

Assembly Bill No. 76

CHAPTER 483

An act to amend Sections 99, 103, 105, 221, 309, 7059, 7065, 7066, 7071, 7072, 7073, 7074, 7090, 7704, 7710, 7712, 8100, 8101, 8585.5, 8586, 8587, 8598, 8681.5, and 8837 of, to amend the headings of Chapter 8 (commencing with Section 7080) of Part 1.7 of, and Article 20 (commencing with Section 8599) of Chapter 2 of Part 3 of, Division 6 of, to add Sections 5521.6, 7057, 8599.4, and 8780.1 to, to repeal Sections 8587.2, 8693.5 and 8695.5 of, to repeal Part 1.5 (commencing with Section 7000) of Division 6 of, and to repeal and add Section 8587.1 of, the Fish and Game Code, relating to marine resources, and making an appropriation therefor.

[Approved by Governor September 27, 1999. Filed
with Secretary of State September 27, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 76, Keeley. Marine resources.

(1) Existing law provides that each member of the Fish and Game Commission shall receive \$100 for each day of actual service performed in carrying out his or her official duties pursuant to law and limits the amount of this compensation for any one commissioner to \$500 for any one calendar month. These expenses are paid out of the continuously appropriated Fish and Game Preservation Fund.

This bill would require the commission, based on its strategic planning process, to submit recommendations to the Legislature, on or before July 1, 2000, regarding the time commitment required for service on the commission, compensation of the commissioners, and other matters the commission deems appropriate.

(2) Existing law requires the commission to form a marine resources committee, which is required to report to the commission on its activities and make recommendations on all marine resource matters considered by the commission.

This bill would require the members of the committee to be members of the commission.

(3) Existing law, which is to be repealed on January 1, 2000, delineates the general regulatory powers of the commission, including, among other things, the authority to establish, extend, shorten, or abolish open seasons and closed seasons, establish, change, or abolish bag limits and possession limits, and establish and change areas of territorial limits for their taking. That law also authorizes any regulation adopted pursuant to those provisions to supersede any section of the Fish and Game Code under specified circumstances.

This bill would extend those provisions to January 1, 2003. Since a violation of a regulation adopted by the commission is a misdemeanor under existing law, the bill would impose a state-mandated local program by continuing in existence, until January 1, 2003, crimes that otherwise would be repealed.

(4) Existing law authorizes the commission, or any person appointed by the commission to conduct a hearing, to cause the deposition of witnesses, as prescribed, and to compel the attendance of witnesses and the production of documents and papers. Existing law requires all meetings of a state body to be open and public, with specified exceptions, but specifies that nothing in that law prohibits a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to specified provisions of existing law governing administrative adjudication or similar provisions of law.

This bill would specify that any deliberation conducted by the commission, or by any person appointed by the commission to conduct hearings, is deemed to be a proceeding required to be conducted pursuant to the law governing administrative adjudication or similar provision of law.

(5) Existing law generally governs the establishment of fishery management plans, except for fishery management plans governing the white seabass fishery. Other existing law governs fishery management plans specifically for the white seabass fishery.

This bill would repeal the law specifically governing the white seabass fishery, and would incorporate provisions pertaining to that fishery into the law governing fishery management plans generally. The bill would make conforming changes.

(6) Existing law makes it unlawful to take abalone for commercial purposes in specified fish and game districts, and imposes 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 allow a registered aquaculturist to collect abalone for broodstock, notwithstanding those provisions, in accordance with specified requirements.

(7) Existing law continuously appropriates the money in the Fish and Game Preservation Fund to the Department of Fish and Game to carry out the Fish and Game Code and to the commission for the payment of the compensation and expenses of the commissioners and employees of the commission. Because this bill would continue, until January 1, 2003, existing duties imposed on the commission that otherwise would be repealed, the bill would make an appropriation.

The bill would authorize regulations that the commission adopts to implement a fishery management plan or plan amendment for that



fishery to make inoperative, in regard to that fishery, any fishery management statute that applies to that fishery, including, but not limited to, statutes that govern allowable catch, restricted access programs, and time, area, and methods of taking.

The bill would authorize the commission, on and after January 1, 2000, to adopt regulations as it determines necessary to regulate all emerging fisheries, all fisheries for nearshore fish stocks, and all fisheries for white seabass, as specified.

(8) Existing law defines “restricted access,” with regard to a marine fishery, as a fishery in which the number of persons who may participate, or the number of vessels that may be used in taking a specified species of fish is limited by statute or regulation.

