

AMENDED IN ASSEMBLY JUNE 22, 2011

**SENATE BILL**

**No. 369**

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**Introduced by Senator Evans**

February 15, 2011

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An act to amend Sections 8276.2, 8276.3, 8279.1, 8280.1, 8280.2, 8280.3, 8280.4, 8280.5, and 8280.6 of, *and to add and repeal Sections 8276.4 and 8276.5 of*, the Fish and Game Code, relating to commercial fishing.

LEGISLATIVE COUNSEL'S DIGEST

SB 369, as amended, Evans. Dungeness crab.

(1) Existing law regulates the Dungeness crab fishery and, among other things, permits the Director 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 vessel permit, and prescribes fees for each permit or permit transfer. Existing law requires the director to convene a Dungeness crab review panel for the purpose of reviewing applications for vessel permits and permit transfers, if the department makes a specified determination. Existing law provides that those provisions shall become inoperative on April 1, 2012, and, as of January 1, 2013, are repealed.

This bill would extend the operation of those provisions until April 1, ~~2015~~ 2018, and would repeal those provisions on January 1, ~~2016~~ 2019.

*The bill would subject a person who fishes without a Dungeness crab vessel permit or uses a Dungeness crab vessel permit to fish illegally on a vessel other than the one permitted to specified penalties.*

*The bill would require the Director of Fish and Game to adopt a program, by July 1, 2012, for Dungeness crab trap limits for all California permits. The director would be required to make specified allocations of crab trap tags. The program would require participants to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee, as provided. The bill would create the Dungeness Crab Account in the Fish and Game Preservation Fund, and would require the fees collected to be deposited in that account. The money in the account would be available, upon appropriation by the Legislature, for administering and enforcing the program. The bill would require the imposition of specified penalties for a violation of the program requirements. The bill would create a Dungeness crab task force to make recommendations relating to the program, and meet other requirements, as provided. These provisions would become inoperative on April 1, 2018, and would be repealed on January 1, 2019.*

*(2) Existing law authorizes the Director of Fish and Game to authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab in November of each year for the purpose of quality testing according to a testing program and prohibits the sale of crab taken pursuant to the testing program, except for edible crab meat, which may be used for charitable purposes.*

*This bill would remove that exception for edible crabmeat used for charitable purposes.*

~~(2)~~

*(3) 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.*

*Because this bill would extend the operation of the Dungeness crab vessel permit program and thereby the crimes imposed for a violation of those provisions, and impose additional requirements the violation of which may be crimes, the bill would create a state-mandated local program by creating new crimes.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

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

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

1 SECTION 1. Section 8276.2 of the Fish and Game Code is  
2 amended to read:

3 8276.2. (a) The director may order a delay in the opening of  
4 the Dungeness crab fishery after December 1 in Districts 6, 7, 8,  
5 and 9 in any year. The delay in the opening shall not be later than  
6 January 15 of any year.

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

18 (c) The director shall order the opening of the Dungeness crab  
19 season in Districts 6, 7, 8, and 9 on December 1 if the quality tests  
20 authorized in subdivision (b) indicate the Dungeness crabs are not  
21 soft-shelled or low quality. The entity authorized to conduct the  
22 approved testing program may test, or cause to be tested, crabs  
23 taken for quality and soft shells pursuant to the approved testing  
24 program. If the tests are conducted on or about November 1 and  
25 result in a finding that Dungeness crabs are soft-shelled or low  
26 quality, the director shall authorize a second test to be conducted  
27 on or about November 15 pursuant to the approved testing program.  
28 If the second test results in a finding that Dungeness crabs are  
29 soft-shelled or low quality, the director may order the season  
30 opening delayed for a period of 15 days and may authorize a third  
31 test to be conducted on or about December 1. If the third test results  
32 in a finding that Dungeness crabs remain soft-shelled or of low  
33 quality, the director may order the season opening delayed for a  
34 period of an additional 15 days and authorize a fourth test to be  
35 conducted. This procedure may continue to be followed, except

1 that tests shall not be conducted after January 1 for that season,  
2 and the season opening shall not be delayed by the director later  
3 than January 15.

4 (d) This section shall become inoperative on April 1, ~~2015 2018~~,  
5 and, as of January 1, ~~2016 2019~~, is repealed, unless a later enacted  
6 statute, that becomes operative on or before January 1, ~~2016 2019~~,  
7 deletes or extends the dates on which it becomes inoperative and  
8 is repealed.

9 SEC. 2. Section 8276.3 of the Fish and Game Code is amended  
10 to read:

11 8276.3. (a) If there is any delay ordered by the director  
12 pursuant to Section 8276.2 in the opening of the Dungeness crab  
13 fishery in Districts 6, 7, 8, and 9, a vessel shall not take or land  
14 crab within Districts 6, 7, 8, and 9 during any closure.

