

AMENDED IN SENATE JUNE 15, 2009

AMENDED IN ASSEMBLY APRIL 30, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1442

Introduced by Committee on Water, Parks and Wildlife (Huffman (Chair), Fuller (Vice Chair), Arambula, Tom Berryhill, Blumenfield, Caballero, Fletcher, Bonnie Lowenthal, John A. Perez, Salas, and Yamada)

February 27, 2009

An act to amend Sections ~~1053~~, 1345, 1348, 2003, 3004, ~~3050~~, 4011, 5654, 7149.45, 8035, 8036, 8280.6, 8405.4, 12002.1, 12159, 12160, and 12161 of, and to add Sections ~~859 and 2011.5~~ 392, 393, 859, 860, ~~1050.8, 2011.5, 2020, and 12014~~ to, the Fish and Game Code, and to amend Sections 8670.3, 8670.61.5, and 8670.67 of the Government Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1442, as amended, Committee on Water, Parks and Wildlife. Fish and game: oil spills: wildlife rehabilitation.

(1) Existing law provides for reciprocal agreements with adjoining states with regard to fishing rights and law enforcement.

This bill would authorize the Director of Fish and Game, or a designated representative, to enter into reciprocal operational agreements with authorized representatives of any Oregon, Nevada, or Arizona state law enforcement agency to promote expeditious and effective law enforcement service to the public, and assistance between the members of the department and those agencies, in areas adjacent

to the borders of this state and each of the adjoining states. The bill would deem any regularly employed law enforcement officer of an Oregon, Nevada, or Arizona state law enforcement agency a peace officer in this state, if specified conditions are met.

(1)

(2) Existing law generally requires the Director of Finance to approve every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in any lesser estate or interest, unless the Legislature specifically provides that approval is not required.

This bill would authorize the Department of Fish and Game to seek and accept grants and donations from private and public organizations and agencies for the purpose of administering the Canine (K9) Program.

~~*(2) Existing law requires each person who takes birds or mammals in California to apply for, and be granted, a hunting license and requires any person who applies for a hunting license to meet specified requirements.*~~

~~*This bill would authorize the Department of Fish and Game to issue collectible, commemorative licenses to any person for purposes of promoting and supporting licensed hunting and resource conservation.*~~

(3) Existing law requires each person who takes birds or mammals in California to apply for, and be granted, a hunting license and requires any person who applies for a hunting license to meet specified requirements. Existing law requires each person 16 years of age or older who takes fish, reptiles, or amphibia in California to apply for, and be granted a fishing license and requires any person who applies for a fishing license to meet specified requirements.

This bill would authorize the department to issue collectible, commemorative licenses to any person for the purposes of promoting and supporting licensed hunting, fishing, and resource conservation. The bill would authorize the department to issue and sell fish and game warden stamps to support fish and game wardens.

(3)

(4) Existing law requires the Wildlife Conservation Board to investigate, study, and determine which streams and lakes are suitable for, or can be made suitable for, fishing, hunting, and shooting.

This bill would require the board to determine which streams and lakes are suitable for, or can be made suitable for, fishing and hunting. The bill would require the Department of Fish and Game, in determining which areas are suitable for fishing and hunting, to take into

consideration areas of the state where public access and opportunity for fishing and hunting are most needed.

(4)

(5) Existing law authorizes the Wildlife Conservation Board to authorize the Department of Fish and Game to lease degraded potential wildlife habitat real property for specified purposes to nonprofit organizations or public agencies if the lessee agrees to restore the real property to its highest possible wildlife habitat value and maintain the real property at that value.

This bill would authorize the board, during the period of lease, to require that the real property be open to the public for compatible wildlife-dependent recreational opportunities.

(6) Under existing law, except as expressly provided otherwise, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is a misdemeanor.

This bill would provide that it is unlawful to violate specific regulations adopted by the department and the commission, thereby imposing a state-mandated local program by creating new crimes.

(5)

(7) Existing law makes it unlawful to discharge any firearm or release any arrow or crossbow bolt over or across any public road or way.

This bill would make it unlawful to discharge any firearm or release any arrow or crossbow bolt over or across any public road or other established way. The bill would, except as specified, make it unlawful for a person to remove a collar from a hunting dog, as defined, without possessing written permission from the dog's owner allowing the removal of the collar.

(6)

(8) Existing law authorizes the Department of Fish and Game to issue a permit to authorize a person to offer a prize or other inducement as a reward for the taking of any game fish, as provided.

This bill would authorize the department to issue a permit to authorize a person to offer a prize or other inducement as a reward for the taking of any game species.

(7)

(9) Existing law allows specified state and federal officials to take certain mammals involved in dangerous disease outbreaks.

This bill would additionally authorize county officials to take mammals pursuant to that provision upon the approval of, and in a

manner approved by, the Director of Fish and Game, or his or her designee.

(8)

(10) Under existing law, it is unlawful for any person to fish with 2 rods without first obtaining a second-rod sport fishing validation, in addition to a valid California sport fishing license validation, and having that validation affixed to his or her valid sport fishing license. Any person who has a second-rod validation may fish with 2 rods in inland waters in any sport fishery in which the regulations of the commission provide for the taking of fish by angling, except those waters in which only artificial lures or barbless hooks may be used.

This bill would exclude the waters of the Smith River in Del Norte County from inland waters in which 2 rods can be used.

(9)

(11) Existing law exempts a licensed fish importer from the requirement to obtain a fish wholesaler's license.

This bill would revise that provision to exempt from that requirement a licensed fish importer who only purchases or obtains fish from out of state.

(10)

(12) Existing law requires the Department of Fish and Game to charge a specified fee for a Dungeness crab vessel permit or permit transfer. Existing law provides that those provisions shall become inoperative on April 1, 2010, and, as of January 1, 2011, are repealed.

This bill would extend the operation of those provisions until April 1, 2012, and would repeal those provisions on January 1, 2013.

(11)

(13) Existing law governs the sea cucumber fishery in this state. Under existing law, sea cucumbers cannot be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued by the Department of Fish and Game. The Fish and Game Commission is authorized to adopt regulations that it determines may reasonably be necessary to protect the sea cucumber resource and assure a sustainable sea cucumber fishery or to enhance enforcement activities. A violation of existing law or regulations adopted pursuant thereto is a crime. Existing law provides that those provisions shall become inoperative on April 1, 2010, and, as of January 1, 2011, are repealed.