This bill would include within that definition a fishery in which the catch allocated to each fishery participant is limited by statute or regulation.

(9) Existing law requires the Director of Fish and Game to report annually to the commission on the status of sport and commercial marine fisheries managed by the state, as specified.

This bill would require each restricted access program to be reviewed at least every 5 years for consistency with the policies of the commission on restricted access fisheries.

(10) Existing law requires the commission to adopt a fishery management plan for the nearshore fishery on or before January 1, 2002, if funds are appropriated for that purpose in the annual Budget Act or pursuant to any other law.

This bill would require that plan to be consistent with the Nearshore Fisheries Management Act.

(11) Existing law requires any person taking, possessing aboard a boat, or landing any species of nearshore fish stock for commercial purposes to possess a valid nearshore fishing permit issued to that person that has not been suspended or revoked, and requires that, when using a boat to take nearshore fish stocks, at least one person aboard the boat shall have a valid nearshore fishery permit. Existing law provides that nearshore fishing permits are revocable and specifies that the fee for a nearshore fishing permit is \$125.

This bill would instead require any person taking, possessing aboard a boat, or landing any species of nearshore fish stock for commercial purposes to possess a valid nearshore fishery permit issued to that person that has not been suspended or revoked, but would instead allow those actions when using a boat to take nearshore fish stocks, if at least one person aboard the boat has a valid nearshore fishery permit.

(12) Existing law provides that, when a fishery is closed or restricted due to specified reasons, the policy of the department and the commission is to assist and foster the development of alternative fisheries or alternative fishing gear, consistent with specified policies regarding the closure or restriction of commercial fishing.



This bill would instead require those policies to be consistent with all of the provisions governing fishery management plans, sport fishing, and commercial fishing.

(13) Existing law does not prohibit the taking of basking sharks for commercial purposes.

This bill would authorize the commission to adopt regulations to manage basking sharks, and would prohibit the taking of a basking shark commercially unless the commission adopts regulations for that activity and the taking is in accordance with those regulations. Because a violation of this prohibition would be a crime, pursuant to other provisions of law, the bill would impose a state-mandated local program by creating a new crime.

(14) Existing law prohibits the use of gill nets or trammel nets for commercial purposes, except under a revocable, nontransferable permit issued by the department, and prohibits the department from issuing new gill net or trammel net permits under that provision, except to those persons who applied prior to January 1, 1986, to take the examination for a gill and trammel net permit.

This bill would delete that exception for the issuance of new permits to those persons who apply prior to January 1, 1986.

(15) Existing law prohibits the use of gill nets and trammel nets, from December 15 to May 15, inclusive, within two nautical miles of Point Loma in San Diego County or San Mateo Point in Orange County or within one nautical mile of Point La Jolla in San Diego County, Dana Point in Orange County, or Point Fermin, Point Vicente, Palos Verdes Point, or Point Dume in Los Angeles. Existing law allows set gill nets to be used south of the Coronado-San Diego Bridge to take mullet (*Mugil cephalus*) only under a specified permit.

This bill would repeal those provisions.

(16) Existing law allows bait nets to be used to take fish for bait in specified districts.

This bill would authorize the commission, upon the recommendation of the department, to adopt regulations governing the use of bait nets.

(17) The bill would make other technical, clarifying, and conforming changes.

(18) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.



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

SECTION 1. Section 99 of the Fish and Game Code is amended to read:

99. "Restricted access," with regard to a marine fishery, means a fishery in which the number of persons who may participate, or the number of vessels that may be used in taking a specified species of fish, or the catch allocated to each fishery participant, is limited by statute or regulation.

SEC. 2. Section 103 of the Fish and Game Code is amended to read:

103. (a) Each of the commissioners shall receive one hundred dollars (\$100) for each day of actual service performed in carrying out his or her official duties pursuant to law, but the amount of this compensation shall not exceed for any one commissioner the sum of five hundred dollars (\$500) for any one calendar month. In addition to this compensation, the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties.

(b) The compensation and expenses provided in this section shall be paid out of the Fish and Game Preservation Fund.

(c) Notwithstanding Section 7550.5 of the Government Code, the commission, based on its strategic planning process, shall submit recommendations to the Legislature, on or before July 1, 2000, regarding the time commitment required for service on the commission, compensation of the commissioners, and other matters the commission deems appropriate.

SEC. 3. Section 105 of the Fish and Game Code is amended to read:

105. The commission shall form a marine resources committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all marine resource matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant marine living resource management documents are being developed.