15 (b) If there is any delay in the opening of the Dungeness crab  
16 season pursuant to Section 8276.2, the opening date in Districts  
17 6, 7, 8, and 9 shall be preceded by a 36-hour gear setting period,  
18 as ordered by the director.

19 (c) This section shall become inoperative on April 1, ~~2015 2018~~,  
20 and, as of January 1, ~~2016 2019~~, is repealed, unless a later enacted  
21 statute, that becomes operative on or before January 1, ~~2016 2019~~,  
22 deletes or extends the dates on which it becomes inoperative and  
23 is repealed.

24 SEC. 3. Section 8276.4 is added to the Fish and Game Code,  
25 to read:

26 8276.4. (a) *The Ocean Protection Council shall make a grant,*  
27 *upon appropriation of funding by the Legislature, for the*  
28 *development and administration of a Dungeness crab task force.*  
29 *The membership of the Dungeness crab task force shall be*  
30 *comprised of all of the following:*

31 (1) *Two members representing sport fishing interests.*

32 (2) *Two members representing crab processing interests.*

33 (3) *One member representing commercial passenger fishing*  
34 *vessel interests.*

35 (4) *Two ex officio members representing nongovernmental*  
36 *organization interests.*

37 (5) *One ex officio representative of Sea Grant.*

38 (6) *Two ex officio members representing the department.*

39 (7) *Seventeen members representing commercial fishery*  
40 *interests, elected by licensed persons possessing valid Dungeness*

1 *crab permits in their respective ports and production levels, as*  
2 *follows:*

3 (A) *Four members from Crescent City.*

4 (B) *One member from Trinidad.*

5 (C) *Two members from Eureka.*

6 (D) *Two members from Fort Bragg.*

7 (E) *Two members from Bodega Bay.*

8 (F) *Two members from San Francisco.*

9 (G) *Two members from Half Moon Bay.*

10 (H) *One member from ports south of Half Moon Bay.*

11 (I) *One member who has a valid California nonresident crab*  
12 *permit.*

13 (b) *For ports with more than one representative, elected*  
14 *members and their alternates shall represent both the upper and*  
15 *lower, and in some cases middle, production levels. Production*  
16 *levels shall be based on the average landing during the previous*  
17 *five years, of valid crab permitholders who landed a minimum of*  
18 *25,000 pounds of crab during the same period.*

19 (c) *The Dungeness crab task force shall do all of the following:*

20 (1) *Review and evaluate the Dungeness crab management*  
21 *measures described in Section 8276.5, with initial*  
22 *recommendations to the Joint Committee on Fisheries and*  
23 *Aquaculture, the department, and the commission, no later than*  
24 *January 15, 2014, and final recommendations to those entities no*  
25 *later than January 15, 2016.*

26 (2) *Make recommendations by January 15, 2014, on all of the*  
27 *following: the need for a permanent Dungeness crab advisory*  
28 *committee, the economic impact of the program described in*  
29 *Section 8276.5 on permitholders of different tiers and the*  
30 *economies of different ports, the cost of the program to the*  
31 *department, including enforcement costs, the viability of a buyout*  
32 *program for the permitholders described in subparagraph (G) of*  
33 *paragraph (1) of subdivision (a) of Section 8276.5, refining sport*  
34 *and commercial Dungeness crab management, and the need for*  
35 *statutory changes to accomplish task force objectives.*

36 (3) *In considering Dungeness crab management options,*  
37 *prioritize the review of pot limit restriction options, current and*  
38 *future sport and commercial fishery effort, season modifications,*  
39 *essential fishery information needs, and short- and long-term*  
40 *objectives for improved management.*

1 (d) The task force may establish subcommittees of specific user  
2 groups from the task force membership to focus on issues specific  
3 to sport fishing, commercial harvest, or crab processing. The  
4 subcommittees shall report their recommendations, if any, to the  
5 task force.

6 (e) The Ocean Protection Council may include in a grant  
7 funding to cover department staffing costs, as well as task force  
8 participant travel.

9 (f) Except as otherwise provided in Section 8276.5, a  
10 recommendation shall be forwarded to the Joint Committee on  
11 Fisheries and Aquaculture, the department, and the commission  
12 upon an affirmative vote of at least two-thirds of the task force  
13 members.

14 (g) Eligibility to take crab in state waters and offshore for  
15 commercial purposes may be subject to restrictions, including,  
16 but not limited to, restrictions on the number of traps utilized by  
17 that person, if either of the following occurs:

18 (1) A person holds a California Dungeness crab permit with  
19 California landings of less than 5,000 pounds between November  
20 15, 2003, and July 15, 2008, inclusive, as reported in California  
21 landings receipts.

