

AMENDED IN SENATE JULY 5, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 749

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

February 17, 2005

An act to amend Sections ~~8280~~ 8276.2, 8276.3, 8279.1, 8280, 8280.1, 8280.2, 8280.3, 8280.4, 8280.5, 8280.6, 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 amended, 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. *Existing law requires the director of the Department of Fish and Game to convene a Dungeness crab review panel for the purpose of reviewing application for Dungeness crab vessel permits. Existing law provides that various provisions relating to the taking of Dungeness crab, the issuance and transfer of Dungeness crab vessel permits, and the opening of the Dungeness crab fishery shall become inoperative on April 1, 2006, and are repealed as of January 1, 2007, unless a later enacted statute deletes or extends the dates that those provisions become inoperative and are repealed.*

This bill would extend the operative date of the provisions relating to Dungeness crab vessel permits and the opening of the Dungeness crab fishery to specify that the provisions shall become inoperative on

April 1, 2012, and as of January 1, 2013 are repealed. The bill would permit the Fish and Game Commission, following the best available scientific and biological analysis, public discussion, and consideration of alternative management measures 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 based on recommendations from the department and the Dungeness crab review panel. 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 revise the purposes of the Dungeness crab review panel to include advising the commission and the department on the establishment and implementation of specified Dungeness crab fishery regulations, including recommendations for any necessary changes that should be instituted to better regulate and sustain the fishery. The bill would permit the panel to conduct its review of applications referred to it by electronic mail, and would require the panel, on January 1, 2008, and annually thereafter, to issue a report to the director, the commission, and the Joint Committee on Fisheries and Aquaculture, on the Dungeness crab fishery, as specified. 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, the Dungeness crab review panel, the public, 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 the 250- trap limit. The bill would require the commission, after consultation with the department, the Dungeness crab review panel, and Dungeness crab vessel permitholders, to adjust the crab vessel 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. *The bill would state the Legislature’s intent that a trap limit of 250 should be made applicable for District 10 and south until the commission adopts another limit on the number of traps or other regulations to control effort, as specified.*

(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 *following the best available scientific and biological analysis,*
5 *public discussion, and consideration of alternative management*
6 *measures, reasonably be necessary to ensure the protection of the*
7 *Dungeness crab resource and to provide for an orderly crab*
8 *fishery, based on recommendations from the department and the*
9 *Dungeness crab review panel.*

10 ~~(b) The commission may establish a Dungeness Crab~~
11 ~~Advisory Committee to advise the commission and the~~
12 ~~department on the establishment and implementation of the~~
13 ~~Dungeness crab fishery regulations authorized to be adopted~~
14 ~~pursuant to subdivision (a), and shall make recommendations for~~

~~1 any necessary changes that should be instituted to better regulate
2 the fishery. The advisory committee shall consist of not less than
3 five members who are permitted to fish for Dungeness crab
4 pursuant to Section 8280.1, and who represent the geographic
5 range of the Dungeness crab fishery in the state. The director
6 shall appoint members to the committee from a list of individuals
7 submitted to the department by organizations representing
8 Dungeness crab fishermen.~~

9 *SEC. 2. Section 8276.2 of the Fish and Game Code is*
10 *amended to read:*

11 8276.2. (a) The director may order a delay in the opening of
12 the Dungeness crab fishery after December 1 in Districts 6, 7, 8,
13 and 9 in any year. The delay in the opening shall not be later than
14 January 15 of any year.

15 (b) On or about November 1 of each year, the director may
16 authorize one or more operators of commercial fishing vessels to
17 take and land a limited number of Dungeness crab for the
18 purpose of quality testing according to a testing program
19 conducted by, or on behalf of, the Pacific States Marine Fisheries
20 Commission or an entity approved by the department. The
21 department shall not approve a testing program unless it is
22 funded by the entity authorized to conduct the testing program.
23 Crab taken pursuant to this section shall not be sold; however,
24 any edible crabmeat recovered from the crabs tested shall not be
25 wasted and may be used for charitable purposes.