SEC. 4. Section 221 of the Fish and Game Code is amended to read:

221. This article shall remain in effect only until January 1, 2003 and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

SEC. 5. Section 309 of the Fish and Game Code is amended to read:

309. (a) The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be



taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, and may compel the attendance of witnesses and the production of documents and papers. The commission shall adopt regulations that afford procedural and substantive due process to any person whose license or permit is subject to revocation or suspension. Except upon conviction of a violation of this code or a regulation adopted pursuant to this code relating to the licensed or permitted activity and notwithstanding any other provision of this code, the commission shall not revoke or suspend any license or permit until the regulations required by this section have been adopted and approved by the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any deliberation conducted by the commission, or conducted by any person appointed by the commission to conduct hearings, is deemed to be a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or similar provision, within the meaning of paragraph (3) of subdivision (c) of Section 11126 of the Government Code.

SEC. 6. Section 5521.6 is added to the Fish and Game Code, to read:

5521.6. Notwithstanding Sections 5521 and 5521.5, a registered aquaculturist may collect abalone for broodstock, in accordance with subdivision (b) of Section 15301.

SEC. 7. Part 1.5 (commencing with Section 7000) of Division 6 of the Fish and Game Code is repealed.

SEC. 8. Section 7057 is added to the Fish and Game Code, to read:

7057. Notwithstanding Section 7550.5 of the Government Code, on or before February 1, 2000, the commission shall make recommendations to the Legislature in regard to changes in statutes governing restricted access commercial fisheries, the recommendations to be based on both of the following:

(a) Any restricted access fishery policies adopted by the commission.

(b) The experience of the commission and department in applying the restricted access policies adopted by the commission in developing or revising a restricted access program for a fishery managed by the state, with priority given to the pink shrimp fishery, for which a restricted access program statute is scheduled to be repealed on April 1, 2001.

SEC. 9. Section 7059 of the Fish and Game Code is amended to read:

7059. (a) The Legislature finds and declares all of the following:



(1) Successful marine life and fishery management is a collaborative process that requires a high degree of ongoing communication and participation of all those involved in the management process, particularly the commission, the department, and those who represent the people and resources that will be most affected by fishery management decisions, especially fishery participants and other interested parties.

(2) In order to maximize the marine science expertise applied to the complex issues of marine life and fishery management, the commission and the department are encouraged to continue to, and to find creative new ways to, contract with or otherwise effectively involve Sea Grant staff, marine scientists, economists, collaborative factfinding process and dispute resolution specialists, and others with the necessary expertise at colleges, universities, private institutions, and other agencies.

(3) The benefits of the collaborative process required by this section apply to most marine life and fishery management activities including, but not limited to, the development and implementation of research plans, marine managed area plans, fishery management plans, and plan amendments, and the preparation of fishery status reports such as those required by Section 7065.

(4) Because California is a large state with a long coast, and because travel is time consuming and costly, the involvement of interested parties shall be facilitated, to the extent practicable, by conducting meetings and discussions in the areas of the coast and in ports where those most affected are concentrated.

(b) In order to fulfill the intent of subdivision (a), the commission and the department shall do all of the following:

(1) Periodically review marine life and fishery management operations with a view to improving communication, collaboration, and dispute resolution, seeking advice from interested parties as part of the review.

(2) Develop a process for the involvement of interested parties and for factfinding and dispute resolution processes appropriate to each element in the marine life and fishery management process. Models to consider include, but are not limited to, the take reduction teams authorized under the Marine Mammal Protection Act (16 U.S.C. Sec. 1361 et seq.) and the processes that led to improved management in the California herring, sea urchin, prawn, angel shark, and white seabass fisheries.

(3) Consider the appropriateness of various forms of fisheries comanagement, which involves close cooperation between the department and fishery participants, when developing and implementing fishery management plans.

(4) When involving fishery participants in the management process, give particular consideration to the gear used, involvement of sport or commercial sectors or both sectors, and the areas of the



coast where the fishery is conducted in order to ensure adequate involvement.

SEC. 10. Section 7065 of the Fish and Game Code is amended to read:

7065. (a) The director shall report annually in writing to the commission on the status of sport and commercial marine fisheries managed by the state. The date of the report shall be chosen by the commission with the advice of the department. Each annual report shall cover at least one-fourth of the marine fisheries managed by the state so that every fishery will be reported on at least once every four years. The department shall, consistent with Section 7059, involve expertise from outside the department in compiling information for the report, which may include, but need not be limited to, Sea Grant staff, other marine scientists, fishery participants, and other interested parties.

