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SB-1310 Fishing: Dungeness crab. (2017-2018)

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Senate Bill No. 1310

CHAPTER 663

An act to amend Sections 5523, 8276, 8276.2, 8276.3, 8276.4, 8276.5, 8279.1, 8280, 8280.1, 8280.2, 8280.3, 8280.4, and 8280.6 of, and to repeal Section 8280.5 of, the Fish and Game Code, relating to fishing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 2018. Filed with Secretary of State September 21, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1310, McGuire. Fishing: Dungeness crab.

(1) Existing law provides that no person shall use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps without a Dungeness crab vessel permit. Existing law sets forth the qualifications for initial issuance of a permit, including a person's history of participating in the Dungeness crab fishery before the establishment of the permit program, provides that one category of permit issued pursuant to those provisions shall become null and void upon the death of the permittee, and provides a penalty for submitting false information in connection with initial issuance of the permit. Existing law provides for renewal of a permit. Existing law requires the owner of a permitted vessel to transfer the permit upon sale to the person purchasing the vessel. Existing law authorizes the owner of a permitted vessel to transfer the permit to a replacement vessel of equivalent capacity and authorizes a one-time transfer of the permit to a larger vessel that is 5 feet, 10 feet, or up to 20 feet longer, as provided, in length overall than the originally permitted vessel.

This bill would delete the provisions relating to the initial issuance of a permit, except for the provision that makes one category of permit null and void upon the death of the permittee. The bill would prohibit issuance of a new, original Dungeness crab vessel permit and provide that a permit may only be issued pursuant to renewal or transfer of an existing permit.

The bill would define the length overall of a vessel as the horizontal distance between the forward-most and after-most points on the hull, without including attachments fixed to the stern and bow. The bill would prohibit the transfer of a permit upon sale if the vessel is more than 5 feet longer in length overall than the baseline length on the permit, as specified. For transfer of a permit to a larger vessel, the bill would provide for the greater length overall to be determined in relation to the baseline length on the permit instead of the length overall of the originally permitted vessel. Under the bill, the baseline length on the permit would be either the length overall of the originally permitted vessel, as originally documented on the permit, or the current length overall of the current vessel, if the permit holder submits to the Department of Fish and Wildlife, on or before March 31, 2020, a survey reflecting a greater current length overall than the originally documented length.

(2) Existing law establishes the Ocean Protection Council and requires the council to, among other things, coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations. Existing law requires the council to make a grant, upon appropriation of funding by the Legislature, for the development and administration of a Dungeness crab task force.

Existing law requires the task force, among other things, to review and evaluate Dungeness crab management measures, with the objective of making initial recommendations by January 15, 2015, and final recommendations by January 15, 2017, related to the Dungeness crab fishery to the Joint Committee on Fisheries and Aquaculture, the Department of Fish and Wildlife, and the Fish and Game Commission.

Existing law requires the Director of Fish and Wildlife to adopt a program for Dungeness crab trap limits for all California permits and establishes a procedure for initial implementation of the program after submission of the proposed program to, and review by, the Dungeness crab task force. Existing law requires the director to make specified allocations of crab trap tags under the program. Existing law establishes procedures for a Dungeness crab permit holder to submit, by March 31, 2014, an appeal to increase a trap tag allocation and to apply for waiver of appeal fees. Existing law also establishes appeal procedures to reduce, instead of increase, a trap tag allocation. Existing law requires participants in the program to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee, as provided. Existing law creates the Dungeness Crab Account in the Fish and Game Preservation Fund, and requires the fees collected to be deposited in that account, to be used by the department, upon appropriation by the Legislature, for administering and enforcing the program.

This bill would require the task force to make recommendations related to the Dungeness crab fishery by January 15, 2022, and by January 15 of every third year thereafter through 2028. The bill would delete the provisions establishing procedures for initial implementation of the program, for applying for waiver of appeal fees, and for submission of an appeal to reduce a trap tag allocation. The bill would require that, in each fiscal year through the 2029 fiscal year, after allocation of funding to the department from the Dungeness Crab Account, \$150,000, if available, of the amount remaining in the account be allocated, upon appropriation by the Legislature, to the Ocean Protection Council to support the administration and facilitation of the Dungeness crab task force.