22 (2) A person has purchased a Dungeness crab permit on or  
23 after July 15, 2008, from a permitholder whose California landings  
24 were less than 5,000 pounds between November 15, 2003, and  
25 July 15, 2008, inclusive, as reported in California landings  
26 receipts.

27 (h) This section shall become inoperative on April 1, 2018, and,  
28 as of January 1, 2019, is repealed, unless a later enacted statute,  
29 that becomes operative on or before January 1, 2019, deletes or  
30 extends the dates on which it becomes inoperative and is repealed.

31 SEC. 4. Section 8276.5 is added to the Fish and Game Code,  
32 to read:

33 8276.5. (a) In consultation with the Dungeness crab task force,  
34 or its appointed representatives, the director shall adopt a  
35 program, by July 1, 2012, for Dungeness crab trap limits for all  
36 California permits. Unless the director finds that there is consensus  
37 in the Dungeness crab industry that modifications to the following  
38 requirements are more desirable, with evidence of consensus,  
39 including, but not limited to, the record of the Dungeness crab

1 task force, the program shall include all of the following  
2 requirements:

3 (1) The program shall contain seven tiers of Dungeness crab  
4 trap limits based on California landings receipts under California  
5 permits between November 15, 2003, and July 15, 2008, as follows:

6 (A) The 55 California permits with the highest California  
7 landings shall receive a maximum allocation of 500 trap tags.

8 (B) The 55 California permits with the next highest California  
9 landings to those in subparagraph (A) shall receive a maximum  
10 allocation of 450 trap tags.

11 (C) The 55 California permits with the next highest California  
12 landings to those in subparagraph (B) shall receive a maximum  
13 allocation of 400 trap tags.

14 (D) The 55 California permits with the next highest California  
15 landings to those in subparagraph (C) shall receive a maximum  
16 allocation of 350 trap tags.

17 (E) The 55 California permits with the next highest California  
18 landings to those in subparagraph (D) shall receive a maximum  
19 allocation of 300 trap tags.

20 (F) The remaining California permits with the next highest  
21 California landings to those in subparagraph (E), which are not  
22 described in paragraph (1) or (2) of subdivision (h) of Section  
23 8276.4, shall receive a maximum allocation of 250 trap tags.

24 (G) The California permits described in paragraphs (1) and (2)  
25 of subdivision (h) of Section 8276.4 shall receive a maximum  
26 allocation of 175 tags. The tags in this tier shall not be transferable  
27 for the first two years of the program.

28 (2) Notwithstanding paragraph (1), the director shall not remove  
29 a permitholder from a tier described in paragraph (1), if after an  
30 allocation is made pursuant to paragraph (1) an appeal pursuant  
31 to paragraph (6) places a permitholder in a tier different than the  
32 original allocation.

33 (3) Participants in the program shall meet all of the following  
34 requirements:

35 (A) Pay a biennial fee for each trap tag issued pursuant to this  
36 section to pay the pro rata share of costs of the program, including,  
37 but not limited to, informing permitholders of the program,  
38 collecting fees, acquiring and sending trap tags to permitholders,  
39 paying for a portion of enforcement costs, and monitoring the  
40 results of the program. The fee shall not exceed five dollars (\$5)

1 *per trap, per two-year period. All of the trap tags allocated to each*  
2 *permit pursuant to subdivision (a) shall be purchased by the*  
3 *permitholder or the permit shall be void.*

4 *(B) Purchase a biennial crab trap limit permit of not more than*  
5 *one thousand dollars (\$1,000) per two-year period to pay for the*  
6 *department's reasonable regulatory costs.*

7 *(C) Refrain from leasing a crab trap tag, and transfer a tag*  
8 *only as part of a transaction to purchase a California permitted*  
9 *crab vessel.*

10 *(D) A Dungeness crab trap that is fished shall contain a trap*  
11 *tag that is fastened to the first buoy, and an additional tag provided*  
12 *by the permitholder attached to the trap. The department shall*  
13 *mandate the information that is required to appear on both buoy*  
14 *and trap tags.*

15 *(4) The department shall annually provide an accounting of all*  
16 *costs associated with the crab trap limit program. Excess funds*  
17 *collected by the department shall be used to reduce the cost of the*  
18 *crab trap limit permit fee or tag fee in subsequent years of the*  
19 *program.*

20 *(5) Permitholders may replace lost tags by application to the*  
21 *department and payment of a fee not to exceed the reasonable*  
22 *costs incurred by the department. The department may waive or*  
23 *reduce a fee in the case of catastrophic loss of tags.*