This bill would extend the operation of those provisions until April 1, 2015, and would repeal those provisions on January 1, 2016. Because

this bill would extend the operation of the sea cucumber permit program and the regulations and thereby the crimes imposed for a violation of those provisions, the bill would create a state-mandated local program by creating new crimes.

(12)

(14) Existing law provides that the taking of a mammal or bird by a person for which a hunting license or tag, seal, or stamp is required without the person having in his or her possession the required license, tag, seal, or stamp is punishable by a fine of not less than \$250 or more than \$2,000 or as a misdemeanor, or both. Existing law authorizes a court to reduce the fine to \$50 if the person produces in court a license, tag, or stamp issued to the person and valid at the time of the person's arrest.

This bill instead would authorize a court to reduce the charge to an infraction punishable by a fine of not less than \$50 and not more than \$250 if the person produces in court a license, tag, seal, or stamp issued to the person and valid at the time of the person's arrest.

(15) *Under existing law, the violation of certain provisions of the code are subject to administrative penalties.*

This bill would authorize the department, after the expiration of the time period to appeal an administrative penalty, to apply to the clerk of the appropriate court for a judgment to collect the administrative civil penalty.

(13)

(16) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (act) generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. The act requires responsible parties, as defined, to fully mitigate adverse impacts to wildlife, fisheries, wildlife habitat, and fisheries habitat. Full mitigation is required to be provided by successfully carrying out environmental projects or funding restoration activities required by the administrator in carrying out projects. The act authorizes the administrator, if any significant wildlife rehabilitation is necessary, to require the responsible party to prepare and submit a wildlife rehabilitation plan.

This bill would revise that wildlife rehabilitation plan provision to authorize the administrator to require the responsible party to prepare

and submit to the administrator, and to implement, a wildlife rehabilitation plan.

(14)

(17) The act defines “nonpersistent oil” to mean a petroleum-based oil, such as gasoline, diesel, or jet fuel, that has specified characteristics.

This bill would delete diesel from that provision.

(15)

(18) Existing law requires the Department of Fish and Game to seize all birds, mammals, fish, reptiles, or amphibians, or any part thereof, that have been unlawfully taken, possessed, sold, imported, or transported.

This bill would revise that provision to also include plants and aquaculture animals and products, or any part thereof. The bill would make certain conforming changes to related provisions of existing law.

(16)

(19) 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 392 is added to the Fish and Game Code,
2 to read:

3 392. (a) The director, or a designated representative, may
4 enter into reciprocal operational agreements with authorized
5 representatives of any Oregon, Nevada, or Arizona state law
6 enforcement agency, including, but not limited to, the Oregon State
7 Police, the Nevada Department of Wildlife, and the Arizona Game
8 and Fish Department, to promote expeditious and effective law
9 enforcement service to the public, and assistance between the
10 members of the department and those agencies, in areas adjacent
11 to the borders of this state and each of the adjoining states pursuant
12 to Section 393.

13 (b) The reciprocal operational agreement shall be in writing
14 and may cover the reciprocal exchange of law enforcement

1 services, resources, facilities, and any other necessary and proper
2 matters between the department and the respective agency.

3 (c) Any agreement shall specify all of the following:

4 (1) The involved departments, divisions, or units of the agencies.

5 (2) The duration and purpose of the agreement.

6 (3) Responsibility for damages.

7 (4) The method of financing any joint or cooperative
8 undertaking.

9 (5) The methods to be employed to terminate an agreement.

10 (d) The director may establish operational procedures in
11 implementation of any reciprocal operational agreement that are
12 necessary to achieve the purposes of the agreement.

13 SEC. 2. Section 393 is added to the Fish and Game Code, to
14 read:

15 393. (a) Any regularly employed law enforcement officer of
16 an Oregon, Nevada, or Arizona state law enforcement agency,
17 including, but not limited to, the Oregon State Police, the Nevada
18 Department of Wildlife, or the Arizona Game and Fish Department,
19 is a peace officer in this state if all of the following conditions are
20 met:

21 (1) The officer is providing, or attempting to provide, law
22 enforcement services within this state, within a distance of up to
23 50 statute miles of the contiguous border of this state and the state
24 employing the officer, or within waters offshore of this state in the
25 Exclusive Economic Zone.

26 (2) The officer is providing, or attempting to provide, law
27 enforcement services pursuant to either of the following:

28 (A) In response to a request for services initiated by a member
29 of the department.

30 (B) In response to a reasonable belief that emergency law
31 enforcement services are necessary for the preservation of life,
32 and a request for services by a member of the Department of Fish
33 and Game is impractical to obtain under the circumstances. In
34 those situations, the officer shall obtain authorization as soon as
35 practical.

36 (3) The officer is providing, or attempting to provide, law
37 enforcement services for the purpose of assisting a member of the
38 Department of Fish and Game in response to misdemeanor or
39 felony criminal activity, pursuant to the authority of a peace officer
40 as provided in subdivision (e) of Section 830.2 of the Penal Code,

1 or, in the event of emergency incidents or other similar public
2 safety problems, whether or not a member of the department is
3 present at the scene of the event.

4 (4) An agreement pursuant to Section 392 is in effect between
5 the Department of Fish and Game and the agency of the adjoining
6 state employing the officer, the officer acts in accordance with
7 that agreement, and the agreement specifies that the officer and
8 employing agency of the adjoining state shall be subject to the
9 same civil immunities and liabilities as a peace officer and his or
10 her employing agency in this state.

11 (5) The officer receives no separate compensation from this
12 state for providing law enforcement services within this state.

13 (6) The adjoining state employing the officer confers similar
14 rights and authority upon a member of the department who renders
15 assistance within that state.

16 (b) Notwithstanding any other provision of law, any person who
17 is acting as a peace officer in this state in the manner described
18 in this section shall be deemed to have met the requirements of
19 Section 1031 of the Government Code and the selection and
20 training standards of the Commission on Peace Officer Standards
21 and Training if the officer has completed the basic training
22 required for peace officers in his or her state.

