



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-80 Commercial fishing: inspection: crab traps. (2021-2022)

SHARE THIS:  

Date Published: 10/11/2021 02:00 PM

Senate Bill No. 80

CHAPTER 757

An act to amend Sections 5523, 8276.4, 8276.5, 8279.1, 8280.3, and 8283 of, and to add Sections 7711 and 8285 to, the Fish and Game Code, and to add Article 15 (commencing with Section 111224) to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, relating to commercial fishing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 09, 2021. Filed with Secretary of State October 09, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 80, McGuire. Commercial fishing: inspection: crab traps.

(1) Existing law prohibits a person from using or operating, or assisting in using or operating, a boat, aircraft, net, trap, line, or other appliance to take fish for commercial purposes unless the person holds a commercial fishing license issued by the Department of Fish and Wildlife. Existing law generally requires any person who engages in any business for profit involving fish to have a commercial fish business license issued by the department, and requires specialty licenses for specified classes of fish business. Existing law requires all fish taken or otherwise dealt with under the law to be exhibited upon demand to any person authorized by the department to enforce any law relating to the protection and conservation of fish. A violation of the Fish and Game Code or a regulation adopted pursuant to the code is a crime.

This bill would require a person who holds a commercial fishing license or a commercial fish business license, upon request of an authorized agent or employee of the department, to immediately relinquish, at no charge, fish or parts of fish caught or landed in California to the department for the purpose of collecting a biological sample. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the Ocean Protection Council to make a grant, upon appropriation of funding by the Legislature, for the development and administration of a Dungeness crab task force. Under existing law, the task force is comprised of 21 voting members and 6 nonvoting members, with the voting members representing various fishing and crab processing interests. Existing law requires the task force, among other things, to make recommendations on various topics and requires these recommendations to be forwarded to the Joint Committee on Fisheries and Aquaculture, the Department of Fish and Wildlife, and the Fish and Game Commission upon an affirmative vote of at least $\frac{2}{3}$ of the task force members. Existing law also authorizes a proposed recommendation of the Dungeness crab task force regarding a modification to the Dungeness crab trap limit program to be transmitted to the Director of Fish and Wildlife and the Legislature if the recommendation receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force.

This bill would revise the vote threshold for these purposes by requiring an affirmative vote of at least $\frac{2}{3}$ of the voting members of the task force to forward or transmit a recommendation.

(3) Existing law prohibits a person from using a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps without a Dungeness crab vessel permit. Existing law prohibits the transfer of a Dungeness crab vessel permit except under certain circumstances. Existing law authorizes, upon written approval of the Department of Fish and Wildlife, the owner of a vessel to whom a Dungeness crab vessel permit has been issued to 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 certain requirements are satisfied.

This bill would delete the requirement that the vessel to which the permit will be transferred be purchased by that individual within one year of the time of sale of the vessel for which the permit was originally issued, and would provide that if the permit is not transferred to a new vessel within one year of the sale of the permitted vessel, the permit shall become void by operation of law.

Existing law authorizes, 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 to retain the permit and to transfer the permit to another equivalent vessel during the period of 2 years after the loss or damage of the vessel for which the permit was originally issued. Existing law provides that, if the permit is not permanently transferred to another vessel owned by the person to whom the vessel permit was originally issued within 2 years of the loss or damage, the permit shall become void by operation of law.

This bill would delete the requirement that the vessel to which the permit will be transferred be owned by the person to whom the vessel permit was originally issued.

(4) Existing law prohibits a person from taking, possessing onboard, or landing Dungeness crab for commercial purposes from a vessel in any ocean waters for 30 days after the opening of those waters for the commercial Dungeness crab fishing season if the opening of the season for those waters has been delayed and 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. This law is commonly referred to as “fair start.” Existing law specifies the circumstances in which a delay has occurred for the purposes of the fair start law.

Existing law requires the Department of Fish and Wildlife, on or before November 1, 2020, to adopt regulations establishing criteria and protocols to evaluate and respond to potential risk of marine life entanglement, as prescribed. Upon the effective date of these regulations, existing law authorizes the Director of Fish and Wildlife to restrict the take of Dungeness crab pursuant to the criteria and protocols.

