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AMENDED IN SENATE AUGUST 17, 2009

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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 1345, 1348, 1796, ~~2003~~, 3004, 4011, 5654, 7149.45, 8035, 8036, 8276.2, 8276.3, 8279.1, 8280.1, 8280.2, 8280.3, 8280.4, 8280.5, 8280.6, 8405.4, 12002.1, 12159, 12160, and 12161 of, and to add Sections 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.

(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.

(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.

(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.

(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 recreational opportunities.

(6) The Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993 provides for the establishment of wetlands mitigation bank sites to increase the total wetlands acreage and values within the Sacramento-San Joaquin Valley. The act prohibits bank sites from being qualified under the act on or after January 1, 2010.

This bill would extend that date to January 1, 2015.

(7) 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.

(8) Existing law makes it unlawful to intentionally discharge any firearm or release any arrow or crossbow bolt over or across any public road or way open to the public, in an unsafe manner.

This bill would make it unlawful 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 and reckless manner. 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.

~~(9) 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, if the prize or other inducement is not based on the number of animals taken by the person.~~

(10)

(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.

~~(11)~~

(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.

~~(12)~~

(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.

~~(13)~~

(12) Existing law regulates the Dungeness crab fishery and, among other things, permits the Director of the Department of Fish and Game to delay the opening of the fishery in specified situations and regulates the taking of crab during those delays. Existing law sets forth the qualifications for a Dungeness crab vessel permit, and provides that no person shall use a vessel to take, possess, or land Dungeness crab for commercial purposes without a Dungeness crab vessel permit. Existing law sets forth requirements for the issuance, transfer, and revocation of a Dungeness crab vessel permit, and specifies that the department shall charge a fee for each Dungeness crab vessel permit. Existing law requires the director to convene a Dungeness crab review panel for the purpose of reviewing permits and application transfers. 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. Because

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

(14)

(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 thereby the crimes imposed for a violation of those provisions, the bill would create a state-mandated local program by creating new crimes.

(15)

(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.

(16)

(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.

(17)

(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.

(18)

(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.

(19)

(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.

(20)

(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:

SECTION 1. Section 392 is added to the Fish and Game Code, to read:

392. (a) The director, or a designated representative, may enter into reciprocal operational agreements with authorized representatives of any Oregon, Nevada, or Arizona state law enforcement agency, including, but not limited to, the Oregon State Police, the Nevada Department of Wildlife, and the Arizona Game and Fish Department, 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 pursuant to Section 393.

(b) The reciprocal operational agreement shall be in writing and may cover the reciprocal exchange of law enforcement services, resources, facilities, and any other necessary and proper matters between the department and the respective agency.

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

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

(2) The duration and purpose of the agreement.

(3) Responsibility for damages.

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

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

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

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

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

(1) The officer is providing, or attempting to provide, law enforcement services within this state, within a distance of up to 50 statute miles of the contiguous border of this state and the state

1 employing the officer, or within waters offshore of this state in the
2 Exclusive Economic Zone.

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

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

7 (B) In response to a reasonable belief that emergency law
8 enforcement services are necessary for the preservation of life,
9 and a request for services by a member of the Department of Fish
10 and Game is impractical to obtain under the circumstances. In
11 those situations, the officer shall obtain authorization as soon as
12 practical.

13 (3) The officer is providing, or attempting to provide, law
14 enforcement services for the purpose of assisting a member of the
15 Department of Fish and Game in response to misdemeanor or
16 felony criminal activity, pursuant to the authority of a peace officer
17 as provided in subdivision (e) of Section 830.2 of the Penal Code,
18 or, in the event of emergency incidents or other similar public
19 safety problems, whether or not a member of the department is
20 present at the scene of the event.

21 (4) An agreement pursuant to Section 392 is in effect between
22 the Department of Fish and Game and the agency of the adjoining
23 state employing the officer, the officer acts in accordance with that
24 agreement, and the agreement specifies that the officer and
25 employing agency of the adjoining state shall be subject to the
26 same civil immunities and liabilities as a peace officer and his or
27 her employing agency in this state.

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

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

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

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

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

7 859. Notwithstanding Section 11005 of the Government Code,
8 the department may seek and accept grants and donations from
9 private and public organizations and agencies for the purpose of
10 administering the Canine (K9) Program. The acceptance of
11 one-time donations valued over fifteen thousand dollars (\$15,000)
12 shall require approval of the Department of Finance.