(3) Under existing law, the Dungeness crab task force is comprised of 27 members, including 10 nonelected voting and nonvoting members representing the Department of Fish and Wildlife, University of California Sea Grant, sport fishing interests, crab processing interests, commercial passenger fishing vessel interests, and nongovernmental organization interests, as specified, and 17 voting members elected in specified ports to represent commercial fishery interests in those ports at specified production levels.

This bill would provide for the representatives of the department and University of California Sea Grant to be appointed by the department and University of California Sea Grant, respectively, and for the remaining nonelected members to be appointed by the Ocean Protection Council following a public solicitation for nominations. The bill would make one of the 2 members representing sport fishing interests a nonvoting member. The bill would revise the number of elected members representing commercial fishery interests in each port and would specify the number of elected members representing upper production levels or lower production levels, or both, in each port based on the total number of elected members representing the port. The bill would provide for elections to be held every 3 years in each port, on a staggered basis across ports, in coordination with the department or council and with support from an administrative team of the task force. The bill would provide for the appointment of alternates and would specify procedures in case a member's position becomes vacant.

(4) Existing law prohibits a person from taking, possessing onboard, or landing Dungeness crab for commercial purposes from a vessel in specified waters, including, respectively, ocean waters in certain California fish and game districts, ocean waters south of the border between Oregon and California, ocean waters north of the border between Oregon and California, or ocean waters off Washington, Oregon, or California, for 30 days after the opening of the Dungeness crab fishing season in those waters if the opening of Dungeness crab season has been delayed in those waters and the same vessel was used to take, possess, or land Dungeness crab in specified waters outside of those respective waters. Existing law requires the Fish and Game Commission to revoke the Dungeness crab vessel permit of any person who violates these provisions.

This bill would instead prohibit a person from taking, possessing onboard, or landing Dungeness crab for commercial purposes from a vessel in any ocean waters, regardless of the location of those waters, until 30 days after the opening of those waters for the commercial Dungeness crab fishing season, if the opening of those waters for the season has been delayed and the same vessel was used to take, possess, or land Dungeness crab for commercial purposes from ocean waters outside of the delayed waters. The bill would specify the circumstances in which a delay has occurred for the purposes of this provision.

(5) Existing law authorizes the Director of Fish and Wildlife to order a delay in the opening of the Dungeness crab fishery after December 1 in Fish and Game Districts 6, 7, 8, and 9 in any year, through a date no later than January 15, pending the outcome of quality tests. Existing law prohibits these quality tests from being conducted after January 1.

This bill would instead authorize quality tests to be conducted through January 15.

(6) Existing law authorizes the Director of Fish and Wildlife to order the closure of any waters or otherwise restrict the taking under a fishing license in state waters of any species of fish if the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that the species or subspecies of fish is likely to pose a human

health risk from high levels of toxic substances. Existing law provides for the Director of Fish and Wildlife, upon receiving notification from the Director of Environmental Health Hazard Assessment that a human health risk no longer exists and a request to reopen those waters, to reopen those waters in a manner that promotes a fair and orderly fishery.

Existing law authorizes crab traps to be set and baited 64 hours before the opening date of the commercial Dungeness crab season in Fish and Game Districts 6, 7, 8, and 9, and 18 hours before the opening date of commercial Dungeness crab season in other fish and game districts. Existing law requires the Department of Fish and Wildlife, in consultation with the Dungeness crab task force, to develop regulations as necessary to provide for the retrieval of lost or abandoned commercial crab traps, and to establish a retrieval permit program as part of those regulations.

