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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**

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

February 19, 1997

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An act to amend 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) 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~~  $\frac{1}{2}$  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~~  $\frac{1}{2}$  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 Account and require the fees from the abalone stamps described in (1) to be deposited in this account and would continuously appropriate the moneys in that 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~~  $\frac{1}{2}$  to the Abalone Restoration and Preservation Account and ~~one-half~~  $\frac{1}{2}$  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. Section 5520 is added to the Fish and  
2 Game Code, to read:

3 5520. It is the intent of the Legislature that the  
4 commission undertake management of abalone in a  
5 manner consistent with the abalone recovery and  
6 management plan submitted pursuant to Section 5522.

7 SEC. 2. Section 5521 is added to the Fish and Game  
8 Code, to read:

9 5521. A moratorium is imposed on the taking,  
10 possessing, or landing of abalone (genus *Haliotis*) for  
11 commercial or recreational purposes in ocean waters of  
12 the state south of a line drawn due west magnetic from  
13 the center of the mouth of the San Francisco Bay,  
14 including all islands offshore the mainland of California,  
15 including, but not limited to, the Farallon Islands and the  
16 Southern California Channel Islands. It is unlawful to  
17 take, possess, or land abalone for commercial or



1 recreational purposes in those ocean waters while the  
2 moratorium is in effect.

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

5 5521.5. Notwithstanding Section 8606 or any other  
6 provision of law, it is unlawful to take abalone for  
7 commercial purposes in District 6, 7, 16, 17, or 19A, in  
8 District 10 north of Point Lobos, or in District 20 between  
9 Southeast Rock and the extreme westerly end of Santa  
10 Catalina Island.

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

13 5522. (a) On or before January 1, 2003, the  
14 department shall submit to the commission a  
15 comprehensive abalone recovery and management plan.  
16 The plan shall contain all of the following:

17 (1) An explanation of the scientific knowledge  
18 regarding the biology, habitat requirements, and threats  
19 to abalone.

20 (2) A summary of the interim and long-term recovery  
21 goals, including a range of alternative interim and  
22 long-term conservation and management goals and  
23 activities. The department shall report why it prefers the  
24 recommended activities.

25 (3) Alternatives for allocating harvest between sport  
26 and commercial divers if the allocation of the abalone  
27 harvest is warranted.

28 (4) An estimate of the time and costs required to meet  
29 the interim and long-term recovery goals for the species,  
30 including available or anticipated funding sources, and an  
31 initial projection of the time and costs associated with  
32 meeting the final recovery goals. An implementation  
33 schedule shall also be included.

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

37 (6) A description of objective measurable criteria by  
38 which to determine whether the goals and objectives of  
39 the recovery strategy are being met and procedures for  
40 recognition of successful recovery. These criteria and



1 procedures shall include, but not be limited to, the  
2 following:

3 (A) Specified abundance and size frequency  
4 distribution criteria for former abalone beds within  
5 suitable habitat not dominated by sea otters.

6 (B) Size frequency distributions exhibiting multiple  
7 size classes as necessary to ensure continued recruitment  
8 into fishable stock.

9 (C) The reproductive importance to the entire  
10 ecosystem of those areas proposed for reopening to  
11 harvest and the potential impact of each reopening on the  
12 recovery of abalone population in adjacent areas.

13 (b) Where appropriate, the recovery and  
14 management plan may include the following:

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

16 (2) A total allowable catch, reflecting the long-term  
17 yield each species is capable of sustaining, using the best  
18 available science and bearing in mind the ecological  
19 importance of the species and the variability of marine  
20 ecosystems.

21 (3) A permanent reduction in harvest.

22 (c) Funding to prepare the recovery and  
23 management plan and any planning and scoping  
24 meetings shall be derived from the fees collected for the  
25 abalone stamp.

26 (d) Following adoption of the recovery and  
27 management plan by the commission, but not prior to  
28 January 1, 2003, the department may apply to the  
29 commission to reopen sport or commercial fishing in all  
30 or any portion of the waters described in Section 5521. If  
31 the commission makes a finding that the resource can  
32 support additional harvest activities and that these  
33 activities are consistent with the abalone recovery plan,  
34 all or a portion of the waters described in Section 5521  
35 may be reopened and management measures prescribed  
36 and implemented, as appropriate. The commission may  
37 close or, where appropriate, may establish no-take  
38 marine refuges in any area opened pursuant to this  
39 section if it makes a finding that this action is necessary  
40 to comply with the abalone management plan.



