

AMENDED IN SENATE AUGUST 22, 2005

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 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~~ *applications* 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crab vessel permits, and the opening of the Dungeness crab fishery shall become inoperative on April 1, 2006, and are repealed as of January 1, 2007, unless a later enacted statute deletes or extends the dates that those provisions become inoperative and are repealed.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crab fishery to specify that the provisions shall become inoperative on April 1, 2012, and as of January 1, 2013, are repealed.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 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 permit holders 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 the ~~250-trap~~ 250-trap limit. The bill would require the commission, after consultation with the department, the Dungeness crab review panel, and Dungeness crab vessel permit holders, to adjust the *Dungeness* 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 *Dungeness crab* 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 fine and imprisonment*. The bill would provide that a 2nd violation would result in a permanent revocation of the Dungeness crab *vessel* 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~~ *in and to the south of District 10* 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. 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, adopt regulations as may* ~~following the best available~~
7 ~~scientific and biological analysis, public discussion, and~~
8 ~~consideration of alternative management measures,~~ reasonably be
9 necessary to ensure the protection of the Dungeness crab
10 resource and to provide for an orderly *Dungeness* crab fishery,
11 based on recommendations from the department and the
12 Dungeness crab review panel.

13 SEC. 2. Section 8276.2 of the Fish and Game Code is
14 amended to read:

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

5 (b) On or about November 1 of each year, the director may
6 authorize one or more operators of commercial fishing vessels to
7 take and land a limited number of Dungeness crab for the
8 purpose of quality testing according to a testing program
9 conducted by, or on behalf of, the Pacific States Marine Fisheries
10 Commission or an entity approved by the department. The
11 department shall not approve a testing program unless it is
12 funded by the entity authorized to conduct the testing program.
13 ~~Crab-Dungeness crab~~ taken pursuant to this section shall not be
14 sold; however, any edible crabmeat recovered from the crabs
15 tested shall not be wasted and may be used for charitable
16 purposes.

17 (c) The director shall order the opening of the Dungeness crab
18 *fishing* season in Districts 6, 7, 8, and 9 on December 1 if the
19 quality tests authorized in subdivision (b) indicate *that* the
20 Dungeness crabs are not soft-shelled or low quality. The entity
21 authorized to conduct the approved testing program may test, or
22 cause to be tested, crabs taken for quality and soft shells pursuant
23 to the approved testing program. If the tests are conducted on or
24 about November 1 and result in a finding that *the* Dungeness
25 crabs are soft-shelled or low quality, the director shall authorize
26 a second test to be conducted on or about November 15 pursuant
27 to the approved testing program. If the second test results in a
28 finding that *the* Dungeness crabs are soft-shelled or low quality,
29 the director may order the season opening delayed for a period of
30 15 days and may authorize a third test to be conducted on or
31 about December 1. If the third test results in a finding that *the*
32 Dungeness crabs remain soft-shelled or of low quality, the
33 director may order the season opening delayed for a period of an
34 additional 15 days and authorize a fourth test to be conducted.
35 This procedure may continue to be followed, except that no tests
36 shall be conducted after January 1 for that season, and the season
37 opening shall not be delayed by the director later than January
38 15.

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

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

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

5 8276.3. (a) If there is any delay ordered by the director
6 pursuant to Section 8276.2 in the opening of the Dungeness crab
7 fishery in Districts 6, 7, 8, and 9, a vessel may not take or land
8 crab within Districts 6, 7, 8, and 9 during any closure.

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

13 (c) This section shall become inoperative on April 1, 2012,
14 and, as of January 1, 2013, is repealed, unless a later enacted
15 statute that is enacted before January 1, 2013, deletes or extends
16 the dates on which it becomes inoperative and is repealed.

