

AMENDED IN SENATE AUGUST 18, 2004

AMENDED IN SENATE JUNE 16, 2004

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

Introduced by Assembly Member Leno

February 18, 2004

An act to amend Sections 8280, 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 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, except in specified districts. 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 in designated districts. *The bill would require the commission, on or after March 15, 2007, but not later than August 30, 2007, to consider recommendations from the department and Dungeness crab vessel permit holders on whether to extend the operation of the 250-trap limit, to increase or decrease that trap limit, or to make any other modification to the operation of that trap limit. The bill would require the commission, after consultation with the department and Dungeness crab vessel permit holders, to adjust the permit fee for persons taking crab in and south of District 10, or to establish a landing fee or vessel stamp, as the commission determines necessary, to cover the reasonable costs of administering and enforcing the Dungeness crab trap limitation. The bill 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 provide that a 2nd violation would result in a permanent revocation of the Dungeness crab permit and a revocation of a commercial fishing license for a period of not less than 5 years.*

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 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, except in
6 Districts 6, 7, 8, and 9.

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

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

21 8280. (a) The Legislature finds and declares that the
22 Dungeness crab fishery is important to the state because it provides
23 a valuable food product, employment for those persons engaged



1 in the fishery, and economic benefits to the coastal communities
2 of the state.

3 (b) The Legislature further finds that, in order to protect the
4 Dungeness crab fishery, it is necessary to limit the number of
5 vessels participating in that fishery to take Dungeness crab and it
6 may be necessary to limit the quantity and capacity of the fishing
7 gear used on each vessel to take Dungeness crab.

8 (c) The Legislature further finds and declares that to limit the
9 number of vessels in the Dungeness crab fishery, it is necessary to
10 require that the owner of each vessel participating in the fishery
11 obtain and possess a permit for that vessel and that the initial
12 issuance of permits shall be limited to those persons owning
13 vessels qualifying under Section 8280.1.

14 (d) The Legislature further finds and declares that, to ensure the
15 long-term sustainability of the Dungeness crab fishery, it is
16 necessary that limitations be placed on the number of traps used
17 by the fishery, particularly in Fish and Game District 10 and south
18 of that district. Those limitations on the number of traps are
19 necessary to ensure the safety of crabbing operations, ensure that
20 the resource is more equitably shared among participants, increase
21 the economic value of the resource, and make more fresh crab
22 available to consumers during most or all of the crab fishing
23 season.

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

26 8280.8. (a) For the period November 15, 2005, to June 30,
27 2007, inclusive, no person operating a vessel pursuant to Section
28 8280.1 for the commercial take of Dungeness crab shall utilize
29 more than 250 traps during a season, except in Districts 6, 7, 8, and
30 9 where the limitation on the number of Dungeness crab traps shall
31 not apply.

32 (b) No owner of a vessel permitted pursuant to Section 8280.1
33 shall utilize that permit for the take of Dungeness crab on board a
34 vessel owned by another person that is also permitted pursuant to
35 Section 8280.1 for the take of Dungeness crab.

36 (c) *On or after March 15, 2007, but not later than August 30,*
37 *2007, the commission shall consider recommendations from the*
38 *department and Dungeness crab vessel permit holders, based on*
39 *the experience of operating with a 250-trap limit, on whether to*
40 *take any of the following actions:*



1 (1) *Extend the operation of the 250-trap limit beyond June 30,*
2 *2007.*

3 (2) *Increase or decrease the trap limit.*

4 (3) *Make any other modifications of the operation of the*
5 *250-trap limit.*

6 (d) *The commission shall, after consultation with the*
7 *department and Dungeness crab vessel permit holders, either*
8 *adjust the crab vessel permit fee for persons taking crab in and*
9 *south of District 10, or establish a landing fee or vessel stamp, as*
10 *the commission determines necessary, to cover all reasonable*
11 *costs incurred by the department in administering and enforcing*
12 *the provisions of this section. In adjusting or establishing fees or*
13 *vessel stamps pursuant to this subdivision, the commission shall*
14 *take into account the permit fees currently paid by crab vessel*
15 *owners pursuant to Section 8280.1.*

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

18 9004. (a) Every trap, except those used for the taking of
19 Dungeness crab, shall be raised, cleaned, serviced, and emptied at
20 intervals, not to exceed 96 hours, weather conditions at sea
21 permitting, and no trap shall be abandoned in the waters of this
22 state.

23 (b) Traps used for the taking of Dungeness crab shall be
24 removed from the ocean not more than 96 hours after the close of
25 the crab season, weather conditions at sea permitting, and no
26 Dungeness crab trap shall be abandoned in the waters of this state,
27 or in the federal waters adjacent to the boundaries of the waters of
28 the state.

29 SEC. 5. Section 12002 of the Fish and Game Code is amended
30 to read:

31 12002. (a) Unless otherwise provided, the punishment for a
32 violation of this code that is a misdemeanor is a fine of not more
33 than one thousand dollars (\$1,000), imprisonment in the county
34 jail for not more than six months, or both the fine and
35 imprisonment.

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

40 (1) Section 1059.



- 1 (2) Subdivision (d) of Section 4004.
- 2 (3) Section 4600.
- 3 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- 4 (5) A first violation of Section 8670.
- 5 (6) Section 10500.
- 6 (7) Section 3005.9.
- 7 (8) A violation of commission regulations that is discovered
- 8 pursuant to Section 3005.91 or 3005.92.

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

11 (c) Except as specified in Sections 12001 and 12010, the
 12 punishment for a violation of Section 3503, 3503.5, 3513, 3800,
 13 or 8280.8 is a fine of not more than five thousand dollars (\$5,000),
 14 imprisonment in the county jail for not more than six months, or
 15 both that fine and that imprisonment. A second violation of
 16 Section 8280.8 shall result in the permanent revocation of a
 17 Dungeness crab permit issued pursuant to Section 8280.1 and a
 18 revocation of a commercial fishing license for a period of not less
 19 than five years.

20 (d) (1) A license or permit issued pursuant to this code to a
 21 defendant who fails to appear at a court hearing for a violation of
 22 this code, or who fails to pay a fine imposed pursuant to this code,
 23 shall be immediately suspended. The license or permit shall not be
 24 reinstated or renewed, and no other license or permit shall be
 25 issued to that person pursuant to this code, until the court
 26 proceeding is completed or the fine is paid.

27 (2) This subdivision does not apply to any violation of Section
 28 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454,
 29 6650, or 6653.5.

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

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