(b) For each fishery reported on in an annual report, the report shall include information on landings, fishing effort, areas where the fishery occurs, and other factors affecting the fishery as determined by the department and the commission. Each restricted access program shall be reviewed at least every five years for consistency with the policies of the commission on restricted access fisheries.

(c) Notwithstanding subdivision (a), the first annual report shall be presented to the commission on or before September 1, 2001, and shall cover all the marine fisheries managed by the state. To the extent that the requirements of this section and Section 7073 are duplicative, the first annual report may be combined with the plan required pursuant to Section 7073.

SEC. 11. Section 7066 of the Fish and Game Code is amended to read:

7066. (a) The Legislature finds and declares that a number of human-caused and natural factors can affect the health of marine fishery resources and result in marine fisheries that do not meet the policies and other requirements of this part.

(b) To the extent feasible, the director's report to the commission pursuant to Section 7065 shall identify any marine fishery that does not meet the sustainability policies of this part. In the case of a fishery identified as being depressed, the report shall indicate the causes of the depressed condition of the fishery, describe steps being taken to rebuild the fishery, and, to the extent practicable, recommend additional steps to rebuild the fishery.

(c) The director's report to the commission pursuant to Section 7065, consistent with subdivision (m) of Section 7056, shall evaluate the management system and may recommend modifications of that system to the commission.

SEC. 11.5. Section 7071 of the Fish and Game Code is amended to read:



7071. (a) Any white seabass fishery management plan adopted by the commission on or before January 1, 1999, shall remain in effect until amended pursuant to this part.

Notwithstanding paragraph (2) of subdivision (b) of Section 7073, any white seabass fishery management plan adopted by the commission and in existence on January 1, 1999, shall be amended to comply with this part on or before January 1, 2002.

(b) In the case of any fishery for which the commission has management authority, including white seabass, regulations that the commission adopts to implement a fishery management plan or plan amendment for that fishery may make inoperative, in regard to that fishery, any fishery management statute that applies to that fishery, including, but not limited to, statutes that govern allowable catch, restricted access programs, and time, area, and methods of taking.

(c) On and after January 1, 2000, the commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, and in a process consistent with Section 7059, to regulate all emerging fisheries, consistent with Section 7090, all fisheries for nearshore fish stocks, and all fisheries for white seabass. Regulations adopted by the commission may include, but need not be limited to, establishing time and area closures, requiring submittal of landing and permit information, regulating fishing gear, and establishing restricted access fisheries.

SEC. 12. Section 7072 of the Fish and Game Code is amended to read:

7072. (a) Fishery management plans shall form the primary basis for managing California's sport and commercial marine fisheries.

(b) Fishery management plans shall be based on the best scientific information that is available, on other relevant information that the department possesses, or on such scientific information or other relevant information that can be obtained without substantially delaying the preparation of the plan, based on the schedule developed pursuant to paragraph (5) of subdivision (b) of Section 7073.

(c) To the extent that conservation and management measures in a fishery management plan either increase or restrict the overall harvest in a fishery, fishery management plans shall allocate those increases or restrictions fairly among recreational and commercial sectors participating in the fishery.

(d) Consistent with Article 17 (commencing with Section 8585), the commission shall adopt a fishery management plan for the nearshore fishery on or before January 1, 2002, if funds are appropriated for that purpose in the annual Budget Act or pursuant to any other law.

SEC. 13. Section 7073 of the Fish and Game Code is amended to read:



7073. (a) On or before September 1, 2001, the department shall submit to the commission for its approval a master plan that specifies the process and the resources needed to prepare, adopt, and implement fishery management plans for sport and commercial marine fisheries managed by the state. Consistent with Section 7059, the master plan shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons.

(b) The master plan shall include all of the following:

(1) A list identifying the fisheries managed by the state, with individual fisheries assigned to fishery management plans as determined by the department according to conservation and management needs and consistent with subdivision (f) of Section 7056.

(2) A priority list for preparation of fishery management plans. Highest priority shall be given to fisheries that the department determines have the greatest need for changes in conservation and management measures in order to comply with the policies and requirements set forth in this part. Fisheries for which the department determines that current management complies with the policies and requirements of this part shall be given the lowest priority.