1 *(e) If the commission determines that commercial*  
2 *fishing is an appropriate management measure, priority*  
3 *for participation in the fishery shall be given to those*  
4 *persons who held a commercial abalone permit during*  
5 *the 1996–97 permit year.*

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

8 7149.8. In addition to a valid California sport fishing  
9 license and any applicable license stamp issued pursuant  
10 to Sections 7149, 7150, and 7151, a person taking abalone  
11 from ocean waters shall have permanently affixed to his  
12 or her sport fishing license an abalone stamp that may be  
13 obtained from the department or an authorized agent of  
14 the department upon payment of a fee of twelve dollars  
15 (\$12).

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

18 7149.9. (a) Fees received by the department  
19 pursuant to Section 7149.8 shall be deposited in the  
20 Abalone Restoration and Preservation Account within  
21 the Fish and Game Preservation Fund, which is hereby  
22 created. Notwithstanding Section 13340 of the  
23 Government Code, the moneys in the account are  
24 continuously appropriated, without regard to fiscal year,  
25 to the department to be used only for the Recreational  
26 Abalone Management Program. For the purposes of this  
27 article, “program” means the Recreational Abalone  
28 Management Program. The program shall include the  
29 following:

30 (1) Research and management of abalone and abalone  
31 habitat. For the purposes of this section, “research”  
32 includes, but is not limited to, investigation,  
33 experimentation, monitoring, and analysis; and  
34 “management” means establishing and maintaining an  
35 optimal sustainable utilization.

36 (2) Supplementary funding of allocations for the  
37 enforcement of statutes and regulations applicable to  
38 abalone, including, but not limited to, the acquisition of  
39 special equipment and the production and dissemination  
40 of printed materials, such as pamphlets, booklets, and



1 posters, aimed at compliance with recreational abalone  
2 regulations.

3 (3) Direction for volunteer groups relating to abalone  
4 and abalone habitat management, presentations of  
5 abalone related matters at scientific conferences and  
6 educational institutions, and publication of abalone  
7 related material.

8 (b) At least 15 percent of the funds deposited in the  
9 account shall be used for program activities south of San  
10 Francisco. To the extent possible, participants in the  
11 management activities of the program in that area shall  
12 be former commercial abalone divers.

13 (c) The department shall maintain internal accounts  
14 that ensure that the fees received pursuant to Section  
15 7149.8 are disbursed for the purposes of subdivision (a).  
16 Not more than 20 percent of the fees received pursuant  
17 to Section 7149.8 shall be used for administration by the  
18 department.

19 (d) Unencumbered fees collected pursuant to Section  
20 7149.8 during any previous calendar year may be  
21 expended for the purposes of subdivisions (a) and (b). All  
22 interest and other earnings on the fees received pursuant  
23 to Section 7149.8 shall be deposited in the account and  
24 shall be used for the purposes of subdivisions (a) and (b).

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

28

29 Article 3. Recreational Abalone Advisory Committee

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31 7360. (a) The director shall appoint a Recreational  
32 Abalone Advisory Committee consisting of nine  
33 members who shall serve without compensation. The  
34 members of the advisory committee shall be selected as  
35 follows:

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

39 (A) Two members shall reside north of the southern  
40 boundary line of Marin County and a line extending due



1 east from the easternmost point of Marin County located  
2 in San Pablo Bay. The two members shall be selected from  
3 nominations submitted by the Northern California  
4 Shellfish Assessment Program or by individuals or  
5 organizations that actively participate in the recreational  
6 abalone fishery, except that not more than one of the  
7 members selected shall be an active or former  
8 commercial abalone diver or involved in commercial  
9 seafood processing or marketing.