24 *(6) An individual may submit an appeal of a trap tag allocation*  
25 *received pursuant to this section, by July 1, 2013, to the director*  
26 *on a permit-by-permit basis for the purpose of revising upward or*  
27 *downward any trap tag allocation based on evidence that a*  
28 *permit's California landings during the period between November*  
29 *15, 2003, and July 15, 2008, inclusive, were reduced as a result*  
30 *of unusual circumstances and that these circumstances constitute*  
31 *an unfair hardship, taking into account the overall California*  
32 *landings history as indicated by landing receipts associated with*  
33 *the permit. The director shall initiate the appeal process within*  
34 *12 months of receiving an appeal request. The appeal shall be*  
35 *heard and decided by an administrative law judge of the Office of*  
36 *Administrative Hearings, whose decision shall constitute the final*  
37 *administrative decision. An individual requesting an appeal shall*  
38 *pay all expenses, including a nonrefundable filing fee, as*  
39 *determined by the department, to pay for the department's*

1 *reasonable costs associated with the appeal process described in*  
2 *this paragraph.*

3 *(b) (1) In addition to criminal penalties authorized by law, a*  
4 *violation of the requirements of the program created pursuant to*  
5 *this section shall be subject to the following civil penalties:*

6 *(A) Conviction of a first offense shall result in a fine of not less*  
7 *than two hundred fifty dollars (\$250) and not more than one*  
8 *thousand dollars (\$1,000) per illegal trap or fraudulent tag.*

9 *(B) Conviction of a second offense shall result in a fine of not*  
10 *less than five hundred dollars (\$500) and not more than two*  
11 *thousand five hundred dollars (\$2,500) per illegal trap or*  
12 *fraudulent tag, and the permit may be suspended for one year.*

13 *(C) Conviction of a third offense shall result in a fine of not less*  
14 *than one thousand dollars (\$1,000) and not more than five*  
15 *thousand dollars (\$5,000) per illegal trap or fraudulent tag, and*  
16 *the permit may be permanently revoked.*

17 *(2) The severity of a penalty within the ranges described in this*  
18 *subdivision shall be based on a determination whether the violation*  
19 *was willful or negligent and other factors.*

20 *(3) The portion of monetary judgments for noncompliance that*  
21 *are paid to the department shall be deposited in the Dungeness*  
22 *Crab Account created pursuant to subdivision (e).*

23 *(c) For the purposes of this section, a proposed recommendation*  
24 *that receives an affirmative vote of at least 15 of the non-ex officio*  
25 *members of the Dungeness crab task force may be transmitted to*  
26 *the director or the Legislature as a recommendation, shall be*  
27 *considered to be the consensus of the task force, and shall be*  
28 *considered to be evidence of consensus in the Dungeness crab*  
29 *industry. Any proposed recommendation that does not receive a*  
30 *vote sufficient to authorize transmittal to the director or Legislature*  
31 *as a recommendation shall be evidence of a lack of consensus by*  
32 *the Dungeness crab task force, and shall be considered to be*  
33 *evidence of a lack of consensus in the crab industry.*

34 *(d) (1) The director shall submit a proposed program pursuant*  
35 *to this section to the Dungeness crab task force for review, and*  
36 *shall not implement the program until the task force has had 60*  
37 *days or more to review the proposed program and recommend*  
38 *any proposed changes. The director may implement the program*  
39 *earlier than 60 days after it is submitted to the Dungeness crab*  
40 *task force for review, if recommended by the task force.*

1 (2) After the program is implemented pursuant to paragraph  
2 (1), the director may modify the program, if consistent with the  
3 requirements of this section, after consultation with the Dungeness  
4 crab task force or its representatives and after the task force has  
5 had 60 days or more to review the proposed modifications and  
6 recommend any proposed changes. The director may implement  
7 the modifications earlier than 60 days after it is sent to the  
8 Dungeness crab task force for review, if recommended by the task  
9 force.

10 (e) The Dungeness Crab Account is hereby established in the  
11 Fish and Game Preservation Fund and the fees collected pursuant  
12 to this section shall be deposited in that account. The money in  
13 the account shall be used by the department, upon appropriation  
14 by the Legislature, for administering and enforcing the program.

15 (f) For purposes of meeting the necessary expenses of initial  
16 organization and operation of the program until fees may be  
17 collected, or other funding sources may be received, the department  
18 may borrow money as needed for these expenses from the council.  
19 The borrowed money shall be repaid within one year from the fees  
20 collected or other funding sources received. The council shall give  
21 high priority to providing funds or services to the department, in  
22 addition to loans, to assist in the development of the program,  
23 including, but not limited to, the costs of convening the Dungeness  
24 crab task force, environmental review, and the department's costs  
25 of attending meetings with task force members.

26 (g) (1) It is the intent of the Legislature that the department,  
27 the council, and the Dungeness crab task force work with the  
28 Pacific States Marine Fisheries Commission and the Tri-state  
29 Dungeness Crab Commission to resolve any issues pertaining to  
30 moving the fair start line south to the border of California and  
31 Mexico.

