

AMENDED IN ASSEMBLY MAY 20, 2004  
AMENDED IN ASSEMBLY APRIL 12, 2004  
AMENDED IN ASSEMBLY MARCH 22, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2146**

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**Introduced by Assembly Member Leno**

February 18, 2004

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An act to amend Sections 8280, ~~and 9004~~ *9004*, and *12002* of, and to add Sections 8276.1 and 8280.8 to the Fish and Game Code, relating to Dungeness crab, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2146, as amended, Leno. Dungeness crab.

(1) Existing law generally regulates the commercial Dungeness crab fishery in order to protect the fishery by, among other things, restricting the number and type of vessels that may take crab, limiting the crab fishing season, and the type of gear used on vessels ~~used~~ to take crab.

This bill would permit the Fish and Game Commission to adopt regulations as may reasonably be necessary to ensure the protection of the Dungeness crab resources and to provide for an orderly Dungeness crab fishery. The bill would authorize the commission to establish a Dungeness Crab Advisory Committee to advise the commission and the Department of Fish and Game on the establishment and implementation of the plan, and to make recommendations for any necessary changes that should be instituted to better regulate the fishery. The bill would prescribe the membership of the committee.

The bill would, for the period November 15, 2005, to June 30, 2007, inclusive, prohibit a person operating a vessel for the commercial take of Dungeness crab from utilizing more than 250 traps during a season, except as provided, *and would make a violation of that prohibition punishable by a fine of not more than \$5,000, imprisonment in the county jail for not more than 6 months, or both.*

~~The bill would require the department, upon request, to issue to each person, on or before October 1 of each year, up to 250 tags to be affixed to each crab trap, including specified information, except as provided. The bill would authorize the department to adopt any regulations as may reasonably be necessary to carry out those provisions requiring that tags be affixed to each trap.~~

Existing law requires that every trap be raised, cleaned, serviced, and emptied at intervals, not to exceed 96 hours, weather conditions at sea permitting, and prohibits any trap from being abandoned in the waters of the state.

This bill would exempt traps used for the taking of Dungeness crab from those requirements, and would, instead, require that those traps be removed from the ocean not more than 96 hours after the close of crab season, weather conditions at sea permitting, and would prohibit the abandonment of those traps in the waters of the state, or in federal waters adjacent to the boundaries of the waters of the state.

(2) Existing law continuously appropriates the ~~money~~ *moneys* in the Fish and Game Preservation Fund to the department and the commission to carry out the Fish and Game Code.

Because this bill would impose new duties on the department and the commission, the bill would make an appropriation.

(3) Existing law makes a violation of the provisions of the Fish and Game Code a crime.

Because this bill would impose new requirements on the commercial Dungeness crab fishery, a violation of which would be a crime, *and because the bill would also create a new crime*, the bill would impose a state-mandated local program.

(4) 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 8276.1 is added to the Fish and Game  
2 Code, to read:

3 8276.1. (a) The commission may adopt regulations as may  
4 reasonably be necessary to ensure the protection of the Dungeness  
5 crab resource and to provide for an orderly crab fishery.

6 (b) The commission may establish a Dungeness Crab Advisory  
7 Committee to advise the commission and the department on the  
8 establishment and implementation of the Dungeness crab fishery  
9 ~~plan required~~ *regulations authorized* to be adopted pursuant to  
10 subdivision (a), and shall make recommendations for any  
11 necessary changes that should be instituted to better regulate the  
12 fishery. The advisory committee shall consist of not less than five  
13 members who are permitted to fish for Dungeness crab pursuant  
14 to Section 8280.1, and who represent the geographic range of the  
15 Dungeness crab fishery in the state. The director shall appoint  
16 members to the committee from a list of individuals submitted to  
17 the department of organizations representing Dungeness crab  
18 fishermen.

19 ~~SEC. 3.—~~

20 SEC. 2. Section 8280 of the Fish and Game Code is amended  
21 to read:

22 8280. (a) The Legislature finds and declares that the  
23 Dungeness crab fishery is important to the state because it provides  
24 a valuable food product, employment for those persons engaged  
25 in the fishery, and economic benefits to the coastal communities  
26 of the state.

27 (b) The Legislature further finds that, in order to protect the  
28 Dungeness crab fishery, it is necessary to limit the number of  
29 vessels participating in that fishery to take Dungeness crab and it  
30 may be necessary to limit the quantity and capacity of the fishing  
31 gear used on each vessel to take Dungeness crab.

32 (c) The Legislature further finds and declares that to limit the  
33 number of vessels in the Dungeness crab fishery, it is necessary to  
34 require that the owner of each vessel participating in the fishery  
35 obtain and possess a permit for that vessel and that the initial

1 issuance of permits shall be limited to those persons owning  
2 vessels qualifying under Section 8280.1.