23 (c) A peace officer of an adjoining state shall not provide
24 services within a California jurisdiction during any period in which
25 officers of the department are involved in a labor dispute that
26 results in a formal work slowdown or stoppage.

27 **SECTION 1.**

28 SEC. 3. Section 859 is added to the Fish and Game Code, to
29 read:

30 859. Notwithstanding Section 11005 of the Government Code,
31 the department may seek and accept grants and donations from
32 private and public organizations and agencies for the purpose of
33 administering the Canine (K9) Program. The acceptance of
34 one-time donations valued over ~~\$15,000~~ fifteen thousand dollars
35 (\$15,000) shall require approval of the Department of Finance.

36 SEC. 4. Section 860 is added to the Fish and Game Code, to
37 read:

38 860. The department may offer for sale a fish and game warden
39 stamp to be designed and produced as the department may
40 determine. The fish and game warden stamp may be purchased

1 on a voluntary basis from the department or a licensed agent
2 authorized pursuant to Section 1055.1 for a donation of not less
3 than five dollars (\$5.00). The department may also design an
4 electronic version of the fish and game warden stamp to be offered
5 through the Automated License Data System. All revenues from
6 sales under this section shall be deposited in the Fish and Game
7 Warden Stamp Account which is hereby created in the Fish and
8 Game Preservation Fund to permit separate accountability for the
9 receipt and expenditure of these funds. Funds deposited in the Fish
10 and Game Warden Stamp Account shall used, upon appropriation,
11 to support the department's fish and game wardens.

12 SEC. 2. ~~Section 1053 of the Fish and Game Code is amended~~
13 ~~to read:~~

14 ~~1053. A person shall not obtain more than one license, permit,~~
15 ~~reservation, or other entitlement of the same class, or more than~~
16 ~~the number of tags authorized by statute or regulation for the same~~
17 ~~license year, except under one of the following conditions:~~

18 ~~(a) Licenses issued pursuant to paragraphs (4) and (5) of~~
19 ~~subdivision (a) of Section 3031, subdivision (d) of Section 3050,~~
20 ~~paragraphs (3), (4), and (5) of subdivision (a) of Section 7149, and~~
21 ~~paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05.~~

22 ~~(b) The loss or destruction of an unexpired license, tag, permit,~~
23 ~~reservation, or other entitlement as certified by the applicant's~~
24 ~~signed affidavit and proof, as determined by the department, that~~
25 ~~the original license, tag, permit, reservation, or other entitlement~~
26 ~~was issued, and payment of a base fee of five dollars (\$5), adjusted~~
27 ~~pursuant to Section 713, not to exceed the fee for the original~~
28 ~~entitlement.~~

29 ~~(c) The adjustment of the base fee pursuant to Section 713~~
30 ~~applies to the hunting license years commencing on or after July~~
31 ~~1, 1996, and the fishing license years commencing on or after~~
32 ~~January 1, 1996.~~

33 SEC. 5. *Section 1050.8 is added to the Fish and Game Code,*
34 *to read:*

35 *1050.8. (a) The department may issue collectible,*
36 *commemorative licenses to any person for purposes of promoting*
37 *and supporting licensed hunting, fishing, and resource*
38 *conservation, subject to all of the following:*

39 *(1) A commemorative license may be designed and produced*
40 *as the department may determine and shall be clearly marked and*

1 *identified as a commemorative license, rendering it invalid for the*
2 *take of any mammal, bird, fish, reptile, or amphibian.*

3 (2) *A commemorative license shall not confer any rights,*
4 *privileges, or other entitlements to any person purchasing or in*
5 *possession of such a license.*

6 (3) *Subdivision (a) of Section 1052, Section 1053, Article 2*
7 *(commencing with Section 3031) of Chapter 1 of Part 1 of Division*
8 *4, and Article 3 (commencing with Section 7145) of Chapter 1 of*
9 *Part 2 of Division 6 do not apply to the purchase of a*
10 *commemorative license. A commemorative license shall not qualify*
11 *as evidence required in subdivision (a) of Section 3050.*

12 (b) *All funds derived from the sale of commemorative licenses*
13 *shall be deposited in the Fish and Game Preservation Fund.*

14 ~~SEC. 3.~~

15 SEC. 6. Section 1345 of the Fish and Game Code is amended
16 to read:

17 1345. (a) The board shall investigate, study, and determine
18 what areas within the ~~State~~ *state* are most essential and suitable
19 for wildlife production and preservation, and will provide suitable
20 recreation; and shall ascertain and determine what lands within
21 the ~~State~~ *state* are suitable for game propagation, game refuges,
22 bird refuges, waterfowl refuges, game farms, fish hatcheries, game
23 management areas, and what streams and lakes are suitable for,
24 or can be made suitable for, fishing and hunting.

25 (b) In determining which areas are suitable for fishing and
26 hunting, the board, in consultation with the department, shall take
27 into consideration areas of the state where public access and
28 opportunity for fishing and hunting are most needed.

29 ~~SEC. 4.~~

30 SEC. 7. Section 1348 of the Fish and Game Code is amended
31 to read:

32 1348. (a) The board shall authorize the acquisition of ~~such~~
33 real property, rights in real property, water, or water rights as may
34 be necessary to carry out the purposes of this chapter. The board
35 may authorize acquisition by the department, but the department
36 shall not acquire any ~~of such~~ property *pursuant to this subdivision*
37 by eminent domain proceedings except ~~such~~ *that* property as may
38 be necessary to provide access roads or rights-of-way to areas to
39 be used for fishing the coastal waters of the Pacific Ocean, and
40 then only if the board of supervisors of the affected county has

1 agreed by resolution to those proceedings for each parcel of land,
2 and has further agreed by resolution to maintain the road or
3 right-of-way. The board may authorize acquisition by the State
4 Public Works Board, which may effect acquisitions pursuant to
5 the Property Acquisition Law, Part 11 (commencing with Section
6 15850) of Division 3 of Title 2 of the Government Code.

7 (b) For the purposes of this chapter and Chapter 4.1
8 (commencing with Section 1385), the board may authorize the
9 acquisition of interests in real property and water rights by means
10 of gifts, purchases, leases, easements, the transfer or exchange of
11 property for other property of like value, transfers of development
12 rights or credits, and purchases of development rights, conservation
13 easements, and other interests.