32 (2) For the purposes of this subdivision, the resolution of issues  
33 pertaining to the fair start line shall be limited to assessing the  
34 positive and negative implications of including District 10 in the  
35 tri-state agreement, including working with the Tri-state Dungeness  
36 Crab Commission to amend Oregon and Washington laws to  
37 include District 10 in the regular season fair start clause, and  
38 discussion of providing different rules for District 10 with regard  
39 to preseason quality testing.

1 (h) For purposes of this section, “council” means the Ocean  
2 Protection Council established pursuant to Section 35600 of the  
3 Public Resources Code.

4 (i) This section shall become inoperative on April 1, 2018, and,  
5 as of January 1, 2019, is repealed, unless a later enacted statute,  
6 that becomes operative on or before January 1, 2019, deletes or  
7 extends the dates on which it becomes inoperative and is repealed.

8 ~~SEC. 3.~~

9 SEC. 5. Section 8279.1 of the Fish and Game Code is amended  
10 to read:

11 8279.1. (a) A person shall not take, possess onboard, or land  
12 Dungeness crab for commercial purposes from any vessel in ocean  
13 waters in District 6, 7, 8, or 9 for 30 days after the opening of the  
14 Dungeness crab fishing season in California, if both of the  
15 following events have occurred:

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

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

22 (b) A person shall not take, possess onboard, or land Dungeness  
23 crab for commercial purposes from any vessel in ocean waters  
24 south of the border between Oregon and California for 30 days  
25 after the opening of the Dungeness crab fishing season in  
26 California, if both of the following events have occurred:

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

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

32 (c) A person shall not take, possess onboard, or land Dungeness  
33 crab for commercial purposes from any vessel in ocean waters  
34 north of the border between Oregon and California for 30 days  
35 after the opening of the Dungeness crab fishing season in Oregon  
36 or Washington, if both of the following events have occurred:

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

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

4 (d) A person shall not take, possess onboard, or land Dungeness  
5 crab for commercial purposes from any vessel in ocean waters off  
6 Washington, Oregon, or California for 30 days after the opening  
7 of the Dungeness crab fishing season in California, Oregon, or  
8 Washington, if both of the following events have occurred:

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

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

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

19 (f) This section shall become inoperative on April 1, ~~2015~~ 2018,  
20 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
21 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
22 deletes or extends the dates on which it becomes inoperative and  
23 is repealed.

24 ~~SEC. 4.~~

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

27 8280.1. (a) A person shall not use a vessel to take, possess, or  
28 land Dungeness crab for commercial purposes using Dungeness  
29 crab traps authorized pursuant to Section 9011, unless the owner  
30 of that vessel has a Dungeness crab vessel permit for that vessel  
31 that has not been suspended or revoked. This section does not  
32 apply to a commercially registered fishing vessel if it is being used  
33 solely to assist a permitted vessel transport or set traps.

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

36 (1) A person, who has a commercial fishing license issued  
37 pursuant to Section 7852 or Article 7 (commencing with Section  
38 8030) of Chapter 1 that has not been suspended or revoked, who  
39 is the owner of a commercial fishing vessel that has been registered  
40 with the department pursuant to Section 7881 in each of the

1 1991–92, 1992–93, and 1993–94 permit years and a minimum of  
2 four landings in each of three Dungeness crab seasons in the period  
3 from November 1, 1984, to April 1, 1994, have been made from  
4 that vessel. This paragraph includes any person purchasing a vessel  
5 qualifying pursuant to this paragraph.

6 (2) A person who has a commercial fishing license issued  
7 pursuant to Section 7852 or Article 7 (commencing with Section  
8 8030) of Chapter 1 that has not been suspended or revoked, who  
9 is the owner of a commercial fishing vessel that has been registered  
10 with the department pursuant to Section 7881 in each of the  
11 1991–92, 1992–93, and 1993–94 permit years and a minimum of  
12 four landings in one of the Dungeness crab seasons in the period  
13 from November 1, 1984, to April 1, 1994, have been made from  
14 that vessel in this state as documented by landing receipts delivered  
15 to the department pursuant to Section 8046, who the department  
16 finds to have been unable, due to illness or injury or any other  
17 hardship, to make a minimum of four landings in each of two of  
18 the previous three Dungeness crab seasons, and who, in good faith,  
19 intended to participate in the Dungeness crab fishery in those  
20 seasons.

