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AMENDED IN SENATE JUNE 29, 2010

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AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Saldaña

February 23, 2009

An act to amend Section 9010 of, to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as amended, Saldaña. Commercial fishing: lobster management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. The base permit fee for a lobster permit is \$265.

This bill, commencing April 1, 2011, and until March 31, 2016, would impose, in addition to the permit fee, a supplemental fee of \$300, to be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit supplement revenues in the Lobster Management Enhancement Account, which the bill would create in the Fish and Game Preservation Fund. The bill would require that money in the account be expended by the department, upon appropriation by the Legislature, exclusively to fund specified projects

and programs to improve lobster sustainability and management. The bill would create a 5-member Lobster Management Enhancement Advisory Committee that would be required to meet only once during any calendar year to recommend to the department projects and programs and budgets for the expenditure of account moneys, including a plan to prioritize expenditures. ~~The bill would require the California Lobster and Trap Fishermen's Association to pay the costs associated with providing a venue for committee meetings.~~ Those lobster management enhancement provisions would be repealed on January 1, 2017.

Existing law prescribes the construction and dimensions of a wire lobster trap.

This bill would revise the prescribed dimensions of wire lobster traps, and would add provisions relating to the use of a wire to hold the escape gap in place.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California's spiny lobster fishery is an important component
- 4 of California's marine ecosystem, as well as an important source
- 5 of jobs for California fishermen and fisherwomen and food for
- 6 consumers.
- 7 (b) California's commercial and recreational lobster fishermen
- 8 and fisherwomen, primarily through associations, should participate
- 9 in the development and implementation of new approaches to
- 10 managing lobster fishing. Those approaches should be designed
- 11 to ensure economical and sustainable fishing.
- 12 (c) California's lobster fishing associations will greatly benefit
- 13 from an established mechanism that will provide a steady source
- 14 of funds for projects that promote the long-term sustainability and
- 15 improved management of the California spiny lobster fishery.
- 16 (d) Improving the sustainability of the spiny lobster fishery
- 17 through mechanisms such as development of a fishery management
- 18 plan requires far greater funding resources than the revenue
- 19 generated by this bill. Revenue generated by this bill constitutes
- 20 the permittees' contribution to the improvement of the spiny lobster

1 fishery, which must then be augmented by additional funding
2 resources to improve management of the fishery.

3 SEC. 2. Section 8254.5 is added to the Fish and Game Code,
4 to read:

5 8254.5. (a) In addition to the fee imposed pursuant to
6 subdivision (c) of Section 8254, commencing April 1, 2011, a
7 person described in subdivision (b) of Section 8254 shall also pay
8 a supplemental fee of three hundred dollars (\$300). The
9 supplemental fee shall be known as the Lobster Management
10 Enhancement Supplement. The department shall deposit Lobster
11 Management Enhancement Supplement revenues in the Lobster
12 Management Enhancement Account in the Fish and Game
13 Preservation Fund pursuant to Section 8262.

14 (b) Section 713 does not apply to the Lobster Management
15 Enhancement Supplement.

16 (c) This section shall become inoperative on March 31, 2016,
17 and, as of January 1, 2017, is repealed, unless a later enacted
18 statute, that becomes operative on or before January 1, 2017,
19 deletes or extends the dates on which it becomes inoperative and
20 is repealed.

21 SEC. 3. Article 5.5 (commencing with Section 8260) is added
22 to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code,
23 to read:

24
25 Article 5.5. Lobster Management Enhancement Supplement

26
27 8260. As used in this article:

28 (a) "Account" means the Lobster Management Enhancement
29 Account established in Section 8262.

30 (b) "Committee" means the Lobster Management Enhancement
31 Advisory Committee established pursuant to Section 8263.

32 8262. (a) Lobster Management Enhancement Supplement
33 revenues received by the department pursuant to Section 8254.5,
34 and any interest earned on those revenues, shall be deposited in
35 the Lobster Management Enhancement Account, which is hereby
36 established in the Fish and Game Preservation Fund. The money
37 in the account, upon appropriation by the Legislature, shall be
38 expended by the department exclusively for projects and programs
39 to improve lobster sustainability and management consistent with
40 subdivision (b). The department shall maintain the internal

1 accountability necessary to ensure that expenditure of funds from
2 the account is consistent with the requirements and purposes of
3 this article. The department shall annually provide to the committee
4 a full accounting of expenditures from the account and make that
5 information available to the public.

6 (b) The committee shall develop a plan that prioritizes
7 expenditures on projects and programs that support long-term
8 sustainability or improved management, or both, of the California
9 spiny lobster fishery, consistent with Section 35650 of the Public
10 Resources Code, including, but not limited to, all of the following:

11 ~~(1) Obtaining Marine Stewardship Council sustainability~~
12 ~~certification.~~

13 ~~(2) Coordination and collaboration within the fishery to help~~
14 ~~develop or improve new management approaches that optimize~~
15 ~~catch per unit effort and create incentives for ecosystem~~
16 ~~improvement.~~

17 ~~(3) Repaying loans for lobster fishery management improvement~~
18 ~~projects.~~

19 ~~(4) Conducting research leading to informed and strategic~~
20 ~~management of the fishery.~~

21 ~~(5) Contributing to the preparation of a lobster fishery~~
22 ~~management plan. Resources Code.~~

23 (c) The director shall not fund any project or program pursuant
24 to this article that the director determines to be inconsistent with
25 the priorities identified pursuant to subdivision (b) and with this
26 article.