14 (c) To further implement this chapter and Chapter 4.1
15 (commencing with Section 1385), the board may authorize the
16 department to do any of the following:

17 (1) Accept federal grants and receive gifts, donations,
18 subventions, rents, royalties, and other financial support from
19 public or private sources. Proceeds received from any of these
20 sources shall be deposited in the Wildlife Restoration Fund.

21 (2) Notwithstanding any other provision of law, lease, sell,
22 exchange, or otherwise transfer any real property, interest in real
23 property, or option acquired by or held under the jurisdiction of
24 the board or the department. Except as provided in Section 1355,
25 proceeds from transactions entered into pursuant to this paragraph
26 shall be deposited in the Wildlife Restoration Fund.

27 (3) Lease degraded potential wildlife habitat real property to
28 nonprofit organizations, local governmental agencies, or state and
29 federal agencies if the lessee agrees to restore the real property to
30 its highest possible wildlife habitat value and maintain the real
31 property at that highest possible wildlife habitat value. If feasible,
32 during the period of lease, the board may require that the real
33 property be open to the public for compatible wildlife-dependent
34 recreational opportunities. Proceeds from any lease or rental and
35 interest thereon shall be deposited in the Wildlife Restoration Fund.

36 (4) Acquire former wildlife habitat real property, including
37 riparian habitat real property, restore and sell the real property, or
38 any interest therein, to private owners, local governmental agencies,
39 or state departments and agencies, or exchange the property for
40 other real property, if a written and recorded agreement is first

1 secured to keep and maintain the real property as wildlife habitat
2 in perpetuity. The agreement shall contain a reversion if the real
3 property sold or exchanged is not maintained as wildlife habitat.
4 The agreement containing the reversion shall be set forth in any
5 conveyance transferring any real property, interest in real property,
6 or option subject to this section. Proceeds from the sales shall be
7 deposited in the Wildlife Restoration Fund.

8 ~~SEC. 5.~~

9 *SEC. 8.* Section 2003 of the Fish and Game Code is amended
10 to read:

11 2003. (a) Except as specified in subdivisions (b), (c), and (d),
12 it is unlawful to offer any prize or other inducement as a reward
13 for the taking of any game birds, mammals, fish, reptiles, or
14 amphibians in an individual contest, tournament, or derby.

15 (b) The department may issue a permit to any person authorizing
16 that person to offer a prize or other inducement as a reward for the
17 taking of any game species, as defined by the commission by
18 regulation, if it finds that there would be no detriment to the
19 resource. The permit is subject to regulations adopted by the
20 commission. The application for the permit shall be accompanied
21 by a fee in the amount determined by the department as necessary
22 to cover the reasonable administrative costs incurred by the
23 department in issuing the permit. However, the department may
24 waive the permit fee if the contest, tournament, or derby is for
25 persons under the age of 16 years, or who are physically or
26 mentally challenged, and the primary purpose of the contest,
27 tournament, or derby is to introduce or educate them about fishing
28 or hunting. All permits for which the fee is waived pursuant to this
29 subdivision shall comply with all other requirements set forth in
30 this section.

31 (c) This section does not apply to any person conducting what
32 are generally known as frog-jumping contests or fish contests
33 conducted in waters of the Pacific Ocean.

34 (d) This section does not apply to any person conducting an
35 individual contest, tournament, or derby for the taking of game
36 birds and mammals, if the total value of all prizes or other
37 inducements is less than five hundred dollars (\$500) for the
38 individual contest, tournament, or derby.

~~SEC. 6.~~

SEC. 9. Section 2011.5 is added to the Fish and Game Code, to read:

2011.5. (a) It is unlawful for a person to remove from a hunting dog any collar, including an electronic or radio transmitting device, without possessing written permission from the dog's owner allowing the removal of the collar.

(b) As used in this section, "hunting dog" means a dog in the field actively engaged in the taking of mammals or birds, or a dog actively being trained for the taking of mammals or birds, that is located in an area where mammals or birds can be taken, at that time and place, in accordance with existing law.

(c) This section does not apply to a law enforcement officer or an animal control officer in the performance of his or her duty, or to a person who is assisting an injured dog.

SEC. 10. Section 2020 is added to the Fish and Game Code, to read:

2020. It is unlawful to violate any provision of Division 1 (commencing with Section 1.04) of Title 14 of the California Code of Regulations. Violation of such a provision may be charged as a violation of this section or of the specific section of Title 14 provision, and shall be punishable as provided in Section 12000.

~~SEC. 7.~~

SEC. 11. Section 3004 of the Fish and Game Code is amended to read:

3004. (a) It is unlawful for any person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, to hunt or to discharge while hunting, any firearm or other deadly weapon within 150 yards of any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith. The 150-yard area is a "safety zone."

(b) It is unlawful for any person to intentionally discharge any firearm or release any arrow or crossbow bolt over or across any public road or other established way open to the public, in an unsafe manner.

~~SEC. 8. Section 3050 of the Fish and Game Code is amended to read:~~

1 ~~3050. (a) A hunting license shall not be issued to any person~~
2 ~~unless he or she presents to the person authorized to issue that~~
3 ~~license any of the following:~~

4 ~~(1) Evidence that he or she has held a hunting license issued by~~
5 ~~this state in a prior year.~~

6 ~~(2) Evidence that he or she holds a current hunting license, or~~
7 ~~a hunting license issued in either of the two previous hunting years~~
8 ~~by another state or province.~~

9 ~~(3) A certificate of completion of a course in hunter education;~~
10 ~~principles of conservation, and sportsmanship, as provided in this~~
11 ~~article. A hunter education instruction validation stamp shall be~~
12 ~~permanently affixed to certificates of completion that have been~~
13 ~~issued before January 1, 2008.~~

14 ~~(4) A certificate of successful completion of a hunter education~~
15 ~~course in another state or province.~~

16 ~~(5) Evidence of completion of a course in hunter education,~~
17 ~~principles of conservation, and sportsmanship, which the~~
18 ~~commission may, by regulation, require.~~

19 ~~(b) The evidence required in subdivision (a) shall be forwarded~~
20 ~~to the department with the license agent's report of hunting license~~
21 ~~sales as required pursuant to Section 1055.5.~~