17 SEC. 4. Section 8279.1 of the Fish and Game Code is
18 amended to read:

19 8279.1. (a) No person shall take, possess onboard, or land
20 Dungeness crab for commercial purposes from any vessel in
21 ocean waters in District 6, 7, 8, or 9 for 30 days after the opening
22 of the Dungeness crab fishing season in California, if both of the
23 following events have occurred:

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

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

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

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

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

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

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

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

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

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

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

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

28 (f) This section shall become inoperative on April 1, 2012,
29 and, as of January 1, 2013, is repealed, unless a later enacted
30 statute that is enacted before January 1, 2013, deletes or extends
31 the dates on which it becomes inoperative and is repealed.

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

34 8280. (a) The Legislature finds and declares that the
35 Dungeness crab fishery is important to the state because it
36 provides a valuable food product, employment for those persons
37 engaged in the fishery, and economic benefits to the coastal
38 communities of the state.

39 (b) The Legislature further finds that, in order to protect the
40 Dungeness crab fishery, it is necessary to limit the number of

1 vessels participating in that fishery to take Dungeness crab and it
2 may be necessary to limit the quantity and capacity of the fishing
3 gear used on each vessel to take Dungeness crab.

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

10 (d) The Legislature further finds and declares that, to ensure
11 the long-term sustainability of the Dungeness crab fishery, it is
12 necessary that limitations be placed on the number of traps used
13 by the fishery, particularly in Fish and Game District 10 and
14 south of that district. Those limitations on the number of traps are
15 necessary to ensure the safety of crabbing operations, ensure that
16 the resource is more equitably shared among participants,
17 increase the economic value of the resource, and make more
18 fresh crab available to consumers during most or all of the
19 *Dungeness* crab fishing season. Therefore, it is the intent of the
20 Legislature that a trap limit of 250 should be made applicable ~~for~~
21 ~~District 10 and south~~ *in and to the south of District 10* to avoid
22 an increase in the total number of traps utilized until the
23 commission, following the best available scientific and biological
24 analysis, public discussion, and consideration of alternative
25 management measures, adopts another limit on the number of
26 traps or other regulations to control effort, based on
27 recommendations from the department and the Dungeness crab
28 review panel.

29 SEC. 6. Section 8280.1 of the Fish and Game Code is
30 amended to read:

31 8280.1. (a) No person shall use a vessel to take, possess, or
32 land Dungeness crab for commercial purposes using Dungeness
33 crab traps authorized pursuant to Section 9011, unless the owner
34 of that vessel has a Dungeness crab vessel permit for that vessel
35 that has not been suspended or revoked. This section does not
36 apply to a commercially registered fishing vessel when it is being
37 used solely to assist a permitted vessel transport or set traps.

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

1 (1) A person, who has a commercial fishing license issued
2 pursuant to Section 7852 or Article 7 (commencing with Section
3 8030) of Chapter 1 that has not been suspended or revoked, who
4 is the owner of a commercial fishing vessel that has been
5 registered with the department pursuant to Section 7881 in each
6 of the 1991–92, 1992–93, and 1993–94 permit years and a
7 minimum of four landings in each of three Dungeness crab
8 *fishing* seasons in the period from November 1, 1984, to April 1,
9 1994, have been made from that vessel. This paragraph includes
10 any person purchasing a vessel qualifying pursuant to this
11 paragraph.

12 (2) A person who has a commercial fishing license issued
13 pursuant to Section 7852 or Article 7 (commencing with Section
14 8030) of Chapter 1 that has not been suspended or revoked, who
15 is the owner of a commercial fishing vessel that has been
16 registered with the department pursuant to Section 7881 in each
17 of the 1991–92, 1992–93, and 1993–94 permit years and a
18 minimum of four landings in one of the Dungeness crab *fishing*
19 seasons in the period from November 1, 1984, to April 1, 1994,
20 have been made from that vessel in this state as documented by
21 landing receipts delivered to the department pursuant to Section
22 8046, who the department finds to have been unable, due to
23 illness or injury or any other hardship, to make a minimum of
24 four landings in each of two of the previous three Dungeness
25 crab *fishing* seasons, and who, in good faith, intended to
26 participate in the Dungeness crab fishery in those seasons.