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

15 860. The department may offer for sale a fish and game warden
16 stamp to be designed and produced as the department may
17 determine. The fish and game warden stamp may be purchased on
18 a voluntary basis from the department or a licensed agent
19 authorized pursuant to Section 1055.1 for a donation of not less
20 than five dollars ~~(\$5.00)~~ (\$5). The department may also design an
21 electronic version of the fish and game warden stamp to be offered
22 through the Automated License Data System. There shall be no
23 indication on any license or permit of the purchase of a warden
24 stamp. All revenues from sales under this section shall be deposited
25 in the Fish and Game Warden Stamp Account which is hereby
26 created in the Fish and Game Preservation Fund to permit separate
27 accountability for the receipt and expenditure of these funds. Funds
28 deposited in the Fish and Game Warden Stamp Account shall used,
29 upon appropriation, to support the department's fish and game
30 wardens.

31 SEC. 5. Section 1050.8 is added to the Fish and Game Code,
32 to read:

33 1050.8. (a) The department may issue collectible,
34 commemorative licenses to any person for purposes of promoting
35 and supporting licensed hunting, fishing, and resource conservation,
36 subject to all of the following:

37 (1) A commemorative license may be designed and produced
38 as the department may determine and shall be clearly marked and
39 identified as a commemorative license, rendering it invalid for the
40 take of any mammal, bird, fish, reptile, or amphibian.

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

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

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

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

14 1345. (a) The board shall investigate, study, and determine
15 what areas within the state are most essential and suitable for
16 wildlife production and preservation, and will provide suitable
17 recreation; and shall ascertain and determine what lands within
18 the state are suitable for game propagation, game refuges, bird
19 refuges, waterfowl refuges, game farms, fish hatcheries, game
20 management areas, and what streams and lakes are suitable for,
21 or can be made suitable for, fishing and hunting.

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

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

28 1348. (a) The board shall authorize the acquisition of real
29 property, rights in real property, water, or water rights as may be
30 necessary to carry out the purposes of this chapter. The board may
31 authorize acquisition by the department, but the department shall
32 not acquire any property pursuant to this subdivision by eminent
33 domain proceedings except that property as may be necessary to
34 provide access roads or rights-of-way to areas to be used for fishing
35 the coastal waters of the Pacific Ocean, and then only if the board
36 of supervisors of the affected county has agreed by resolution to
37 those proceedings for each parcel of land, and has further agreed
38 by resolution to maintain the road or right-of-way. The board may
39 authorize acquisition by the State Public Works Board, which may
40 effect acquisitions pursuant to the Property Acquisition Law, Part

1 11 (commencing with Section 15850) of Division 3 of Title 2 of
2 the Government Code.

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

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

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

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

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

32 (4) Acquire former wildlife habitat real property, including
33 riparian habitat real property, restore and sell the real property, or
34 any interest therein, to private owners, local governmental agencies,
35 or state departments and agencies, or exchange the property for
36 other real property, if a written and recorded agreement is first
37 secured to keep and maintain the real property as wildlife habitat
38 in perpetuity. The agreement shall contain a reversion if the real
39 property sold or exchanged is not maintained as wildlife habitat.
40 The agreement containing the reversion shall be set forth in any

1 conveyance transferring any real property, interest in real property,
2 or option subject to this section. Proceeds from the sales shall be
3 deposited in the Wildlife Restoration Fund.

4 SEC. 8. Section 1796 of the Fish and Game Code is amended
5 to read:

6 1796. No bank site shall be qualified under Section 1785 on
7 or after January 1, 2015.

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

10 2003. (a) ~~Except as specified in subdivisions (b), (c), and (d),~~
11 ~~it is unlawful to offer any prize or other inducement as a reward~~
12 ~~for the taking of any game birds, mammals, fish, reptiles, or~~
13 ~~amphibians in an individual contest, tournament, or derby.~~