This bill would authorize the Director of Fish and Wildlife, if there is a delay in the opening of any waters for Dungeness crab season pursuant to these provisions, to further delay opening those waters in order to provide 72-hours notice before a gear setting period. The bill would provide that if, with 72-hours notice, the gear setting period would begin on a federal holiday, a state holiday, the day before Thanksgiving Day, December 24, or December 31, the director may delay opening those waters for the additional time that is necessary to begin the gear setting period on the next day that is not one of those days. The bill would clarify that it is unlawful to take any fish from any waters closed pursuant to these provisions or to otherwise violate any restriction on take imposed pursuant to these provisions.

This bill would require all Dungeness crab traps to be removed from state waters by 11:59 p.m. on the last day of the applicable commercial Dungeness crab season.

(7) Existing law requires the Director of Fish and Wildlife to convene a Dungeness crab review panel for the purpose of reviewing Dungeness crab vessel permit applications and permit transfer applications.

This bill would repeal those provisions.

(8) Existing law provides that the above-described provisions, and certain other related provisions, except for the provisions in paragraph (6) relating to fishery closure and initial gear setting, shall become inoperative on April 1, 2019, and, as of January 1, 2020, are repealed.

This bill would extend the operation of these provisions, except for the provisions relating to a Dungeness crab review panel and retrieval of lost or abandoned commercial crab traps. The bill would make these provisions inoperative on April 1, 2029, and repeal them as of January 1, 2030.

(9) 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.

(10) 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.

(11) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 5523 of the Fish and Game Code is amended to read:

5523. (a) (1) If the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines, based on thorough and adequate scientific evidence, that any species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances, the Director of Fish and Wildlife may order the closure of any waters or otherwise restrict the taking in state waters of that species.

(2) After the Director of Fish and Wildlife orders the closure of any waters or restricts the taking of any species of fish pursuant to paragraph (1), he or she shall notify the commission and request that the commission schedule a public discussion of the closure or restriction at its next scheduled full commission meeting.

(b) (1) When the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that a health risk no longer exists, the Director of Environmental Health Hazard Assessment shall notify the Director of

Fish and Wildlife and shall request that any waters closed pursuant to subdivision (a) be reopened for fishing and any restrictions imposed pursuant to subdivision (a) be lifted.

(2) Upon receiving the notification and request pursuant to paragraph (1), the Director of Fish and Wildlife shall open any waters closed pursuant to subdivision (a) and lift any restrictions imposed pursuant to subdivision (a) in a manner that promotes a fair and orderly fishery.

(c) It is unlawful to take any fish from any closed waters or to otherwise violate any restriction on take imposed pursuant to this section.

(d) If there is a delay in the opening of any waters for Dungeness crab season pursuant to this section, the Director of Fish and Wildlife may further delay opening those waters in order to provide 72-hours notice before a gear setting period. If, with 72-hours notice, the gear setting period would begin on a federal holiday, a state holiday, the day before Thanksgiving Day, December 24, or December 31, the director may delay opening those waters for the additional time that is necessary to begin the gear setting period on the next day that is not one of those days.

(e) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to actions taken pursuant to this section.

SEC. 2. Section 8276 of the Fish and Game Code is amended to read:

8276. Except as provided in Section 8276.2 or 8277:

(a) Dungeness crab may be taken for commercial purposes in Districts 6, 7, 8, and 9 only between December 1 and July 15.

(b) Dungeness crab may be taken for commercial purposes in all other districts only between November 15 and June 30.

(c) Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater.

(d) All Dungeness crab traps shall be removed from state waters by 11:59 p.m. on the last day of the applicable Dungeness crab season.

SEC. 3. 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) (1) 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.

(2) (A) The meat extracted from Dungeness crab tested pursuant to paragraph (1) may be sold by the entity approved by the department and revenues from that sale may be used for purposes of managing the testing program. Revenues shall be deposited in an account managed and overseen by the Pacific States Marine Fisheries Commission.