22 ~~(c) Subdivision (a) does not apply to any person purchasing a~~
23 ~~hunting license under paragraph (5) of subdivision (a) of Section~~
24 ~~3031. However, that license shall not qualify as evidence required~~
25 ~~in subdivision (a) of this section.~~

26 ~~(d) The department may issue collectible, commemorative~~
27 ~~licenses to any person for purposes of promoting and supporting~~
28 ~~licensed hunting and resource conservation, subject to all of the~~
29 ~~following:~~

30 ~~(1) A commemorative license may be designed and produced~~
31 ~~in the same image and manner of a valid hunting license, and shall~~
32 ~~be clearly marked and identified as a commemorative license;~~
33 ~~rendering it invalid for the take of any mammal or bird.~~

34 ~~(2) If a commemorative license is designed and produced in~~
35 ~~accordance with paragraph (1), that commemorative license may~~
36 ~~be obtained only after the expiration of the valid hunting license.~~

37 ~~(3) A commemorative license shall not confer any rights,~~
38 ~~privileges, or other entitlements to any person purchasing or in~~
39 ~~possession of such a license.~~

1 ~~(4) Section 3031, subdivision (a) of this section, and subdivision~~
2 ~~(a) of Section 1052 do not apply to any person purchasing a~~
3 ~~commemorative license.~~

4 ~~(5) A commemorative license shall not qualify as evidence~~
5 ~~required in subdivision (a).~~

6 ~~SEC. 9.~~

7 *SEC. 12.* Section 4011 of the Fish and Game Code is amended
8 to read:

9 4011. (a) Fur-bearing mammals, game mammals, and nongame
10 mammals, when involved in dangerous disease outbreaks, may be
11 taken by duly constituted officials of any of the following:

12 (1) The United States Department of Agriculture.

13 (2) The United States Department of the Interior.

14 (3) The United States Department of Health and Human
15 Services.

16 (4) The Department of Food and Agriculture.

17 (5) The State Department of Public Health.

18 (6) The department.

19 (b) A county official may take fur-bearing mammals, game
20 mammals, and nongame mammals pursuant to this section, upon
21 the prior approval of the director or his or her designee and in a
22 manner approved by the director or his or her designee.

23 ~~SEC. 10.~~

24 *SEC. 13.* Section 5654 of the Fish and Game Code is amended
25 to read:

26 5654. (a) (1) Notwithstanding Section 7715 and except as
27 provided in paragraph (2), the director, within 24 hours of
28 notification of a spill or discharge, as those terms are defined in
29 subdivision (ad) of Section 8670.3 of the Government Code, where
30 any fishing, including all commercial, recreational, and nonlicensed
31 subsistence fishing, may take place, or where aquaculture
32 operations are taking place, shall close to the take of all fish and
33 shellfish all waters in the vicinity of the spill or discharge or where
34 the spilled or discharged material has spread, or is likely to spread.
35 In determining where a spill or discharge is likely to spread, the
36 director shall consult with the Administrator of the Office of Spill
37 Prevention and Response. At the time of closure, the department
38 shall make all reasonable efforts to notify the public of the closure,
39 including notification to commercial and recreational fishing
40 organizations, and posting of warnings on public piers and other

1 locations where subsistence fishing is known to occur. The
2 department shall coordinate, when possible, with local and regional
3 agencies and organizations to expedite public notification.

4 (2) Closure pursuant to paragraph (1) is not required if, within
5 24 hours of notification of a spill or discharge, the Office of
6 Environmental Health Hazard Assessment finds that a public health
7 threat does not or is unlikely to exist.

8 (b) Within 48 hours of notification of a spill or discharge subject
9 to subdivision (a), the director, in consultation with the Office of
10 Environmental Health Hazard Assessment, shall make an
11 assessment and determine all of the following:

12 (1) The danger posed to the public from fishing in the area where
13 the spill or discharge occurred or spread, and the danger of
14 consuming fish taken in the area where the spill or discharge
15 occurred or spread.

16 (2) Whether the areas closed for the take of fish or shellfish
17 should be expanded to prevent any potential take or consumption
18 of any fish or shellfish that may have been contaminated by the
19 spill or discharge.

20 (3) The likely period for maintaining a closure on the take of
21 fish and shellfish in order to prevent any possible contaminated
22 fish or shellfish from being taken or consumed or other threats to
23 human health.

24 (c) Within 48 hours after receiving notification of a spill or
25 discharge subject to subdivision (a), or as soon as is feasible, the
26 director, in consultation with the Office of Environmental Health
27 Hazard Assessment, shall assess and determine the potential danger
28 from consuming fish that have been contained in a recirculating
29 seawater tank onboard a vessel that may become contaminated by
30 the vessel's movement through an area where the spill or discharge
31 occurred or spread.

32 (d) If the director finds in his or her assessment pursuant to
33 subdivision (b) that there is no significant risk to the public or to
34 the fisheries, the director may immediately reopen the closed area
35 and waive the testing requirements of subdivisions (e) and (f).

36 (e) Except under the conditions specified in subdivision (d),
37 after complying with subdivisions (a) and (b), the director, in
38 consultation with the Office of Environmental Health Hazard
39 Assessment, but in no event more than seven days from the
40 notification of the spill or discharge, shall order expedited tests of

1 fish and shellfish that would have been open for take for
2 commercial, recreational, or subsistence purposes in the closed
3 area if not for the closure, to determine the levels of contamination,
4 if any, and whether the fish or shellfish is safe for human
5 consumption.

6 (f) (1) Within 24 hours of receiving a notification from the
7 Office of Environmental Health Hazard Assessment that no threat
8 to human health exists from the spill or discharge or that no
9 contaminant from the spill or discharge is present that could
10 contaminate fish or shellfish, the director shall reopen the areas
11 closed pursuant to this section. The director may maintain a closure
12 in any remaining portion of the closed area where the Office of
13 Environmental Health Hazard Assessment finds contamination
14 from the spill or discharge persists that may adversely affect human
15 health.

16 (2) The director, in consultation with the commission, may also
17 maintain a closure in any remaining portion of the closed area
18 where commercial fishing or aquaculture occurs and where the
19 department determines, pursuant to this paragraph, that
20 contamination from the spill or discharge persists that may cause
21 the waste of commercial fish or shellfish as regulated by Section
22 7701.