26 (c) The director shall order the opening of the Dungeness crab
27 season in Districts 6, 7, 8, and 9 on December 1 if the quality
28 tests authorized in subdivision (b) indicate the Dungeness crabs
29 are not soft-shelled or low quality. The entity authorized to
30 conduct the approved testing program may test, or cause to be
31 tested, crabs taken for quality and soft shells pursuant to the
32 approved testing program. If the tests are conducted on or about
33 November 1 and result in a finding that Dungeness crabs are
34 soft-shelled or low quality, the director shall authorize a second
35 test to be conducted on or about November 15 pursuant to the
36 approved testing program. If the second test results in a finding
37 that Dungeness crabs are soft-shelled or low quality, the director
38 may order the season opening delayed for a period of 15 days
39 and may authorize a third test to be conducted on or about
40 December 1. If the third test results in a finding that Dungeness

1 crabs remain soft-shelled or of low quality, the director may
2 order the season opening delayed for a period of an additional 15
3 days and authorize a fourth test to be conducted. This procedure
4 may continue to be followed, except that no tests shall be
5 conducted after January 1 for that season, and the season opening
6 shall not be delayed by the director later than January 15.

7 (d) This section shall become inoperative on April 1, ~~2006~~
8 ~~2012~~, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later
9 enacted statute that is enacted before January 1, ~~2007~~ 2013,
10 deletes or extends the dates on which it becomes inoperative and
11 is repealed.

12 *SEC. 3. Section 8276.3 of the Fish and Game Code is*
13 *amended to read:*

14 8276.3. (a) If there is any delay ordered by the director
15 pursuant to Section 8276.2 in the opening of the Dungeness crab
16 fishery in Districts 6, 7, 8, and 9, a vessel may not take or land
17 crab within Districts 6, 7, 8, and 9 during any closure.

18 (b) If there is any delay in the opening of the Dungeness crab
19 season pursuant to Section 8276.2, the opening date in Districts
20 6, 7, 8, and 9 shall be preceded by a 36-hour gear setting period,
21 as ordered by the director.

22 (c) This section shall become inoperative on April 1, ~~2006~~
23 ~~2012~~, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later
24 enacted statute that is enacted before January 1, ~~2007~~ 2013,
25 deletes or extends the dates on which it becomes inoperative and
26 is repealed.

27 *SEC. 4. Section 8279.1 of the Fish and Game Code is*
28 *amended to read:*

29 8279.1. (a) No person shall take, possess onboard, or land
30 Dungeness crab for commercial purposes from any vessel in
31 ocean waters in District 6, 7, 8, or 9 for 30 days after the opening
32 of the Dungeness crab fishing season in California, if both of the
33 following events have occurred:

34 (1) The opening of the season has been delayed pursuant to
35 state law in California.

36 (2) The person has taken, possessed onboard, or landed
37 Dungeness crab for commercial purposes, from ocean waters
38 outside of District 6, 7, 8, or 9, prior to the opening of the season
39 in those districts.

1 (b) No person shall take, possess onboard, or land Dungeness
2 crab for commercial purposes from any vessel in ocean waters
3 south of the border between Oregon and California for 30 days
4 after the opening of the Dungeness crab fishing season in
5 California, if both of the following events have occurred:

6 (1) The opening of the season has been delayed pursuant to
7 state law in California.

8 (2) The person has taken, possessed onboard, or landed
9 Dungeness crab for commercial purposes in Oregon or
10 Washington prior to the opening of the season in California.

11 (c) No person shall take, possess onboard, or land Dungeness
12 crab for commercial purposes from any vessel in ocean waters
13 north of the border between Oregon and California for 30 days
14 after the opening of the Dungeness crab fishing season in Oregon
15 or Washington, if both of the following events have occurred:

16 (1) The opening of the season has been delayed in Oregon or
17 Washington.

18 (2) The person has taken, possessed onboard, or landed
19 Dungeness crab for commercial purposes in California prior to
20 the opening of the season in ocean waters off Oregon or
21 Washington.

22 (d) No person shall take, possess onboard, or land Dungeness
23 crab for commercial purposes from any vessel in ocean waters
24 off Washington, Oregon, or California for 30 days after the
25 opening of the Dungeness crab fishing season in California,
26 Oregon, or Washington, if both of the following events have
27 occurred:

28 (1) The opening of the season has been delayed in
29 Washington, Oregon, or California.

30 (2) The person has taken, possessed onboard, or landed
31 Dungeness crab for commercial purposes in either of the two
32 other states prior to the delayed opening in the ocean waters off
33 any one of the three states.

34 (e) A violation of this section shall not constitute a
35 misdemeanor. Pursuant to Section 7857, the commission shall
36 revoke the Dungeness crab vessel permit held by any person who
37 violates this section.

38 (f) This section shall become inoperative on April 1, ~~2006~~
39 ~~2012~~, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later
40 enacted statute that is enacted before January 1, ~~2007~~ 2013,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 ~~SEC. 2.—~~

4 *SEC. 5.* Section 8280 of the Fish and Game Code is amended
5 to read:

6 8280. (a) The Legislature finds and declares that the
7 Dungeness crab fishery is important to the state because it
8 provides a valuable food product, employment for those persons
9 engaged in the fishery, and economic benefits to the coastal
10 communities of the state.

