Fish and Game for a fee of \$12, affixed to his or her sport fishing license. The bill would require the fees received pursuant to the bill to be used only for the Recreational Abalone Management Program, as specified in the bill. Because a violation of the stamp requirement in the bill would be a misdemeanor under other provisions of existing law, the bill would impose a state-mandated local program by creating a new crime.

The bill would require the Director of Fish and Game to appoint a Recreational Abalone Advisory Committee of 9 members who possess specified qualifications.

~~(2) Under existing law, certain species of abalone may not be taken at any time for commercial purposes. Existing law prohibits the taking of abalone for commercial purposes during specified months of the year and prohibits the taking of abalone at any time in certain fish and game districts. Existing law imposes size and number limitations on the taking of abalone and requires any person who takes abalone to have a valid abalone diving permit issued by the commission.~~

This bill would repeal those provisions and, instead, would make it unlawful to take abalone for commercial purposes in Fish and Game District 6, 7, 16, 17, or 19A, in District 10 north of Point Lobos, or in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island. In addition, the bill would impose a moratorium on the taking, possessing, or landing of abalone for commercial or recreational purposes in ocean waters of the state south of a line drawn due west magnetic from the center of the mouth of San Francisco Bay, including all islands offshore the mainland of California.

The bill would require the department, on or before January 1, 2003, to submit to the commission, a comprehensive abalone recovery and management plan, as specified. Funding to prepare the plan would be derived from the abalone stamp fees.

Under the bill, once the plan is submitted, the department may apply to the commission to reopen sport or commercial fishing in all or any portion of the waters closed by the



moratorium. The bill would authorize the commission to reopen the waters upon a finding that the abalone resource can support additional harvest activities. The bill would also authorize the commission to close or establish no-take marine refuges in any waters opened to sport or commercial fishing if it makes a finding that this action is necessary to comply with the abalone management plan.

(3) Existing constitutional law requires money collected pursuant to any state law relating to the protection or propagation of fish and game to be used for activities relating thereto. Existing statutory law requires one-half of the revenue from fines and forfeitures imposed or collected for violations of the Fish and Game Code to be deposited in the Fish and Game Preservation Fund and the other one-half to be paid to the county in which the offense was committed. Existing law also declares the intent of the Legislature that the costs of commercial fishing programs be provided out of specified revenues relating to commercial fishing.

This bill would create the Abalone Restoration and Preservation ~~Fund~~ *Account* and require the fees from the abalone stamps described in (1) to be deposited in this ~~fund~~ *account* and would continuously appropriate the moneys in that ~~fund~~ *account* to the department to be used only for the purposes described in (1).

This bill would require all fines and forfeitures imposed or collected for the taking of abalone for any purpose other than for profit in violation of the bill or any other provision of law to be deposited one-half to the Abalone Restoration and Preservation ~~Fund~~ *Account* and one-half to the county treasury of the county in which the violation occurred.

(4) Existing law establishes maximum punishments for the illegal take of abalone. These punishments include a fine of \$5,000, imprisonment in the county jail for a period not to exceed one year, the revocation of certain licenses, or any combination of those penalties.

This bill would increase the maximum fine to 5 times the market value of the abalone taken or \$10,000, whichever is greater, and allow for revocation of all commercial and sport licenses issued by the department for up to 10 years. *The bill would also require the department to permanently revoke*



*the commercial fishing license and any commercial fishing permits of any person convicted of taking or possessing abalone out of season, taking or possessing illegally taken abalone from any area north of Point Sur, removing abalone from the shell or possessing abalone removed from the shell, as specified, or taking or possessing abalone that are less than the minimum size, as specified.*

*(5) Under existing law, a person who is required to pay a landing tax for abalone must pay an additional tax of \$0.195 for each pound, or fraction thereof, of abalone, to be deposited in the Fish and Game Preservation Fund and used for the Abalone Resources Restoration and Enhancement Program.*

*This bill would recast and renumber those provisions.*

*(6) 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: yes. Fiscal committee: yes. State-mandated local program: yes.*

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

1 ~~SECTION 1. Article 8 (commencing with Section~~  
2 ~~7400) is added to Chapter 2 of Part 2 of Division 6 of the~~  
3 ~~Fish and Game Code, to read:~~

4  
5 ~~Article 8. Abalone~~

6  
7 ~~7400.—~~

8 *SECTION 1. Section 5520 is added to the Fish and*  
9 *Game Code, to read:*

10 *5520. It is the intent of the Legislature that the*  
11 *commission undertake management of abalone in a*  
12 *manner consistent with the abalone recovery and*  
13 *management plan submitted pursuant to Section 5522.*

14 *SEC. 2. Section 5521 is added to the Fish and Game*  
15 *Code, to read:*



1 5521. A moratorium is imposed on the taking,  
2 possessing, or landing of abalone (genus *Haliotis*) for  
3 commercial or recreational purposes in ocean waters of  
4 the state south of a line drawn due west magnetic from  
5 the center of the mouth of the San Francisco Bay,  
6 including all islands offshore the mainland of California,  
7 including, but not limited to, the Farallon Islands and the  
8 Southern California Channel Islands. It is unlawful to  
9 take, possess, or land abalone for commercial or  
10 recreational purposes in those ocean waters while the  
11 moratorium is in effect.

12 SEC. 3. Section 5521.5 is added to the Fish and Game  
13 Code, to read:

14 5521.5. Notwithstanding Section 8606 or any other  
15 provision of law, it is unlawful to take abalone for  
16 commercial purposes in District 6, 7, 16, 17, or 19A, in  
17 District 10 north of Point Lobos, or in District 20 between  
18 Southeast Rock and the extreme westerly end of Santa  
19 Catalina Island.

20 SEC. 4. Section 5522 is added to the Fish and Game  
21 Code, to read:

22 5522. (a) On or before January 1, 2003, the  
23 department shall submit to the commission a  
24 comprehensive abalone recovery and management plan.  
25 The plan shall contain all of the following:

26 (1) An explanation of the scientific knowledge  
27 regarding the biology, habitat requirements, and threats  
28 to abalone.

29 (2) A summary of the interim and long-term recovery  
30 goals, including a range of alternative interim and  
31 long-term conservation and management goals and  
32 activities. The department shall report why it prefers the  
33 recommended activities.

34 (3) Alternatives for allocating harvest between sport  
35 and commercial divers if the allocation of the abalone  
36 harvest is warranted.

37 (4) An estimate of the time and costs required to meet  
38 the interim and long-term recovery goals for the species,  
39 including available or anticipated funding sources, and an  
40 initial projection of the time and costs associated with



1 meeting the final recovery goals. An implementation  
2 schedule shall also be included.

3 (5) An estimate of the time necessary to meet the  
4 interim recovery goals and triggers for review and  
5 amendment of strategy.