(B) For purposes of the testing program, the department shall develop guidelines after consulting with representatives of the California Dungeness crab industry, which shall include California delegates to the Tri-State Dungeness Crab Commission or members of the California Dungeness Crab Task Force, or both. The guidelines shall include the following:

(i) Suggested guidelines for the management of the funds received from, but not limited to, the sale of the crab meat pursuant to subparagraph (A), including the suggested guideline that funds in excess of the program costs may be donated for charitable purposes.

(ii) Guidelines for the testing program.

(iii) Guidelines that establish measures to track crab caught for purposes of the testing program, including, but not limited to, the guideline that all crab caught and sold for the testing program shall be canned.

(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 tests shall not be conducted after January 15 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, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. 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 shall 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 64-hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8276.4 of the Fish and Game Code is amended to read:

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

(1) Two nonvoting members representing the department, appointed by the department.

(2) One nonvoting representative of University of California Sea Grant, appointed by University of California Sea Grant.

(3) Seven members appointed by the Chair of the Ocean Protection Council following a public solicitation for nominations, as follows:

(A) One voting and one nonvoting member representing sport fishing interests.

(B) Two voting members representing crab processing interests.

(C) One voting member representing commercial passenger fishing vessel interests.

(D) Two nonvoting members representing nongovernmental organization interests.

(4) Seventeen voting members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

(A) Three members from Crescent City.

(B) One member from Trinidad.

(C) Two members from Eureka.

(D) Two members from Fort Bragg.

(E) Two members from Bodega Bay.

(F) Two members from San Francisco.

(G) Two members from Half Moon Bay.

(H) Two members from ports south of Half Moon Bay.

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

(b) (1) Elected members in each port shall represent the following production levels:

(A) For ports with one elected member, the member shall represent both the upper and lower production levels.

(B) For ports with two elected members, one member shall represent the upper production level and one member shall represent the lower production level.

(C) For ports with three elected members, one member shall represent the upper production level, one member shall represent the lower production level, and one member shall represent both the upper and lower production levels.

(2) Upper and lower production levels shall be determined in relation to the average landing, during the five-year period before the beginning of an election cycle, of valid crab permitholders who landed a minimum of 25,000 pounds of crab during that period.

(c) Elections shall be held every three years in each port, on a staggered basis across ports, in coordination with the department or the Ocean Protection Council and with support from an administrative team of the Dungeness crab task force. In an election year, all elected members in a port shall be subject to reelection. There shall be no limit on the number of terms that may be served by any person.

(d) (1) Each member appointed pursuant to paragraph (1), (2), or (3) of subdivision (a) shall select an alternate to serve and, if applicable, vote in the member's place in case of the member's absence from, or disqualification from participating in, a meeting of the task force. If the position of a member appointed pursuant to one of those paragraphs becomes vacant, the alternate member shall serve until the position is filled as required pursuant to that paragraph.

(2) Each elected member shall select an alternate in the same port and production level to serve and vote in the member's place in case of the member's absence from, or disqualification from participating in, a meeting of the task force. If the position of the member becomes vacant, the alternate shall serve and vote in the member's place until the next election is held in the port pursuant to subdivision (c).

(e) The Dungeness crab task force shall do all of the following:

(1) Review and evaluate the commercial Dungeness crab management measures described in Section 8276.5, and make recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission, no later than January 15, 2022, and by January 15 of every third year thereafter through 2028.

(2) Make recommendations by the dates specified in paragraph (1) on all of the following: the need for a permanent Dungeness crab advisory committee, the economic impact of the program described in Section 8276.5 on permitholders of different tiers and the economies of different ports, the cost of the program to the department, including enforcement costs, the viability of a buyout program for the permitholders described in subparagraph (G) of paragraph (1) of subdivision (a) of Section 8276.5, refining commercial Dungeness crab management, and the need for statutory changes to accomplish task force objectives.

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

(f) The task force may establish subcommittees of specific user groups from the task force membership to focus on issues specific to commercial harvest or crab processing. The subcommittees shall report their recommendations, if any, to the task force.