(3) A description of the research, monitoring, and data collection activities that the department conducts for marine fisheries and of any additional activities that might be needed for the department to acquire essential fishery information, with emphasis on the higher priority fisheries identified pursuant to paragraph (2).

(4) A process consistent with Section 7059 that ensures the opportunity for meaningful involvement in the development of fishery management plans and research plans by fishery participants and their representatives, marine scientists, and other interested parties.

(5) A process for periodic review and amendment of the master plan.

(c) The commission shall adopt or reject the master plan or master plan amendment, in whole or in part, after a public hearing. If the commission rejects a part of the master plan or master plan amendment, the commission shall return that part to the department for revision and resubmission pursuant to the revision and resubmission procedures for fishery management plans as described in subdivision (a) of Section 7075.

SEC. 14. Section 7074 of the Fish and Game Code is amended to read:

7074. (a) The department shall prepare interim fishery research protocols for at least the three highest priority fisheries identified pursuant to paragraph (2) of subdivision (b) of Section 7073. An



interim fishery protocol shall be used by the department until a fishery management plan is implemented for that fishery.

(b) Consistent with Section 7059, each protocol shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons.

(c) Interim protocols shall be submitted to peer review as described in Section 7062 unless the department, pursuant to subdivision (d), determines that peer review of the interim protocol is not justified. For the purpose of peer review, interim protocols may be combined in the following circumstances:

(1) For related fisheries.

(2) For two or more interim protocols that the commission determines will require the same peer review expertise.

(d) The commission, with the advice of the department, shall adopt criteria to be applied in determining whether an interim protocol may be exempted from peer review.

SEC. 15. The heading of Chapter 8 (commencing with Section 7080) of Part 1.7 of Division 6 of the Fish and Game Code is amended to read:

CHAPTER 8. EMERGING FISHERIES

SEC. 16. Section 7090 of the Fish and Game Code is amended to read:

7090. (a) The Legislature finds and declares that a proactive approach to management of emerging fisheries will foster a healthy marine environment and will benefit both commercial and sport fisheries and other marine-dependent activities. Therefore, the commission, based upon the advice and recommendations of the department, shall encourage, manage, and regulate emerging fisheries consistent with the policies of this part.

(b) "Emerging fishery," in regard to a marine fishery, means both of the following:

(1) A fishery that the director has determined is an emerging fishery, based on criteria that are approved by the commission and are related to a trend of increased landings or participants in the fishery and the degree of existing regulation of the fishery.

(2) A fishery that is not an established fishery. "Established fishery," in regard to a marine fishery, means, prior to January 1, 1999, one or more of the following:

(A) A restricted access fishery has been established in this code or in regulations adopted by the commission.

(B) A fishery, for which a federal fishery management plan exists, and in which the catch is limited within a designated time period.

(C) A fishery for which a population estimate and catch quota is established annually.



(D) A fishery for which regulations for the fishery are considered at least biennially by the commission.

(E) A fishery for which this code or regulations adopted by the commission prescribes at least two management measures developed for the purpose of sustaining the fishery. Management measures include minimum or maximum size limits, seasons, time, gear, area restriction, and prohibition on sale or possession of fish.

(c) The department shall closely monitor landings and other factors it deems relevant in each emerging fishery and shall notify the commission of the existence of an emerging fishery.

(d) The commission, upon the recommendation of the department, may do either, or both, of the following:

(1) Adopt regulations that limit taking in the fishery by means that may include, but not be limited to, restricting landings, time, area, gear, or access. These regulations may remain in effect until a fishery management plan is adopted or for 12 months, whichever is shorter.

(2) Direct the department to prepare a fishery management plan for the fishery and regulations necessary to implement the plan.

(e) A fishery management plan for an emerging fishery shall comply with the requirements for preparing and adopting fishery management plans contained in this part. In addition to those requirements, to allow for adequate evaluation of the fishery and the acquisition of essential fishery information, the fishery management plan shall provide an evaluation period, which shall not exceed three years unless extended by the commission. During the evaluation period, the plan shall do both of the following:

(1) In order to prevent excess fishing effort during the evaluation period, limit taking in the fishery by means that may include, but need not be limited to, restricting landings, time, area, gear, or access to a level that the department determines is necessary for evaluation of the fishery.

(2) Contain a research plan that includes objectives for evaluating the fishery, a description of the methods and data collection techniques for evaluating the fishery, and a timetable for completing the evaluation.