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

25 (C) Two members shall reside south of the boundary  
26 between Santa Barbara and San Luis Obispo Counties  
27 and a line extending due east from the easternmost point  
28 in that boundary line. The two members shall be selected  
29 from nominations submitted by the Greater Los Angeles  
30 Council of Divers, the San Diego Council of Divers, the  
31 Channel Islands Council of Divers, the Southern  
32 California Shellfish Assessment Program, or by  
33 individuals or organizations that actively participate in  
34 the recreational abalone fishery, except that not more  
35 than one of the members selected shall be an active or  
36 former commercial abalone diver or involved in  
37 commercial seafood processing or marketing.

38 (2) One member shall represent the department in  
39 enforcement activities and shall be selected from  
40 personnel in the Wildlife Protection Division.



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

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

8 (c) The advisory committee shall meet at least once  
9 each calendar year to review proposals and recommend  
10 to the director projects and budgets for the expenditure  
11 of fees received pursuant to Section 7149.8. The  
12 committee may review progress reports and the results  
13 of projects funded under this article and make  
14 recommendations to the director regarding abalone  
15 resource management.

16 SEC. 8. Section 8300 of the Fish and Game Code is  
17 repealed.

18 SEC. 9. Section 8300.1 of the Fish and Game Code is  
19 repealed.

20 SEC. 10. Section 8300.2 of the Fish and Game Code is  
21 repealed.

22 SEC. 11. Section 8301 of the Fish and Game Code is  
23 repealed.

24 SEC. 12. Section 8302 of the Fish and Game Code is  
25 repealed.

26 SEC. 13. Section 8303 of the Fish and Game Code is  
27 repealed.

28 SEC. 14. Section 8304 of the Fish and Game Code is  
29 repealed.

30 SEC. 15. Section 8305 of the Fish and Game Code is  
31 repealed.

32 SEC. 16. Section 8305.5 of the Fish and Game Code is  
33 repealed.

34 SEC. 17. Section 8305.8 of the Fish and Game Code is  
35 repealed.

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

38 SEC. 19. Section 8305.10 of the Fish and Game Code  
39 is repealed.



1 SEC. 20. Section 8305.11 of the Fish and Game Code  
2 is repealed.

3 SEC. 21. Section 8306 of the Fish and Game Code is  
4 repealed.

5 SEC. 22. Section 8306.1 of the Fish and Game Code is  
6 repealed.

7 SEC. 23. Section 8306.2 of the Fish and Game Code is  
8 repealed.

9 SEC. 24. Section 8306.3 of the Fish and Game Code is  
10 repealed.

11 SEC. 25. Section 8306.6 of the Fish and Game Code is  
12 repealed.

13 SEC. 26. Section 8306.7 of the Fish and Game Code is  
14 amended and renumbered to read:

15 12002.10. (a) When a complaint has been filed in a  
16 court of competent jurisdiction charging a person with a  
17 violation that may result in suspension or revocation of  
18 any license or permit to take abalone for commercial  
19 purposes, and no disposition of the complaint has  
20 occurred within 90 days after it has been filed in the court,  
21 the department may suspend the license or permit of that  
22 person.

23 (b) Whenever the department proposes to suspend a  
24 license or permit under this section, notice and an  
25 opportunity to be heard shall be given before taking the  
26 action. The notice shall contain a statement setting forth  
27 the proposed action and the grounds therefor, and notify  
28 the person of his or her right to a hearing as provided in  
29 this section. Within 10 days after the receipt of the notice  
30 from the department, the permitholder may request a  
31 hearing. The hearing shall be held by the commission at  
32 the next regularly scheduled hearing of the commission  
33 held more than 30 days after the notice of intent to  
34 suspend the permit was sent. The person shall be given  
35 10 days' notice of the time and place of the hearing.

36 (c) A decision shall be made within a reasonable time  
37 on whether the license or permit shall be suspended until  
38 the disposition of the complaint by the court. In  
39 determining whether to order the suspension, the  
40 commission shall consider whether or not the violation



1 could have a detrimental effect on the resources and  
2 whether or not a suspension is in the best public interest,  
3 and shall find whether there is sufficient evidence that a  
4 violation has occurred. A failure to make a finding that  
5 there is sufficient evidence that a violation has occurred,  
6 or a finding there is insufficient evidence, shall terminate  
7 the proceedings under this section.