(g) The Ocean Protection Council may include in a grant funding to cover department staffing costs, as well as travel costs for task force participants as specified in paragraph (1) of subdivision (a).

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

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

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

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

(j) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 8276.5 of the Fish and Game Code is amended to read:

8276.5. (a) In consultation with the Dungeness crab task force, or its appointed representatives, the director shall adopt a program, by March 31, 2013, for Dungeness crab trap limits for all California permits. Unless the director finds that there is consensus in the Dungeness crab industry that modifications to the following requirements are more desirable, with evidence of consensus, including, but not limited to, the record of the Dungeness crab task force, the program shall include all of the following requirements:

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

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

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

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

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

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

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

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

(2) Notwithstanding paragraph (1), the director shall not remove a permit holder from a tier described in paragraph (1), if, after an allocation is made pursuant to paragraph (1), an appeal pursuant to paragraph (8) places a permit holder in a tier different than the original allocation.

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

(A) Unless a participant receives a waiver pursuant to paragraph (4), pay a biennial fee for each trap tag issued pursuant to this section to pay the pro rata share of costs of the program, including, but not limited to, informing permit holders of the program, collecting fees, acquiring and sending trap tags to permit holders, paying for a portion of enforcement costs, and monitoring the results of the program. The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by the permit holder or the permit shall be void.

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

(C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to purchase a California permitted crab vessel.

(D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to the main buoy, and an additional tag provided by the permit holder attached to the trap. The department shall mandate the information that is required to appear on both buoy and trap tags.

(4) The department shall issue a participant a waiver from the biennial fee for each trap tag described in subparagraph (A) of paragraph (3) if the participant is unable to fish due to mandatory military service and the participant submits a request for a waiver to the department at the same time that the participant renews the permit issued pursuant to subparagraph (B) of paragraph (3). A participant who receives a waiver pursuant to this paragraph shall not apply to the department to fish for Dungeness crab during the first year of the waiver, but may apply to fish for Dungeness crab during the second year of the waiver if the participant pays the full cost of the biennial fee for each trap tag. The department shall not limit the number of times a participant may request a waiver.

(5) Notwithstanding subparagraph (D) of paragraph (3), a vessel may transit state waters with Dungeness crab traps that are not tagged pursuant to subparagraph (D) of paragraph (3) if the traps contain either a valid Oregon or Washington trap tag, no crab species are onboard the vessel, and the traps are not deployed in state waters.

(6) The department shall annually provide an accounting of all costs associated with the crab trap limit program. The department shall use excess funds collected to reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the program.

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

(8) Any Dungeness crab permitholder may submit to the director an appeal of a trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-by-permit basis for the purpose of revising upward or downward any trap tag allocation. Any appeal to revise upward a trap tag allocation shall be based on evidence that a permit's California landings during the period between November 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual circumstances and that these circumstances constitute an unfair hardship, taking into account the overall California landings history as indicated by landing receipts associated with the permit. The director shall initiate the appeal process within 12 months of receiving an appeal request. The appeal shall be heard and decided by an administrative law judge of the Office of Administrative Hearings, whose decision shall constitute the final administrative decision. Except as provided in subparagraph (B), any Dungeness crab permitholder requesting an appeal to revise upward the permitholder's trap tag allocation shall pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal process described in this paragraph.

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

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

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

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

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

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

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

(d) The director may modify the program adopted pursuant to subdivision (a), if consistent with the requirements of this section, after consultation with the Dungeness crab task force or its representatives and after the task force has had 60 days or more to review the proposed modifications and recommend any proposed changes. The director may implement the modifications earlier than 60 days after it is sent to the Dungeness crab task force for review, if recommended by the task force.

(e) The Dungeness Crab Account is hereby established in the Fish and Game Preservation Fund and the fees collected pursuant to this section shall be deposited in that account. The money in the account shall be used as follows:

(1) By the department, upon appropriation by the Legislature, for administering and enforcing the program.