14 ~~(b) The department may issue, to any person, a permit~~
15 ~~authorizing that person to offer a prize or other inducement as a~~
16 ~~reward for the taking of any game species, as defined by the~~
17 ~~commission by regulation, if it finds that there would be no~~
18 ~~detriment to the resource. A prize or other inducement for the~~
19 ~~taking of a game bird or mammal shall not be based on the total~~
20 ~~number of animals taken by the person. The permit is subject to~~
21 ~~regulations adopted by the commission. The application for the~~
22 ~~permit shall be accompanied by a fee in the amount determined~~
23 ~~by the department as necessary to cover the reasonable~~
24 ~~administrative costs incurred by the department in issuing the~~
25 ~~permit. However, the department may waive the permit fee if the~~
26 ~~contest, tournament, or derby is for persons under the age of 16~~
27 ~~years, or who are physically or mentally challenged, and the~~
28 ~~primary purpose of the contest, tournament, or derby is to introduce~~
29 ~~or educate them about fishing or hunting. All permits for which~~
30 ~~the fee is waived pursuant to this subdivision shall comply with~~
31 ~~all other requirements set forth in this section.~~

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

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

~~SEC. 10.~~

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. 11.~~

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. 12.~~

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 and reckless manner.

~~SEC. 13.~~

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

1 4011. (a) Fur-bearing mammals, game mammals, and nongame
2 mammals, when involved in dangerous disease outbreaks, may be
3 taken by duly constituted officials of any of the following:

- 4 (1) The United States Department of Agriculture.
- 5 (2) The United States Department of the Interior.
- 6 (3) The United States Department of Health and Human
7 Services.
- 8 (4) The Department of Food and Agriculture.
- 9 (5) The State Department of Public Health.
- 10 (6) The department.

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

15 ~~SEC. 14.~~

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

18 5654. (a) (1) Notwithstanding Section 7715 and except as
19 provided in paragraph (2), the director, within 24 hours of
20 notification of a spill or discharge, as those terms are defined in
21 subdivision (ad) of Section 8670.3 of the Government Code, where
22 any fishing, including all commercial, recreational, and nonlicensed
23 subsistence fishing, may take place, or where aquaculture
24 operations are taking place, shall close to the take of all fish and
25 shellfish all waters in the vicinity of the spill or discharge or where
26 the spilled or discharged material has spread, or is likely to spread.
27 In determining where a spill or discharge is likely to spread, the
28 director shall consult with the Administrator of the Office of Spill
29 Prevention and Response. At the time of closure, the department
30 shall make all reasonable efforts to notify the public of the closure,
31 including notification to commercial and recreational fishing
32 organizations, and posting of warnings on public piers and other
33 locations where subsistence fishing is known to occur. The
34 department shall coordinate, when possible, with local and regional
35 agencies and organizations to expedite public notification.

36 (2) Closure pursuant to paragraph (1) is not required if, within
37 24 hours of notification of a spill or discharge, the Office of
38 Environmental Health Hazard Assessment finds that a public health
39 threat does not or is unlikely to exist.

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

5 (1) The danger posed to the public from fishing in the area where
6 the spill or discharge occurred or spread, and the danger of
7 consuming fish taken in the area where the spill or discharge
8 occurred or spread.

9 (2) Whether the areas closed for the take of fish or shellfish
10 should be expanded to prevent any potential take or consumption
11 of any fish or shellfish that may have been contaminated by the
12 spill or discharge.

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

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

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

29 (e) Except under the conditions specified in subdivision (d),
30 after complying with subdivisions (a) and (b), the director, in
31 consultation with the Office of Environmental Health Hazard
32 Assessment, but in no event more than seven days from the
33 notification of the spill or discharge, shall order expedited tests of
34 fish and shellfish that would have been open for take for
35 commercial, recreational, or subsistence purposes in the closed
36 area if not for the closure, to determine the levels of contamination,
37 if any, and whether the fish or shellfish is safe for human
38 consumption.

39 (f) (1) Within 24 hours of receiving a notification from the
40 Office of Environmental Health Hazard Assessment that no threat

1 to human health exists from the spill or discharge or that no
2 contaminant from the spill or discharge is present that could
3 contaminate fish or shellfish, the director shall reopen the areas
4 closed pursuant to this section. The director may maintain a closure
5 in any remaining portion of the closed area where the Office of
6 Environmental Health Hazard Assessment finds contamination
7 from the spill or discharge persists that may adversely affect human
8 health.

9 (2) The director, in consultation with the commission, may also
10 maintain a closure in any remaining portion of the closed area
11 where commercial fishing or aquaculture occurs and where the
12 department determines, pursuant to this paragraph, that
13 contamination from the spill or discharge persists that may cause
14 the waste of commercial fish or shellfish as regulated by Section
15 7701.