6 (6) A description of objective measurable criteria by  
7 which to determine whether the goals and objectives of  
8 the recovery strategy are being met and procedures for  
9 recognition of successful recovery. These criteria and  
10 procedures shall include, but not be limited to, the  
11 following:

12 (A) Specified abundance and size frequency  
13 distribution criteria for former abalone beds within  
14 suitable habitat not dominated by sea otters.

15 (B) Size frequency distributions exhibiting multiple  
16 size classes as necessary to ensure continued recruitment  
17 into fishable stock.

18 (C) The reproductive importance to the entire  
19 ecosystem of those areas proposed for reopening to  
20 harvest and the potential impact of each reopening on the  
21 recovery of abalone population in adjacent areas.

22 (b) Where appropriate, the recovery and  
23 management plan may include the following:

24 (1) A network of no-take abalone reserves.

25 (2) A total allowable catch, reflecting the long-term  
26 yield each species is capable of sustaining, using the best  
27 available science and bearing in mind the ecological  
28 importance of the species and the variability of marine  
29 ecosystems.

30 (3) A permanent reduction in harvest.

31 (c) Funding to prepare the recovery and  
32 management plan and any planning and scoping  
33 meetings shall be derived from the fees collected for the  
34 abalone stamp.

35 (d) Following adoption of the recovery and  
36 management plan by the commission, but not prior to  
37 January 1, 2003, the department may apply to the  
38 commission to reopen sport or commercial fishing in all  
39 or any portion of the waters described in Section 5521. If  
40 the commission makes a finding that the resource can



1 support additional harvest activities and that these  
2 activities are consistent with the abalone recovery plan,  
3 all or a portion of the waters described in Section 5521  
4 may be reopened and management measures prescribed  
5 and implemented, as appropriate. The commission may  
6 close or, where appropriate, may establish no-take  
7 marine refuges in any area opened pursuant to this  
8 section if it makes a finding that this action is necessary  
9 to comply with the abalone management plan.

10 SEC. 5. Section 7149.8 is added to the Fish and Game  
11 Code, to read:

12 7149.8. In addition to a valid California sport fishing  
13 license and any applicable license stamp issued pursuant  
14 to Sections 7149, 7150, and 7151, a person taking abalone  
15 from ocean waters shall have permanently affixed to his  
16 or her sport fishing license an abalone stamp that may be  
17 obtained from the department or an authorized agent of  
18 the department upon payment of a fee of twelve dollars  
19 (\$12).

20 ~~7401.—~~

21 SEC. 6. Section 7149.9 is added to the Fish and Game  
22 Code, to read:

23 7149.9. (a) Fees received by the department  
24 pursuant to Section ~~7400~~ 7149.8 shall be deposited in the  
25 Abalone Restoration and Preservation Account within  
26 the Fish and Game Preservation Fund, which is hereby  
27 created. Notwithstanding Section 13340 of the  
28 Government Code, the moneys in the ~~fund~~ account are  
29 continuously appropriated, without regard to fiscal year,  
30 to the department to be used only for the Recreational  
31 Abalone Management Program. For the purposes of this  
32 article, “program” means the Recreational Abalone  
33 Management Program. The program shall include the  
34 following:

35 (1) Research and management of abalone and abalone  
36 habitat. For the purposes of this section, “research”  
37 includes, but is not limited to, investigation,  
38 experimentation, monitoring, and analysis; and  
39 “management” means establishing and maintaining an  
40 optimal sustainable utilization.



1 (2) Supplementary funding of ~~department~~ allocations  
2 for the enforcement of statutes and regulations  
3 applicable to abalone, including, but not limited to, the  
4 acquisition of special equipment and the production and  
5 dissemination of printed materials, such as pamphlets,  
6 booklets, and posters, aimed at compliance with  
7 recreational abalone regulations.

8 (3) Direction for volunteer groups relating to abalone  
9 and abalone habitat management, presentations of  
10 abalone related matters at scientific conferences and  
11 educational institutions, and publication of abalone  
12 related material.

13 (b) At least 15 percent of the funds deposited in the  
14 ~~fund~~ *account* shall be used for program activities south of  
15 San Francisco. To the extent possible, participants in the  
16 management activities of the program in that area shall  
17 be former commercial abalone divers.

18 (c) The department shall maintain internal accounts  
19 that ensure that the fees received pursuant to Section  
20 ~~7400~~ 7149.8 are disbursed for the purposes of subdivision  
21 (a). Not more than 20 percent of the fees received  
22 pursuant to Section ~~7400~~ 7149.8 shall be used for  
23 administration by the department.

24 (d) Unencumbered fees collected pursuant to Section  
25 ~~7400~~ 7149.8 during any previous calendar year may be  
26 expended for the purposes of subdivisions (a) and (b). All  
27 interest and other earnings on the fees received pursuant  
28 to Section ~~7400~~ 7149.8 shall be deposited in the ~~fund~~  
29 *account* and shall be used for the purposes of subdivisions  
30 (a) and (b).

31 ~~7402.—~~

32 *SEC. 7. Article 3 (commencing with Section 7360) is*  
33 *added to Chapter 2 of Part 2 of Division 6 of the Fish and*  
34 *Game Code, to read:*

35

36 *Article 3. Recreational Abalone Advisory Committee*

37

38 7360. (a) The director shall appoint a Recreational  
39 Abalone Advisory Committee consisting of nine  
40 members who shall serve without compensation. The



1 members of the advisory committee shall be selected as  
2 follows:

3 (1) Six members who are not officers or employees of  
4 the department. The six members shall be residents of  
5 California and meet the following requirements:

6 (A) Two members shall reside north of the southern  
7 boundary line of Marin County and a line extending due  
8 east from the easternmost point of Marin County located  
9 in San Pablo Bay. The two members shall be selected from  
10 nominations submitted by the Northern California  
11 Shellfish Assessment Program or by individuals or  
12 organizations that actively participate in the recreational  
13 abalone fishery, except that not more than one of the  
14 members selected shall be an active or former  
15 commercial abalone diver or involved in commercial  
16 seafood processing or marketing.

17 (B) Two members shall reside south of the southern  
18 boundary line of Marin County and a line extending due  
19 east from the easternmost point of Marin County located  
20 in San Pablo Bay and north of the boundary between  
21 Santa Barbara and San Luis Obispo Counties and a line  
22 extending due east from the easternmost point in that  
23 boundary line. The two members shall be selected from  
24 nominations submitted by the Central California Council  
25 of Divers, the Southern California Shellfish Assessment  
26 Program, the Northern California Shellfish Assessment  
27 Program, or by individuals or organizations that actively  
28 participate in the recreational abalone fishery, except  
29 that not more than one of the members selected shall be  
30 an active or former commercial abalone diver or involved  
31 in commercial seafood processing or marketing.