23 (g) To the extent feasible, the director shall consult with
24 representatives of commercial and recreational fishing associations
25 and subsistence fishing communities regarding the extent and
26 duration of a closure, testing protocols, and findings. If a spill or
27 discharge occurs within the lands governed by a Native American
28 tribe or affects waters flowing through tribal lands, or tribal
29 fisheries, the director shall consult with the affected tribal
30 governments.

31 (h) The director shall seek full reimbursement from the
32 responsible party or parties for the spill or discharge for all
33 reasonable costs incurred by the department in carrying out this
34 section, including, but not limited to, all testing.

35 ~~SEC. 11.~~

36 *SEC. 14.* Section 7149.45 of the Fish and Game Code is
37 amended to read:

38 7149.45. (a) It is unlawful for any person to fish with two rods
39 without first obtaining a second-rod sport fishing validation, in
40 addition to a valid California sport fishing license validation, and

1 having that validation affixed to his or her valid sport fishing
2 license. Any person who has a valid second-rod sport fishing
3 validation affixed to his or her valid sport fishing license may fish
4 with two rods in inland waters in any sport fishery in which the
5 regulations of the commission provide for the taking of fish by
6 angling, except those waters in which only artificial lures or
7 barbless hooks may be used and the waters of the Smith River in
8 Del Norte County.

9 (b) The department or an authorized license agent shall issue a
10 second-rod sport fishing validation upon payment of a base fee of
11 seven dollars and fifty cents (\$7.50) during the 1995 calendar year
12 and subsequent years, as adjusted under Section 713.

13 (c) This section applies only to licenses, permits, reservations,
14 tags, and other entitlements issued through the Automated License
15 Data System.

16 ~~SEC. 12:~~

17 *SEC. 15.* Section 8035 of the Fish and Game Code is amended
18 to read:

19 8035. (a) Except for a person exempt under Section 8030, any
20 person who, for the purpose of resale to other than the ultimate
21 consumer, purchases or obtains fish from another person, who is
22 required to be licensed as a fish receiver, fish processor, fish
23 importer, or fish wholesaler under this article, shall obtain a fish
24 wholesaler's license.

25 (b) The annual fee for a fish wholesaler's license is three
26 hundred seventy-one dollars (\$371).

27 (c) This section does not apply to either of the following:

28 (1) Persons required to have a marine aquaria receiver's license
29 pursuant to Section 8033.1.

30 (2) Persons licensed pursuant to Section 8036 who only purchase
31 or obtain fish from outside this state.

32 ~~SEC. 13:~~

33 *SEC. 16.* Section 8036 of the Fish and Game Code is amended
34 to read:

35 8036. (a) Any person who purchases or receives fish, ~~which~~
36 *that* are taken outside of this state and brought into this state by a
37 person who is not a licensed commercial fisherman, for the purpose
38 of resale to other than the ultimate consumer, shall obtain a fish
39 importer's license. The annual fee for a fish importer's license is
40 five hundred forty-nine dollars (\$549).

1 (b) Any person who, for the purpose of resale to other than the
2 ultimate consumer, purchases or obtains fish within California in
3 addition to fish that are purchased, obtained, or taken outside of
4 the state, shall obtain both a wholesaler's license pursuant to
5 Section 8035 and an importer's license pursuant to this section.

6 ~~SEC. 14.~~

7 *SEC. 17.* Section 8280.6 of the Fish and Game Code is amended
8 to read:

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

13 (b) The department shall charge a nonrefundable fee of two
14 hundred dollars (\$200) for each transfer of a permit authorized
15 pursuant to paragraph (2), (4), or (5) of subdivision (a) of Section
16 8280.3.

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

21 ~~SEC. 15.~~

22 *SEC. 18.* Section 8405.4 of the Fish and Game Code is amended
23 to read:

24 8405.4. This article shall become inoperative on April 1, 2015,
25 and as of January 1, 2016, is repealed, unless a later enacted statute
26 that is enacted before January 1, 2016, deletes or extends the dates
27 on which it becomes inoperative and is repealed.

28 ~~SEC. 16.~~

29 *SEC. 19.* Section 12002.1 of the Fish and Game Code is
30 amended to read:

31 12002.1. (a) Notwithstanding Section 12002, the punishment
32 for taking a mammal or bird for which a hunting license issued
33 pursuant to Section 3031 is required or a tag, seal, or stamp is
34 required, including a deer tag issued pursuant to Section 3407,
35 without having in one's possession the required valid license, or
36 without having in one's possession any required tag, seal, or stamp,
37 or when the taking of that mammal or bird is prohibited by
38 allowable season, limit, time, or area, is punishable by a fine of
39 not less than two hundred fifty dollars (\$250) or more than two
40 thousand dollars (\$2,000), or imprisonment in the county jail for

1 not more than one year, or by both that fine and imprisonment, or
2 by any greater punishment prescribed by this code.

3 (b) If a person is charged with an offense described in
4 subdivision (a) and produces in court a license, tag, seal, or stamp,
5 issued to the person and valid at the time of the person's arrest and
6 if the taking was otherwise lawful with respect to season, limit,
7 time, and area, the court may reduce the charge to an infraction
8 punishable by a fine of not less than fifty dollars (\$50) and not
9 more than two hundred fifty dollars (\$250).

10 *SEC. 20. Section 12014 is added to the Fish and Game Code,*
11 *to read:*

12 *12014. After the expiration of the time period to appeal an*
13 *administrative penalty imposed pursuant to Section 2301, 2302,*
14 *2582, or 2583, or any other provision of this code, the department*
15 *may apply to the clerk of the appropriate court for a judgment to*
16 *collect the administrative civil penalty. The application, including*
17 *a certified copy of the order imposing the civil penalty, a hearing*
18 *officer's decision, if any, or a settlement agreement, if any, shall*
19 *constitute a sufficient showing to warrant issuance of the judgment.*
20 *The court clerk shall enter the judgment immediately in conformity*
21 *with the application. The judgment so entered has the same force*
22 *and effect as, and is subject to all the provisions of law relating*
23 *to, a judgment in a civil action, and may be enforced in the same*
24 *manner as any other judgment of the court in which it is entered.*