21 (3) A person who has a commercial fishing license issued  
22 pursuant to Section 7852 that has not been suspended or revoked,  
23 who meets the requirements of Section 8101, and who,  
24 notwithstanding Section 8101, is, at the time of application, the  
25 owner of a fishing vessel that is not equipped for trawling with a  
26 net and that has been registered pursuant to Section 7881 in each  
27 of the 1991–92, 1992–93, and 1993–94 permit years. Not more  
28 than one Dungeness crab vessel permit shall be issued to any  
29 person qualifying under Section 8101 and all permits issued under  
30 Section 8101, notwithstanding subdivision (b) of Section 8280.3,  
31 shall be nontransferable. A person qualifying for a permit under  
32 this paragraph shall have participated in the Dungeness crab fishery  
33 on or before March 31, 1994, as documented by landing receipts  
34 that were prepared in that person’s name for not less than four  
35 landings of Dungeness crab taken in a crab trap in a Dungeness  
36 crab season and were delivered to the department pursuant to  
37 Section 8046. A person shall not be issued a permit under this  
38 paragraph if that person has been issued a permit under any other  
39 provision of this section for another vessel. For purposes of Section  
40 8101, “participated in the fishery” means made not less than four

1 landings of Dungeness crab taken by traps in that person's name  
2 in one Dungeness crab season. The department shall separately  
3 identify permits issued pursuant to this paragraph and those permits  
4 shall become immediately null and void upon the death of the  
5 permittee. The department shall not issue or renew any permit  
6 under this paragraph to a person if the person failed to meet the  
7 participation requirements of four landings in one season prior to  
8 April 1, 1994, or has been issued a Dungeness crab permit for a  
9 vessel under any other paragraph of this subdivision.

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

13 (A) The person held a Dungeness crab permit issued pursuant  
14 to Section 8280 as it read on April 1, 1994, and participated in the  
15 Dungeness crab fishery between November 1, 1984, and April 1,  
16 1994, and is the owner of a vessel that has been registered with  
17 the department in each of the 1991–92, 1992–93, and 1993–94  
18 permit years but did not make landings or the department records  
19 do not indicate a minimum of four landings per season for three  
20 Dungeness crab seasons from that vessel or in that person's name  
21 because of a partnership or other working arrangement where the  
22 person was working aboard another vessel engaged in the  
23 Dungeness crab fishery in California.

24 (B) The person held a Dungeness crab permit issued under  
25 Section 8280 as it read on April 1, 1994, and is the owner of a  
26 commercial fishing vessel that has been registered with the  
27 department pursuant to Section 7881 in each of the 1991–92,  
28 1992–93, and 1993–94 permit years and from which a minimum  
29 of four landings utilizing traps were made in at least one Dungeness  
30 crab season in the period between November 1, 1984, and April  
31 1, 1994, and from which either four landings were made utilizing  
32 traps or landings in excess of 10,000 pounds were made utilizing  
33 traps in each of two other Dungeness crab seasons in that same  
34 period, as documented by landing receipts.

35 (C) The person held a Dungeness crab vessel permit issued  
36 under Section 8280 as it read on April 1, 1994, or was an officer  
37 in a California corporation that was licensed pursuant to Article 7  
38 (commencing with Section 8030) of Chapter 1 as of April 1, 1994,  
39 and began construction or reconstruction of a vessel on or before  
40 January 1, 1992, for the purpose of engaging in the Dungeness

1 crab fishery, including the purchase of equipment and gear to  
2 engage in that fishery in California. A person may be issued a  
3 permit under this condition only if the person intended in good  
4 faith to participate in the California Dungeness crab fishery, a  
5 denial of a permit would create a financial hardship on that person,  
6 and, for purposes of determining financial hardship, the applicant  
7 is a nonresident and cannot participate with his or her vessel or  
8 vessels in the Dungeness crab fishery of another state because of  
9 that state's limited entry or moratorium on the issuance of permits  
10 for the taking of Dungeness crab.

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

31 (6) A person who held a Dungeness crab permit issued under  
32 Section 8280 as it read on April 1, 1994, who made a minimum  
33 of four landings utilizing traps in this state in each of three  
34 Dungeness crab seasons in the period between November 1, 1984,  
35 and April 1, 1994, in his or her name from a vessel operated by  
36 that person as documented by landing receipts, who currently does  
37 not own a vessel in his or her name, and who has not sold or  
38 transferred a vessel otherwise qualifying for a permit under this  
39 section. A permit may be issued under this paragraph for a vessel  
40 not greater in size than the vessel from which the previous landings

1 were made, and, in no event, for a vessel of more than 60 feet in  
2 overall length, to be placed on a vessel that the person purchases  
3 or contracts for construction on or before April 1, 1996. A permit  
4 issued under this paragraph shall be nontransferable and shall not  
5 be used for a vessel not owned by that person, and shall be revoked  
6 if the person (A) fails to renew the permit or annually renew his  
7 or her commercial fishing license issued pursuant to Section 7852  
8 or (B) is or becomes the owner of another vessel permitted to  
9 operate in the Dungeness crab fishery pursuant to this section.

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

17 (d) A person shall not be issued a Dungeness crab vessel permit  
18 under this section for any vessel unless that person has a valid  
19 commercial fishing license issued pursuant to Section 7852 that  
20 has not been suspended or revoked.