32 (C) Two members shall reside south of the boundary  
33 between Santa Barbara and San Luis Obispo Counties  
34 and a line extending due east from the easternmost point  
35 in that boundary line. The two members shall be selected  
36 from nominations submitted by the Greater Los Angeles  
37 Council of Divers, the San Diego Council of Divers, the  
38 Channel Islands Council of Divers, the Southern  
39 California Shellfish Assessment Program, or by  
40 individuals or organizations that actively participate in



1 the recreational abalone fishery, except that not more  
2 than one of the members selected shall be an active or  
3 former commercial abalone diver or involved in  
4 commercial seafood processing or marketing.

5 (2) One member shall represent the department *in*  
6 enforcement activities and shall be selected from  
7 personnel in the Wildlife Protection ~~Branch~~ *Division*.

8 (3) Two members shall be marine scientists who are or  
9 have been involved in abalone research at universities,  
10 state universities, or in state or federal programs. Not  
11 more than one of the persons shall be an officer or  
12 employee of the department.

13 (b) No member shall be involved in or profit from the  
14 culture for sale (commercial aquaculture) of abalone.

15 (c) The advisory committee shall meet at least once  
16 each calendar year to review proposals and recommend  
17 to the director projects and budgets for the expenditure  
18 of fees received pursuant to Section ~~7400~~ 7149.8. The  
19 committee may review progress reports and the results  
20 of projects funded under this article and make  
21 recommendations to the director regarding abalone  
22 resource management.

23 ~~7403. Notwithstanding any other provision of law, the~~  
24 ~~money collected from any fine or forfeiture imposed or~~  
25 ~~collected for the taking of abalone for any purpose other~~  
26 ~~than for profit in violation of this article or any other~~  
27 ~~provision of law shall be deposited as follows:~~

28 (a) ~~One-half in the Abalone Restoration and~~  
29 ~~Preservation Fund.~~

30 (b) ~~One-half in the county treasury of the county in~~  
31 ~~which the violation occurred.~~

32 ~~7404. A moratorium is imposed on the taking,~~  
33 ~~possessing, or landing of abalone (genus Haliotis) for~~  
34 ~~commercial or recreational purposes in ocean waters of~~  
35 ~~the state south of a line drawn due west magnetic from~~  
36 ~~the center of the mouth of the San Francisco Bay,~~  
37 ~~including all islands offshore the mainland of California,~~  
38 ~~including, but not limited to, the Farallon Islands and the~~  
39 ~~southern California Channel Islands.~~



1 ~~7405. (a) It is the intent of the Legislature that the~~  
2 ~~commission undertake management of abalone in a~~  
3 ~~manner consistent with this article. On or before January~~  
4 ~~1, 2003, the department shall submit to the commission a~~  
5 ~~comprehensive abalone recovery and management plan.~~  
6 ~~The plan shall contain all of the following:~~

7 ~~(1) An explanation of the scientific knowledge~~  
8 ~~regarding the biology, habitat requirements, and threats~~  
9 ~~to abalone.~~

10 ~~(2) An explanation of the interim and long-term~~  
11 ~~recovery goals, including a range of alternative interim~~  
12 ~~and long-term conservation and management goals and~~  
13 ~~activities. The department shall report why it prefers the~~  
14 ~~recommended activities.~~

15 ~~(3) Alternatives for allocating harvest between sport~~  
16 ~~and commercial divers if the allocation of the abalone~~  
17 ~~harvest is warranted.~~

18 ~~(4) An estimate of the time and costs required to meet~~  
19 ~~the interim and long-term recovery goals for the species,~~  
20 ~~including available or anticipated funding sources, and an~~  
21 ~~initial projection of the time and costs associated with~~  
22 ~~meeting the final recovery goals. An implementation~~  
23 ~~schedule shall also be included.~~

24 ~~(5) An estimate of the time necessary to meet the~~  
25 ~~interim recovery goals and triggers for review and~~  
26 ~~amendment of strategy.~~

27 ~~(6) A description of objective measurable criteria by~~  
28 ~~which to determine whether the goals and objectives of~~  
29 ~~the recovery strategy are being met and procedures for~~  
30 ~~recognition of successful recovery. These criteria and~~  
31 ~~procedures shall include, but not be limited to, the~~  
32 ~~following:~~

33 ~~(A) Specified abundance and size frequency~~  
34 ~~distribution criteria for former abalone beds within~~  
35 ~~suitable habitat not dominated by sea otters.~~

36 ~~(B) Size frequency distributions exhibiting multiple~~  
37 ~~size classes as necessary to ensure continued recruitment~~  
38 ~~into fishable stock.~~

39 ~~(C) The reproductive importance to the entire~~  
40 ~~ecosystem of those areas proposed for reopening to~~



1 ~~harvest and the potential impact of each reopening on the~~  
2 ~~recovery of abalone population in adjacent areas.~~

3 ~~(b) Where appropriate, the recovery and~~  
4 ~~management plan may include the following:~~

5 ~~(1) A network of no-take abalone reserves.~~

6 ~~(2) A total allowable catch, reflecting the long-term~~  
7 ~~yield each species is capable of sustaining, using the best~~  
8 ~~available science and bearing in mind the ecological~~  
9 ~~importance of the species and the variability of marine~~  
10 ~~ecosystems.~~

11 ~~(3) A permanent reduction in harvest.~~

12 ~~(e) Funding to prepare the recovery and~~  
13 ~~management plan and any planning and scoping~~  
14 ~~meetings shall be derived from the fees collected for the~~  
15 ~~abalone stamp.~~

16 ~~(d) Following submittal of the recovery and~~  
17 ~~management plan, the department may apply to the~~  
18 ~~commission to reopen sport or commercial fishing in all~~  
19 ~~or any portion of the waters described in Section 7404. If~~  
20 ~~the commission makes a finding that the resource can~~  
21 ~~support additional harvest activities and that these~~  
22 ~~activities are consistent with the abalone recovery plan,~~  
23 ~~all or a portion of the waters described in Section 7404~~  
24 ~~may be reopened and management measures prescribed~~  
25 ~~and implemented, as appropriate. The commission may~~  
26 ~~close or, where appropriate, may establish no-take~~  
27 ~~marine refuges in any area opened pursuant to this~~  
28 ~~section if it makes a finding that this action is necessary~~  
29 ~~to comply with the abalone management plan.~~

30 ~~SEC. 2.—~~

31 ~~SEC. 8. Section 8300 of the Fish and Game Code is~~  
32 ~~repealed.~~

33 ~~8300. (a) No species of abalone (genus *Haliotis*) shall~~  
34 ~~be taken or possessed aboard a vessel during the months~~  
35 ~~of January, February, and August.~~

36 ~~(b) The department shall permanently revoke the~~  
37 ~~commercial fishing license and any commercial fishing~~  
38 ~~permits of any person convicted of a violation of~~  
39 ~~subdivision (a). That person shall not, thereafter, be~~



1 ~~eligible for any license or permit to take or possess fish for~~  
2 ~~sport or commercial purposes.~~

