

Assembly Bill No. 1442

Passed the Assembly September 3, 2009

Chief Clerk of the Assembly

Passed the Senate September 1, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1345, 1348, 1796, 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, 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 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.

(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.

(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.

(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.

(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.

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

person produces in court a license, tag, or stamp issued to the person and valid at the time of the person's arrest.

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

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

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

(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.

(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.

(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.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1348. (a) The board shall authorize the acquisition of real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may

authorize acquisition by the department, but the department shall not acquire any property pursuant to this subdivision by eminent domain proceedings except that property as may be necessary to provide access roads or rights-of-way to areas to be used for fishing the coastal waters of the Pacific Ocean, and then only if the board of supervisors of the affected county has agreed by resolution to those proceedings for each parcel of land, and has further agreed by resolution to maintain the road or right-of-way. The board may authorize acquisition by the State Public Works Board, which may effect acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

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

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

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

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

(3) Lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies if the lessee agrees to restore the real property to its highest possible wildlife habitat value and maintain the real property at that highest possible wildlife habitat value. If feasible, during the period of lease, the board may require that the real property be open to the public for compatible recreational

opportunities. Proceeds from any lease or rental and interest thereon shall be deposited in the Wildlife Restoration Fund.

(4) Acquire former wildlife habitat real property, including riparian habitat real property, restore and sell the real property, or any interest therein, to private owners, local governmental agencies, or state departments and agencies, or exchange the property for other real property, if a written and recorded agreement is first secured to keep and maintain the real property as wildlife habitat in perpetuity. The agreement shall contain a reversion if the real property sold or exchanged is not maintained as wildlife habitat. The agreement containing the reversion shall be set forth in any conveyance transferring any real property, interest in real property, or option subject to this section. Proceeds from the sales shall be deposited in the Wildlife Restoration Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

5654. (a) (1) Notwithstanding Section 7715 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in subdivision (ad) of Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread.

In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

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

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

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

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

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

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

(d) If the director finds in his or her assessment pursuant to subdivision (b) that there is no significant risk to the public or to

the fisheries, the director may immediately reopen the closed area and waive the testing requirements of subdivisions (e) and (f).

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

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

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

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

(h) The director shall seek full reimbursement from the responsible party or parties for the spill or discharge for all

reasonable costs incurred by the department in carrying out this section, including, but not limited to, all testing.

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

7149.45. (a) It is unlawful for any person to fish with two 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 valid second-rod sport fishing validation affixed to his or her valid sport fishing license may fish with two 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 and the waters of the Smith River in Del Norte County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in subdivision (b) indicate the Dungeness crabs are not soft-shelled or low quality. The entity authorized to conduct the approved testing program may test, or cause to be tested, crabs taken for quality and soft shells pursuant to the approved testing program. If the tests are conducted on or about November 1 and result in a finding that Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program. If the second test results in a finding that Dungeness crabs are soft-shelled or low quality, the director may order the season

opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1. If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure may continue to be followed, except that no tests shall be conducted after January 1 for that season, and the season opening shall not be delayed by the director later than January 15.

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

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

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

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

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

(3) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets the requirements of Section 8101, and who, notwithstanding Section 8101, is, at the time of application, the

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

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

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

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

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

(5) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings of Dungeness crab taken by traps in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, in his or her name in this state from a vessel owned by that person, as documented by landing receipts, who, between April 1, 1991, and January 1, 1995, purchased, contracted to purchase, or constructed a vessel, not otherwise qualifying pursuant to paragraph (1), (2), or (4), who has continuously owned that vessel since its purchase or construction, and who either (A) has used that vessel for the taking of Dungeness crab in this state on or before March

31, 1995, as documented by one or more landing receipts delivered to the department pursuant to Section 8046, or (B) intended in good faith, based on evidence that the department and the review panel may require, including investment in crab gear, to enter that vessel in this state's Dungeness crab fishery not later than December 1, 1995. Not more than one permit may be issued to any one person under this paragraph.

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

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

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

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

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

the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

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

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

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

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

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

SEC. 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.

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

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

(4) Upon written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may retain that permit upon the sale of that permitted vessel for the purpose of transferring the permit to another vessel to be purchased by that individual within one year of the time of sale of the vessel for which the permit was originally issued if the requirements of this section are satisfied, including the payment

of transfer fees. If the permit is not transferred to a new vessel owned by the person to whom the vessel permit was originally issued within one year of the sale of the vessel for which it was originally issued, or if the person does not retain ownership of the new vessel to which the permit is transferred for a period of not less than one year, the permit shall be revoked.

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

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

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

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

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

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

(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. 25. Section 8280.6 of the Fish and Game Code is amended to read:

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

(b) The department shall charge a nonrefundable fee of two hundred dollars (\$200) for each transfer of a permit authorized

pursuant to paragraph (2), (4), or (5) of subdivision (a) of Section 8280.3.

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

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

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

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

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

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

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

12014. After the expiration of the time period to appeal an administrative penalty imposed pursuant to Section 2301, 2302, 2582, or 2583, or any other provision of this code, the department may apply to the clerk of the appropriate court for a judgment to collect the administrative civil penalty. The application, including

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

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

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

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

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

SEC. 31. Section 12161 of the Fish and Game Code is amended to read:

12161. The judge before whom any person is tried for taking, possessing, selling, importing, or transporting birds, mammals,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A mobile transfer unit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Responsible parties shall fully mitigate adverse impacts to wildlife, fisheries, wildlife habitat, and fisheries habitat. Full mitigation shall be provided by successfully carrying out

environmental projects or funding restoration activities required by the administrator in carrying out projects complying with the requirements of this section. Responsible parties are also liable for the costs incurred by the administrator or other government agencies in carrying out this section.

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

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

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

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

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

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

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

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

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

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

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

SEC. 35. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

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

Approved _____, 2009

Governor