27 (3) A person who has a commercial fishing license issued
28 pursuant to Section 7852 that has not been suspended or revoked,
29 who meets the requirements of Section 8101, and who,
30 notwithstanding Section 8101, is, at the time of application, the
31 owner of a fishing vessel that is not equipped for trawling with a
32 net and that has been registered pursuant to Section 7881 in each
33 of the 1991–92, 1992–93, and 1993–94 permit years. Not more
34 than one Dungeness crab vessel permit shall be issued to any
35 person qualifying under Section 8101 and all permits issued
36 under Section 8101 shall, notwithstanding paragraph (1) of
37 subdivision (a) of Section 8280.3, be nontransferable. A person
38 qualifying for a permit under this paragraph shall have
39 participated in the Dungeness crab fishery on or before March
40 31, 1994, as documented by landing receipts that were prepared

1 in that person's name for not less than four landings of
2 Dungeness crab taken in a crab trap in a Dungeness crab *fishing*
3 season and were delivered to the department pursuant to Section
4 8046. No person shall be issued a permit under this paragraph if
5 that person has been issued a permit under any other provision of
6 this section for another vessel. For purposes of Section 8101,
7 "participated in the fishery" means made not less than four
8 landings of Dungeness crab taken by traps in that person's name
9 in one Dungeness crab *fishing* season. The department shall
10 separately identify permits issued pursuant to this paragraph and
11 those permits shall become immediately null and void upon the
12 death of the permittee. The department shall not issue or renew
13 any permit under this paragraph to a person if the person failed to
14 meet the participation requirements of four landings in one
15 *Dungeness crab fishing* season prior to April 1, 1994, or has been
16 issued a Dungeness crab *vessel* permit for a vessel under any
17 other paragraph of this subdivision.

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

21 (A) The person held a Dungeness crab *vessel* permit issued
22 pursuant to Section 8280 as it read on April 1, 1994, and
23 participated in the Dungeness crab fishery between November 1,
24 1984, and April 1, 1994, and is the owner of a vessel that has
25 been registered with the department in each of the 1991–92,
26 1992–93, and 1993–94 permit years but did not make landings or
27 the department records do not indicate a minimum of four
28 landings per season for three Dungeness crab seasons from that
29 vessel or in that person's name because of a partnership or other
30 working arrangement where the person was working aboard
31 another vessel engaged in the Dungeness crab fishery in
32 California.

33 (B) The person held a Dungeness crab *vessel* permit issued
34 under Section 8280 as it read on April 1, 1994, and is the owner
35 of a commercial fishing vessel that has been registered with the
36 department pursuant to Section 7881 in each of the 1991–92,
37 1992–93, and 1993–94 permit years and from which a minimum
38 of four landings utilizing traps were made in at least one
39 Dungeness crab *fishing* season in the period between November
40 1, 1984, and April 1, 1994, and from which either four landings

1 were made utilizing traps or landings in excess of 10,000 pounds
2 were made utilizing traps in each of two other Dungeness crab
3 *fishing* seasons in that same period, as documented by landing
4 receipts.

5 (C) The person held a Dungeness crab vessel permit issued
6 under Section 8280 as it read on April 1, 1994, or was an officer
7 in a California corporation that was licensed pursuant to Article 7
8 (commencing with Section 8030) of Chapter 1 as of April 1,
9 1994, and began construction or reconstruction of a vessel on or
10 before January 1, 1992, for the purpose of engaging in the
11 Dungeness crab fishery, including the purchase of equipment and
12 gear to engage in that fishery in California. A person may be
13 issued a permit under this condition only if the person intended in
14 good faith to participate in the California Dungeness crab fishery,
15 a denial of a permit would create a financial hardship on that
16 person, and, for purposes of determining financial hardship, the
17 applicant is a nonresident and cannot participate with his or her
18 vessel or vessels in the Dungeness crab fishery of another state
19 because of that state's limited entry or moratorium on the
20 issuance of permits for the taking of Dungeness crab.