3 *SEC. 9. Section 8300.1 of the Fish and Game Code is*  
4 *repealed.*

5 ~~8300.1. Abalone shall not be taken for commercial~~  
6 ~~purposes except under a valid abalone diving permit~~  
7 ~~issued to that person that has not been suspended or~~  
8 ~~revoked, subject to regulations adopted by the~~  
9 ~~commission. The diving permit fee is three hundred~~  
10 ~~thirty dollars (\$330).~~

11 *SEC. 10. Section 8300.2 of the Fish and Game Code is*  
12 *repealed.*

13 ~~8300.2. It is unlawful to assist an abalone diving~~  
14 ~~permittee to take abalone for commercial purposes~~  
15 ~~except under an abalone crewmember permit. Abalone~~  
16 ~~crewmember permittees may assist only on a vessel, and~~  
17 ~~shall not dive from a vessel to take abalone for~~  
18 ~~commercial purposes from that vessel. The crewmember~~  
19 ~~permit fee is thirty-three dollars (\$33).~~

20 *SEC. 11. Section 8301 of the Fish and Game Code is*  
21 *repealed.*

22 ~~8301. (a) It is unlawful to remove abalone from the~~  
23 ~~shell or to possess abalone which have been removed~~  
24 ~~from the shell except pursuant to Section 8305.11.~~

25 ~~(b) The court shall order the department to~~  
26 ~~permanently revoke, and the department shall~~  
27 ~~permanently revoke, the commercial fishing license and~~  
28 ~~any commercial fishing permits of any person convicted~~  
29 ~~of a violation of subdivision (a) if the court finds that the~~  
30 ~~person possessed more than 24 abalone removed from the~~  
31 ~~shell at the time of the offense. That person shall not,~~  
32 ~~thereafter, be eligible for any license or permit to take or~~  
33 ~~possess fish for sport or commercial purposes.~~

34 *SEC. 12. Section 8302 of the Fish and Game Code is*  
35 *repealed.*

36 ~~8302. Abalone may be taken only for food purposes.~~

37 *SEC. 13. Section 8303 of the Fish and Game Code is*  
38 *repealed.*

39 ~~8303. Only diving apparatus authorized by the~~  
40 ~~commission may be used to take abalone for commercial~~



1 ~~purposes. Abalone may be taken only when the permittee~~  
2 ~~is submerged.~~

3 *SEC. 14. Section 8304 of the Fish and Game Code is*  
4 *repealed.*

5 ~~8304. (a) It is unlawful to take, possess, sell, or~~  
6 ~~purchase any abalone, the shell of which, measured in~~  
7 ~~greatest diameter, is less than the following specifications:~~

8 ~~(1) Red abalone, 7<sup>3</sup>/<sub>4</sub> inches.~~

9 ~~(2) Green abalone, 7 inches.~~

10 ~~(3) Pink abalone and white abalone, 6<sup>1</sup>/<sub>4</sub> inches.~~

11 ~~(4) Black abalone, 5<sup>3</sup>/<sub>4</sub> inches.~~

12 ~~(5) All other abalone, 4 inches.~~

13 ~~(b) The court shall order the department to~~  
14 ~~permanently revoke, and the department shall~~  
15 ~~permanently revoke, the commercial fishing license and~~  
16 ~~any commercial fishing permits of any person convicted~~  
17 ~~of a violation of subdivision (a) if the court finds that the~~  
18 ~~person possessed more than 24 undersized abalone at the~~  
19 ~~time of the offense. That person shall not, thereafter, be~~  
20 ~~eligible for any license or permit to take or possess fish for~~  
21 ~~sport or commercial purposes.~~

22 *SEC. 15. Section 8305 of the Fish and Game Code is*  
23 *repealed.*

24 ~~8305. (a) Notwithstanding Section 8606 or any other~~  
25 ~~provision of law, it is unlawful to take abalone for~~  
26 ~~commercial purposes in Districts 6, 7, 16, 17, and 19A, in~~  
27 ~~District 10 north of Point Lobos, and in District 20~~  
28 ~~between Southeast Rock and the extreme westerly end of~~  
29 ~~Santa Catalina Island.~~

30 ~~(b) It is unlawful to take abalone for commercial~~  
31 ~~purposes in waters less than 20 feet deep south of Point~~  
32 ~~Dume in District 19 adjacent to the mainland, in District~~  
33 ~~20 between Southeast Rock and China Point, and in~~  
34 ~~District 20A.~~

35 ~~(c) Black abalone may not be taken at any time for~~  
36 ~~commercial purposes within one mile of the shores of~~  
37 ~~Anacapa, Santa Barbara, or Santa Cruz Island, or along~~  
38 ~~the mainland coast, except as otherwise specifically~~  
39 ~~authorized by this article.~~



1 ~~(d) This section shall become operative on January 1,~~  
2 ~~1997.~~

3 *SEC. 16. Section 8305.5 of the Fish and Game Code is*  
4 *repealed.*

5 ~~8305.5. (a) Notwithstanding Section 8305, in District~~  
6 ~~19, abalone may be taken for commercial purposes within~~  
7 ~~one mile of the shores of Santa Rosa, San Nicolas, San~~  
8 ~~Clemente, or San Miguel Island and in less than 20 feet of~~  
9 ~~water.~~

10 ~~(b) Notwithstanding Section 10666, in the James V.~~  
11 ~~Fitzgerald Marine Reserve in District 10, abalone may be~~  
12 ~~taken for commercial purposes in waters 20 feet or more~~  
13 ~~in depth, unless otherwise prohibited or restricted by this~~  
14 ~~article.~~

15 ~~(c) In District 10 south of Point Lobos, except as~~  
16 ~~provided in subdivision (b) or unless otherwise~~  
17 ~~prohibited or restricted by this article, abalone may be~~  
18 ~~taken for commercial purposes if the person taking the~~  
19 ~~abalone is submerged.~~

20 ~~(d) Notwithstanding subdivision (a), (b), or (c), if the~~  
21 ~~director makes a written finding that the further taking~~  
22 ~~of abalone will endanger the resource in an area, the~~  
23 ~~director may close that area or any part of that area to the~~  
24 ~~taking of abalone for commercial purposes until such~~  
25 ~~time as the director determines that the taking will no~~  
26 ~~longer endanger the resource.~~

27 *SEC. 17. Section 8305.8 of the Fish and Game Code is*  
28 *repealed.*

29 ~~8305.8. Notwithstanding any other provision of law, in~~  
30 ~~the mainland coastal waters from Palos Verdes Point in~~  
31 ~~Los Angeles County to Dana Point in Orange County, it~~  
32 ~~is unlawful to take abalone for commercial purposes.~~

33 ~~This section shall remain in effect only until January 1,~~  
34 ~~2002, and as of that date is repealed, unless a later enacted~~  
35 ~~statute, which is enacted before January 1, 2002, deletes~~  
36 ~~or extends that date.~~

37 *SEC. 18. Section 8305.9 of the Fish and Game Code is*  
38 *repealed.*

39 ~~8305.9. The commission may, whenever necessary to~~  
40 ~~prevent overuse, rehabilitate the resource, or otherwise~~