This bill would specify that a delay in the opening of waters implemented pursuant to these criteria and protocols or a delay in the opening of waters in Oregon or Washington by a closure to prevent a risk of marine life entanglement constitutes a delay for purposes of the fair start law.

(5) Existing law authorizes crab traps to be set and baited 64 hours prior to the opening date of the Dungeness crab season in Fish and Game Districts 6, 7, 8, and 9. Existing law also authorizes crab traps to be set and baited in advance of that opening date in those districts if no other attempt is made to take or possess Dungeness crab in those districts. Existing law also provides, except in Fish and Game Districts 6, 7, 8, and 9, that crab traps may be set and baited 18 hours in advance of the opening date of the Dungeness crab season if no other attempt is made to take or possess Dungeness crab.

This bill would instead authorize crab traps to be set and baited 64 hours before the opening date of the Dungeness crab season regardless of the Fish and Game District. The bill would also make conforming changes.

(6) Existing state law, the Sherman Food, Drug, and Cosmetic Law, makes it unlawful to manufacture, sell, deliver, hold, or offer for sale adulterated food. Existing law prescribes when a food is adulterated, including if it bears or contains any poisonous or deleterious substance that may render it injurious to the health of a person or other animal that may consume it. Existing law makes a violation of the Sherman Food, Drug, and Cosmetic Law or a regulation adopted pursuant to that law a misdemeanor.

Existing law authorizes the Director of Fish and Wildlife to order the closure of any waters or otherwise restrict the taking 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 requires 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. A violation of the Fish and Game Code or a regulation adopted pursuant to the code is a crime.

This bill would authorize a fishing vessel to transit closed waters in possession of species where take is otherwise restricted pursuant to those provisions if the vessel adheres to electronic monitoring requirements specified by the Department of Fish and Wildlife.

The bill would require the State Department of Public Health to issue an order authorizing the evisceration, as defined, of Dungeness crab or rock crab if the domoic acid for Dungeness crab or rock crab exceeds the allowable levels for viscera in certain areas when specified criteria exist. The bill would require the State Department of Public Health to only authorize the evisceration of Dungeness crab or rock crab by a licensed processor, as defined, that also has a Hazard Analysis Critical Control Point plan approved by the State Department of Public Health for handling and preparing eviscerated crab. The bill would require the State Department of Public Health to collect from a processor a fee of \$350 for the cost of reviewing the processor's Hazard Analysis Critical Control Point plan for handling and preparing eviscerated crab, to be deposited in the Food Safety Fund for expenditure by the State Department of Public Health, upon appropriation by the Legislature, for the costs of reviewing the plans. The bill would also require the State Department of Public Health to establish labeling requirements for eviscerated crab, as specified, and to require the processor to maintain written recall procedures. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The bill would require the State Department of Public Health to consult with the Dungeness crab task force or a successor task force or committee to establish the criteria for the manufacture, sale, delivery, holding, or offering for sale of Dungeness crab or rock crab caught in areas subject to an evisceration order by the State Department of Public Health. The bill would require the State Department of Public Health to publish notice of the proposed criteria, as specified, and make the criteria effective by operation of law as regulations 90 days after the notice is published. Because a violation of these regulations would be a crime, this bill would impose a state-mandated local program.

The bill would authorize the Director of Fish and Wildlife, in accordance with specified requirements, to open waters that are otherwise restricted for the commercial take of Dungeness crab or rock crab during a time period when the State Department of Public Health authorizes the manufacture, sale, delivery, holding, or offering for sale of eviscerated Dungeness crab or rock crab pursuant to the above-described provisions. The bill would require the holder of a Dungeness crab vessel permit or rock crab permit to submit to electronic monitoring of the vessel while engaged in the take of Dungeness crab or rock crab, as specified. The bill would authorize a person who takes Dungeness crab or rock crab to sell or provide the Dungeness crab or rock crab only to a processor licensed and approved by the State Department of Public Health, as specified. The bill would require the Director of Fish and Wildlife, when evisceration procedures established pursuant to the bill are no longer in effect, to lift related restrictions in a manner that promotes a fair and orderly fishery. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(7) 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.

(8) 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. The Legislature finds and declares both of the following:

(a) In the event of a human health risk, the Director of Fish and Wildlife has the existing authority to impose restrictions on a part or parts of an individual fish available through the fishery.