3 (d) The Legislature further finds and declares that, to ensure the  
4 long-term sustainability of the Dungeness crab fishery, it is  
5 necessary that limitations be placed on the number of traps used  
6 by the fishery, particularly in Fish and Game District 10 and south  
7 of that district. Those limitations on the number of traps are  
8 necessary to ensure the safety of crabbing operations, ensure that  
9 the resource is more equitably shared among participants, increase  
10 the economic value of the resource, and make more fresh crab  
11 available to consumers during most or all of the crab fishing  
12 season.

13 ~~SEC. 4.—~~

14 SEC. 3. Section 8280.8 is added to the Fish and Game Code,  
15 to read:

16 8280.8. ~~(a) For the period November 15, 2005, to June 30,~~  
17 ~~2007, inclusive, no person operating a vessel pursuant to Section~~  
18 ~~8280.1 for the commercial take of Dungeness crab shall utilize~~  
19 ~~more than 250 traps during a season, except in Districts 6, 7, 8, and~~  
20 ~~9 where the limitation on the number of Dungeness crab traps shall~~  
21 ~~not apply.~~

22 ~~(b) Upon request, the department shall issue to each person~~  
23 ~~operating a vessel pursuant to Section 8280.1, on or before~~  
24 ~~October 1 of each year, up to 250 tags to be affixed to each trap,~~  
25 ~~including the season and number of the vessel operator. Persons~~  
26 ~~fishing for crab in Districts 6, 7, 8, and 9 shall not be required to~~  
27 ~~apply or affix tags to their traps.~~

28 ~~(c) Except in Districts 6, 7, 8, and 9, no Dungeness crab trap~~  
29 ~~may be used unless it has a tag affixed to it.~~

30 ~~(d) The department may adopt any regulations as may be~~  
31 ~~reasonably necessary to carry out this section.~~

32 ~~SEC. 5.—~~

33 SEC. 4. Section 9004 of the Fish and Game Code is amended  
34 to read:

35 9004. (a) Every trap, except those used for the taking of  
36 Dungeness crab, shall be raised, cleaned, serviced, and emptied at  
37 intervals, not to exceed 96 hours, weather conditions at sea  
38 permitting, and no trap shall be abandoned in the waters of this  
39 state.



1 (b) Traps used for the taking of Dungeness crab shall be  
2 removed from the ocean not more than 96 hours after the close of  
3 the crab season, weather conditions at sea permitting, and no  
4 Dungeness crab trap shall be abandoned in the waters of this state,  
5 or in the federal waters adjacent to the boundaries of the waters of  
6 the state.

7 ~~SEC. 6.—~~

8 *SEC. 5. Section 12002 of the Fish and Game Code is amended*  
9 *to read:*

10 12002. (a) Unless otherwise provided, the punishment for a  
11 violation of this code that is a misdemeanor is a fine of not more  
12 than one thousand dollars (\$1,000), imprisonment in the county  
13 jail for not more than six months, or both the fine and  
14 imprisonment.

15 (b) The punishment for a violation of any of the following  
16 provisions is a fine of not more than two thousand dollars (\$2,000),  
17 imprisonment in the county jail for not more than one year, or both  
18 the fine and imprisonment:

19 (1) Section 1059.

20 (2) Subdivision (d) of Section 4004.

21 (3) Section 4600.

22 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

23 (5) A first violation of Section 8670.

24 (6) Section 10500.

25 (7) Section 3005.9.

26 (8) A violation of commission regulations that is discovered  
27 pursuant to Section 3005.91 or 3005.92.

28 (9) Unless a greater punishment is otherwise provided, a  
29 violation subject to subdivision (a) of Section 12003.1.

30 (c) Except as specified in Sections 12001 and 12010, the  
31 punishment for violation of Section 3503, 3503.5, 3513, ~~or~~ 3800,  
32 *or* 8280.8 is a fine of not more than five thousand dollars (\$5,000),  
33 imprisonment in the county jail for not more than six months, or  
34 both that fine and that imprisonment.

35 (d) (1) A license or permit issued pursuant to this code to a  
36 defendant who fails to appear at a court hearing for a violation of  
37 this code, or who fails to pay a fine imposed pursuant to this code,  
38 shall be immediately suspended. The license or permit shall not be  
39 reinstated or renewed, and no other license or permit shall be



1 issued to that person pursuant to this code, until the court  
2 proceeding is completed or the fine is paid.

3 (2) This subdivision does not apply to any violation of Section  
4 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454,  
5 6650, or 6653.5.

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