1 ~~carry out the provisions of this article, close or open areas~~  
2 ~~for up to two years for the commercial taking of abalone,~~  
3 ~~provided that the area opened is also opened or the area~~  
4 ~~closed is also closed to sport taking of abalone pursuant to~~  
5 ~~Chapter 2 (commencing with Section 200) of Division 1.~~  
6 ~~This section shall become operative March 1, 1982.~~

7 *SEC. 19. Section 8305.10 of the Fish and Game Code*  
8 *is repealed.*

9 ~~8305.10. If the commission opens or closes a~~  
10 ~~designated area pursuant to Section 8305.9, the~~  
11 ~~commission shall not open or close any other area to~~  
12 ~~mitigate or offset the opening or closing of the designated~~  
13 ~~area.~~

14 *SEC. 20. Section 8305.11 of the Fish and Game Code*  
15 *is repealed.*

16 ~~8305.11. (a) Except as provided in subdivision (b) or~~  
17 ~~(e), no abalone shall be possessed aboard or landed from~~  
18 ~~any commercial fishing vessel or possessed by a~~  
19 ~~commercial fisherman in any fish and game district, or~~  
20 ~~portion thereof, north of Point Sur in which the~~  
21 ~~commercial taking of abalone is prohibited or the season~~  
22 ~~for the commercial taking of abalone is closed.~~

23 ~~(b) Subdivision (a) does not apply to abalone~~  
24 ~~purchased in a processed form for consumption by the~~  
25 ~~crewmembers of a commercial fishing vessel aboard the~~  
26 ~~vessel if proof of that purchase is available on the vessel.~~

27 ~~(c) Subdivision (a) does not apply to a commercial~~  
28 ~~fishing vessel while on a sportfishing trip. Subdivision (a)~~  
29 ~~does not apply to a commercial fisherman who is taking~~  
30 ~~abalone for sport purposes if the commercial fisherman~~  
31 ~~does not possess more than the limit of abalone~~  
32 ~~established for sport purposes. The possession of more~~  
33 ~~abalone than authorized for sport purposes by a~~  
34 ~~commercial fisherman is prima facie evidence that the~~  
35 ~~abalone are possessed for commercial purposes.~~

36 ~~(d) The court shall order the department to~~  
37 ~~permanently revoke, and the department shall~~  
38 ~~permanently revoke, the commercial fishing license and~~  
39 ~~any commercial fishing permit of any person convicted~~  
40 ~~of a violation of subdivision (a) if the court finds that the~~



1 ~~person was diving in an area north of Point Sur in which~~  
2 ~~the commercial taking of abalone was prohibited or the~~  
3 ~~season for the commercial taking of abalone was closed at~~  
4 ~~the time of the offense. That person shall not, thereafter,~~  
5 ~~be eligible for any license or permit to take or possess fish~~  
6 ~~for sport or commercial purposes.~~

7 *SEC. 21. Section 8306 of the Fish and Game Code is*  
8 *repealed.*

9 ~~8306. The commission shall establish the number of~~  
10 ~~abalone diving permits to be issued for each annual~~  
11 ~~season as necessary to protect the resource.~~

12 *SEC. 22. Section 8306.1 of the Fish and Game Code is*  
13 *repealed.*

14 ~~8306.1. (a) When the commission establishes the~~  
15 ~~number of abalone diving permits which shall be issued,~~  
16 ~~it shall determine the reasonable number of those~~  
17 ~~permits, if any, which shall be issued to persons qualifying~~  
18 ~~as a new entrant pursuant to subdivision (b) of Section~~  
19 ~~8306.2.~~

20 ~~(b) If the number of abalone diving permits which the~~  
21 ~~commission determines may be issued exceeds the~~  
22 ~~number of permits issued pursuant to subdivisions (a)~~  
23 ~~and (b) of Section 8306.2, the department may issue any~~  
24 ~~remaining permits to persons qualifying as new entrants~~  
25 ~~pursuant to subdivision (c) of Section 8306.2.~~

26 *SEC. 23. Section 8306.2 of the Fish and Game Code is*  
27 *repealed.*

28 ~~8306.2. (a) Abalone diving permits shall be issued to~~  
29 ~~persons who held a valid abalone diving permit in the~~  
30 ~~immediately preceding permit year that has not been~~  
31 ~~suspended or revoked.~~

32 ~~(b) If the commission determines that abalone diving~~  
33 ~~permits may be issued under this subdivision, an abalone~~  
34 ~~diving permit may be issued to an applicant if the~~  
35 ~~applicant does not qualify as a prior permittee and if the~~  
36 ~~applicant meets either of the following conditions:~~

37 ~~(1) The applicant has at least two years experience as~~  
38 ~~an abalone diver under a permit issued pursuant to~~  
39 ~~Section 8300.1 or former Section 8306.8, as it read before~~  
40 ~~January 1, 1993.~~



1 ~~(2) The applicant has at least three years' experience~~  
2 ~~as an abalone crewmember under a permit issued~~  
3 ~~pursuant to Section 8300.2 or former Section 8306.8, as it~~  
4 ~~read before January 1, 1993.~~

5 ~~(e) If the total number of abalone diving permits~~  
6 ~~which the commission determines may be issued exceeds~~  
7 ~~the number of abalone diving permits issued pursuant to~~  
8 ~~subdivisions (a) and (b), abalone diving permits may be~~  
9 ~~issued to applicants under this subdivision if the applicant~~  
10 ~~does not qualify as a prior permittee and the applicant~~  
11 ~~meets either of the following conditions:~~

12 ~~(1) The applicant has at least three years experience~~  
13 ~~as an abalone diver or crewmember.~~

14 ~~(2) The applicant successfully completes a proficiency~~  
15 ~~test administered by the department, under regulations~~  
16 ~~prescribed by the commission.~~

17 *SEC. 24. Section 8306.3 of the Fish and Game Code is*  
18 *repealed.*

19 ~~8306.3. Whenever there are more applicants than~~  
20 ~~there are permits available in a category, a drawing shall~~  
21 ~~be held to determine who will receive the permits in that~~  
22 ~~category.~~

23 *SEC. 25. Section 8306.6 of the Fish and Game Code is*  
24 *repealed.*

25 ~~8306.6. A commercial abalone diving permit shall be~~  
26 ~~revoked by a court upon conviction of a violation~~  
27 ~~punishable under Section 8311 or 8312, as provided in~~  
28 ~~those sections. The court shall notify the department~~  
29 ~~upon conviction of any person of that violation.~~

30 *SEC. 26. Section 8306.7 of the Fish and Game Code is*  
31 *amended and renumbered to read:*

32 ~~8306.7.~~

33 *12002.10.* (a) When a complaint has been filed in a  
34 court of competent jurisdiction charging a holder of a  
35 commercial abalone diving or crewmember permit  
36 person with a violation of Section 8300, 8301, 8304, or  
37 ~~8305.11~~ that may result in suspension or revocation of any  
38 license or permit to take abalone for commercial  
39 purposes, and no disposition of the complaint has  
40 occurred within 90 days after it has been filed in the court,



1 the department may suspend the ~~commercial abalone~~  
2 *license or permit* of that person.