(f) The commission is authorized to impose a fee on an emerging fishery in order to pay the costs of implementing this chapter. The fees may include, but need not be limited to, ocean fishing stamps and permit fees. The fees may not be levied in excess of the necessary costs to implement and administer this chapter. The commission may reduce fees annually if it determines that sufficient revenues exist to cover costs incurred by the department in administering this chapter. The commission and the department, with the advice of fishery participants and other interested parties, shall consider alternative ways to fund the evaluation of emerging fisheries.



(g) An emerging fishery is subject to this section unless the department incorporates the fishery into a fishery management plan developed under Sections 7070 to 7088, inclusive.

(h) In the event that this section is found to conflict with Section 8606, 8614, or 8615, this section shall prevail.

SEC. 17. Section 7704 of the Fish and Game Code is amended to read:

7704. (a) It is unlawful to cause or permit any deterioration or waste of any fish taken in the waters of this state, or brought into this state, or to take, receive or agree to receive more fish than can be used without deterioration, waste, or spoilage.

(b) Except as permitted by this code, it is unlawful to use any fish, or part thereof, except fish offal, in a reduction plant or by a reduction process.

(c) Except as permitted by this code or by regulation of the commission, it is unlawful to sell, purchase, deliver for commercial purposes, or possess on any commercial fishing vessel registered pursuant to Section 7881 any shark fin or shark tail or portion thereof that has been removed from the carcass. However, thresher shark tails and fins that have been removed from the carcass and whose original shape remain unaltered may be possessed on a registered commercial fishing vessel if the corresponding carcass is in possession for each tail and fin.

SEC. 18. Section 7710 of the Fish and Game Code is amended to read:

7710. (a) If the director determines, based on the best available scientific information, or other relevant information that the director possesses or receives, and on at least one public hearing in the area of the fishery, that taking in a fishery is being conducted in a manner that is not sustainable, the director may order the closure of any waters or otherwise restrict the taking under a fishing license in state waters of that species. Any closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(b) The director shall bring to the attention of the commission within seven working days any regulations adopted pursuant to this section. Any regulations shall be effective for only 30 days unless the commission extends the closure or restriction under any authority it may have, or unless the director orders another closure or restriction, consistent with the requirements of subdivision (a).

(c) The department shall give notice of any hearing to be held pursuant to this section to the commission and its marine resources committee as far in advance of the hearing date as possible.

Nothing in this section or Section 7710.5 restricts any existing jurisdiction of the department with regard to the regulation of fisheries on the high seas.



SEC. 19. Section 7712 of the Fish and Game Code is amended to read:

7712. Where a fishery is closed or restricted due to the need to protect a fishery resource, marine mammals, or sea birds, or due to a conflict with other fisheries or uses of the marine environment, it shall be the policy of the department and the commission, consistent with budgetary and personnel considerations, to assist and foster the development of alternative fisheries or alternative fishing gear for those commercial fishermen affected by the restrictions, closures, or resource losses, including, but not limited to, the issuing of experimental gear permits pursuant to Section 8606 for alternative fishing methods or fishing gear consistent with the policies set forth in this division.

SEC. 20. Section 8100 of the Fish and Game Code is amended to read:

8100. "Limited entry fishery" means a fishery in which the number of persons who may participate or the number of vessels that may be used in taking a specified species of fish is limited by statute or regulation.

SEC. 21. Section 8101 of the Fish and Game Code is amended to read:

8101. (a) Any licensed fisherman shall be eligible for inclusion during the initial year of a limited entry fishery which is established by statute that becomes operative after January 1, 1982, regardless of the prescribed conditions for entry into the fishery, if the fisherman presents to the department satisfactory evidence that he or she has been licensed as a California commercial fisherman for at least 20 years and has participated in the fishery for at least one of those 20 years, with qualifying participation in the fishery to be determined by the commission based on landings or other appropriate criteria.

(b) Fishermen who have established eligibility to participate in a limited entry fishery under this section are subject to conditions of continuing eligibility established by statute or regulation if those fishermen desire to maintain their eligibility.