11 (b) The Legislature further finds that, in order to protect the
12 Dungeness crab fishery, it is necessary to limit the number of
13 vessels participating in that fishery to take Dungeness crab and it
14 may be necessary to limit the quantity and capacity of the fishing
15 gear used on each vessel to take Dungeness crab.

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

22 (d) The Legislature further finds and declares that, to ensure
23 the long-term sustainability of the Dungeness crab fishery, it is
24 necessary that limitations be placed on the number of traps used
25 by the fishery, particularly in Fish and Game District 10 and
26 south of that district. Those limitations on the number of traps are
27 necessary to ensure the safety of crabbing operations, ensure that
28 the resource is more equitably shared among participants,
29 increase the economic value of the resource, and make more
30 fresh crab available to consumers during most or all of the crab
31 fishing season. ~~The Legislature further finds and declares that the~~
32 ~~average number of traps that an individual is generally able to~~
33 ~~bait, set, and empty in a normal fishing day is approximately 250.~~
34 Therefore, it is the intent of the Legislature that a trap limit of
35 250 should be made applicable ~~until another limit on the number~~
36 ~~of traps is established by the commission.~~ *for District 10 and*
37 *south to avoid an increase in the total number of traps utilized*
38 *until the commission, following the best available scientific and*
39 *biological analysis, public discussion, and consideration of*
40 *alternative management measures, adopts another limit on the*

1 *number of traps or other regulations to control effort, based on*
2 *recommendations from the department and the Dungeness crab*
3 *review panel.*

4 *SEC. 6. Section 8280.1 of the Fish and Game Code is*
5 *amended to read:*

6 8280.1. (a) No person shall use a vessel to take, possess, or
7 land Dungeness crab for commercial purposes using Dungeness
8 crab traps authorized pursuant to Section 9011, unless the owner
9 of that vessel has a Dungeness crab vessel permit for that vessel
10 that has not been suspended or revoked. This section does not
11 apply to a commercially registered fishing vessel when it is being
12 used solely to assist a permitted vessel transport or set traps.

13 (b) A Dungeness crab vessel permit may be issued only to the
14 following persons for use on qualifying vessels:

15 (1) A person, who has a commercial fishing license issued
16 pursuant to Section 7852 or Article 7 (commencing with Section
17 8030) of Chapter 1 that has not been suspended or revoked, who
18 is the owner of a commercial fishing vessel that has been
19 registered with the department pursuant to Section 7881 in each
20 of the 1991–92, 1992–93, and 1993–94 permit years and a
21 minimum of four landings in each of three Dungeness crab
22 seasons in the period from November 1, 1984, to April 1, 1994,
23 have been made from that vessel. This paragraph includes any
24 person purchasing a vessel qualifying pursuant to this paragraph.

25 (2) A person who has a commercial fishing license issued
26 pursuant to Section 7852 or Article 7 (commencing with Section
27 8030) of Chapter 1 that has not been suspended or revoked, who
28 is the owner of a commercial fishing vessel that has been
29 registered with the department pursuant to Section 7881 in each
30 of the 1991–92, 1992–93, and 1993–94 permit years and a
31 minimum of four landings in one of the Dungeness crab seasons
32 in the period from November 1, 1984, to April 1, 1994, have
33 been made from that vessel in this state as documented by
34 landing receipts delivered to the department pursuant to Section
35 8046, who the department finds to have been unable, due to
36 illness or injury or any other hardship, to make a minimum of
37 four landings in each of two of the previous three Dungeness
38 crab seasons, and who, in good faith, intended to participate in
39 the Dungeness crab fishery in those seasons.