3 (b) Whenever the department proposes to suspend a  
4 license or permit under this section, notice and an  
5 opportunity to be heard shall be given before taking the  
6 action. The notice shall contain a statement setting forth  
7 the proposed action and the grounds therefor, and notify  
8 the person of his or her right to a hearing as provided in  
9 this section. Within 10 days after the receipt of the notice  
10 from the department, the permitholder may request a  
11 hearing. The hearing shall be held by the commission at  
12 the next regularly scheduled hearing of the commission  
13 held more than 30 days after the notice of intent to  
14 suspend the permit was sent. The ~~permitholder~~ *person*  
15 shall be given 10 days' notice of the time and place of the  
16 hearing.

17 (c) A decision shall be made within a reasonable time  
18 on whether the *license or permit* shall be suspended until  
19 the disposition of the complaint by the court. In  
20 determining whether to order the suspension ~~of the~~  
21 ~~permit~~, the commission shall consider whether or not the  
22 violation could have a detrimental effect on the resources  
23 and whether or not a suspension ~~of the permit~~ is in the  
24 best public interest, and shall find whether there is  
25 sufficient evidence that a violation has occurred. A failure  
26 to make a finding that there is sufficient evidence that a  
27 violation has occurred, or a finding there is insufficient  
28 evidence, shall terminate the proceedings ~~for suspension~~  
29 ~~of the permit~~ under this section.

30 (d) If the ~~permitholder~~ *person* is acquitted of the  
31 charges or the charges ~~against him or her have been~~ *are*  
32 dismissed, any suspension ~~of the permit~~ under this section  
33 is thereby terminated.

34 (e) No complaint shall be filed in a court charging a  
35 commercial abalone ~~permitholder with a violation of~~  
36 ~~Section 8300, 8301, 8304, or 8305.11~~, unless evidence  
37 supporting the charge has been reviewed by the  
38 appropriate county or city prosecuting agency and a  
39 criminal complaint has been issued by that agency.



1 SEC. 27. Section 8306.9 of the Fish and Game Code is  
2 repealed.

3 ~~8306.9. The Legislature finds and declares that the~~  
4 ~~restrictions on the issuance of abalone diving permits~~  
5 ~~specified in this article, are necessary to insure that~~  
6 ~~abalone diving permittees possess the level of experience~~  
7 ~~needed to protect and enhance the state's abalone~~  
8 ~~resources.~~

9 SEC. 28. Section 8308 of the Fish and Game Code, as  
10 amended by Section 32 of Chapter 870 of the Statutes of  
11 1996, is repealed.

12 ~~8308. (a) It is unlawful for a holder of a commercial~~  
13 ~~abalone diving permit to possess, transport, control, or~~  
14 ~~land more than 180 each of red, green, pink, or black~~  
15 ~~abalone on any day, or for there to be more than 360 total~~  
16 ~~of any one species of abalone on a vessel at any time. This~~  
17 ~~subdivision does not prohibit more than 360 of any one~~  
18 ~~species of abalone to be in possession or controlled by an~~  
19 ~~abalone diving permittee when those abalone are being~~  
20 ~~transported on land south of the county line between the~~  
21 ~~County of San Luis Obispo and the County of Santa~~  
22 ~~Barbara.~~

23 ~~(b) Notwithstanding subdivision (a), in District 10, it~~  
24 ~~is unlawful for a holder of a commercial abalone diving~~  
25 ~~permit to possess, transport, or control on a fishing vessel,~~  
26 ~~or to land more than 84 abalone on any day, or for there~~  
27 ~~to be more than 168 total abalone on a vessel at any time.~~

28 ~~(c) The court shall order the department to~~  
29 ~~permanently revoke, and the department shall~~  
30 ~~permanently revoke, the commercial fishing license and~~  
31 ~~any commercial fishing permits of any person convicted~~  
32 ~~of a violation of subdivision (a) or (b) if the court finds~~  
33 ~~that the person possessed more than one and one-half~~  
34 ~~times the number of abalone permitted at the time of the~~  
35 ~~offense. That person shall not, thereafter be eligible for~~  
36 ~~any license or permit to take or possess fish for sport or~~  
37 ~~commercial purposes.~~

38 ~~(d) This section shall remain in effect only until~~  
39 ~~January 1, 2002, and as of that date is repealed, unless a~~



1 ~~later enacted statute, which is enacted before January 1,~~  
2 ~~2002, deletes or extends that date.~~

3 *SEC. 29. Section 8308 of the Fish and Game Code, as*  
4 *amended by Section 32.2 of Chapter 870 of the Statutes of*  
5 *1996, is repealed.*

6 ~~8308. (a) It is unlawful for a holder of a permit which~~  
7 ~~authorizes the taking of abalone for commercial purposes~~  
8 ~~to possess, transport, control, or land more than 180 black~~  
9 ~~abalone at any time or for there to be more than 360 black~~  
10 ~~abalone on a vessel. This subdivision does not prohibit~~  
11 ~~more than 180 black abalone to be in possession or~~  
12 ~~controlled by an abalone diving permittee when those~~  
13 ~~abalone are being transported on land.~~

14 ~~(b) Notwithstanding subdivision (a), in District 10 it is~~  
15 ~~unlawful for a holder of a commercial abalone diving~~  
16 ~~permit which authorizes the taking of abalone for~~  
17 ~~commercial purposes to possess, transport, or control on~~  
18 ~~a fishing vessel, or to land more than 84 abalone, or for~~  
19 ~~there to be more than 168 total abalone on a vessel at any~~  
20 ~~time.~~

21 ~~(c) This section shall become operative on January 1,~~  
22 ~~2002.~~

23 *SEC. 30. Section 8309 of the Fish and Game Code is*  
24 *repealed.*

25 ~~8309. It is unlawful for the holder of a permit to~~  
26 ~~commercially take abalone to take abalone from one-half~~  
27 ~~hour after sunset to one-half hour before sunrise.~~

28 *SEC. 31. Section 8310 of the Fish and Game Code is*  
29 *repealed.*

30 ~~8310. It is unlawful for any person to purchase,~~  
31 ~~receive, possess, or sell any abalone, or parts thereof,~~  
32 ~~which were taken illegally in California waters.~~

33 *SEC. 32. Section 8311 of the Fish and Game Code is*  
34 *amended and renumbered to read:*

35 ~~8311.~~

36 *12009.1.* (a) Notwithstanding Section 12000, and in  
37 addition to Section 12009, if any person is convicted of a  
38 violation of a regulation permitting the taking of abalone  
39 under a sportfishing or sport ocean fishing license issued  
40 pursuant to Article 3 (commencing with Section 7145) of



1 Chapter 1 of Part 2, and that person had more than seven  
2 times the number of abalone permitted to be possessed  
3 under those regulations, that person shall be fined not less  
4 than five times the prevailing market value of the  
5 abalone.

