

ASSEMBLY BILL

No. 749

**Introduced by Assembly Member Leno
(Principal coauthor: Assembly Member Berg)**

February 17, 2005

An act to amend Sections 8280 and 12002 of, and to add Sections 8276.1 and 8280.8 to, the Fish and Game Code, relating to Dungeness crab.

LEGISLATIVE COUNSEL'S DIGEST

AB 749, as introduced, Leno. Fish and game: 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. 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 prohibit a person operating a vessel for the commercial take of Dungeness crab from utilizing more than 250 traps during a season, except in designated districts. The bill would require the commission, on or after March 15, 2008, to consider recommendations from the department and Dungeness crab vessel

permitholders on whether to increase or decrease that trap limit, terminate the operation of the 250-trap limit after June 30, 2008, 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 permitholders, 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 the above provisions governing the limitation on the number of traps or the appropriate use of a vessel permit 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.

(2) 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.

(3) 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: no. 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
 5 Dungeness crab resource and to provide for an orderly crab
 6 fishery.

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

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

16 8280. (a) The Legislature finds and declares that the
17 Dungeness crab fishery is important to the state because it
18 provides a valuable food product, employment for those persons
19 engaged in the fishery, and economic benefits to the coastal
20 communities of the state.

21 (b) The Legislature further finds that, in order to protect the
22 Dungeness crab fishery, it is necessary to limit the number of
23 vessels participating in that fishery to take Dungeness crab and it
24 may be necessary to limit the quantity and capacity of the fishing
25 gear used on each vessel to take Dungeness crab.

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

32 (d) *The Legislature further finds and declares that, to ensure*
33 *the long-term sustainability of the Dungeness crab fishery, it is*
34 *necessary that limitations be placed on the number of traps used*
35 *by the fishery, particularly in Fish and Game District 10 and*
36 *south of that district. Those limitations on the number of traps*
37 *are necessary to ensure the safety of crabbing operations, ensure*
38 *that the resource is more equitably shared among participants,*
39 *increase the economic value of the resource, and make more*
40 *fresh crab available to consumers during most or all of the crab*

1 *fishing season. The Legislature further finds and declares that*
2 *the average number of traps that an individual is generally able*
3 *to bait, set, and empty in a normal fishing day is approximately*
4 *250. Therefore, it is the intent of the Legislature that a trap limit*
5 *of 250 should be made applicable until another limit on the*
6 *number of traps is established by the commission.*

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

9 8280.8. (a) No person operating a vessel pursuant to Section
10 8280.1 for the commercial take of Dungeness crab shall utilize
11 more than 250 traps during a season, except in Districts 6, 7, 8,
12 and 9 where the limitation on the number of Dungeness crab
13 traps shall not apply.

14 (b) No owner of a vessel permitted pursuant to Section 8280.1
15 shall utilize that permit for the take of Dungeness crab on board a
16 vessel owned by another person that is also permitted pursuant to
17 Section 8280.1 for the take of Dungeness crab.

18 (c) On or after March 15, 2008, the commission shall consider
19 recommendations from the department and Dungeness crab
20 vessel permitholders, based on the experience of operating with a
21 250-trap limit, on whether to take any of the following actions:

- 22 (1) Increase or decrease the trap limit.
23 (2) Terminate the operation of the 250 trap limit after June 30,
24 2008.
25 (3) Make any other modifications of the operation of the 250
26 trap limit.

27 (d) The commission shall, after consultation with the
28 department and Dungeness crab vessel permitholders, either
29 adjust the crab vessel permit fee for persons taking crab in and
30 south of District 10, or establish a landing fee or vessel stamp, as
31 the commission determines necessary, to cover all reasonable
32 costs incurred by the department in administering and enforcing
33 the provisions of this section. In adjusting or establishing fees or
34 vessel stamps pursuant to this subdivision, the commission shall
35 take into account the permit fees currently paid by crab vessel
36 owners pursuant to Section 8280.1.

37 SEC. 4. Section 12002 of the Fish and Game Code is
38 amended to read:

39 12002. (a) Unless otherwise provided, the punishment for a
40 violation of this code that is a misdemeanor is a fine of not more

1 than one thousand dollars (\$1,000), imprisonment in the county
2 jail for not more than six months, or both the fine and
3 imprisonment.

4 (b) The punishment for a violation of any of the following
5 provisions is a fine of not more than two thousand dollars
6 (\$2,000), imprisonment in the county jail for not more than one
7 year, or both the fine and imprisonment:

8 (1) Section 1059.

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

10 (3) Section 4600.

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

12 (5) A first violation of Section 8670.

13 (6) Section 10500.

14 (7) Section 3005.9.

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

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

19 (c) Except as specified in Sections 12001 and 12010, the
20 punishment for a violation of Section 3503, 3503.5, 3513, 3800,
21 or ~~3800~~ 8280.8 is a fine of not more than five thousand dollars
22 (\$5,000), imprisonment in the county jail for not more than six
23 months, or both that fine and that imprisonment. *A second*
24 *violation of Section 8280.8 shall result in the permanent*
25 *revocation of a Dungeness crab permit issued pursuant to*
26 *Section 8280.1 and a revocation of a commercial fishing license*
27 *for a period of not less than five years.*

28 (d) (1) A license or permit issued pursuant to this code to a
29 defendant who fails to appear at a court hearing for a violation of
30 this code, or who fails to pay a fine imposed pursuant to this
31 code, shall be immediately suspended. The license or permit shall
32 not be reinstated or renewed, and no other license or permit shall
33 be issued to that person pursuant to this code, until the court
34 proceeding is completed or the fine is paid.

35 (2) This subdivision does not apply to any violation of Section
36 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454,
37 6650, or 6653.5.

38 SEC. 5. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the
3 penalty for a crime or infraction, within the meaning of Section
4 17556 of the Government Code, or changes the definition of a
5 crime within the meaning of Section 6 of Article XIII B of the
6 California Constitution.

O