1 (3) A person who has a commercial fishing license issued
2 pursuant to Section 7852 that has not been suspended or revoked,
3 who meets the requirements of Section 8101, and who,
4 notwithstanding Section 8101, is, at the time of application, the
5 owner of a fishing vessel that is not equipped for trawling with a
6 net and that has been registered pursuant to Section 7881 in each
7 of the 1991–92, 1992–93, and 1993–94 permit years. Not more
8 than one Dungeness crab vessel permit shall be issued to any
9 person qualifying under Section 8101 and all permits issued
10 under Section 8101 shall, notwithstanding paragraph (1) of
11 subdivision (a) of Section 8280.3, be nontransferable. A person
12 qualifying for a permit under this paragraph shall have
13 participated in the Dungeness crab fishery on or before March
14 31, 1994, as documented by landing receipts that were prepared
15 in that person’s name for not less than four landings of
16 Dungeness crab taken in a crab trap in a Dungeness crab season
17 and were delivered to the department pursuant to Section 8046.
18 No person shall be issued a permit under this paragraph if that
19 person has been issued a permit under any other provision of this
20 section for another vessel. For purposes of Section 8101,
21 “participated in the fishery” means made not less than four
22 landings of Dungeness crab taken by traps in that person’s name
23 in one Dungeness crab season. The department shall separately
24 identify permits issued pursuant to this paragraph and those
25 permits shall become immediately null and void upon the death
26 of the permittee. The department shall not issue or renew any
27 permit under this paragraph to a person if the person failed to
28 meet the participation requirements of four landings in one
29 season prior to April 1, 1994, or has been issued a Dungeness
30 crab permit for a vessel under any other paragraph of this
31 subdivision.

32 (4) A person who has a commercial fishing license issued
33 pursuant to Section 7852 that has not been suspended or revoked,
34 who meets one of the following conditions:

35 (A) The person held a Dungeness crab permit issued pursuant
36 to Section 8280 as it read on April 1, 1994, and participated in
37 the Dungeness crab fishery between November 1, 1984, and
38 April 1, 1994, and is the owner of a vessel that has been
39 registered with the department in each of the 1991–92, 1992–93,
40 and 1993–94 permit years but did not make landings or the

1 department records do not indicate a minimum of four landings
2 per season for three Dungeness crab seasons from that vessel or
3 in that person's name because of a partnership or other working
4 arrangement where the person was working aboard another
5 vessel engaged in the Dungeness crab fishery in California.

6 (B) The person held a Dungeness crab permit issued under
7 Section 8280 as it read on April 1, 1994, and is the owner of a
8 commercial fishing vessel that has been registered with the
9 department pursuant to Section 7881 in each of the 1991–92,
10 1992–93, and 1993–94 permit years and from which a minimum
11 of four landings utilizing traps were made in at least one
12 Dungeness crab season in the period between November 1, 1984,
13 and April 1, 1994, and from which either four landings were
14 made utilizing traps or landings in excess of 10,000 pounds were
15 made utilizing traps in each of two other Dungeness crab seasons
16 in that same period, as documented by landing receipts.

17 (C) The person held a Dungeness crab vessel permit issued
18 under Section 8280 as it read on April 1, 1994, or was an officer
19 in a California corporation that was licensed pursuant to Article 7
20 (commencing with Section 8030) of Chapter 1 as of April 1,
21 1994, and began construction or reconstruction of a vessel on or
22 before January 1, 1992, for the purpose of engaging in the
23 Dungeness crab fishery, including the purchase of equipment and
24 gear to engage in that fishery in California. A person may be
25 issued a permit under this condition only if the person intended in
26 good faith to participate in the California Dungeness crab fishery,
27 a denial of a permit would create a financial hardship on that
28 person, and, for purposes of determining financial hardship, the
29 applicant is a nonresident and cannot participate with his or her
30 vessel or vessels in the Dungeness crab fishery of another state
31 because of that state's limited entry or moratorium on the
32 issuance of permits for the taking of Dungeness crab.

33 (5) A person who has a commercial fishing license issued
34 pursuant to Section 7852 that has not been suspended or revoked,
35 who held a Dungeness crab permit issued under Section 8280 as
36 it read on April 1, 1994, who made a minimum of four landings
37 of Dungeness crab taken by traps in each of three Dungeness
38 crab seasons in the period from November 1, 1984, to April 1,
39 1994, in his or her name in this state from a vessel owned by that
40 person, as documented by landing receipts, who, between April

1 1, 1991, and January 1, 1995, purchased, contracted to purchase,
2 or constructed a vessel, not otherwise qualifying pursuant to
3 paragraph (1), (2), or (4), who has continuously owned that
4 vessel since its purchase or construction, and who either (A) has
5 used that vessel for the taking of Dungeness crab in this state on
6 or before March 31, 1995, as documented by one or more landing
7 receipts delivered to the department pursuant to Section 8046, or
8 (B) intended in good faith, based on evidence that the department
9 and the review panel may require, including investment in crab
10 gear, to enter that vessel in this state's Dungeness crab fishery
11 not later than December 1, 1995. Not more than one permit may
12 be issued to any one person under this paragraph.