6 (b) In addition to the fine, upon a conviction  
7 punishable under this section, the court shall order the  
8 department to revoke, and the department shall revoke,  
9 the person's sportfishing or sport ocean fishing license for  
10 one year.

11 (c) If the court finds that the person convicted of a  
12 violation punishable under this section had more than  
13 seven times the number of abalone permitted, had more  
14 than seven undersized abalone, or had more than seven  
15 abalone removed from the shell, or has had his or her  
16 fishing privileges revoked pursuant to subdivision (b) for  
17 three separate convictions punishable under this section,  
18 the court shall order the department to permanently  
19 revoke, and the department shall permanently revoke,  
20 the person's sportfishing or sport ocean fishing license. A  
21 person whose sportfishing privilege is revoked pursuant  
22 to this section shall not be eligible for any license or  
23 permit, including, but not limited to, a commercial  
24 fishing license, to take or possess fish in this state for life.

25 (d) This section shall remain in effect only until  
26 January 1, 2002, and as of that date is repealed, unless a  
27 later enacted statute, which is enacted before January 1,  
28 2002, deletes or extends that date.

29 *SEC. 33. Section 8313 of the Fish and Game Code is*  
30 *amended and renumbered to read:*

31 ~~8313.~~

32 8051.3. (a) Any person who is required to pay a  
33 landing tax for abalone pursuant to Sections 8041 and 8042  
34 shall pay, in addition to the landing taxes determined  
35 pursuant to Section 8051, an additional tax of nineteen  
36 and one-half cents (\$0.195) for each pound, or fraction  
37 thereof, of abalone, determined as provided in Section  
38 8042.

39 (b) This section shall remain in effect only until  
40 January 1, 2002, and as of that date is repealed, unless a



1 later enacted statute, which is enacted before January 1,  
2 2002, deletes or extends that date.

3 *SEC. 34. Section 8314 of the Fish and Game Code is*  
4 *amended and renumbered to read:*

5 ~~8314.~~

6 8051.4. (a) The landing tax collected pursuant to  
7 Section ~~8313~~ 8051.3 shall be deposited in the Fish and  
8 Game Preservation Fund and shall be used only for the  
9 Abalone Resources Restoration and Enhancement  
10 Program. The department shall maintain internal  
11 accounts necessary to ensure that the funds are disbursed  
12 for the purposes in this subdivision. No more of the  
13 landing tax collected pursuant to Section ~~8313~~ 8051.3 than  
14 an amount equal to the regularly approved department  
15 indirect overhead rate may be used for administration by  
16 the department. Any interest on the revenues from the  
17 landing tax collected pursuant to Section ~~8313~~ 8051.3 shall  
18 be deposited in the fund and used for the purposes in this  
19 subdivision.

20 (b) A commercial Abalone Advisory Committee shall  
21 be appointed by the director, consisting of six members  
22 who shall serve without compensation or reimbursement  
23 of expenses. One of the members shall be a person who  
24 is required to pay landing taxes pursuant to Section ~~8313~~  
25 8051.3. Each of the five remaining members shall hold a  
26 current commercial abalone diving permit, and  
27 represent the following groups and organizations:

28 (1) One member shall be selected from divers with a  
29 place of residence north of Point Sur.

30 (2) One member shall be selected from divers with a  
31 place of residence south of Point Dume.

32 (3) One member shall be selected from divers with a  
33 place of residence south of Point Sur and north of Point  
34 Dume.

35 (4) Two members shall be selected from the  
36 membership of the California Abalone Association  
37 without regard to place of residence. This subdivision  
38 does not prohibit persons selected pursuant to paragraph  
39 (1), (2), or (3) from also being members of the California  
40 Abalone Association.

1 (c) The advisory committee shall make  
 2 recommendations to the director and the director shall  
 3 use his or her best efforts to implement those  
 4 recommendations for activities to be conducted with  
 5 funds collected pursuant to Section ~~8313~~ 8051.3, and those  
 6 funds collected from any previous calendar year shall be  
 7 available for use for those activities.

8 (d) This section shall remain in effect only until  
 9 January 1, 2003, and as of that date is repealed, unless a  
 10 later enacted statute, which is enacted before January 1,  
 11 2003, deletes or extends that date.

12 *SEC. 35. Section 12002.6 of the Fish and Game Code*  
 13 *is amended to read:*

14 12002.6. (a) Notwithstanding Sections 12000, 12001,  
 15 and 12002, a commercial boat registration may be  
 16 revoked or suspended by the commission, when  
 17 requested by the department, for a period not to exceed  
 18 one year, upon the second conviction in three years of the  
 19 registrant, or the registrant's agent, servant, employee, or  
 20 any other person acting under the registrant's direction  
 21 or control, for a violation of any of the following provisions  
 22 or regulations adopted pursuant thereto:

- 23 (1) *Section 5521 or 5521.5.*
- 24 (2) Article 2 (commencing with Section 8150), Article  
 25 3 (commencing with Section 8180), Article 4  
 26 (commencing with Section 8210), Article 5  
 27 (commencing with Section 8250), Article 6  
 28 (commencing with Section 8275), Article 7  
 29 (commencing with Section 8300), Article 9  
 30 (commencing with Section 8370), Article 13  
 31 (commencing with Section 8495), and Article 15  
 32 (commencing with Section 8550) of Chapter 2 of Part 3  
 33 of Division 6.

- 34 ~~(2)~~
- 35 (3) Article 1 (commencing with Section 8601), Article  
 36 2 (commencing with Section 8620), Article 4  
 37 (commencing with Section 8660), Article 5  
 38 (commencing with Section 8685), Article 6  
 39 (commencing with Section 8720), Article 7  
 40 (commencing with Section 8750), Article 8



1 (commencing with Section 8780), and Article 10  
2 (commencing with Section 8830) of Chapter 3 of Part 3  
3 of Division 6.

4 ~~(3)–~~

5 (4) Article 1 (commencing with Section 9000) of  
6 Chapter 4 of Part 3 of Division 6.

7 (b) The commercial boat registration shall not be  
8 revoked unless both the first and second convictions are  
9 related to the boat for which the commercial boat  
10 registration is to be revoked, and are for violations which  
11 occurred when the person convicted was the registrant  
12 or the registrant’s agent, servant, employee, or acting  
13 under the registrant’s direction or control.