8 (d) If the person is acquitted of the charges or the  
9 charges are dismissed, any suspension under this section  
10 is thereby terminated.

11 (e) No complaint shall be filed in a court charging a  
12 commercial abalone violation, unless evidence  
13 supporting the charge has been reviewed by the  
14 appropriate county or city prosecuting agency and a  
15 criminal complaint has been issued by that agency.

16 SEC. 27. Section 8306.9 of the Fish and Game Code is  
17 repealed.

18 SEC. 28. Section 8308 of the Fish and Game Code, as  
19 amended by Section 32 of Chapter 870 of the Statutes of  
20 1996, is repealed.

21 SEC. 29. Section 8308 of the Fish and Game Code, as  
22 amended by Section 32.2 of Chapter 870 of the Statutes of  
23 1996, is repealed.

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

26 SEC. 31. Section 8310 of the Fish and Game Code is  
27 repealed.

28 SEC. 32. Section 8311 of the Fish and Game Code is  
29 amended and renumbered to read:

30 12009.1. (a) Notwithstanding Section 12000, and in  
31 addition to Section 12009, if any person is convicted of a  
32 violation of a regulation permitting the taking of abalone  
33 under a sport fishing or sport ocean fishing license issued  
34 pursuant to Article 3 (commencing with Section 7145) of  
35 Chapter 1 of Part 2, and that person had more than seven  
36 times the number of abalone permitted to be possessed  
37 under those regulations, that person shall be fined not less  
38 than five times the prevailing market value of the  
39 abalone.



1 (b) In addition to the fine, upon a conviction  
2 punishable under this section, the court shall order the  
3 department to revoke, and the department shall revoke,  
4 the person's sport fishing or sport ocean fishing license for  
5 one year.

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

20 (d) This section shall remain in effect only until  
21 January 1, 2002, and as of that date is repealed, unless a  
22 later enacted statute, which is enacted before January 1,  
23 2002, deletes or extends that date.

24 SEC. 33. Section 8313 of the Fish and Game Code is  
25 amended and renumbered to read:

26 8051.3. (a) Any person who is required to pay a  
27 landing tax for abalone pursuant to Sections 8041 and 8042  
28 shall pay, in addition to the landing taxes determined  
29 pursuant to Section 8051, an additional tax of nineteen  
30 and one-half cents (\$0.195) for each pound, or fraction  
31 thereof, of abalone, determined as provided in Section  
32 8042.

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

37 SEC. 34. Section 8314 of the Fish and Game Code is  
38 amended and renumbered to read:

39 8051.4. (a) The landing tax collected pursuant to  
40 Section 8051.3 shall be deposited in the Fish and Game



1 Preservation Fund and shall be used only for the Abalone  
2 Resources Restoration and Enhancement Program. The  
3 department shall maintain internal accounts necessary to  
4 ensure that the funds are disbursed for the purposes in  
5 this subdivision. No more of the landing tax collected  
6 pursuant to Section 8051.3 than an amount equal to the  
7 regularly approved department indirect overhead rate  
8 may be used for administration by the department. Any  
9 interest on the revenues from the landing tax collected  
10 pursuant to Section 8051.3 shall be deposited in the fund  
11 and used for the purposes in this subdivision.

12 (b) A commercial Abalone Advisory Committee shall  
13 be appointed by the director, consisting of six members  
14 who shall serve without compensation or reimbursement  
15 of expenses. One of the members shall be a person who  
16 is required to pay landing taxes pursuant to Section  
17 8051.3. Each of the five remaining members shall hold a  
18 current commercial abalone diving permit, and  
19 represent the following groups and organizations:

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

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

24 (3) One member shall be selected from divers with a  
25 place of residence south of Point Sur and north of Point  
26 Dume.

27 (4) Two members shall be selected from the  
28 membership of the California Abalone Association  
29 without regard to place of residence. This subdivision  
30 does not prohibit persons selected pursuant to paragraph  
31 (1), (2), or (3) from also being members of the California  
32 Abalone Association.

33 (c) The advisory committee shall make  
34 recommendations to the director and the director shall  
35 use his or her best efforts to implement those  
36 recommendations for activities to be conducted with  
37 funds collected pursuant to Section 8051.3, and those  
38 funds collected from any previous calendar year shall be  
39 available for use for those activities.