16 (g) To the extent feasible, the director shall consult with
17 representatives of commercial and recreational fishing associations
18 and subsistence fishing communities regarding the extent and
19 duration of a closure, testing protocols, and findings. If a spill or
20 discharge occurs within the lands governed by a Native American
21 tribe or affects waters flowing through tribal lands, or tribal
22 fisheries, the director shall consult with the affected tribal
23 governments.

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

28 ~~SEC. 15.~~

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

31 7149.45. (a) It is unlawful for any person to fish with two rods
32 without first obtaining a second-rod sport fishing validation, in
33 addition to a valid California sport fishing license validation, and
34 having that validation affixed to his or her valid sport fishing
35 license. Any person who has a valid second-rod sport fishing
36 validation affixed to his or her valid sport fishing license may fish
37 with two rods in inland waters in any sport fishery in which the
38 regulations of the commission provide for the taking of fish by
39 angling, except those waters in which only artificial lures or

1 barbless hooks may be used and the waters of the Smith River in
2 Del Norte County.

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

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

10 ~~SEC. 16.~~

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

13 8035. (a) Except for a person exempt under Section 8030, any
14 person who, for the purpose of resale to other than the ultimate
15 consumer, purchases or obtains fish from another person, who is
16 required to be licensed as a fish receiver, fish processor, fish
17 importer, or fish wholesaler under this article, shall obtain a fish
18 wholesaler's license.

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

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

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

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

26 ~~SEC. 17.~~

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

29 8036. (a) Any person who purchases or receives fish that are
30 taken outside of this state and brought into this state by a person
31 who is not a licensed commercial fisherman, for the purpose of
32 resale to other than the ultimate consumer, shall obtain a fish
33 importer's license. The annual fee for a fish importer's license is
34 five hundred forty-nine dollars (\$549).

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

1 ~~SEC. 18.~~

2 *SEC. 17.* Section 8276.2 of the Fish and Game Code is amended
3 to read:

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

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

19 (c) The director shall order the opening of the Dungeness crab
20 season in Districts 6, 7, 8, and 9 on December 1 if the quality tests
21 authorized in subdivision (b) indicate the Dungeness crabs are not
22 soft-shelled or low quality. The entity authorized to conduct the
23 approved testing program may test, or cause to be tested, crabs
24 taken for quality and soft shells pursuant to the approved testing
25 program. If the tests are conducted on or about November 1 and
26 result in a finding that Dungeness crabs are soft-shelled or low
27 quality, the director shall authorize a second test to be conducted
28 on or about November 15 pursuant to the approved testing program.
29 If the second test results in a finding that Dungeness crabs are
30 soft-shelled or low quality, the director may order the season
31 opening delayed for a period of 15 days and may authorize a third
32 test to be conducted on or about December 1. If the third test results
33 in a finding that Dungeness crabs remain soft-shelled or of low
34 quality, the director may order the season opening delayed for a
35 period of an additional 15 days and authorize a fourth test to be
36 conducted. This procedure may continue to be followed, except
37 that no tests shall be conducted after January 1 for that season, and
38 the season opening shall not be delayed by the director later than
39 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. 19.~~

SEC. 18. 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 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. 20.~~

SEC. 19. 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. 21.~~

SEC. 20. 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

1 apply to a commercially registered fishing vessel when it is being
2 used solely to assist a permitted vessel transport or set traps.

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

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

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

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

1 a permit under this paragraph shall have participated in the
2 Dungeness crab fishery on or before March 31, 1994, as
3 documented by landing receipts that were prepared in that person's
4 name for not less than four landings of Dungeness crab taken in a
5 crab trap in a Dungeness crab season and were delivered to the
6 department pursuant to Section 8046. No person shall be issued a
7 permit under this paragraph if that person has been issued a permit
8 under any other provision of this section for another vessel. For
9 purposes of Section 8101, "participated in the fishery" means made
10 not less than four landings of Dungeness crab taken by traps in
11 that person's name in one Dungeness crab season. The department
12 shall separately identify permits issued pursuant to this paragraph
13 and those permits shall become immediately null and void upon
14 the death of the permittee. The department shall not issue or renew
15 any permit under this paragraph to a person if the person failed to
16 meet the participation requirements of four landings in one season
17 prior to April 1, 1994, or has been issued a Dungeness crab permit
18 for a vessel under any other paragraph of this subdivision.

