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AB-2001 Fully protected fish: Owens pupfish: California State Safe Harbor Agreement Program Act.
(2015-2016)

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Assembly Bill No. 2001

CHAPTER 515

An act to amend Section 5515 of, and to add Section 2089.7 to, the Fish and Game Code, relating to fish.

[Approved by Governor September 23, 2016. Filed with Secretary of State September 23, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2001, Mathis. Fully protected fish: Owens pupfish: California State Safe Harbor Agreement Program Act.

Existing law prohibits the taking or possession of a fully protected fish, except as provided, and designates the Owens pupfish as a fully protected fish. Under existing law, the Department of Fish and Wildlife is authorized to permit the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species.

Existing law, the California State Safe Harbor Agreement Program Act, establishes a program to encourage landowners to manage their lands voluntarily, by means of state safe harbor agreements approved by the Department of Fish and Wildlife, to benefit endangered, threatened, or candidate species without being subject to additional regulatory restrictions as a result of their conservation efforts. The act authorizes the department to authorize specified acts that are otherwise prohibited pursuant to the California Endangered Species Act by entering into a safe harbor agreement. Under existing law, the act remains in effect until January 1, 2020.

This bill would authorize the department to permit the taking of the Owens pupfish in the Owens River watershed if the take is authorized under a safe harbor agreement.

This bill would incorporate additional changes to Section 5515 of the Fish and Game Code, proposed by AB 1845 and AB 2488, that would become operative only if this bill and either or both of those bills are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2089.7 is added to the Fish and Game Code, to read:

2089.7. The department may authorize the taking of the Owens pupfish in the Owens River watershed if the take is authorized under an agreement pursuant to this article.

SEC. 2. Section 5515 of the Fish and Game Code is amended to read:

5515. (a) (1) Except as provided in this section or Section 2081.6, 2081.7, 2089.7, or 2835, a fully protected fish shall not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected fish may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

(1) Colorado River squawfish (*Ptychocheilus lucius*).

(2) Thicktail chub (*Gila crassicauda*).

(3) Mohave chub (*Gila mohavensis*).

(4) Lost River sucker (*Catostomus luxatus*).

(5) Modoc sucker (*Catostomus microps*).

(6) Shortnose sucker (*Chasmistes brevirostris*).

(7) Humpback sucker (*Xyrauchen texanus*).

(8) Owens pupfish (*Cyprinodon radiosus*).

(9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

(10) Rough sculpin (*Cottus asperimus*).

SEC. 2.1. Section 5515 of the Fish and Game Code is amended to read:

5515. (a) (1) Except as provided in this section or Section 2081.4, 2081.6, 2081.7, 2089.7, or 2835, a fully protected fish shall not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

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- (5) Modoc sucker (*Catostomus microps*).
- (6) Shortnose sucker (*Chasmistes brevirostris*).
- (7) Humpback sucker (*Xyrauchen texanus*).
- (8) Owens pupfish (*Cyprinodon radiosus*).
- (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
- (10) Rough sculpin (*Cottus asperimus*).

SEC. 2.2. Section 5515 of the Fish and Game Code is amended to read:

5515. (a) (1) Except as provided in this section or Section 2081.6, 2081.7, 2081.10, 2089.7, or 2835, a fully protected fish shall not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected fish may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

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- (6) Shortnose sucker (*Chasmistes brevirostris*).
- (7) Humpback sucker (*Xyrauchen texanus*).
- (8) Owens pupfish (*Cyprinodon radiosus*).
- (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
- (10) Rough sculpin (*Cottus asperimus*).

SEC. 2.3. Section 5515 of the Fish and Game Code is amended to read:

5515. (a) (1) Except as provided in this section or Section 2081.4, 2081.6, 2081.7, 2081.10, 2089.7, or 2835, a fully protected fish shall not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected fish may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

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(8) Owens pupfish (*Cyprinodon radiosus*).

(9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

(10) Rough sculpin (*Cottus asperimus*).

SEC. 3. (a) Section 2.1 of this bill incorporates amendments to Section 5515 of the Fish and Game Code proposed by both this bill and Assembly Bill 1845. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 5515 of the Fish and Game Code, (3) Assembly Bill 2488 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1845, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 5515 of the Fish and Game Code proposed by both this bill and Assembly Bill 2488. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 5515 of the Fish and Game Code, (3) Assembly Bill 1845 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2488 in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 5515 of the Fish and Game Code proposed by this bill, Assembly Bill 1845, and Assembly Bill 2488. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2017, (2) all three bills amend Section 5515 of the Fish and Game Code, and (3) this bill is enacted after Assembly Bill 1845 and Assembly Bill 2488, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.