21 (5) A person who has a commercial fishing license issued
22 pursuant to Section 7852 that has not been suspended or revoked,
23 who held a Dungeness crab *vessel* permit issued under Section
24 8280 as it read on April 1, 1994, who made a minimum of four
25 landings of Dungeness crab taken by traps in each of three
26 Dungeness crab *fishing* seasons in the period from November 1,
27 1984, to April 1, 1994, in his or her name in this state from a
28 vessel owned by that person, as documented by landing receipts,
29 who, between April 1, 1991, and January 1, 1995, purchased,
30 contracted to purchase, or constructed a vessel, not otherwise
31 qualifying pursuant to paragraph (1), (2), or (4), who has
32 continuously owned that vessel since its purchase or
33 construction, and who either (A) has used that vessel for the
34 taking of Dungeness crab in this state on or before March 31,
35 1995, as documented by one or more landing receipts delivered
36 to the department pursuant to Section 8046, or (B) intended in
37 good faith, based on evidence that the department and the review
38 panel may require, including investment in crab gear, to enter
39 that vessel in this state's Dungeness crab fishery not later than

1 December 1, 1995. Not more than one permit may be issued to
2 any one person under this paragraph.

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

23 (c) The department may require affidavits offered under
24 penalty of perjury from persons applying for permits under
25 subdivision (b) or from witnesses corroborating the statements of
26 a person applying for a Dungeness crab vessel permit. Affidavits
27 offered under penalty of perjury shall be required of an applicant
28 if the department cannot locate records required to qualify under
29 subdivision (b).

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

34 (e) Notwithstanding Section 7852.2 or subdivision (e) of
35 Section 8280.2, the department may issue a Dungeness crab
36 vessel permit that has not been applied for by the application
37 deadline if the department finds that the failure to apply was a
38 result of a mistake or hardship, as established by evidence the
39 department may require, the late application is made not later
40 than October 15, 1995, and payment is made by the applicant of

1 a late fee of two hundred fifty dollars (\$250) in addition to all
2 other fees for the permit.

3 (f) The department may waive the requirement that a person
4 own a commercial fishing vessel that has been registered with the
5 department pursuant to Section 7881 in each of the 1991–92,
6 1992–93, and 1993–94 permit years for one of those required
7 years under this section only if the vessel was registered and used
8 in the California Dungeness crab fishery during the registration
9 year immediately prior to the year for which the waiver is sought
10 and was registered and used in the California Dungeness crab
11 fishery after the year for which the waiver is sought and if the
12 reason for the failure to register in the year for which the waiver
13 is sought was due to a death, illness, or injury, or other hardship,
14 as determined by the review panel, that prevented the vessel from
15 being registered and operated in the fishery for that registration
16 year.

17 (g) If any person submits false information for the purposes of
18 obtaining a Dungeness crab vessel permit under this section, the
19 department shall revoke that permit, if issued, revoke the
20 person's commercial fishing license that was issued pursuant to
21 Section 7850 for a period of not less than five years, and revoke
22 the commercial boat registration for a period of not less than five
23 years of any vessel registered to that person pursuant to Section
24 7881 of which that person is the owner.

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

29 SEC. 7. Section 8280.2 of the Fish and Game Code is
30 amended to read:

31 8280.2. (a) The owner of a Dungeness crab vessel, for
32 purposes of this section, may include a person with a bona fide
33 contract for the purchase of a vessel who otherwise meets all
34 other qualifications for a Dungeness crab vessel permit. If a
35 contract is found to be fraudulent or written or entered into for
36 the purposes of circumventing qualification criteria for the
37 issuance of a permit, the applicant shall be permanently ineligible
38 for a Dungeness crab vessel permit.