13 (6) A person who held a Dungeness crab permit issued under
14 Section 8280 as it read on April 1, 1994, who made a minimum
15 of four landings utilizing traps in this state in each of three
16 Dungeness crab seasons in the period between November 1,
17 1984, and April 1, 1994, in his or her name from a vessel
18 operated by that person as documented by landing receipts, who
19 currently does not own a vessel in his or her name, and who has
20 not sold or transferred a vessel otherwise qualifying for a permit
21 under this section. A permit may be issued under this paragraph
22 for a vessel not greater in size than the vessel from which the
23 previous landings were made, and, in no event, for a vessel of
24 more than 60 feet in overall length, to be placed on a vessel that
25 the person purchases or contracts for construction on or before
26 April 1, 1996. A permit issued under this paragraph shall be
27 nontransferable and shall not be used for a vessel not owned by
28 that person, and shall be revoked if the person (A) fails to renew
29 the permit or annually renew his or her commercial fishing
30 license issued pursuant to Section 7852 or (B) is or becomes the
31 owner of another vessel permitted to operate in the Dungeness
32 crab fishery pursuant to this section.

33 (c) The department may require affidavits offered under
34 penalty of perjury from persons applying for permits under
35 subdivision (b) or from witnesses corroborating the statements of
36 a person applying for a Dungeness crab vessel permit. Affidavits
37 offered under penalty of perjury shall be required of an applicant
38 if the department cannot locate records required to qualify under
39 subdivision (b).

1 (d) No person shall be issued a Dungeness crab vessel permit
2 under this section for any vessel unless that person has a valid
3 commercial fishing license issued pursuant to Section 7852 that
4 has not been suspended or revoked.

5 (e) Notwithstanding Section 7852.2 or subdivision (e) of
6 Section 8280.2, the department may issue a Dungeness crab
7 vessel permit that has not been applied for by the application
8 deadline if the department finds that the failure to apply was a
9 result of a mistake or hardship, as established by evidence the
10 department may require, the late application is made not later
11 than October 15, 1995, and payment is made by the applicant of
12 a late fee of two hundred fifty dollars (\$250) in addition to all
13 other fees for the permit.

14 (f) The department may waive the requirement that a person
15 own a commercial fishing vessel that has been registered with the
16 department pursuant to Section 7881 in each of the 1991–92,
17 1992–93, and 1993–94 permit years for one of those required
18 years under this section only if the vessel was registered and used
19 in the California Dungeness crab fishery during the registration
20 year immediately prior to the year for which the waiver is sought
21 and was registered and used in the California Dungeness crab
22 fishery after the year for which the waiver is sought and if the
23 reason for the failure to register in the year for which the waiver
24 is sought was due to a death, illness, or injury, or other hardship,
25 as determined by the review panel, that prevented the vessel from
26 being registered and operated in the fishery for that registration
27 year.

28 (g) If any person submits false information for the purposes of
29 obtaining a Dungeness crab vessel permit under this section, the
30 department shall revoke that permit, if issued, revoke the
31 person's commercial fishing license that was issued pursuant to
32 Section 7850 for a period of not less than five years, and revoke
33 the commercial boat registration for a period of not less than five
34 years of any vessel registered to that person pursuant to Section
35 7881 of which that person is the owner.

36 (h) This section shall become inoperative on April 1, ~~2006~~
37 ~~2012~~, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later
38 enacted statute that is enacted before January 1, ~~2007~~ 2013,
39 deletes or extends the dates on which it becomes inoperative and
40 is repealed.

1 *SEC. 7. Section 8280.2 of the Fish and Game Code is*
2 *amended to read:*

3 8280.2. (a) The owner of a Dungeness crab vessel, for
4 purposes of this section, may include a person with a bona fide
5 contract for the purchase of a vessel who otherwise meets all
6 other qualifications for a Dungeness crab vessel permit. If a
7 contract is found to be fraudulent or written or entered into for
8 the purposes of circumventing qualification criteria for the
9 issuance of a permit, the applicant shall be permanently ineligible
10 for a Dungeness crab vessel permit.

11 (b) A Dungeness crab vessel permit shall be issued only to the
12 person owning the vessel at the time of application for that
13 permit. No person shall be issued more than one permit for each
14 vessel owned by that person and qualifying for a permit pursuant
15 to Section 8280.1.

16 (c) A Dungeness crab vessel permit shall be issued only to the
17 owner of a vessel taking crab by traps. No permit shall be issued
18 to the owner of a vessel using trawl or other nets unless the
19 owner of that vessel qualifies for a permit pursuant to paragraph
20 (1) of subdivision (b) of Section 8280.1. No trawl or other net
21 vessel authorized under this code to take Dungeness crab
22 incidental to the taking of fish in trawl or other nets shall be
23 required to possess a Dungeness crab vessel permit.