25 ~~SEC. 17.~~

26 *SEC. 21. Section 12159 of the Fish and Game Code is amended*
27 *to read:*

28 *12159. All birds, mammals, fish, reptiles, aquaculture animals*
29 *and products, plants, or amphibians, or any part thereof, which*
30 *have been taken, possessed, sold, imported, or transported contrary*
31 *to any of the laws of this state shall be seized by the department,*
32 *and, in accordance with the commission's regulations,*
33 *notice of seizure shall be given to the person who had possession*
34 *of the birds, mammals, fish, reptiles, aquaculture animals and*
35 *products, plants, or amphibians, or any part thereof, at the time of*
36 *the seizure if that person is known.*

37 ~~SEC. 18.~~

38 *SEC. 22. Section 12160 of the Fish and Game Code is amended*
39 *to read:*

12160. All birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or any part thereof, seized in accordance with Section 12159, the sale of which is not prohibited and which have a current market value of one hundred dollars (\$100) or more, shall be packed, preserved, sold for bait, used for fish food in state-owned fish hatcheries, or otherwise put to economical use immediately upon seizure, at the prevailing market price for legal birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians in effect on the date of seizure. Any proceeds thereof shall be placed in the Fish and Game Preservation ~~fund~~ *Fund*. If the person from whom such birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians were seized is not convicted in a court of competent jurisdiction for the offense out of which the seizure arose, then and in that event the proceeds shall be returned to that person.

~~SEC. 19.~~

SEC. 23. Section 12161 of the Fish and Game Code is amended to read:

12161. The judge before whom any person is tried for taking, possessing, selling, importing, or transporting birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians or parts thereof contrary to the laws of this state shall upon the conviction of the accused make an order forfeiting and disposing of the birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or parts thereof, in accordance with the provisions of Section 12160. However, if the birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or parts thereof may not be sold lawfully or have a current market value of less than one hundred dollars (\$100), the judge may at his *or her* discretion order that they be donated to a state, county, city, or any charitable institution, or that they be destroyed.

~~SEC. 20.~~

SEC. 24. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) (1) “Best achievable protection” means the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator’s determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering all of the following:

(A) The protection provided by the measure.

(B) The technological achievability of the measure.

(C) The cost of the measure.

(2) The administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(c) (1) “Best achievable technology” means that technology that provides the greatest degree of protection, taking into consideration both of the following:

(A) Processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development.

(B) Processes that are currently in use anywhere in the world.

(2) In determining what is the best achievable technology pursuant to this chapter, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(d) “Dedicated response resources” means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the timeframes for which the equipment and personnel are rated.

(e) “Director” means the Director of Fish and Game.

(f) “Environmentally sensitive area” means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

1 (g) “Inland spill” means a release of at least one barrel (42
2 gallons) of oil into inland waters that is not authorized by any
3 federal, state, or local governmental entity.

4 (h) “Inland waters” means waters of the state other than marine
5 waters, but not including groundwater.

6 (i) “Local government” means a chartered or general law city,
7 a chartered or general law county, or a city and county.

8 (j) (1) “Marine facility” means any facility of any kind, other
9 than a tank ship or tank barge, that is or was used for the purposes
10 of exploring for, drilling for, producing, storing, handling,
11 transferring, processing, refining, or transporting oil and is located
12 in marine waters, or is located where a discharge could impact
13 marine waters unless the facility is either of the following:

14 (A) Subject to Chapter 6.67 (commencing with Section 25270)
15 or Chapter 6.75 (commencing with Section 25299.10) of Division
16 20 of the Health and Safety Code.

17 (B) Placed on a farm, nursery, logging site, or construction site
18 and does not exceed 20,000 gallons in a single storage tank.

19 (2) For the purposes of this chapter, “marine facility” includes
20 a drill ship, semisubmersible drilling platform, jack-up type drilling
21 rig, or any other floating or temporary drilling platform.

22 (3) For the purposes of this chapter, “marine facility” does not
23 include a small craft refueling dock.

24 (k) (1) “Marine terminal” means any marine facility used for
25 transferring oil to or from a tank ship or tank barge.

26 (2) “Marine terminal” includes, for purposes of this chapter, all
27 piping not integrally connected to a tank facility, as defined in
28 subdivision (m) of Section 25270.2 of the Health and Safety Code.

29 (l) “Marine waters” means those waters subject to tidal
30 influence, and includes the waterways used for waterborne
31 commercial vessel traffic to the Port of Sacramento and the Port
32 of Stockton.

33 (m) “Mobile transfer unit” means a small marine fueling facility
34 that is a vehicle, truck, or trailer, including all connecting hoses
35 and piping, used for the transferring of oil at a location where a
36 discharge could impact marine waters.

37 (n) “Nondedicated response resources” means those response
38 resources identified by an Oil Spill Response Organization for oil
39 spill response activities that are not dedicated response resources.

(o) “Nonpersistent oil” means a petroleum-based oil, such as gasoline or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of ~~645°~~ *645 degrees* Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of ~~700°~~ *700 degrees* Fahrenheit.

(p) “Nontank vessel” means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.

(q) “Oil” means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(r) “Oil spill cleanup agent” means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(s) “Oil spill contingency plan” or “contingency plan” means the oil spill contingency plan required pursuant to Article 5 (commencing with Section 8670.28).

(t) (1) “Oil Spill Response Organization” or “OSRO” means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(2) A “rated OSRO” means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

(3) “OSRO” does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(u) “Onshore facility” means a facility of any kind that is located entirely on lands not covered by marine waters.

(v) (1) “Owner” or “operator” means any of the following:

(A) In the case of a vessel, a person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, a person who owns, has an ownership interest in, or operates the marine facility.

1 (C) Except as provided in subparagraph (D), in the case of a
2 vessel or marine facility, where title or control was conveyed due
3 to bankruptcy, foreclosure, tax delinquency, abandonment, or
4 similar means to an entity of state or local government, a person
5 who owned, held an ownership interest in, operated, or otherwise
6 controlled activities concerning the vessel or marine facility
7 immediately beforehand.

8 (D) An entity of the state or local government that acquired
9 ownership or control of a vessel or marine facility, when the entity
10 of the state or local government has caused or contributed to a spill
11 or discharge of oil into marine waters.