39 (b) A Dungeness crab vessel permit shall be issued only to the
40 person owning the vessel at the time of application for that

1 permit. No person shall be issued more than one permit for each
2 vessel owned by that person and qualifying for a permit pursuant
3 to Section 8280.1.

4 (c) A Dungeness crab vessel permit shall be issued only to the
5 owner of a vessel taking crab by traps. No permit shall be issued
6 to the owner of a vessel using trawl or other nets unless the
7 owner of that vessel qualifies for a permit pursuant to paragraph
8 (1) of subdivision (b) of Section 8280.1. No trawl or other net
9 vessel authorized under this code to take Dungeness crab
10 incidental to the taking of fish in trawl or other nets shall be
11 required to possess a Dungeness crab vessel permit.

12 (d) Dungeness crab vessel permits shall not be combined or
13 otherwise aggregated for the purpose of replacing smaller vessels
14 in the fishery with a larger vessel, and a permit shall not be
15 divided or otherwise separated for the purpose of replacing a
16 vessel in the fishery with two or more smaller vessels.

17 (e) Applications for renewal of all Dungeness crab vessel
18 permits shall be received by the department, or, if mailed,
19 postmarked, by April 30 of each year. In order for a vessel to
20 retain eligibility, a permit shall be obtained each year subsequent
21 to the initial permit year and the vessel shall be registered
22 pursuant to Section 7881. The vessel owner shall have a valid
23 commercial fishing license issued to that person pursuant to
24 Section 7852 that has not been suspended or revoked. No
25 minimum landings of Dungeness crab shall be required annually
26 to be eligible for a Dungeness crab vessel permit.

27 (f) This section shall become inoperative on April 1, 2012,
28 and, as of January 1, 2013, is repealed, unless a later enacted
29 statute that is enacted before January 1, 2013, deletes or extends
30 the dates on which it becomes inoperative and is repealed.

31 SEC. 8. Section 8280.3 of the Fish and Game Code is
32 amended to read:

33 8280.3. (a) Notwithstanding Article 9 (commencing with
34 Section 8100) of Chapter 1 and except as provided in this
35 section, a Dungeness crab vessel permit shall not be transferred.

36 (1) The owner of a vessel to whom a Dungeness crab vessel
37 permit has been issued shall transfer the permit for the use of that
38 vessel upon the sale of the vessel by the permitholder to the
39 person purchasing the vessel. Thereafter, upon notice to the
40 department, the person purchasing the vessel may use the vessel

1 for the taking and landing of Dungeness crab for any and all of
2 the unexpired portion of the permit year, and that person is
3 eligible for a permit pursuant to Section 8280.1 for the use of that
4 vessel in subsequent years. The person purchasing the vessel may
5 not transfer the permit for use of that vessel in the Dungeness
6 crab fishery to another replacement vessel during the same
7 permit year.

8 (2) The owner of a vessel to whom the Dungeness crab vessel
9 permit has been issued may transfer the permit to a replacement
10 vessel of equivalent capacity, except as specified in this section.
11 Thereafter, upon notice to the department and payment of the
12 transfer fee specified in Section 8280.6, the replacement vessel
13 may be used for the taking and landing of Dungeness crab for
14 any and all of the unexpired portion of the permit year and that
15 person is eligible for a permit pursuant to Section 8280.1 for the
16 use of that replacement vessel in subsequent years.

17 The owner of a permitted vessel may transfer the permit to a
18 vessel of greater capacity that was owned by that person on or
19 before November 15, 1995, not to exceed 10 feet longer in length
20 overall than the vessel for which the permit was originally issued
21 or to a vessel of greater capacity purchased after November 15,
22 1995, not to exceed five feet longer in length overall than the
23 vessel for which the permit was originally issued.