27 (d) Nothing in this article, nor any decision of the committee,
28 shall be construed to create an obligation on the part of the
29 department to engage in a particular scientific, policy, or planning
30 effort.

31 (e) Department administrative overhead, collection, or other
32 charges shall not exceed 20 24 percent of the amount collected
33 annually in the account.

34 (f) In order to reduce department costs, the committee shall be
35 required to meet only once during any calendar year. The
36 department may call additional committee meetings as it determines
37 to be necessary.

38 ~~(g) The California Lobster and Trap Fishermen's Association~~
39 ~~shall pay the costs associated with providing a venue for committee~~
40 ~~meetings.~~

1 8263. (a) The Lobster Management Enhancement Advisory
2 Committee is hereby created, consisting of five members, as
3 follows:

4 (1) One member, with an alternate, who is representative of the
5 state's commercial lobster fishermen and fisherwomen or who is
6 a biological scientist actively involved in lobster research and who
7 is affiliated with a college or university within the state. A member
8 appointed pursuant to this paragraph and his or her alternate shall
9 be appointed by the director from licensed lobster permittees and
10 scientists who have submitted their names for consideration.

11 (2) Three members, each with an alternate, appointed by the
12 *director from a list of at least four persons submitted by the*
13 membership of the California Lobster and Trap Fishermen's
14 Association. This subdivision does not prohibit persons selected
15 pursuant to paragraph (1) from also being a member of the
16 California Lobster and Trap Fishermen's Association.

17 (3) The director, or his or her designee.

18 (b) Except for a biological scientist member appointed pursuant
19 to paragraph (1) of subdivision (a), the committee members
20 described in paragraphs (1) and (2) of subdivision (a) and their
21 alternates shall hold a valid lobster permit.

22 (c) A vote by the committee is not valid unless all five members
23 or their alternates are present to vote.

24 (d) The committee shall recommend to the department projects
25 and programs consistent with subdivision (b) of Section 8262 and
26 budgets for the expenditure of moneys received pursuant to this
27 article.

28 8264. The department may receive funds for deposit in the
29 account, for purposes of this article, from sources other than the
30 sale of commercial fishing lobster permits, including, but not
31 limited to, grants from the federal government, grants from private
32 foundations, money disbursed from court settlements, and
33 donations and bequests from individuals. Additional funds received
34 pursuant to this section shall not be deposited in the account unless
35 the person or entity providing the funds specifically designates in
36 writing, prior to or at the time of transmittal of the funds to the
37 department, that the funds are intended solely for deposit to that
38 account.

1 8265. This article shall remain in effect only until January 1,
2 2017, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, 2017, deletes or extends that date.

4 SEC. 4. Section 9010 of the Fish and Game Code is amended
5 to read:

6 9010. (a) Subject to Article 5 (commencing with Section 8250)
7 of Chapter 2, spiny lobster may be taken with lobster traps under
8 a lobster permit issued pursuant to Section 8254.

9 (b) Notwithstanding Sections 8660 and 8665, lobster traps may
10 be used in any area of the state not otherwise closed to the taking
11 of lobsters up to, but not closer than, 75 feet of any private pier,
12 wharf, jetty, breakwater, or dock.

13 (c) A wire lobster trap shall be built of rectangular wire mesh
14 with inside mesh measurement not less than $1\frac{1}{2}$ inches by $3\frac{1}{2}$
15 inches, the $3\frac{1}{2}$ -inch measurement to be parallel to the floor of the
16 trap. A wire lobster trap shall be fitted with at least one rigid
17 rectangular escape gap with an inside vertical measurement not
18 less than $2\frac{3}{8}$ inches at all points and an inside horizontal
19 measurement of not less than $11\frac{1}{2}$ inches at all points. The
20 horizontal sides of the escape gap shall be located parallel to, and
21 the escape gap within $2\frac{3}{8}$ inches of the floor on any outside wall
22 of, the rearmost chamber of the lobster trap and shall be clearly
23 accessible to the lobsters.

24 (d) Notwithstanding subdivision (c), wire may be used to hold
25 the escape gap in place that reduces the inside vertical or horizontal
26 measurement of the escape gap specified in subdivision (c), but
27 only if all of the following requirements are met:

28 (1) The overall diameter of the wire, including any coating on
29 the wire, shall measure less than the diameter of 10 gauge wire.

30 (2) A maximum of one wire wrap shall be located on each
31 vertical side of the escape gap.

32 (3) A maximum of two wire wraps shall be located on the
33 bottom horizontal side of the escape gap.

34 (4) Wire shall not be used on the top horizontal side of the
35 escape gap.

36 (5) Each wire shall be tightly wrapped against the inside surface
37 of the escape gap and shall not pass over the inside surface more
38 than once. As used in this paragraph, "tightly wrapped" means no
39 space exists at any point between the wire and the inside surface
40 of the escape gap.

- 1 (e) A lobster trap constructed of lath or other material shall have
- 2 an opening to allow a means of escape along the full length of one
- 3 side of the rearmost chamber. The escape opening shall be of a
- 4 spacing of not less than $2\frac{3}{8}$ inches, and the spacing shall be located
- 5 parallel to, and within $2\frac{3}{8}$ inches of, the floor of the lobster trap.