12 (2) "Owner" or "operator" does not include a person who,
13 without participating in the management of a vessel or marine
14 facility, holds indicia of ownership primarily to protect the person's
15 security interest in the vessel or marine facility.

16 (3) "Operator" does not include a person who owns the land
17 underlying a marine facility or the facility itself if the person is
18 not involved in the operations of the facility.

19 (w) "Person" means an individual, trust, firm, joint stock
20 company, or corporation, including, but not limited to, a
21 government corporation, partnership, and association. "Person"
22 also includes a city, county, city and county, district, and the state
23 or any department or agency thereof, and the federal government,
24 or any department or agency thereof, to the extent permitted by
25 law.

26 (x) "Pipeline" means a pipeline used at any time to transport
27 oil.

28 (y) "Reasonable worst case spill" means, for the purposes of
29 preparing contingency plans for a nontank vessel, the total volume
30 of the largest fuel tank on the nontank vessel.

31 (z) "Responsible party" or "party responsible" means any of
32 the following:

33 (1) The owner or transporter of oil or a person or entity accepting
34 responsibility for the oil.

35 (2) The owner, operator, or lessee of, or a person that charters
36 by demise, a vessel or marine facility, or a person or entity
37 accepting responsibility for the vessel or marine facility.

38 (aa) "Small craft" means a vessel, other than a tank ship or tank
39 barge, that is less than 20 meters in length.

(ab) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(ac) “Small marine fueling facility” means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(ad) “Spill” or “discharge” means a release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by a federal, state, or local government entity.

(ae) “State Interagency Oil Spill Committee” means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(af) “California oil spill contingency plan” means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ag) “Tank barge” means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ah) “Tank ship” means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(ai) “Tank vessel” means a tank ship or tank barge.

1 (aj) “Vessel” means a watercraft or ship of any kind, including
2 every structure adapted to be navigated from place to place for the
3 transportation of merchandise or persons.

4 (ak) “Vessel carrying oil as secondary cargo” means a vessel
5 that does not carry oil as a primary cargo, but does carry oil in
6 bulk as cargo or cargo residue.

7 ~~SEC. 24.~~

8 *SEC. 25.* Section 8670.61.5 of the Government Code is
9 amended to read:

10 8670.61.5. (a) For purposes of this chapter, “wildlife
11 rehabilitation” means those actions that are necessary to fully
12 mitigate for the damage caused to wildlife, fisheries, wildlife
13 habitat, and fisheries habitat, including beaches, from a spill or
14 inland spill.

15 (b) Responsible parties shall fully mitigate adverse impacts to
16 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full
17 mitigation shall be provided by successfully carrying out
18 environmental projects or funding restoration activities required
19 by the administrator in carrying out projects complying with the
20 requirements of this section. Responsible parties are also liable
21 for the costs incurred by the administrator or other government
22 agencies in carrying out this section.

23 (c) If any significant wildlife rehabilitation is necessary, the
24 administrator may require the responsible party to prepare and
25 submit to the administrator, and to implement, a wildlife
26 rehabilitation plan. The plan shall describe the actions that will be
27 implemented to fully meet the requirements of subdivision (b),
28 describe contingency measures that will be carried out in the event
29 that any of the plan actions are not fully successful, provide a
30 reasonable implementation schedule, describe the monitoring and
31 compliance program, and provide a financing plan. The
32 administrator shall review and determine whether to approve the
33 plan within 60 days of submittal. Before approving a plan, the
34 administrator shall first find that the implementation of the plan
35 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
36 habitat, and fisheries habitat. If the habitat contains beaches that
37 are or were used for recreational purposes, the Department of Parks
38 and Recreation shall review the plan and provide comments to the
39 administrator.

(d) The plan shall place first priority on avoiding and minimizing any adverse impacts. For impacts that do occur, the plan shall provide for full onsite restoration of the damaged resource to the extent feasible. To the extent that full onsite restoration is not feasible, the plan shall provide for offsite in-kind mitigation to the extent feasible. To the extent that adverse impacts still have not been fully mitigated, the plan shall provide for the enhancement of other similar resources to the extent necessary to meet the requirements of subdivision (b). In evaluating whether a wildlife rehabilitation plan is adequate, the administrator may use the habitat evaluation procedures established by the United States Fish and Wildlife Service or any other reasonable methods as determined by the Director of Fish and Game.

(e) The administrator shall prepare regulations to implement this section. The regulations shall include deadlines for the submittal of plans. In establishing the deadlines, the administrator shall consider circumstances such as the size of the spill and the time needed to assess damage and mitigation.

~~SEC. 22.~~

SEC. 26. Section 8670.67 of the Government Code is amended to read:

8670.67. (a) Any person who intentionally or negligently does any of the following acts shall be subject to an administrative civil penalty for a spill not to exceed two hundred thousand dollars (\$200,000), or for an inland spill not to exceed fifty thousand dollars (\$50,000), for each violation as imposed by the administrator pursuant to Section 8670.68, and each day or partial day that a violation occurs is a separate violation:

(1) Except as provided in Section 8670.27, fails to follow the applicable contingency plans or the direction or orders of the administrator in connection with a spill or inland spill.

(2) Fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge that enters marine waters or inland waters. For the purposes of this paragraph, "vessel" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Is responsible for a spill or inland spill, unless the discharge is authorized by the United States, the state, or other agency with appropriate jurisdiction.

1 (4) Fails to begin cleanup, abatement, or removal of spilled oil
2 as required by Section 8670.25.

3 (b) Except as provided in subdivision (a), any person who
4 intentionally or negligently violates any provision of this chapter,
5 or Division 7.8 (commencing with Section 8750) of the Public
6 Resources Code, or any permit, rule, regulation, standard, cease
7 and desist order, or requirement issued or adopted pursuant to
8 those provisions, shall be liable for an administrative civil penalty
9 as imposed by the administrator pursuant to Section 8670.68, not
10 to exceed one hundred thousand dollars (\$100,000) for each
11 violation of a separate provision, or, for continuing violations, for
12 each day that violation continues.

13 (c) No person shall be liable for a civil penalty imposed under
14 this section and for a civil penalty imposed pursuant to Section
15 8670.66 for the same act or failure to act.

16 ~~SEC. 23.~~

17 *SEC. 27.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.