24 (d) Dungeness crab vessel permits shall not be combined or
25 otherwise aggregated for the purpose of replacing smaller vessels
26 in the fishery with a larger vessel, and a permit shall not be
27 divided or otherwise separated for the purpose of replacing a
28 vessel in the fishery with two or more smaller vessels.

29 (e) Applications for renewal of all Dungeness crab vessel
30 permits shall be received by the department, or, if mailed,
31 postmarked, by April 30 of each year. In order for a vessel to
32 retain eligibility, a permit shall be obtained each year subsequent
33 to the initial permit year and the vessel shall be registered
34 pursuant to Section 7881. The vessel owner shall have a valid
35 commercial fishing license issued to that person pursuant to
36 Section 7852 that has not been suspended or revoked. No
37 minimum landings of Dungeness crab shall be required annually
38 to be eligible for a Dungeness crab vessel permit.

39 (f) This section shall become inoperative on April 1, ~~2006~~
40 2012, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later

1 enacted statute that is enacted before January 1, ~~2007~~ 2013,
2 deletes or extends the dates on which it becomes inoperative and
3 is repealed.

4 *SEC. 8. Section 8280.3 of the Fish and Game Code is*
5 *amended to read:*

6 8280.3. (a) Notwithstanding Article 9 (commencing with
7 Section 8100) of Chapter 1 and except as provided in this
8 section, a Dungeness crab vessel permit shall not be transferred.

9 (1) The owner of a vessel to whom a Dungeness crab vessel
10 permit has been issued shall transfer the permit for the use of that
11 vessel upon the sale of the vessel by the permitholder to the
12 person purchasing the vessel. Thereafter, upon notice to the
13 department, the person purchasing the vessel may use the vessel
14 for the taking and landing of Dungeness crab for any and all of
15 the unexpired portion of the permit year, and that person is
16 eligible for a permit pursuant to Section 8280.1 for the use of that
17 vessel in subsequent years. The person purchasing the vessel may
18 not transfer the permit for use of that vessel in the Dungeness
19 crab fishery to another replacement vessel during the same
20 permit year.

21 (2) The owner of a vessel to whom the Dungeness crab vessel
22 permit has been issued may transfer the permit to a replacement
23 vessel of equivalent capacity, except as specified in this section.
24 Thereafter, upon notice to the department and payment of the
25 transfer fee specified in Section 8280.6, the replacement vessel
26 may be used for the taking and landing of Dungeness crab for
27 any and all of the unexpired portion of the permit year and that
28 person is eligible for a permit pursuant to Section 8280.1 for the
29 use of that replacement vessel in subsequent years.

30 The owner of a permitted vessel may transfer the permit to a
31 vessel of greater capacity that was owned by that person on or
32 before November 15, 1995, not to exceed 10 feet longer in length
33 overall than the vessel for which the permit was originally issued
34 or to a vessel of greater capacity purchased after November 15,
35 1995, not to exceed five feet longer in length overall than the
36 vessel for which the permit was originally issued.

37 The department, upon recommendation of the Dungeness crab
38 review panel, may authorize the owner of a permitted vessel to
39 transfer the permit to a replacement vessel that was owned by
40 that person on or before April 1, 1996, that does not fish with

1 trawl nets that is greater than five feet longer in length overall
2 than the vessel for which the permit was originally issued, if all
3 of the following conditions are satisfied:

4 (A) A vessel of a larger size is essential to the owner for
5 participation in another fishery other than a trawl net fishery.

6 (B) The owner held a permit on or before January 1, 1995, for
7 the fishery for which a larger vessel is needed and has
8 participated in that fishery.

9 (C) The permit for the vessel from which the permit is to be
10 transferred pursuant to paragraph (1) of subdivision (b)
11 of Section 8280.1.

12 (D) The vessel to which the permit is to be transferred does
13 not exceed 20 feet longer in length overall than the vessel for
14 which the permit was originally issued and the vessel to which
15 the permit is to be transferred does not exceed 60 feet in overall
16 length.

17 No transfer of a permit to a larger vessel shall be allowed more
18 than one time. If a permit is transferred to a larger vessel, any
19 Dungeness crab vessel permit for that permit year or any
20 subsequent permit years for that larger vessel may not be
21 transferred to another larger vessel. The department shall not
22 thereafter issue a Dungeness crab vessel permit for the use of the
23 original vessel from which the permit was transferred, except that
24 the original vessel may be used to take or land Dungeness crab
25 after that transfer if its use is authorized pursuant to another
26 Dungeness crab vessel permit subsequently transferred to that
27 vessel pursuant to this paragraph.