(2) In each fiscal year through the 2029 fiscal year, upon appropriation by the Legislature, of the amount remaining in the account after an allocation pursuant to paragraph (1), the sum of one hundred fifty thousand dollars (\$150,000), if available, shall be allocated to the council to support the administration and facilitation of the Dungeness crab task force.

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

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

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

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

(i) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 8279.1 of the Fish and Game Code is amended to read:

8279.1. (a) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from a vessel in ocean waters for 30 days after the opening of those waters for the commercial Dungeness crab fishing season, if both of the following events have occurred:

(1) The opening of the season has been delayed in those waters.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes, from ocean waters outside of the delayed waters, before the opening of the delayed waters for the season.

(b) For purposes of this section, a delay in the opening of ocean waters for the commercial Dungeness crab fishing season has occurred in either of the following circumstances:

(1) The opening of those waters for the season has been delayed pursuant to Section 5523 or 8276.2.

(2) The opening of those waters for the season has been delayed in Oregon or Washington due to the tri-state quality testing program or by a closure to prevent a risk to human health.

(c) A violation of this section does not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit that was issued for use on the vessel that was used in violation of this section.

(d) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 8280 of the Fish and Game Code is amended to read:

8280. (a) The Legislature finds and declares that the Dungeness crab fishery is important to the state because it provides a valuable food product, employment for those persons engaged in the fishery, and economic benefits to the coastal communities of the state.

(b) The Legislature further finds that, in order to protect the Dungeness crab fishery, it is necessary to limit the number of vessels participating in that fishery to take Dungeness crab and it may be necessary to limit the quantity and capacity of the fishing gear used on each vessel to take Dungeness crab.

(c) The Legislature further finds and declares that to limit the number of vessels in the Dungeness crab fishery, it is necessary to require that the owner of each vessel participating in the fishery obtain and possess a permit for that vessel and that the initial issuance of permits shall be limited to those persons owning vessels qualifying under Section 8280.1, as that section read on August 1, 2018, or any prior version of that section.

SEC. 9. Section 8280.1 of the Fish and Game Code is amended to read:

8280.1. (a) A person shall not 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.

(b) A person shall not be issued a new, original Dungeness crab vessel permit. A Dungeness crab vessel permit may be issued only pursuant to a renewal or transfer of an existing permit as provided in Section 8280.2 or 8280.3.

(c) A permit issued pursuant to paragraph (3) of subdivision (b) of this section, as this section read on August 1, 2018, or any prior version of that paragraph, shall become immediately null and void upon the death of the permittee.

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

(e) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. 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. A person shall not be issued more than one permit for each vessel owned by that person and qualifying for a permit pursuant to this article.

(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. A permit shall not 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, as that section read on August 1, 2018, or any prior version of that paragraph. A 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 not 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. Minimum landings of Dungeness crab shall not be required annually to be eligible for a Dungeness crab vessel permit.

(f) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 8280.3 of the Fish and Game Code is amended to read:

8280.3. (a) For purposes of this section, the term "length overall" means the horizontal distance between the forward-most and after-most points on the hull of a vessel. The length overall of a vessel does not include attachments fixed to the stern and bow.

(b) 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.

(c) 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 permit holder to the person purchasing the vessel, except that the permit shall not be transferred if the vessel is more than five feet longer in length overall, as determined by a licensed marine surveyor, than the baseline length on the permit. 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 this article for the use of that vessel in subsequent years. The person purchasing the vessel shall not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

(d) 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 this article for the use of that replacement vessel in subsequent years.

(e) 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 baseline length on the permit or to a vessel of greater capacity purchased after November 15, 1995, not to exceed five feet longer in length overall than the baseline length on the permit.

(f) The department 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 baseline length on the permit, if all of the following conditions are satisfied:

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

(2) 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.

(3) 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, as that section read on August 1, 2018, or any prior version of that paragraph.

(4) The vessel to which the permit is to be transferred does not exceed 20 feet longer in length overall than the baseline length on the permit and the vessel to which the permit is to be transferred does not exceed 60 feet in length overall.