(b) A statutory framework for providing the Director of Fish and Wildlife with authority to impose restrictions on a part or parts of an individual fish for public consumption needs to be established.

SEC. 2. 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), the Director of Fish and Wildlife 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.

(3) A fishing vessel may transit closed waters in possession of species where take is otherwise restricted pursuant to paragraph (1) if the vessel adheres to electronic monitoring requirements specified by the department.

(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 of Fish and Wildlife 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. 3. Section 7711 is added to the Fish and Game Code, to read:

7711. (a) A person shall, upon request by an authorized agent or employee of the department, immediately relinquish, at no charge, fish or parts of fish caught or landed in California to the department for the purpose of collecting a biological sample.

(b) For purposes of this section, "person" means a person licensed pursuant to Section 7850 or a person licensed pursuant to Article 7 (commencing with Section 8030).

SEC. 4. 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 the University of California Sea Grant, appointed by the 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 is 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 voting members of the task force.

(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. 5. 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 trap tags. The trap 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 permitholder 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 permitholder 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 permitholders of the program, collecting fees, acquiring and sending trap tags to permitholders, 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 permitholder 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 permitholder 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 two-thirds of the voting 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. 6. 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 or the regulations adopted pursuant to Section 8276.1.

(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 or a risk of marine life entanglement.

(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. 7. 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) (1) The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel, 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.

(2) A permit described in subdivision (c) of Section 8280.1 shall not be transferred pursuant to this subdivision.

(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) (1) The owner of a permitted vessel may transfer the permit to a vessel of greater capacity as follows:

(A) If the person the permit is to be transferred to purchased the vessel of greater capacity on or before November 15, 1995, the vessel of greater capacity may not be more than 10 feet longer in length overall than the baseline length on the permit.

(B) If the person the permit is to be transferred to purchased the vessel of greater capacity after November 15, 1995, the vessel of greater capacity may not be more than five feet longer in length overall than the baseline length on the permit.

(2) A permit described in subdivision (c) of Section 8280.1 shall not be transferred pursuant to this subdivision.

(f) (1) The department may authorize the owner of a permitted vessel to transfer the permit to a replacement vessel that was owned by the person the permit is to be transferred to 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:

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

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

(C) The permit for the vessel from which the permit is to be transferred qualified pursuant to paragraph (1) of subdivision (b) of Section 8280.1, as that section read on August 1, 2018, or any prior version of that paragraph.

(D) 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.

(E) A permit was not previously transferred to the same replacement vessel.

(2) A permit described in subdivision (c) of Section 8280.1 shall not be transferred pursuant to this subdivision.

(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 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 if the requirements of this section are satisfied, including the payment of transfer fees. If the permit is not transferred to a new vessel within one year of the sale of the permitted vessel, the permit shall become void by operation of law.

(j) Except as provided in subdivision (c) of Section 8280.1, 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. 8. Section 8283 of the Fish and Game Code is amended to read:

8283. Crab traps may be set and baited 64 hours before the opening date of the Dungeness crab season. Crab traps may be set and baited in advance of that opening date if no other attempt is made to take or possess Dungeness crab.

SEC. 9. Section 8285 is added to the Fish and Game Code, to read:

8285. (a) The director may open waters that are otherwise restricted for the commercial take of Dungeness crab or rock crab pursuant to Section 5523 during a time period when the State Department of Public Health authorizes the manufacture, sale, delivery, holding, or offering for sale of eviscerated Dungeness crab or rock crab pursuant to Article 15 (commencing with Section 111224) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, in accordance with the following requirements:

(1) The holder of a Dungeness crab vessel permit or rock crab permit shall submit to electronic monitoring of the vessel as specified in paragraph (3) of subdivision (a) of Section 5523 while engaging in the take of Dungeness crab or rock crab to verify the locations where the Dungeness crab or rock crab is taken.

(2) A person shall not take, possess onboard, or land Dungeness crab or rock crab under an evisceration order on the same trip in which crab are taken, possessed onboard, or landed from waters outside those covered by the evisceration order.