28 (3) Upon the written approval of the department, the owner of
29 a vessel to whom the Dungeness crab vessel permit has been
30 issued may temporarily transfer the permit to another
31 replacement vessel, for which use in the Dungeness crab fishery
32 is not permitted pursuant to this section or Section 8280.1, for a
33 period of not more than six months during the current permit year
34 if the vessel for which the permit was issued is seriously
35 damaged, suffers major mechanical breakdown, or is lost or
36 destroyed, as determined by the department, upon approval of the
37 director. The owner of the vessel shall submit proof that the
38 department may reasonably require to establish the existence of
39 the conditions of this paragraph. Upon approval by the director,
40 the owner of a lost or destroyed vessel granted a six-month

1 temporary transfer under this section may be granted an
2 additional six-month extension of the temporary transfer.

3 (4) Upon written approval of the department, the owner of a
4 vessel to whom the Dungeness crab vessel permit has been
5 issued may retain that permit upon the sale of that permitted
6 vessel for the purpose of transferring the permit to another vessel
7 to be purchased by that individual within one year of the time of
8 sale of the vessel for which the permit was originally issued if the
9 requirements of this section are satisfied, including the payment
10 of transfer fees. If the permit is not transferred to a new vessel
11 owned by the person to whom the vessel permit was originally
12 issued within one year of the sale of the vessel for which it was
13 originally issued, or if the person does not retain ownership of
14 the new vessel to which the permit is transferred for a period of
15 not less than one year, the permit shall be revoked.

16 (5) In the event of the death or incapacity of a permitholder,
17 the permit shall be transferred, upon application, to the heirs or
18 assigns, or to the working partner, of the permitholder, together
19 with the transfer of the vessel for which the permit was issued,
20 and the new owner may continue to operate the vessel under the
21 permit, renew the permit, or transfer the permit upon sale of the
22 vessel pursuant to paragraph (1).

23 (b) This section shall become inoperative on April 1, ~~2006~~
24 ~~2012~~, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later
25 enacted statute that is enacted before January 1, ~~2007~~ 2013,
26 deletes or extends the dates on which it becomes inoperative and
27 is repealed.

28 *SEC. 9. Section 8280.4 of the Fish and Game Code is*
29 *amended to read:*

30 8280.4. (a) The commission may revoke the commercial
31 fishing license issued pursuant to Section 7852 of any person
32 owning a fishing vessel engaging in the taking or landing of
33 Dungeness crab by traps for which that person has not obtained a
34 Dungeness crab vessel permit, and the commission may revoke
35 the registration, issued pursuant to Section 7881, for that vessel.

36 (b) This section shall become inoperative on April 1, ~~2006~~
37 ~~2012~~, and, as of January 1, ~~2007~~ 2013, is repealed, unless a later
38 enacted statute that is enacted before January 1, ~~2007~~ 2013,
39 deletes or extends the dates on which it becomes inoperative and
40 is repealed.

1 *SEC. 10. Section 8280.5 of the Fish and Game Code is*
2 *amended to read:*

3 8280.5. (a) The director shall convene a Dungeness crab
4 review panel ~~for the purpose of reviewing~~ *all of the following*
5 *purposes:*

6 (1) *Reviewing* applications for Dungeness crab vessel permits
7 pursuant to paragraphs (2) and (4) of subdivision (b) of Section
8 8280.1. ~~and~~

9 (2) *Reviewing* applications for permit transfers pursuant to
10 Section 8280.3 if the department determines that the additional
11 review and advice of the panel will be helpful in deciding
12 whether to issue a permit or approve a transfer.

13 (3) *Advising the commission and the department on the*
14 *establishment and implementation of the Dungeness crab fishery*
15 *regulations authorized to be adopted pursuant to Section 8276.1*
16 *and subdivisions (c) and (d) of Section 8280.8, including*
17 *recommendations for any necessary changes that should be*
18 *instituted to better regulate and sustain the fishery.*

19 (b) The panel shall consist of one nonvoting representative of
20 the department and three public voting members selected by the
21 director to represent the Dungeness crab fishing industry. One
22 public member shall be licensed pursuant to Article 7
23 (commencing with Section 8030) of Chapter 1 and active in
24 Dungeness crab processing in this state. Two public members
25 shall be licensed pursuant to Section 7852, one from Sonoma
26 County or a county south of Sonoma County, and one from
27 Mendocino County or a county north of Mendocino County, and
28 active in the taking and landing of Dungeness crab in this state.
29 The public members shall be reimbursed for their necessary and
30 proper expenses to participate on the panel. A public member
31 shall serve on the panel for not more than four consecutive years.