24 The department, upon recommendation of the Dungeness crab
25 review panel, may authorize the owner of a permitted vessel to
26 transfer the permit to a replacement vessel that was owned by
27 that person on or before April 1, 1996, that does not fish with
28 trawl nets that is greater than five feet longer in length overall
29 than the vessel for which the permit was originally issued, if all
30 of the following conditions are satisfied:

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

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

36 (C) The permit for the vessel from which the permit is to be
37 transferred qualified pursuant to paragraph (1) of subdivision (b)
38 of Section 8280.1.

39 (D) The vessel to which the permit is to be transferred does
40 not exceed 20 feet longer in length overall than the vessel for

1 which the permit was originally issued and the vessel to which
2 the permit is to be transferred does not exceed 60 feet in overall
3 length.

4 No transfer of a permit to a larger vessel shall be allowed more
5 than one time. If a permit is transferred to a larger vessel, any
6 Dungeness crab vessel permit for that permit year or any
7 subsequent permit years for that larger vessel may not be
8 transferred to another larger vessel. The department shall not
9 thereafter issue a Dungeness crab vessel permit for the use of the
10 original vessel from which the permit was transferred, except that
11 the original vessel may be used to take or land Dungeness crab
12 after that transfer if its use is authorized pursuant to another
13 Dungeness crab vessel permit subsequently transferred to that
14 vessel pursuant to this paragraph.

15 (3) Upon the written approval of the department, the owner of
16 a vessel to whom the Dungeness crab vessel permit has been
17 issued may temporarily transfer the permit to another
18 replacement vessel, for which use in the Dungeness crab fishery
19 is not permitted pursuant to this section or Section 8280.1, for a
20 period of not more than six months during the current permit year
21 if the vessel for which the permit was issued is seriously
22 damaged, suffers major mechanical breakdown, or is lost or
23 destroyed, as determined by the department, upon approval of the
24 director. The owner of the vessel shall submit proof that the
25 department may reasonably require to establish the existence of
26 the conditions of this paragraph. Upon approval by the director,
27 the owner of a lost or destroyed vessel granted a six-month
28 temporary transfer under this section may be granted an
29 additional six-month extension of the temporary transfer.

30 (4) Upon written approval of the department, the owner of a
31 vessel to whom the Dungeness crab vessel permit has been
32 issued may retain that permit upon the sale of that permitted
33 vessel for the purpose of transferring the permit to another vessel
34 to be purchased by that individual within one year of the time of
35 sale of the vessel for which the permit was originally issued if the
36 requirements of this section are satisfied, including the payment
37 of transfer fees. If the permit is not transferred to a new vessel
38 owned by the person to whom the vessel permit was originally
39 issued within one year of the sale of the vessel for which it was
40 originally issued, or if the person does not retain ownership of

1 the new vessel to which the permit is transferred for a period of
2 not less than one year, the permit shall be revoked.

3 (5) In the event of the death or incapacity of a permitholder,
4 the permit shall be transferred, upon application, to the heirs or
5 assigns, or to the working partner, of the permitholder, together
6 with the transfer of the vessel for which the permit was issued,
7 and the new owner may continue to operate the vessel under the
8 permit, renew the permit, or transfer the permit upon sale of the
9 vessel pursuant to paragraph (1).

10 (b) This section shall become inoperative on April 1, 2012,
11 and, as of January 1, 2013, is repealed, unless a later enacted
12 statute that is enacted before January 1, 2013, deletes or extends
13 the dates on which it becomes inoperative and is repealed.

14 SEC. 9. Section 8280.4 of the Fish and Game Code is
15 amended to read:

16 8280.4. (a) The commission may revoke the commercial
17 fishing license issued pursuant to Section 7852 of any person
18 owning a fishing vessel engaging in the taking or landing of
19 Dungeness crab by traps for which that person has not obtained a
20 Dungeness crab vessel permit, and the commission may revoke
21 the registration, issued pursuant to Section 7881, for that vessel.