21 (e) Notwithstanding Section 7852.2 or subdivision (e) of Section  
22 8280.2, the department may issue a Dungeness crab vessel permit  
23 that has not been applied for by the application deadline if the  
24 department finds that the failure to apply was a result of a mistake  
25 or hardship, as established by evidence the department may require,  
26 the late application is made not later than October 15, 1995, and  
27 payment is made by the applicant of a late fee of two hundred fifty  
28 dollars (\$250) in addition to all other fees for the permit.

29 (f) The department may waive the requirement that a person  
30 own a commercial fishing vessel that has been registered with the  
31 department pursuant to Section 7881 in each of the 1991–92,  
32 1992–93, and 1993–94 permit years for one of those required years  
33 under this section only if the vessel was registered and used in the  
34 California Dungeness crab fishery during the registration year  
35 immediately prior to the year for which the waiver is sought and  
36 was registered and used in the California Dungeness crab fishery  
37 after the year for which the waiver is sought and if the reason for  
38 the failure to register in the year for which the waiver is sought  
39 was due to a death, illness, or injury, or other hardship, as  
40 determined by the review panel, that prevented the vessel from

1 being registered and operated in the fishery for that registration  
2 year.

3 (g) (1) If any person submits false information for the purposes  
4 of obtaining a Dungeness crab vessel permit under this section,  
5 the department shall revoke that permit, if issued, revoke the  
6 person's commercial fishing license that was issued pursuant to  
7 Section 7850 for a period of not less than five years, and revoke  
8 the commercial boat registration for a period of not less than five  
9 years of any vessel registered to that person pursuant to Section  
10 7881 of which that person is the owner.

11 (2) *In addition to criminal penalties authorized by law, a person*  
12 *who fishes without a Dungeness crab vessel permit or uses a*  
13 *Dungeness crab vessel permit to fish illegally on another vessel*  
14 *other than the one permitted shall be subject to a fine not more*  
15 *than twenty thousand dollars (\$20,000) and, at the discretion of*  
16 *the department, revocation of the person's fishing license for a*  
17 *period not to exceed five years and revocation of the commercial*  
18 *boat registration license for a period not to exceed five years.*

19 (h) This section shall become inoperative on April 1, ~~2015~~ 2018,  
20 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
21 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
22 deletes or extends the dates on which it becomes inoperative and  
23 is repealed.

24 ~~SEC. 5.~~

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

27 8280.2. (a) The owner of a Dungeness crab vessel, for purposes  
28 of this section, may include a person with a bona fide contract for  
29 the purchase of a vessel who otherwise meets all other  
30 qualifications for a Dungeness crab vessel permit. If a contract is  
31 found to be fraudulent or written or entered into for the purposes  
32 of circumventing qualification criteria for the issuance of a permit,  
33 the applicant shall be permanently ineligible for a Dungeness crab  
34 vessel permit.

35 (b) A Dungeness crab vessel permit shall be issued only to the  
36 person owning the vessel at the time of application for that permit.  
37 A person shall not be issued more than one permit for each vessel  
38 owned by that person and qualifying for a permit pursuant to  
39 Section 8280.1.

1 (c) A Dungeness crab vessel permit shall be issued only to the  
 2 owner of a vessel taking crab by traps. A permit shall not be issued  
 3 to the owner of a vessel using trawl or other nets unless the owner  
 4 of that vessel qualifies for a permit pursuant to paragraph (1) of  
 5 subdivision (b) of Section 8280.1. A trawl or other net vessel  
 6 authorized under this code to take Dungeness crab incidental to  
 7 the taking of fish in trawl or other nets shall not be required to  
 8 possess a Dungeness crab vessel permit.

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

14 (e) Applications for renewal of all Dungeness crab vessel  
 15 permits shall be received by the department, or, if mailed,  
 16 postmarked, by April 30 of each year. In order for a vessel to retain  
 17 eligibility, a permit shall be obtained each year subsequent to the  
 18 initial permit year and the vessel shall be registered pursuant to  
 19 Section 7881. The vessel owner shall have a valid commercial  
 20 fishing license issued to that person pursuant to Section 7852 that  
 21 has not been suspended or revoked. Minimum landings of  
 22 Dungeness crab shall not be required annually to be eligible for a  
 23 Dungeness crab vessel permit.

24 (f) This section shall become inoperative on April 1, ~~2015~~ 2018,  
 25 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
 26 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
 27 deletes or extends the dates on which it becomes inoperative and  
 28 is repealed.

29 ~~SEC. 6.~~

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

32 8280.3. (a) Notwithstanding Article 9 (commencing with  
 33 Section 8100) of Chapter 1 and except as provided in this section,  
 34 a Dungeness crab vessel permit shall not be transferred.