1 (d) This section shall remain in effect only until  
2 January 1, 2003, and as of that date is repealed, unless a  
3 later enacted statute, which is enacted before January 1,  
4 2003, deletes or extends that date.

5 SEC. 35. Section 12002.6 of the Fish and Game Code  
6 is amended to read:

7 12002.6. (a) Notwithstanding Sections 12000, 12001,  
8 and 12002, a commercial boat registration may be  
9 revoked or suspended by the commission, when  
10 requested by the department, for a period not to exceed  
11 one year, upon the second conviction in three years of the  
12 registrant, or the registrant's agent, servant, employee, or  
13 any other person acting under the registrant's direction  
14 or control, for a violation of any of the following provisions  
15 or regulations adopted pursuant thereto:

16 (1) Section 5521 or 5521.5.

17 (2) Article 2 (commencing with Section 8150), Article  
18 3 (commencing with Section 8180), Article 4  
19 (commencing with Section 8210), Article 5  
20 (commencing with Section 8250), Article 6  
21 (commencing with Section 8275), Article 7  
22 (commencing with Section 8300), Article 9  
23 (commencing with Section 8370), Article 13  
24 (commencing with Section 8495), and Article 15  
25 (commencing with Section 8550) of Chapter 2 of Part 3  
26 of Division 6.

27 (3) Article 1 (commencing with Section 8601), Article  
28 2 (commencing with Section 8620), Article 4  
29 (commencing with Section 8660), Article 5  
30 (commencing with Section 8685), Article 6  
31 (commencing with Section 8720), Article 7  
32 (commencing with Section 8750), Article 8  
33 (commencing with Section 8780), and Article 10  
34 (commencing with Section 8830) of Chapter 3 of Part 3  
35 of Division 6.

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

38 (b) The commercial boat registration shall not be  
39 revoked unless both the first and second convictions are  
40 related to the boat for which the commercial boat



1 registration is to be revoked, and are for violations which  
2 occurred when the person convicted was the registrant  
3 or the registrant's agent, servant, employee, or acting  
4 under the registrant's direction or control.

5 SEC. 36. Section 12002.8 of the Fish and Game Code  
6 is amended to read:

7 12002.8. (a) The court shall order the department to  
8 permanently revoke and the department shall  
9 permanently revoke, the commercial fishing license and  
10 any commercial fishing permits of any person convicted  
11 of either of the following:

12 (1) Taking or possessing abalone out of season.

13 (2) Taking or possessing abalone taken illegally from  
14 any area north of Point Sur.

15 (b) The court shall order the department to  
16 permanently revoke and the department shall  
17 permanently revoke the commercial fishing license and  
18 any commercial fishing permits of any person convicted  
19 of either of the following two offenses, if the person  
20 possessed more than 24 abalone at the time of the offense:

21 (1) Removing abalone from the shell or possessing  
22 abalone illegally removed from the shell.

23 (2) Taking or possessing abalone that are less than the  
24 minimum size.

25 (c) Any person sentenced pursuant to subdivision (a)  
26 or (b) shall not thereafter be eligible for any license or  
27 permit to take or possess fish for sport or commercial  
28 purposes.

29 (d) Notwithstanding Sections 12000, 12001, and 12002,  
30 the commercial fishing license of the master of a vessel  
31 may be revoked or suspended by the commission, when  
32 requested by the department, for a period not to exceed  
33 one year, upon the second conviction in three years of the  
34 master or the master's agent, servant, employee, or any  
35 other person acting under the master's direction or  
36 control, for a violation of any of the following provisions  
37 or regulations adopted pursuant thereto:

38 (1) Article 2 (commencing with Section 8150), Article  
39 3 (commencing with Section 8180), Article 4  
40 (commencing with Section 8210), Article 5



1 (commencing with Section 8250), Article 6  
2 (commencing with Section 8275), Article 9  
3 (commencing with Section 8370), Article 13  
4 (commencing with Section 8495), and Article 15  
5 (commencing with Section 8550) of Chapter 2 of Part 3  
6 of Division 6.

