

Assembly Bill No. 749

Passed the Assembly September 7, 2005

Chief Clerk of the Assembly

Passed the Senate September 6, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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crab vessel permits, and the opening of the Dungeness crab fishery shall become inoperative on April 1, 2006, and are repealed as of January 1, 2007, unless a later enacted statute deletes or extends the dates that those provisions become inoperative and are repealed.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crab fishery to specify that the provisions shall become inoperative on April 1, 2012, and as of January 1, 2013, are repealed.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 taking 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 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 to the 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 in and to the south of District 10 until the commission adopts another limit on the number of traps or other regulations to control efforts, 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.

The people of the State of California do enact as follows:

SECTION 1. Section 8276.1 is added to the Fish and Game Code, to read:

8276.1. The commission may, following the best available scientific and biological analysis, public discussion, and consideration of alternative management measures, adopt regulations as may reasonably be necessary to ensure the protection of the Dungeness crab resource and to provide for an orderly Dungeness crab fishery, based on recommendations from the department and the Dungeness crab review panel.

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

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

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

(c) The director shall order the opening of the Dungeness crab fishing season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in subdivision (b) indicate that the

Dungeness crabs are not soft-shelled or low quality. The entity authorized to conduct the approved testing program may test, or cause to be tested, crabs taken for quality and soft shells pursuant to the approved testing program. If the tests are conducted on or about November 1 and result in a finding that the Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program. If the second test results in a finding that the Dungeness crabs are soft-shelled or low quality, the director may order the season opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1. If the third test results in a finding that the Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure may continue to be followed, except that no tests shall be conducted after January 1 for that season, and the season opening shall not be delayed by the director later than January 15.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Legislature that a trap limit of 250 should be made applicable in and to the south of District 10 to avoid an increase in the total number of traps utilized until the commission, following the best available scientific and biological analysis, public discussion, and consideration of alternative management measures, adopts another limit on the number of traps or other regulations to control effort, based on recommendations from the department and the Dungeness crab review panel.

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

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

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

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

(2) A person who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab fishing seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section

8046, who the department finds to have been unable, due to illness or injury or any other hardship, to make a minimum of four landings in each of two of the previous three Dungeness crab fishing seasons, and who, in good faith, intended to participate in the Dungeness crab fishery in those seasons.

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

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

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

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

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

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

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

becomes the owner of another vessel permitted to operate in the Dungeness crab fishery pursuant to this section.

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

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

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

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

(g) If any person submits false information for the purposes of obtaining a Dungeness crab vessel permit under this section, the department shall revoke that permit, if issued, revoke the person's commercial fishing license that was issued pursuant to

Section 7850 for a period of not less than five years, and revoke the commercial boat registration for a period of not less than five years of any vessel registered to that person pursuant to Section 7881 of which that person is the owner.

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

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

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

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

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

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

(e) Applications for renewal of all Dungeness crab vessel permits shall be received by the department, or, if mailed, postmarked, by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each year subsequent

to the initial permit year and the vessel shall be registered pursuant to Section 7881. The vessel owner shall have a valid commercial fishing license issued to that person pursuant to Section 7852 that has not been suspended or revoked. No minimum landings of Dungeness crab shall be required annually to be eligible for a Dungeness crab vessel permit.

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

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

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

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

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

The owner of a permitted vessel may transfer the permit to a vessel of greater capacity that was owned by that person on or before November 15, 1995, not to exceed 10 feet longer in length overall than the vessel for which the permit was originally issued

or to a vessel of greater capacity purchased after November 15, 1995, not to exceed five feet longer in length overall than the vessel for which the permit was originally issued.

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

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

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

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

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

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

(3) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may temporarily transfer the permit to another replacement vessel, for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1, for a period of not more than six months during the current permit year

if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed, as determined by the department, upon approval of the director. The owner of the vessel shall submit proof that the department may reasonably require to establish the existence of the conditions of this paragraph. Upon approval by the director, the owner of a lost or destroyed vessel granted a six-month temporary transfer under this section may be granted an additional six-month extension of the temporary transfer.

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

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

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

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

8280.4. (a) The commission may revoke the commercial fishing license issued pursuant to Section 7852 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a

Dungeness crab vessel permit, and the commission may revoke the registration, issued pursuant to Section 7881, for that vessel.

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

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

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

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

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

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

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

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

(d) The panel shall review each application for a Dungeness crab vessel permit or permit transfer referred to it by the

department and shall consider all oral and written evidence presented by the applicant that is pertinent to the application under review. If the panel recommends issuance of a permit or approval of the transfer, the department may issue a Dungeness crab vessel permit pursuant to Section 8280.1 or approve a permit transfer pursuant to Section 8280.3.

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

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

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

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

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

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

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

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

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

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

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

(1) Increase or decrease the trap limit.

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

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

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

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

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

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

- (1) Section 1059.
- (2) Subdivision (d) of Section 4004.
- (3) Section 4600.
- (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- (5) A first violation of Section 8670.
- (6) Section 10500.
- (7) Section 3005.9.
- (8) A violation of commission regulations that is discovered pursuant to Section 3005.91 or 3005.92.
- (9) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

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

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

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

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2005

Governor