(3) A person who takes Dungeness crab or rock crab is authorized to sell or provide the Dungeness crab or rock crab only to a processor licensed under Article 7 (commencing with Section 8030) of Chapter 1 and approved by the State Department of Public Health pursuant to Article 15 (commencing with Section 111224) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(4) When furnishing a landing receipt pursuant to Section 8043, the processor shall identify on the landing receipt that the Dungeness crab or rock crab received were taken from an area under an evisceration order.

(b) When evisceration procedures established pursuant to Article 15 (commencing with Section 111224) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code are no longer in effect, the director shall lift any restrictions imposed pursuant to subdivision (a) in a manner that promotes a fair and orderly fishery.

(c) 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. 10. Article 15 (commencing with Section 111224) is added to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 15. Eviscerated Crab

111224. For purposes of this article, the following terms have the following meanings:

(a) "Eviscerate" or "evisceration" means the processor's action of removing and discarding the entire intestinal tract, hepatopancreas, and all associated abdominal organs in accordance with this article.

(b) "Eviscerated crab" means Dungeness crab or rock crab in which the viscera have been removed in accordance with regulations adopted pursuant to this section.

(c) "Hazard Analysis Critical Control Point plan" means a hazard analysis critical control point plan as described in Section 123.6 of Title 21 of the Code of Federal Regulations or a successor federal definition.

(d) "Processor" means any person engaged in commercial, custom, or institutional processing of fish or fishery products in California, in another state, or in a foreign country. A processor includes any person engaged in the production of foods that are to be used in market or consumer tests.

111224.5. The department shall issue an order authorizing the evisceration of Dungeness crab or rock crab pursuant to this article if the domoic acid for Dungeness crab or rock crab exceeds the allowable levels for viscera in a specified area, when all of the following criteria exist:

(a) The Director of Fish and Wildlife has closed waters or otherwise restricted the take of Dungeness crab or rock crab for commercial purposes pursuant to Section 5523 of the Fish and Game Code due to the viscera of the Dungeness crab or rock crab exceeding the allowable levels of domoic acid.

(b) The department has determined the viscera of the Dungeness crab or rock crab exceed the allowable levels of domoic acid.

(c) The department has determined the corresponding meat of the Dungeness crab or rock crab does not exceed the allowable levels of domoic acid.

111224.6. (a) (1) The department shall only authorize the evisceration of Dungeness crab or rock crab pursuant to this article by a processor that is licensed pursuant to Article 2 (commencing with Section 110460) and that has a Hazard Analysis Critical Control Point plan approved by the department for handling and preparing eviscerated crab.

(2) The department shall collect from a processor a fee of three hundred fifty dollars (\$350) for the cost of reviewing the processor's Hazard Analysis Critical Control Point plan for handling and preparing eviscerated crab. This fee shall not exceed the cost of reviewing the Hazard Analysis Critical Control Point plan and shall be adjusted pursuant to Section 100425. All moneys collected by the department from this fee shall be deposited in the Food Safety Fund established pursuant to Section 110050 for expenditure by the department, upon appropriation by the Legislature, for the costs of reviewing Hazard Analysis Critical Control Point plans for handling and preparing eviscerated crab.

(3) The department shall establish requirements for labeling eviscerated crab to identify harvest location, harvest date, or lot code, or any combination of these things.

(4) The department shall require the processor to maintain written recall procedures.

(b) (1) The department shall consult with the Dungeness crab task force established pursuant to Section 8276.4 of the Fish and Game Code or a successor task force or committee to establish the criteria for the manufacture, sale, delivery, holding, or offering for sale of Dungeness crab or rock crab that is subject to Section 111224.5.

(2) The Dungeness crab or rock crab criteria established under this subdivision shall become effective by operation of law as a regulation adopted under this article 90 days after the department publishes the notice required by paragraph (3).

(3) The department shall publish a notice in the California Regulatory Notice Register of the department's proposed Dungeness crab or rock crab criteria. The notice shall include the proposed text and justification for the addition, change, or deletion of the Dungeness crab or rock crab criteria to allow public comment. The department shall consider the public comments.

(c) This section shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 11. 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. 12. 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 safe and orderly Dungeness and rock crab fisheries upon start of the 2021–22 Dungeness and rock crab fishing seasons, it is necessary for this act to take effect immediately.