7 (2) Article 1 (commencing with Section 8601), Article  
8 2 (commencing with Section 8620), Article 4  
9 (commencing with Section 8660), Article 5  
10 (commencing with Section 8685), Article 6  
11 (commencing with Section 8720), Article 7  
12 (commencing with Section 8750), Article 8  
13 (commencing with Section 8780), and Article 10  
14 (commencing with Section 8830) of Chapter 3 of Part 3  
15 of Division 6.

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

18 (e) A master's license shall not be revoked unless both  
19 the first and second convictions are for a violation by the  
20 master or a violation occurring when the person  
21 convicted was acting as the master's agent, servant,  
22 employee, or acting under the master's direction or  
23 control.

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

26 SEC. 37. Section 12006.6 of the Fish and Game Code  
27 is amended to read:

28 12006.6. Notwithstanding Section 12000 or 12002.8,  
29 and in addition to Section 12009, and notwithstanding the  
30 type of fishing license or permit held, if any person is  
31 convicted of a violation of Section 5521 or 5521.5, or any  
32 regulations adopted pursuant to those sections, and the  
33 offense occurs in an area closed to the taking of abalone  
34 for commercial purposes north of Point Lobos in District  
35 10, and the person takes or possesses 36 or more abalone,  
36 that person shall be punished by all of the following:

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



1 (b) The court shall order the department to  
2 permanently revoke, and the department shall  
3 permanently revoke, the commercial fishing license and  
4 any commercial fishing permits of that person. The  
5 person punished under this subdivision shall not,  
6 thereafter, be eligible for any license or permit to take or  
7 possess fish for sport or commercial purposes, including,  
8 but not limited to, a commercial fishing license or a sport  
9 fishing or sport ocean fishing license. Notwithstanding  
10 any other provision of law, the commercial license or  
11 permit of a person arrested for a violation punishable  
12 under this section may not be sold, transferred, loaned,  
13 leased, or used as security for any financial transaction  
14 until disposition of the charges is final.

15 (c) Any vessel, diving or other fishing gear or  
16 apparatus, or vehicle used in the commission of an offense  
17 punishable under this section shall be seized, and shall be  
18 ordered forfeited in the same manner prescribed for nets  
19 or traps used in violation of this code in Article 3  
20 (commencing with Section 8630) of Chapter 3, or in the  
21 manner prescribed in Section 12157.

22 (d) Not less than 50 percent of the revenue deposited  
23 in the Fish and Game Preservation Fund from fines and  
24 forfeitures collected pursuant to this section shall be  
25 allocated for the support of the Special Operations Unit  
26 of the Wildlife Protection Division of the department and  
27 used for law enforcement purposes.

28 SEC. 38. Section 12009 of the Fish and Game Code is  
29 amended to read:

30 12009. (a) Notwithstanding Section 12000, and  
31 except as provided in Section 8312, the maximum  
32 punishment for a violation of any provision of Section  
33 5521 or 5521.5, or any regulation adopted pursuant  
34 thereto, or of Section 7121 involving abalone, is a fine of  
35 five times the market value of the abalone taken, or ten  
36 thousand dollars (\$10,000), whichever is greater,  
37 imprisonment in the county jail for a period not to exceed  
38 one year, the revocation of any commercial and sport  
39 fishing licenses issued by the department for a period not  
40 to exceed 10 years, or any combination of these penalties.



1 (b) Notwithstanding any other provision of law, the  
2 money collected from any fine or forfeiture imposed or  
3 collected for the taking of abalone for any purpose other  
4 than for profit in violation of this article or any other  
5 provision of law shall be deposited as follows:

6 (1) One-half in the Abalone Restoration and  
7 Preservation Account.

8 (2) One-half in the county treasury of the county in  
9 which the violation occurred.

10 SEC. 39. No reimbursement is required by this act  
11 pursuant to Section 6 of Article XIII B of the California  
12 Constitution because the only costs that may be incurred  
13 by a local agency or school district will be incurred  
14 because this act creates a new crime or infraction,  
15 eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition  
18 of a crime within the meaning of Section 6 of Article  
19 XIII B of the California Constitution.

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