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

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

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

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

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

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

(6) A person who held a Dungeness crab 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 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

1 department pursuant to Section 7881 in each of the 1991–92,
2 1992–93, and 1993–94 permit years for one of those required years
3 under this section only if the vessel was registered and used in the
4 California Dungeness crab fishery during the registration year
5 immediately prior to the year for which the waiver is sought and
6 was registered and used in the California Dungeness crab fishery
7 after the year for which the waiver is sought and if the reason for
8 the failure to register in the year for which the waiver is sought
9 was due to a death, illness, or injury, or other hardship, as
10 determined by the review panel, that prevented the vessel from
11 being registered and operated in the fishery for that registration
12 year.

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

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

25 ~~SEC. 22.~~

26 *SEC. 21.* Section 8280.2 of the Fish and Game Code is amended
27 to read:

28 8280.2. (a) The owner of a Dungeness crab vessel, for purposes
29 of this section, may include a person with a bona fide contract for
30 the purchase of a vessel who otherwise meets all other
31 qualifications for a Dungeness crab vessel permit. If a contract is
32 found to be fraudulent or written or entered into for the purposes
33 of circumventing qualification criteria for the issuance of a permit,
34 the applicant shall be permanently ineligible for a Dungeness crab
35 vessel permit.

36 (b) A Dungeness crab vessel permit shall be issued only to the
37 person owning the vessel at the time of application for that permit.
38 No person shall be issued more than one permit for each vessel
39 owned by that person and qualifying for a permit pursuant to
40 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. 23.~~

SEC. 22. 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.

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

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

27 (4) Upon written approval of the department, the owner of a
28 vessel to whom the Dungeness crab vessel permit has been issued
29 may retain that permit upon the sale of that permitted vessel for
30 the purpose of transferring the permit to another vessel to be
31 purchased by that individual within one year of the time of sale of
32 the vessel for which the permit was originally issued if the
33 requirements of this section are satisfied, including the payment
34 of transfer fees. If the permit is not transferred to a new vessel
35 owned by the person to whom the vessel permit was originally
36 issued within one year of the sale of the vessel for which it was
37 originally issued, or if the person does not retain ownership of the
38 new vessel to which the permit is transferred for a period of not
39 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. 24.~~

SEC. 23. 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. 25.~~

SEC. 24. 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 the purpose of reviewing applications for Dungeness crab vessel permits pursuant to paragraphs (2) and (4) of subdivision (b) of Section 8280.1 and 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.

(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

1 pursuant to Section 7852, one from Sonoma County or a county
2 south of Sonoma County, and one from Mendocino County or a
3 county north of Mendocino County, and active in the taking and
4 landing of Dungeness crab in this state. The public members shall
5 be reimbursed for their necessary and proper expenses to participate
6 on the panel. A public member shall serve on the panel for not
7 more than four consecutive years.

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

10 (d) The panel shall review each application for a permit or
11 permit transfer referred to it by the department and shall consider
12 all oral and written evidence presented by the applicant that is
13 pertinent to the application under review. If the panel recommends
14 issuance of a permit or approval of the transfer, the department
15 may issue a Dungeness crab vessel permit pursuant to Section
16 8280.1 or approve a permit transfer pursuant to Section 8280.3.

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

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

28 ~~SEC. 26.~~

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

31 8280.6. (a) The department shall charge a fee for each
32 Dungeness crab vessel permit of two hundred dollars (\$200) for
33 a resident of California and four hundred dollars (\$400) for a
34 nonresident of California.

35 (b) The department shall charge a nonrefundable fee of two
36 hundred dollars (\$200) for each transfer of a permit authorized
37 pursuant to paragraph (2), (4), or (5) of subdivision (a) of Section
38 8280.3.

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

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

3 ~~SEC. 27.~~

4 *SEC. 26.* Section 8405.4 of the Fish and Game Code is amended
5 to read:

6 8405.4. This article shall become inoperative on April 1, 2015,
7 and as of January 1, 2016, is repealed, unless a later enacted statute
8 that is enacted before January 1, 2016, deletes or extends the dates
9 on which it becomes inoperative and is repealed.

10 ~~SEC. 28.~~

11 *SEC. 27.* Section 12002.1 of the Fish and Game Code is
12 amended to read:

13 12002.1. (a) Notwithstanding Section 12002, the punishment
14 for taking a mammal or bird for which a hunting license issued
15 pursuant to Section 3031 is required or a tag, seal, or stamp is
16 required, including a deer tag issued pursuant to Section 3407,
17 without having in one's possession the required valid license, or
18 without having in one's possession any required tag, seal, or stamp,
19 or when the taking of that mammal or bird is prohibited by
20 allowable season, limit, time, or area, is punishable by a fine of
21 not less than two hundred fifty dollars (\$250) or more than two
22 thousand dollars (\$2,000), or imprisonment in the county jail for
23 not more than one year, or by both that fine and imprisonment, or
24 by any greater punishment prescribed by this code.