35 (b) The owner of a vessel to whom a Dungeness crab vessel  
 36 permit has been issued shall transfer the permit for the use of that  
 37 vessel upon the sale of the vessel by the permitholder to the person  
 38 purchasing the vessel. Thereafter, upon notice to the department,  
 39 the person purchasing the vessel may use the vessel for the taking  
 40 and landing of Dungeness crab for any and all of the unexpired

1 portion of the permit year, and that person is eligible for a permit  
2 pursuant to Section 8280.1 for the use of that vessel in subsequent  
3 years. The person purchasing the vessel shall not transfer the permit  
4 for use of that vessel in the Dungeness crab fishery to another  
5 replacement vessel during the same permit year.

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

15 (d) The owner of a permitted vessel may transfer the permit to  
16 a vessel of greater capacity that was owned by that person on or  
17 before November 15, 1995, not to exceed 10 feet longer in length  
18 overall than the vessel for which the permit was originally issued  
19 or to a vessel of greater capacity purchased after November 15,  
20 1995, not to exceed 5 feet longer in length overall than the vessel  
21 for which the permit was originally issued.

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

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

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

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

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

1 (f) A transfer of a permit to a larger vessel shall not be allowed  
2 more than one time. If a permit is transferred to a larger vessel,  
3 any Dungeness crab vessel permit for that permit year or any  
4 subsequent permit years for that larger vessel shall 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 (g) 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 (h) 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.

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

8 (j) This section shall become inoperative on April 1, ~~2015~~ 2018,  
9 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
10 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
11 deletes or extends the dates on which it becomes inoperative and  
12 is repealed.

13 ~~SEC. 7.~~

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

16 8280.4. (a) The commission may revoke the commercial  
17 fishing license issued pursuant to Section 7852 of any person  
18 owning a fishing vessel engaging in the taking or landing of  
19 Dungeness crab by traps for which that person has not obtained a  
20 Dungeness crab vessel permit, and the commission may revoke  
21 the registration, issued pursuant to Section 7881, for that vessel.

22 (b) This section shall become inoperative on April 1, ~~2015~~ 2018,  
23 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
24 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
25 deletes or extends the dates on which it becomes inoperative and  
26 is repealed.

27 ~~SEC. 8.~~

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

30 8280.5. (a) The director shall convene a Dungeness crab review  
31 panel for the purpose of reviewing applications for Dungeness  
32 crab vessel permits pursuant to paragraphs (2) and (4) of  
33 subdivision (b) of Section 8280.1 and applications for permit  
34 transfers pursuant to Section 8280.3 if the department determines  
35 that the additional review and advice of the panel will be helpful  
36 in deciding whether to issue a permit or approve a transfer.

37 (b) The panel shall consist of one nonvoting representative of  
38 the department and three public voting members selected by the  
39 director to represent the Dungeness crab fishing industry. One  
40 public member shall be licensed pursuant to Article 7 (commencing

1 with Section 8030) of Chapter 1 and active in Dungeness crab  
2 processing in this state. Two public members shall be licensed  
3 pursuant to Section 7852, one from Sonoma County or a county  
4 south of Sonoma County, and one from Mendocino County or a  
5 county north of Mendocino County, and active in the taking and  
6 landing of Dungeness crab in this state. The public members shall  
7 be reimbursed for their necessary and proper expenses to participate  
8 on the panel. A public member shall serve on the panel for not  
9 more than four consecutive years.

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

12 (d) The panel shall review each application for a permit or  
13 permit transfer referred to it by the department and shall consider  
14 all oral and written evidence presented by the applicant that is  
15 pertinent to the application under review. If the panel recommends  
16 issuance of a permit or approval of the transfer, the department  
17 may issue a Dungeness crab vessel permit pursuant to Section  
18 8280.1 or approve a permit transfer pursuant to Section 8280.3.

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

26 (f) This section shall become inoperative on April 1, ~~2015~~ 2018,  
27 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
28 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
29 deletes or extends the dates on which it becomes inoperative and  
30 is repealed.

31 ~~SEC. 9.~~

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

34 8280.6. (a) The department shall charge a fee for each  
35 Dungeness crab vessel permit of two hundred dollars (\$200) for  
36 a resident of California and four hundred dollars (\$400) for a  
37 nonresident of California, for the reasonable regulatory costs of  
38 the department.

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

1 pursuant to subdivision (c), (h), or (i) of Section 8280.3, for the  
2 reasonable regulatory costs of the department.

3 (c) This section shall become inoperative on April 1, ~~2015~~ 2018,  
4 and, as of January 1, ~~2016~~ 2019, is repealed, unless a later enacted  
5 statute, that becomes operative on or before January 1, ~~2016~~ 2019,  
6 deletes or extends the dates on which it becomes inoperative and  
7 is repealed.

8 ~~SEC. 10.~~

9 *SEC. 12.* No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.