32 (c) The panel may conduct its review of applications referred
33 to it by mail, *electronic mail*, or teleconference.

34 (d) The panel shall review each application for a permit or
35 permit transfer referred to it by the department and shall consider
36 all oral and written evidence presented by the applicant that is
37 pertinent to the application under review. If the panel
38 recommends issuance of a permit or approval of the transfer, the
39 department may issue a Dungeness crab vessel permit pursuant to

1 Section 8280.1 or approve a permit transfer pursuant to Section
2 8280.3.

3 (e) All appeals of denials of Dungeness crab vessel permits
4 shall be made to the commission and may be heard by the
5 commission if the appeal of denial is filed in writing with the
6 commission not later than 90 days from the date of a permit
7 denial. The commission may order the department to issue a
8 permit upon appeal if the commission finds that the appellant
9 qualified for a permit under this chapter.

10 (f) *The panel shall, not later than January 1, 2008, and*
11 *annually thereafter, issue a report to the director, the*
12 *commission, and the Joint Committee on Fisheries and*
13 *Aquaculture, on the Dungeness crab fishery and any*
14 *recommendations on its management, including, but not limited*
15 *to, effort limitations, gear specifications, and matters related to*
16 *the quality or safety of Dungeness crab, and the necessity of any*
17 *biological studies of Dungeness crab or their habitats.*

18 ~~(f)~~

19 (g) This section shall become inoperative on April 1, ~~2006~~
20 *2012*, and, as of January 1, ~~2007~~ *2013*, is repealed, unless a later
21 enacted statute that is enacted before January 1, ~~2007~~ *2013*,
22 deletes or extends the dates on which it becomes inoperative and
23 is repealed.

24 *SEC. 11. Section 8280.6 of the Fish and Game Code is*
25 *amended to read:*

26 8280.6. (a) The department shall charge a fee for each
27 Dungeness crab vessel permit of two hundred dollars (\$200) for
28 a resident of California and four hundred dollars (\$400) for a
29 nonresident of California.

30 (b) The department shall charge a nonrefundable fee of two
31 hundred dollars (\$200) for each transfer of a permit authorized
32 pursuant to paragraph (2), (4), or (5) of subdivision (a) of Section
33 8280.3.

34 (c) This section shall become inoperative on April 1, ~~2006~~
35 *2012*, and, as of January 1, ~~2007~~ *2013*, is repealed, unless a later
36 enacted statute that is enacted before January 1, ~~2007~~ *2013*,
37 deletes or extends the dates on which it becomes inoperative and
38 is repealed.

1 ~~SEC. 3.—~~

2 *SEC. 12.* Section 8280.8 is added to the Fish and Game Code,
3 to read:

4 8280.8. (a) No person operating a vessel pursuant to Section
5 8280.1 for the commercial take of Dungeness crab shall utilize
6 more than 250 traps during a season, except in Districts 6, 7, 8,
7 and 9 where the limitation on the number of Dungeness crab
8 traps shall not apply.

9 (b) No owner of a vessel permitted pursuant to Section 8280.1
10 shall utilize that permit for the take of Dungeness crab on board a
11 vessel owned by another person that is also permitted pursuant to
12 Section 8280.1 for the take of Dungeness crab.

13 (c) On or after March 15, 2008, the commission shall,
14 *following the best available scientific and biological analysis,*
15 consider recommendations from the department, *the Dungeness*
16 *crab review panel, the public,* and Dungeness crab vessel
17 permit holders, ~~based on the experience of operating with a~~
18 ~~250-trap limit,~~ on whether to take any of the following actions:

- 19 (1) Increase or decrease the trap limit.
20 (2) Terminate the operation of the 250 trap limit after June 30,
21 2008.
22 (3) Make any other modifications of the operation of the 250
23 trap limit.

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

35 ~~SEC. 4.—~~

36 *SEC. 13.* Section 12002 of the Fish and Game Code is
37 amended to read:

38 12002. (a) Unless otherwise provided, the punishment for a
39 violation of this code that is a misdemeanor is a fine of not more
40 than one thousand dollars (\$1,000), imprisonment in the county

1 jail for not more than six months, or both the fine and
2 imprisonment.

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

7 (1) Section 1059.

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

9 (3) Section 4600.

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

11 (5) A first violation of Section 8670.

12 (6) Section 10500.

13 (7) Section 3005.9.

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

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

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

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

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

37 ~~SEC. 5.—~~

38 *SEC. 14.* 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.

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