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

32 ~~SEC. 29.~~

33 *SEC. 28.* Section 12014 is added to the Fish and Game Code,
34 to read:

35 12014. After the expiration of the time period to appeal an
36 administrative penalty imposed pursuant to Section 2301, 2302,
37 2582, or 2583, or any other provision of this code, the department
38 may apply to the clerk of the appropriate court for a judgment to
39 collect the administrative civil penalty. The application, including
40 a certified copy of the order imposing the civil penalty, a hearing

1 officer's decision, if any, or a settlement agreement, if any, shall
2 constitute a sufficient showing to warrant issuance of the judgment.
3 The court clerk shall enter the judgment immediately in conformity
4 with the application. The judgment so entered has the same force
5 and effect as, and is subject to all the provisions of law relating
6 to, a judgment in a civil action, and may be enforced in the same
7 manner as any other judgment of the court in which it is entered.

8 ~~SEC. 30.~~

9 *SEC. 29.* Section 12159 of the Fish and Game Code is amended
10 to read:

11 12159. All birds, mammals, fish, reptiles, aquaculture animals
12 and products, plants, or amphibians, or any part thereof, which
13 have been taken, possessed, sold, imported, or transported contrary
14 to any of the laws of this state shall be seized by the department,
15 and, in accordance with the commission's regulations, notice of
16 seizure shall be given to the person who had possession of the
17 birds, mammals, fish, reptiles, aquaculture animals and products,
18 plants, or amphibians, or any part thereof, at the time of the seizure
19 if that person is known.

20 ~~SEC. 31.~~

21 *SEC. 30.* Section 12160 of the Fish and Game Code is amended
22 to read:

23 12160. All birds, mammals, fish, reptiles, aquaculture animals
24 and products, plants, or amphibians, or any part thereof, seized in
25 accordance with Section 12159, the sale of which is not prohibited
26 and which have a current market value of one hundred dollars
27 (\$100) or more, shall be packed, preserved, sold for bait, used for
28 fish food in state-owned fish hatcheries, or otherwise put to
29 economical use immediately upon seizure, at the prevailing market
30 price for legal birds, mammals, fish, reptiles, aquaculture animals
31 and products, plants, or amphibians in effect on the date of seizure.
32 Any proceeds thereof shall be placed in the Fish and Game
33 Preservation Fund. If the person from whom such birds, mammals,
34 fish, reptiles, aquaculture animals and products, plants, or
35 amphibians were seized is not convicted in a court of competent
36 jurisdiction for the offense out of which the seizure arose, then
37 and in that event the proceeds shall be returned to that person.

38 ~~SEC. 32.~~

39 *SEC. 31.* Section 12161 of the Fish and Game Code is amended
40 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. 33.~~

SEC. 32. 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

1 establishing the requirements to provide the best achievable
2 protection for coastal and marine resources.

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

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

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

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

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

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

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

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

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

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

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

36 (A) Subject to Chapter 6.67 (commencing with Section 25270)
37 or Chapter 6.75 (commencing with Section 25299.10) of Division
38 20 of the Health and Safety Code.

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

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

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

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

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

11 (l) “Marine waters” means those waters subject to tidal
12 influence, and includes the waterways used for waterborne
13 commercial vessel traffic to the Port of Sacramento and the Port
14 of Stockton.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (C) Except as provided in subparagraph (D), in the case of a
25 vessel or marine facility, where title or control was conveyed due
26 to bankruptcy, foreclosure, tax delinquency, abandonment, or
27 similar means to an entity of state or local government, a person
28 who owned, held an ownership interest in, operated, or otherwise
29 controlled activities concerning the vessel or marine facility
30 immediately beforehand.

31 (D) An entity of the state or local government that acquired
32 ownership or control of a vessel or marine facility, when the entity
33 of the state or local government has caused or contributed to a spill
34 or discharge of oil into marine waters.

35 (2) “Owner” or “operator” does not include a person who,
36 without participating in the management of a vessel or marine
37 facility, holds indicia of ownership primarily to protect the person’s
38 security interest in the vessel or marine facility.