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

26 SEC. 10. Section 8280.5 of the Fish and Game Code is
27 amended to read:

28 8280.5. (a) The director shall convene a Dungeness crab
29 review panel for all of the following purposes:

30 (1) Reviewing applications for Dungeness crab vessel permits
31 pursuant to paragraphs (2) and (4) of subdivision (b) of Section
32 8280.1.

33 (2) Reviewing applications for permit transfers pursuant to
34 Section 8280.3 if the department determines that the additional
35 review and advice of the panel will be helpful in deciding
36 whether to issue a permit or approve a transfer.

37 (3) Advising the commission and the department on the
38 establishment and implementation of the Dungeness crab fishery
39 regulations authorized to be adopted pursuant to Section 8276.1
40 and subdivisions (c) and (d) of Section 8280.8, including

1 recommendations for any necessary changes that should be
2 instituted to better regulate and sustain the fishery.

3 (b) The panel shall consist of one nonvoting representative of
4 the department and three public voting members selected by the
5 director to represent the Dungeness crab fishing industry. One
6 public member shall be licensed pursuant to Article 7
7 (commencing with Section 8030) of Chapter 1 and active in
8 Dungeness crab processing in this state. Two public members
9 shall be licensed pursuant to Section 7852, one from Sonoma
10 County or a county south of Sonoma County, and one from
11 Mendocino County or a county north of Mendocino County, and
12 active in the taking and landing of Dungeness crab in this state.
13 The public members shall be reimbursed for their necessary and
14 proper expenses to participate on the panel. A public member
15 shall serve on the panel for not more than four consecutive years.

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

18 (d) The panel shall review each application for a *Dungeness*
19 *crab vessel* permit or permit transfer referred to it by the
20 department and shall consider all oral and written evidence
21 presented by the applicant that is pertinent to the application
22 under review. If the panel recommends issuance of a permit or
23 approval of the transfer, the department may issue a Dungeness
24 crab vessel permit pursuant to Section 8280.1 or approve a
25 permit transfer pursuant to Section 8280.3.

26 (e) All appeals of denials of Dungeness crab vessel permits
27 shall be made to the commission and may be heard by the
28 commission if the appeal of denial is filed in writing with the
29 commission not later than 90 days from the date of a permit
30 denial. The commission may order the department to issue a
31 *Dungeness crab vessel* permit upon appeal if the commission
32 finds that the appellant qualified for a permit under this chapter.

33 (f) The panel shall, not later than January 1, 2008, and
34 annually thereafter, issue a report to the director, the commission,
35 and the Joint Committee on Fisheries and Aquaculture, on the
36 Dungeness crab fishery and any recommendations on its
37 management, including, but not limited to, effort limitations, gear
38 specifications, and matters related to the quality or safety of
39 Dungeness crab, and the necessity of any biological studies of
40 Dungeness crab or their habitats.

1 (g) This section shall become inoperative on April 1, 2012,
2 and, as of January 1, 2013, is repealed, unless a later enacted
3 statute that is enacted before January 1, 2013, deletes or extends
4 the dates on which it becomes inoperative and is repealed.

5 SEC. 11. Section 8280.6 of the Fish and Game Code is
6 amended to read:

7 8280.6. (a) The department shall charge a fee for each
8 Dungeness crab vessel permit of two hundred dollars (\$200) for
9 a resident of California and four hundred dollars (\$400) for a
10 nonresident of California.

11 (b) The department shall charge a nonrefundable fee of two
12 hundred dollars (\$200) for each transfer of a *Dungeness crab*
13 *vessel* permit authorized pursuant to paragraph (2), (4), or (5) of
14 subdivision (a) of Section 8280.3.

15 (c) This section shall become inoperative on April 1, 2012,
16 and, as of January 1, 2013, is repealed, unless a later enacted
17 statute that is enacted before January 1, 2013, deletes or extends
18 the dates on which it becomes inoperative and is repealed.