(g) A transfer of a permit to a larger vessel shall not 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 shall 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 subdivision (d), (e), or (f).

(h) (1) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued, which has California Dungeness crab landings made with trap gear documented on department landing receipts and which has had California Dungeness crab landings amounting to not less than 5,000 pounds cumulative for the past two Dungeness crab seasons, may temporarily transfer the permit to a replacement vessel for which use in the Dungeness crab fishery is not permitted pursuant to this article that is of equivalent size and capacity of the originally permitted vessel, no greater than 10 feet longer in length overall than the vessel from which the permit is transferred, 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. Only the permittee at the time of the loss, theft, damage, breakdown, or destruction of the vessel may apply for the transfer of the vessel permit. Proof of loss or destruction shall be documented by submission of a copy of the report filed with the United States Coast Guard or any other law enforcement or fire agency that investigated the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this subdivision if the permitted vessel was reported lost, stolen, mechanically broken down, destroyed, or damaged for fraudulent purposes. Upon approval by the director, the owner of a vessel granted a six-month temporary transfer under this section may be granted an additional six-month extension of the temporary transfer.

(2) Notwithstanding subdivision (e) of Section 8280.2, in the event of loss or destruction of a vessel for which a Dungeness crab vessel permit was issued, or serious damage that renders the vessel inoperable, and upon written approval of the department, the owner of the vessel to whom the permit was issued may retain the permit and may transfer the permit to another vessel of equivalent size and capacity of the vessel that was lost or damaged during the period of two years after the loss or damage of the vessel for which the permit was originally issued. The owner of the lost or damaged vessel shall submit proof that the department may reasonably require to establish the loss or damage of the vessel. Only the permittee at the time of the loss, theft, damage, or destruction of the vessel may apply for the transfer of the vessel permit. Proof of loss or destruction shall be documented by submission of a copy of the report filed with the United States Coast Guard or any other law enforcement or fire agency that investigated the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this paragraph if the lost or damaged vessel was reported lost, stolen, destroyed, mechanically broken down, or damaged for fraudulent purposes. The department shall only transfer a permit pursuant to this paragraph if the lost or damaged vessel has a current permit and the owner of the lost or damaged vessel makes assurances in the application that any renewal of the permit that becomes due during the application processing period will be made. If the

permit is not permanently transferred to another vessel owned by the person to whom the vessel permit was originally issued within two years of the loss or damage, the permit shall become void by operation of law.

(i) 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 become void by operation of law.

(j) 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 subdivision (b). The estate of the holder of a transferable Dungeness crab vessel permit may renew that permit as provided for in statute if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to these regulations no later than two years from the date of death of the permitholder as listed on the death certificate.

(k) (1) For purposes of this section, the baseline length on a Dungeness crab vessel permit shall be equal to the length overall of the vessel for which the permit was originally issued, as originally documented on the permit, unless updated pursuant to paragraph (2).

(2) (A) If, on or before March 31, 2020, the owner of a vessel to whom a Dungeness crab vessel permit has been issued submits to the department a survey reflecting a current length overall of the vessel that is greater than the length overall described in paragraph (1), the baseline length on the permit shall be equal to that current length overall.

(B) A survey submitted pursuant to subparagraph (A) shall be conducted by a licensed marine surveyor.

(l) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. 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, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13. Section 8280.5 of the Fish and Game Code is repealed.

SEC. 14. 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, for the reasonable regulatory costs of the department.

(b) The department shall charge a nonrefundable fee of two hundred dollars (\$200) for each transfer of a permit authorized pursuant to Section 8280.3, for the reasonable regulatory costs of the department.

(c) A vessel owner shall sign an application for transfer and certify that the information included in the application is true to the best of his or her information and belief.

(d) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 15. 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.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure a safe and orderly Dungeness crab fishery for the 2018–19 Dungeness crab fishing season, it is necessary that this act take effect immediately.