1 (3) “Operator” does not include a person who owns the land
2 underlying a marine facility or the facility itself if the person is
3 not involved in the operations of the facility.

4 (w) “Person” means an individual, trust, firm, joint stock
5 company, or corporation, including, but not limited to, a
6 government corporation, partnership, and association. “Person”
7 also includes a city, county, city and county, district, and the state
8 or any department or agency thereof, and the federal government,
9 or any department or agency thereof, to the extent permitted by
10 law.

11 (x) “Pipeline” means a pipeline used at any time to transport
12 oil.

13 (y) “Reasonable worst case spill” means, for the purposes of
14 preparing contingency plans for a nontank vessel, the total volume
15 of the largest fuel tank on the nontank vessel.

16 (z) “Responsible party” or “party responsible” means any of
17 the following:

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

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

23 (aa) “Small craft” means a vessel, other than a tank ship or tank
24 barge, that is less than 20 meters in length.

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

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

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

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

35 (1) A mobile transfer unit.

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

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

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

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

9 (ad) “Spill” or “discharge” means a release of at least one barrel
10 (42 gallons) of oil into marine waters that is not authorized by a
11 federal, state, or local government entity.

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

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

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

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

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

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

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

31 ~~SEC. 34.~~

32 *SEC. 33.* Section 8670.61.5 of the Government Code is
33 amended to read:

34 8670.61.5. (a) For purposes of this chapter, “wildlife
35 rehabilitation” means those actions that are necessary to fully
36 mitigate for the damage caused to wildlife, fisheries, wildlife
37 habitat, and fisheries habitat, including beaches, from a spill or
38 inland spill.

39 (b) Responsible parties shall fully mitigate adverse impacts to
40 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full

1 mitigation shall be provided by successfully carrying out
2 environmental projects or funding restoration activities required
3 by the administrator in carrying out projects complying with the
4 requirements of this section. Responsible parties are also liable
5 for the costs incurred by the administrator or other government
6 agencies in carrying out this section.

7 (c) If any significant wildlife rehabilitation is necessary, the
8 administrator may require the responsible party to prepare and
9 submit to the administrator, and to implement, a wildlife
10 rehabilitation plan. The plan shall describe the actions that will be
11 implemented to fully meet the requirements of subdivision (b),
12 describe contingency measures that will be carried out in the event
13 that any of the plan actions are not fully successful, provide a
14 reasonable implementation schedule, describe the monitoring and
15 compliance program, and provide a financing plan. The
16 administrator shall review and determine whether to approve the
17 plan within 60 days of submittal. Before approving a plan, the
18 administrator shall first find that the implementation of the plan
19 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
20 habitat, and fisheries habitat. If the habitat contains beaches that
21 are or were used for recreational purposes, the Department of Parks
22 and Recreation shall review the plan and provide comments to the
23 administrator.

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

37 (e) The administrator shall prepare regulations to implement
38 this section. The regulations shall include deadlines for the
39 submittal of plans. In establishing the deadlines, the administrator

1 shall consider circumstances such as the size of the spill and the
2 time needed to assess damage and mitigation.

3 ~~SEC. 35.~~

4 *SEC. 34.* Section 8670.67 of the Government Code is amended
5 to read:

6 8670.67. (a) Any person who intentionally or negligently does
7 any of the following acts shall be subject to an administrative civil
8 penalty for a spill not to exceed two hundred thousand dollars
9 (\$200,000), or for an inland spill not to exceed fifty thousand
10 dollars (\$50,000), for each violation as imposed by the
11 administrator pursuant to Section 8670.68, and each day or partial
12 day that a violation occurs is a separate violation:

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

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

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

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

27 (b) Except as provided in subdivision (a), any person who
28 intentionally or negligently violates any provision of this chapter,
29 or Division 7.8 (commencing with Section 8750) of the Public
30 Resources Code, or any permit, rule, regulation, standard, cease
31 and desist order, or requirement issued or adopted pursuant to
32 those provisions, shall be liable for an administrative civil penalty
33 as imposed by the administrator pursuant to Section 8670.68, not
34 to exceed one hundred thousand dollars (\$100,000) for each
35 violation of a separate provision, or, for continuing violations, for
36 each day that violation continues.

37 (c) No person shall be liable for a civil penalty imposed under
38 this section and for a civil penalty imposed pursuant to Section
39 8670.66 for the same act or failure to act.

1 ~~SEC. 36.~~

2 *SEC. 35.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

O