19 SEC. 12. Section 8280.8 is added to the Fish and Game Code,
20 to read:

21 8280.8. (a) No person operating a vessel pursuant to Section
22 8280.1 for the commercial take of Dungeness crab shall utilize
23 more than 250 traps during a season, except in Districts 6, 7, 8,
24 and 9 where the limitation on the number of Dungeness crab
25 traps shall not apply.

26 (b) No owner of a vessel permitted pursuant to Section 8280.1
27 shall utilize that permit for the take of Dungeness crab on board a
28 vessel owned by another person that is also permitted pursuant to
29 Section 8280.1 for the take of Dungeness crab.

30 (c) On or after March 15, 2008, the commission shall,
31 following the best available scientific and biological analysis,
32 consider recommendations from the department, the Dungeness
33 crab review panel, the public, and Dungeness crab vessel
34 permitholders on whether to take any of the following actions:

35 (1) Increase or decrease the trap limit.

36 (2) Terminate the operation of the ~~250-trap~~ 250-trap limit after
37 June 30, 2008.

38 (3) Make any other modifications of the operation of the ~~250~~
39 ~~trap~~ 250-trap limit.

1 (d) ~~The~~ *Notwithstanding Section 8280.6*, the commission shall,
2 after consultation with the department, the Dungeness crab
3 review panel, and Dungeness crab vessel permitholders, either
4 adjust the *Dungeness* crab vessel permit fee for persons taking
5 crab in and south of District 10, or establish a landing fee or
6 vessel stamp, as the commission determines necessary, to cover
7 all reasonable costs incurred by the department in administering
8 and enforcing the provisions of this section. In adjusting or
9 establishing fees or vessel stamps pursuant to this subdivision,
10 the commission shall take into account the permit fees currently
11 paid by *Dungeness* crab vessel owners pursuant to Section
12 8280.1.

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

15 12002. (a) Unless otherwise provided, the punishment for a
16 violation of this code that is a misdemeanor is a fine of not more
17 than one thousand dollars (\$1,000), imprisonment in the county
18 jail for not more than six months, or both the fine and
19 imprisonment.

20 (b) The punishment for a violation of any of the following
21 provisions is a fine of not more than two thousand dollars
22 (\$2,000), imprisonment in the county jail for not more than one
23 year, or both the fine and imprisonment:

24 (1) Section 1059.

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

26 (3) Section 4600.

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

28 (5) A first violation of Section 8670.

29 (6) Section 10500.

30 (7) Section 3005.9.

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

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

35 (c) Except as specified in Sections 12001 and 12010, the
36 punishment for a violation of Section 3503, 3503.5, 3513, 3800,
37 or 8280.8 is a fine of not more than five thousand dollars
38 (\$5,000), imprisonment in the county jail for not more than six
39 months, or both ~~that fine and that~~ *the fine and* imprisonment. A
40 second violation of Section 8280.8 shall result in the permanent

1 revocation of a Dungeness crab *vessel* permit issued pursuant to
2 Section 8280.1 and a revocation of a commercial fishing license
3 for a period of not less than five years.

4 (d) (1) A license or permit issued pursuant to this code to a
5 defendant who fails to appear at a court hearing for a violation of
6 this code, or who fails to pay a fine imposed pursuant to this
7 code, shall be immediately suspended. The license or permit shall
8 not be reinstated or renewed, and no other license or permit shall
9 be issued to that person pursuant to this code, until the court
10 proceeding is completed or the fine is paid.

11 (2) This subdivision does not apply to any violation of Section
12 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454,
13 6650, or 6653.5.

14 SEC. 14. No reimbursement is required by this act pursuant
15 to Section 6 of Article XIII B of the California Constitution
16 because the only costs that may be incurred by a local agency or
17 school district will be incurred because this act creates a new
18 crime or infraction, eliminates a crime or infraction, or changes
19 the penalty for a crime or infraction, within the meaning of
20 Section 17556 of the Government Code, or changes the
21 definition of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.