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**SB-822 Marine resources.** (2021-2022)

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**Senate Bill No. 822**

**CHAPTER 770**

An act to add Section 5504 to the Fish and Game Code, and to amend Section 71205.3 of the Public Resources Code, relating to marine resources.

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

**LEGISLATIVE COUNSEL'S DIGEST**

SB 822, Committee on Natural Resources and Water. Marine resources.

(1) Existing law establishes the Department of Fish and Wildlife. Existing law provides that it is the department's mission to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment of the public. Existing law establishes various provisions prohibiting the taking of fish under specified circumstances, including the taking of any fish for the sole purpose of removing its eggs except for the purpose of developing a brood stock for aquaculture purposes.

This bill would authorize the department to issue a letter of authorization to allow the taking of marine living resources or to authorize the take and possession of marine resources and possession of gear or equipment that would otherwise be prohibited in marine waters to support data collection, environmental cleanup, hazard removal, or public health and safety. The bill would require a letter of authorization to contain specified information, be valid for not more than 30 days, not be extended, be issued only to meet immediate time-sensitive public safety, public health, research, or environmental needs, and not authorize the taking of specified species. The bill would require the department to maintain records of all letters of authorization for no less than 5 years from the date of issuance, and to provide them upon request to the public.

(2) Existing law requires the State Lands Commission to adopt regulations relating to owners or operators of vessels carrying, or capable of carrying, ballast water, as provided. Existing law requires the commission to adopt a regulation that requires an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates on the waters of the state to comply with specified federal law, as provided.

This bill would require the master, owner, operator, or person in charge of a vessel to report a ballast water treatment system problem during a voyage to the commission as soon as practicable. The bill would require the commission to consult with the United States Coast Guard to attempt to identify an alternative, environmentally sound method of ballast water management in those circumstances, as provided, for its mandatory use.

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

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

**SECTION 1.** Section 5504 is added to the Fish and Game Code, to read:

**5504.** The department may issue a letter of authorization to allow the taking of marine living resources or to authorize the take and possession of marine resources and possession of gear or equipment that would otherwise be prohibited in marine waters to support data collection, environmental cleanup, hazard removal, or public health and safety. A letter of authorization shall be valid for no more than 30 days, shall not be extended, and shall be issued only to meet immediate time-sensitive public safety, public health, research, or environmental needs, and shall not authorize the taking of fully protected species listed in Section 3511, 4700, 5050, or 5515, or species listed as threatened or endangered pursuant to Section 2070. A letter of authorization is not a substitute for a permit issued under Section 1002, Section 1022, or any other law and regulation that can otherwise be obtained. A letter of authorization shall identify the issuee and include detailed information about the activity authorized. The department shall maintain records of all letters of authorization for no less than five years from the date of issuance, and shall provide them upon request to the public.

**SEC. 2.** Section 71205.3 of the Public Resources Code is amended to read:

**71205.3.** (a) The commission shall adopt regulations that do all of the following:

(1) Require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement the ballast water discharge performance standards set forth in Section 151.2030(a) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended.

(2) Require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to comply with the implementation schedule set forth in Section 151.2035(b) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, except as prescribed in Section 151.2036 of Title 33 of the Code of Federal Regulations, or as that regulation may be amended.

(3) Require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table X-1 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharges in California Waters, as approved by the commission on January 26, 2006, by January 1, 2030.

(4) Require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to meet the final performance standard for the discharge of ballast water of zero detectable living organisms for all organism size classes no later than January 1, 2040. If, based on a review of ballast water treatment technologies submitted in a report to the Legislature in conformance with provisions of subdivision (b), achievement of the final performance standard becomes practicable sooner than January 1, 2040, the commission shall establish an earlier effective date in regulation.

(b) (1) If a ballast water treatment system has stopped operating properly during a voyage, the master, owner, operator, or person in charge of the vessel shall report the problem to the commission as soon as practicable.

(2) The commission shall consult with the United States Coast Guard to attempt to identify an alternative, environmentally sound method of ballast water management under the circumstances described in paragraph (1) in accordance with Section 151.2040(b) of Title 33 of the Code of Federal Regulations.

(3) The master, owner, operator, or person in charge of the vessel subject to paragraph (1) shall employ the alternative, environmentally sound method of ballast water management identified by the commission in consultation with the United States Coast Guard before discharging ballast water in California waters.

(c) (1) Not less than 18 months before January 1, 2030, and January 1, 2040, the commission, in consultation with the board, the United States Coast Guard, and an advisory panel described in paragraph (3), shall prepare, or update, and submit to the Legislature a report on the efficacy, availability, and environmental impacts, including the effect on water quality, of currently available technologies for ballast water treatment systems. If technologies to meet the performance standards are determined in a review to be unavailable, the commission shall include in that review an assessment of why the technologies are unavailable.

(2) The advisory panel described in paragraph (3) shall make recommendations regarding the content and issuance of the report and implementation of the performance standards to the commission.

(3) (A) The advisory panel shall include, but not be limited to, representatives from one or more state regional water quality control boards, the Department of Fish and Wildlife, the United States Coast Guard, the United States Environmental Protection Agency, and other persons representing shipping, port, conservation, fishing, aquaculture, agriculture, and public water agency interests. The commission shall ensure that the advisory panel meets in a manner that facilitates the effective participation of both the public and private members. The advisory panel's meetings shall be open to the public.

(B) The commission shall provide notice of the advisory panel's meetings to any person who requests that notice in writing, as well as on the commission's internet website. The commission shall provide that notice at least 10 days before an

advisory panel meeting and shall include the meeting's agenda and the name, address, and telephone number of a person who can provide additional information before the meeting.

(4) (A) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2034, for the interim performance standard, and January 1, 2044, for the final performance standard, pursuant to Section 10231.5 of the Government Code.

(B) A report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.