14 *SEC. 36. Section 12002.8 of the Fish and Game Code*  
15 *is amended to read:*

16 12002.8. (a) *The court shall order the department to*  
17 *permanently revoke and the department shall*  
18 *permanently revoke, the commercial fishing license and*  
19 *any commercial fishing permits of any person convicted*  
20 *of either of the following:*

21 (1) *Taking or possessing abalone out of season.*

22 (2) *Taking or possessing abalone taken illegally from*  
23 *any area north of Point Sur.*

24 (b) *The court shall order the department to*  
25 *permanently revoke and the department shall*  
26 *permanently revoke the commercial fishing license and*  
27 *any commercial fishing permits of any person convicted*  
28 *of either of the following two offenses, if the person*  
29 *possessed more than 24 abalone at the time of the offense:*

30 (1) *Removing abalone from the shell or possessing*  
31 *abalone illegally removed from the shell.*

32 (2) *Taking or possessing abalone that are less than the*  
33 *minimum size.*

34 (c) *Any person sentenced pursuant to subdivision (a)*  
35 *or (b) shall not thereafter be eligible for any license or*  
36 *permit to take or possess fish for sport or commercial*  
37 *purposes.*

38 (d) *Notwithstanding Sections 12000, 12001, and 12002,*  
39 *the commercial fishing license of the master of a vessel*  
40 *may be revoked or suspended by the commission, when*



1 requested by the department, for a period not to exceed  
2 one year, upon the second conviction in three years of the  
3 master or the master’s agent, servant, employee, or any  
4 other person acting under the master’s direction or  
5 control, for a violation of any of the following provisions  
6 or regulations adopted pursuant thereto:

7 (1) Article 2 (commencing with Section 8150), Article  
8 3 (commencing with Section 8180), Article 4  
9 (commencing with Section 8210), Article 5  
10 (commencing with Section 8250), Article 6  
11 (commencing with Section 8275), ~~Article 7~~  
12 ~~(commencing with Section 8300)~~, Article 9  
13 (commencing with Section 8370), Article 13  
14 (commencing with Section 8495), and Article 15  
15 (commencing with Section 8550) of Chapter 2 of Part 3  
16 of Division 6.

17 (2) Article 1 (commencing with Section 8601), Article  
18 2 (commencing with Section 8620), Article 4  
19 (commencing with Section 8660), Article 5  
20 (commencing with Section 8685), Article 6  
21 (commencing with Section 8720), Article 7  
22 (commencing with Section 8750), Article 8  
23 (commencing with Section 8780), and Article 10  
24 (commencing with Section 8830) of Chapter 3 of Part 3  
25 of Division 6.

26 (3) Article 1 (commencing with Section 9000) of  
27 Chapter 4 of Part 3 of Division 6.

28 ~~(b)~~

29 (e) A master’s license shall not be revoked unless both  
30 the first and second convictions are for a violation by the  
31 master or a violation occurring when the person  
32 convicted was acting as the master’s agent, servant,  
33 employee, or acting under the master’s direction or  
34 control.

35 ~~(e)~~

36 (f) The master of a vessel is the person on board the  
37 vessel who is in charge of the vessel.

38 *SEC. 37. Section 12006.6 of the Fish and Game Code*  
39 *is amended to read:*



1 12006.6. Notwithstanding Section 12000 *or* 12002.8,  
2 and in addition to Section 12009, and notwithstanding the  
3 type of fishing license or permit held, if any person is  
4 convicted of a violation of ~~Section 8305 or 8305.11~~, *Section*  
5 *5521 or 5521.5, or any regulations adopted pursuant to*  
6 *those sections*, and the offense occurs in an area closed to  
7 the taking of abalone for commercial purposes north of  
8 Point Lobos in District 10, and the person takes or  
9 possesses 36 or more abalone, that person shall be  
10 punished by all of the following:

11 (a) A fine of five times the market value of the abalone  
12 taken or in possession, or ten thousand dollars (\$10,000),  
13 whichever is greater.

14 (b) The court shall order the department to  
15 permanently revoke, and the department shall  
16 permanently revoke, the commercial fishing license and  
17 any commercial fishing permits of that person. The  
18 person punished under this subdivision shall not,  
19 thereafter, be eligible for any license or permit to take or  
20 possess fish for sport or commercial purposes, including,  
21 but not limited to, a commercial fishing license or a  
22 sportfishing or sport ocean fishing license.  
23 Notwithstanding any other provision of law, the  
24 commercial license or permit of a person arrested for a  
25 violation punishable under this section may not be sold,  
26 transferred, loaned, leased, or used as security for any  
27 financial transaction until disposition of the charges is  
28 final.

29 (c) Any vessel, diving or other fishing gear or  
30 apparatus, or vehicle used in the commission of an offense  
31 punishable under this section shall be seized, and shall be  
32 ordered forfeited in the same manner prescribed for nets  
33 or traps used in violation of this code in Article 3  
34 (commencing with Section 8630) of Chapter 3, or in the  
35 manner prescribed in Section 12157.

36 (d) Not less than 50 percent of the revenue deposited  
37 in the Fish and Game Preservation Fund from fines and  
38 forfeitures collected pursuant to this section shall be  
39 allocated for the support of the Special Operations Unit



1 of the Wildlife Protection Division of the department and  
2 used for law enforcement purposes.

3 *SEC. 38.* Section 12009 of the Fish and Game Code is  
4 amended to read:

5 12009. (a) Notwithstanding Section 12000, and  
6 except as provided in Section 8312, the maximum  
7 punishment for a violation of any provision of ~~Article 8~~  
8 ~~(commencing with Section 7400) of Chapter 2 of Part 2~~  
9 ~~of Division 6 or Article 7 (commencing with Section 8300)~~  
10 ~~of Chapter 2 of Part 3 of Division 6 Section 5521 or 5521.5,~~  
11 or any regulation adopted ~~thereunder~~ pursuant thereto,  
12 or of Section 7121 involving abalone, is a fine of five times  
13 the market value of the abalone taken, or ten thousand  
14 dollars (\$10,000), whichever is greater, imprisonment in  
15 the county jail for a period not to exceed one year, the  
16 revocation of any commercial and sport fishing licenses  
17 issued by the department for a period not to exceed 10  
18 years, or any combination of these penalties.

19 ~~SEC. 3.—~~

20 (b) *Notwithstanding any other provision of law, the*  
21 *money collected from any fine or forfeiture imposed or*  
22 *collected for the taking of abalone for any purpose other*  
23 *than for profit in violation of this article or any other*  
24 *provision of law shall be deposited as follows:*

25 (1) *One-half in the Abalone Restoration and*  
26 *Preservation Account.*

27 (2) *One-half in the county treasury of the county in*  
28 *which the violation occurred.*

29 *SEC. 39.* No reimbursement is required by this act  
30 pursuant to Section 6 of Article XIII B of the California  
31 Constitution because the only costs that may be incurred  
32 by a local agency or school district will be incurred  
33 because this act creates a new crime or infraction,  
34 eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section  
36 17556 of the Government Code, or changes the definition  
37 of a crime within the meaning of Section 6 of Article  
38 XIII B of the California Constitution.

39 Notwithstanding Section 17580 of the Government  
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

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