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SB-1392 Aquaculture: registration, renewal, surcharge, and penalty fees: reports. (2021-2022)

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Date Published: 09/14/2022 09:00 PM

Senate Bill No. 1392

CHAPTER 307

An act to amend Sections 15004, 15101, 15103, 15104, and 15105 of the Fish and Game Code, relating to aquaculture.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1392, McGuire. Aquaculture: registration, renewal, surcharge, and penalty fees: reports.

Existing law requires the owner of an aquaculture facility to register certain information with the Department of Fish and Wildlife by March 1 of each year, and requires the department to impose prescribed fees for registration and renewal. Existing law also requires, in addition to the registration and renewal fees, a surcharge fee to be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed \$25,000. Existing law imposes a penalty for delinquent payment of fees. Existing law, until January 1, 2023, increases those registration, renewal, surcharge, and penalty fees, as prescribed. Existing law requires the department to prepare and submit to the Legislature, on or before February 1, 2022, a report regarding the aquaculture program. Existing law requires the department, at least once every 5 years, to analyze the fees and taxes authorized for the aquaculture program to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the program.

This bill would extend the increased registration, renewal, surcharge, and penalty fees until January 1, 2024. The bill would require the department to prepare and submit to the Legislature a report regarding the aquaculture program every 5 years and, as part of those reports, would require the department conduct the above-described analysis of the fees and taxes authorized for the aquaculture program.

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

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

SECTION 1. Section 15004 of the Fish and Game Code is amended to read:

15004. Aquaculturists operating under this division shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this division, or by regulations adopted pursuant to this division, when requested by the aquaculturists.

SEC. 2. Section 15101 of the Fish and Game Code, as amended by Section 3 of Chapter 521 of the Statutes of 2017, is amended to read:

15101. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of eight hundred dollars (\$800) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of five hundred dollars (\$500). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3. Section 15101 of the Fish and Game Code, as amended by Section 4 of Chapter 521 of the Statutes of 2017, is amended to read:

15101. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of five hundred forty-nine dollars (\$549) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars (\$275). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall become operative on January 1, 2024, at which time the registration fees specified in this section shall be adjusted pursuant to subdivision (b) as if this section had not been inoperative.

SEC. 4. Section 15103 of the Fish and Game Code, as amended by Section 5 of Chapter 521 of the Statutes of 2017, is amended to read:

15103. (a) In addition to the fees specified in Section 15101, a surcharge fee of six hundred dollars (\$600) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each owner of a registered aquaculture facility shall maintain sales and production records that shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 5. Section 15103 of the Fish and Game Code, as amended by Section 6 of Chapter 521 of the Statutes of 2017, is amended to read:

15103. (a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each owner of a registered aquaculture facility shall maintain sales and production records that shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall become operative on January 1, 2024, at which time the surcharge fee specified in this section shall be adjusted pursuant to subdivision (d) as if this section had not been inoperative.

SEC. 6. Section 15104 of the Fish and Game Code, as amended by Section 7 of Chapter 521 of the Statutes of 2017, is amended to read:

15104. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of one hundred fifty dollars (\$150).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2013 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 7. Section 15104 of the Fish and Game Code, as amended by Section 8 of Chapter 521 of the Statutes of 2017, is amended to read:

15104. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars (\$50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall become operative on January 1, 2024, at which time the penalty specified in this section shall be adjusted pursuant to subdivision (c) as if this section had not been inoperative.

SEC. 8. Section 15105 of the Fish and Game Code is amended to read:

15105. (a) Notwithstanding Section 13001 or 13002, all moneys collected by the department pursuant to this division shall be deposited in the Fish and Game Preservation Fund and shall be expended solely on the department's aquaculture program pursuant to this division.

(b) Notwithstanding Section 13220, these moneys are available for appropriation by the Legislature in the annual Budget Act for purposes of this division.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met and shall provide an accounting of the aquaculture program account balance and expenditures upon request of the Aquaculture Development Committee, the commission, or the Joint Committee on Fisheries and Aquaculture.

(d) Revenues pursuant to this chapter may be used only to pay the costs incurred in the administration and enforcement of the department's aquaculture program.

(e) (1) The department shall prepare and submit to the Legislature on or before February 1, 2022, and every five years thereafter, a report regarding the aquaculture program undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the aquaculture program requirement, if any.

(2) As part of the report required by this subdivision, the department shall analyze the fees and taxes authorized by this division to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program. The department may undertake this analysis more frequently than every five years.

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