SEC. 22. Section 8585.5 of the Fish and Game Code is amended to read:

8585.5. The Legislature finds and declares that important commercial and recreational fisheries exist on numerous stocks of rockfish (genus *Sebastes*), California sheephead (genus *Semicossyphus*), kelp greenling (genus *Hexagrammos*), cabezon (genus *Scorpaenichthys*), and scorpionfish (genus *Scorpaena*), in the nearshore state waters extending from the shore to one nautical mile offshore the California coast, that there is increasing pressure being placed on these fish from recreational and commercial fisheries, that many of these fish species found in the nearshore waters are slow growing and long lived, and that, if depleted, many of these species may take decades to rebuild. The Legislature further finds and



declares that, although extensive research has been conducted on some of these species by state and federal governments, there are many gaps in the information on these species and their habitats and that there is no program currently adequate for the systematic research, conservation, and management of nearshore fish stocks and the sustainable activity of recreational and commercial nearshore fisheries. The Legislature further finds and declares that recreational fishing in California generates funds pursuant to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. Secs. 777 to 777l, inclusive), with revenues used for, among other things, research, conservation, and management of nearshore fish. The Legislature further finds and declares that a program for research and conservation of nearshore fish species and their habitats is needed, and that a management program for the nearshore fisheries is necessary. The Legislature further finds and declares that the commission should be granted additional authority to regulate the commercial and recreational fisheries to assure the sustainable populations of nearshore fish stocks. Lastly, the Legislature finds and declares that, whenever feasible and practicable, it is the policy of the state to assure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to assure long-term employment in commercial and recreational fisheries.

SEC. 22.3. Section 8586 of the Fish and Game Code is amended to read:

8586. The following definitions govern the construction of this article:

(a) “Nearshore fish stocks” means any of the following: rockfish (genus *Sebastes*) for which size limits are established under this article, California sheephead (*Semicossyphus pulcher*), greenlings of the genus *Hexagrammos*, cabezon (*Scorpaenichthys marmoratus*), scorpionfish (*Scorpaena guttata*), and may include other species of finfish found primarily in rocky reef or kelp habitat in nearshore waters.

(b) “Nearshore fisheries” means the commercial or recreational take or landing of any species of nearshore finfish stocks.

(c) “Nearshore waters” means the ocean waters of the state extending from the shore to one nautical mile from land, including one nautical mile around offshore rocks and islands.

SEC. 22.5. Section 8587 of the Fish and Game Code is amended to read:

8587. Any person taking, possessing aboard a boat, or landing any species of nearshore fish stock for commercial purposes shall possess a valid nearshore fishery permit issued to that person that has not been suspended or revoked, except that when using a boat to take nearshore fish stocks at least one person aboard the boat shall have a valid nearshore fishery permit. Nearshore fishing permits are



revocable. The fee for a nearshore fishing permit is one hundred and twenty five dollars (\$125).

SEC. 23. Section 8587.1 of the Fish and Game Code is repealed.

SEC. 23.3. Section 8587.1 is added to the Fish and Game Code, to read:

8587.1. (a) The commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, to regulate nearshore fish stocks and fisheries. Regulations adopted by the commission pursuant to this section may include, but are not limited to, requiring submittal of landing and permit information, including logbooks; establishing a restricted access program; and establishing limitations on the fishery based on time, area, type, and amount of gear, and amount of catch, species, and size of fish.

(b) Regulations adopted by the commission pursuant to this section may make inoperative any fishery management statute relevant to the nearshore fishery. Any regulation adopted by the commission pursuant to this subdivision shall specify the particular statute to be made inoperative.

(c) The circumstances, restrictions, and requirements of Section 219 do not apply to regulations adopted pursuant to this section.

(d) Any regulations adopted pursuant to this section shall be adopted following consultation with fishery participants and other interested persons consistent with Section 7059.

SEC. 23.5. Section 8587.2 of the Fish and Game Code is repealed.

SEC. 23.7. Section 8598 of the Fish and Game Code is amended to read:

8598. (a) Notwithstanding Section 8140 or subdivision (b) of Section 8597, specimens of the following groups or species shall not be taken, possessed aboard a boat, or landed for commercial purposes:

- (1) Invertebrates:
 - (A) Phylum Porifera—all sponges.
 - (B) Genus *Pelagia* sp.—jellyfish.
 - (C) Coelenterata—corals, anemones; all species.
 - (D) Order Gorgonacea—all gorgonians.
 - (E) Order Pennatulacea—all species, except *Renilla kollikeri*.
 - (F) Feather-duster worm—*Eudistylia polymorpha*.
 - (G) Fiddler crab—*Uca crenulata*.
 - (H) Umbrella crab—*Cryptolithodes sitchensis*.
 - (I) Stalked or goose barnacles—*Pollicipes* sp.
 - (J) Giant acorn barnacle—*Balanus nubilus* or *B. aguila*.
 - (K) Owl limpet—*Lottia gigantea*.
 - (L) Coffee bean shells—*Trivia* sp.
 - (M) Three-winged murex—*Pteropurpura trialata*.
 - (N) Vidler's simnia—*Simnia vidleri*.
 - (O) Queen tegula—*Tegula regina*.



(P) Opisthobranchia (including nudibranchs)—all subclass Opisthobranchia species except:

(i) Sea hares—*Aplysia californica* and *Aplysia vaccaria*.

(ii) *Hermisenda crassicornis*.

(iii) Lion’s mouth—*Melibe leonina*.

(iv) *Aeolidia papillosa*.

(v) Spanish shawl—*Flabellina iodinea*.

(2) Vertebrates:

(A) All shark and ray eggcases.

(B) Brown smoothhound sharks—*Mustelus hinlei*—that are less than 18 inches in a whole condition or dressed with head and tail removed.

(C) Family Agonidae—all poachers.

(D) Wolf-eel—*Anarrhichthys ocellatus*.

(E) Juvenile sheephead—*Semicossyphus pulcher* (under 6 inches).

(F) Garibaldi—*Hypsypops rubicundus*.

(3) Live rocks.

(A) Rocks with living organisms attached, commonly called “live rocks,” shall not be taken or possessed except as provided in subparagraph (C).

(B) Rocks shall not be broken to take marine aquaria species, and any rock displaced to access any of those species shall be returned to its original position.

(C) Rocks cultured under the authority of an aquaculture registration may be possessed.

(b) No organisms may be taken, possessed, or landed for marine aquaria pet trade purposes under the terms of a marine aquaria collector’s permit in any of the following areas:

(1) On the north side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(2) On the south or “back” side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(3) Marine life refuges, marine reserves, ecological reserves, and state reserves.

SEC. 24. The heading of Article 20 (commencing with Section 8599) of Chapter 2 of Part 3 of Division 6 of the Fish and Game Code is amended to read:

Article 20. White Sharks and Basking Sharks

SEC. 25. Section 8599.4 is added to the Fish and Game Code, to read:



8599.4. The commission may adopt regulations to manage basking sharks. A basking shark may not be taken commercially unless the commission adopts regulations for that activity and the taking is in accordance with those regulations.

SEC. 26. Section 8681.5 of the Fish and Game Code is amended to read:

8681.5. (a) The department shall issue no new gill net or trammel net permits under Section 8681. However, the department may renew an existing, valid permit issued under Section 8681, under regulations adopted pursuant to Section 8682 and upon payment of the fee prescribed under Section 8683.

(b) Notwithstanding subdivision (a) or Section 8681, any person who has an existing, valid permit issued pursuant to Section 8681, and presents to the department satisfactory evidence that he or she has taken and landed fish for commercial purposes in at least 15 of the preceding 20 years, may transfer that permit to any person otherwise qualified under the regulations adopted pursuant to Section 8682 upon payment of the fee prescribed under Section 8683.

(c) The fee collected by the department for the transfer of a gill and trammel net permit issued pursuant to Section 8682 shall not exceed the cost of the permit fee as prescribed under Section 8683.

(d) For purposes of subdivision (b), the death of the holder of the permit is a disability which authorizes transfer of the permit by that person's estate to a qualified fisherman pursuant to Section 8682. For purposes of a transfer under this subdivision, the estate shall renew the permit, as specified in Section 8681, if the permittee did not renew the permit before his or her death. The application for transfer by that person's estate shall be received by the department, including the name, address, and telephone number of the qualified fisherman to whom the permit will be transferred, within one year of the date of death of the permitholder. If no transfer is initiated within one year of the date of death of the permitholder, the permit shall revert to the department for disposition pursuant to Section 8681.

(e) Any active participant who becomes disabled in such a manner that he or she can no longer earn a livelihood from commercial fishing may transfer his or her permit as provided under this section.

(f) The Legislature finds and declares that this section, as amended by Chapter 94 of the Statutes of 1992, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1989, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

SEC. 27. Section 8693.5 of the Fish and Game Code is repealed.

SEC. 28. Section 8695.5 of the Fish and Game Code is repealed.

SEC. 29. Section 8780.1 is added to the Fish and Game Code, to read:



8780.1. The commission may, upon the recommendation of the department, adopt regulations governing the use of bait nets.

SEC. 30. Section 8837 of the Fish and Game Code is amended to read:

8837. It is unlawful to use or possess any trawl net that includes any bag or cod-end or modification thereof, other than a bag or cod-end of a single layer of webbing, except as authorized by Section 8496 or by the commission.

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

