

Date of Hearing: July 11, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

SB 500 (McGuire) – As Amended June 30, 2023

SENATE VOTE: 38-0

SUBJECT: Fish and wildlife

SUMMARY: Enacts or amends multiple provisions relating to commercial fishing. Specifically, **this bill:**

- 1) Revises various provisions to refer to “electronic fish tickets” rather than to “landing receipts,” and requires electronic fish tickets to be submitted to the Department of Fish and Wildlife (DFW) within three business days of the landing, as specified.
- 2) Defines, for purposes of the required contents of an electronic fish ticket, “accurate weight.”
- 3) Deletes the requirement to include on an electronic fish ticket the price paid for live marine fish for use exclusively as live bait that are not brought ashore.
- 4) Provides a licensure exception for a person who purchases, sells, takes, or receives live marine fish for use exclusively as live bait, that is not brought ashore, and who has registered as a live bait dealer with DFW.
- 5) Requires a live bait dealer registered with DFW to keep a printed hard copy of the landing receipt or electronic fish ticket for a period of four years, as specified.
- 6) Prohibits the receipt, purchase, or transfer of fish from occurring at sea or from vessel to vessel, except for certain live marine fish used as bait or as prescribed by regulation.
- 7) Requires the Fish and Game Commission to adopt regulations related to commercial sea urchin diving permits, and to the vessels used to commercially fish for sea urchin, to better manage the number of permits issued.
- 8) Updates the base fee for a sea urchin diving permit to \$598.50, and would require DFW, upon notification from the California Sea Urchin Commission, to charge an additional \$200 for a sea urchin permit to be distributed to the California Sea Urchin Commission by DFW, as specified. Specifies that these fees apply to the 2024 license year and shall be adjusted annually pursuant to Fish and Game Code (FGC) § 713. Authorizes the California Sea Urchin Commission to enter into an agreement with DFW regarding the expenses associated with the distribution of \$200 of the total fee for a sea urchin permit.
- 9) Requires DFW to adopt regulations regarding the marking and color coding of lines used in state managed fisheries.
- 10) Extends the operation of increased aquaculture registration, renewal, surcharge, and penalty fees until January 1, 2025.

EXISTING LAW:

- 1) Imposes, or authorizes the imposition of, various license, permit, and registration fees for commercial fishing. Requires specified persons to pay commercial fishing fees, referred to as landing fees, and sets forth requirements for the documentation of those landing fees in the form of a landing receipt, as prescribed (FGC § 8030 *et seq.*, § 8040 *et seq.*).
- 2) Requires certain persons to complete or make a landing receipt and requires the landing receipt to include certain information, including the accurate weight of the species of fish received and the price paid. Requires the original signed copy of the paper landing receipt to be delivered to DFW on or before the 16th or the last day of the month in which the fish were landed, whichever date occurs first after the landing. Requires landing receipt records to be completed and submitted electronically to DFW within three business days of the landing (FGC § 8043 *et seq.*).
- 3) Requires any person who engages in any business for profit involving fish to be licensed, except as provided, including an exception for a person who purchases, sells, takes, or receives live marine fish for use as live bait, that are not brought ashore, and who does not engage in specified activities (FGC § 8030).
- 4) Establishes the Sea Urchin Commission in state government and vests the Sea Urchin Commission with various powers and duties, including an assessment for each pound of sea urchin landed or delivered by divers to handlers in the state. Sets the maximum landing fee per pound of sea urchin at three cents [Food and Agricultural Code (FAC) §§ 79000 *et seq.*, § 79040, § 79075, § 79120].
- 5) Authorizes the Sea Urchin Commission to consult and enter into agreements with the Director of DFW, if necessary and appropriate, to assist in the administration and enforcement of certain sea urchin provisions, such as collecting assessments. If an agreement is reached, the Sea Urchin Commission is required to reimburse the reasonable costs of DFW (FAC § 79132).
- 6) Provides that sea urchins shall not be taken for commercial purposes except under a valid sea urchin diving permit, subject to regulations adopted by the Fish and Game Commission, and establishes a \$330 fee for the permit (FGC § 9054, § 9055).
- 7) Requires every trap or string of traps to be marked with a buoy. Requires DFW to implement regulations by January 1, 2020, requiring standardized gear marking for those fisheries in which DFW determines it is appropriate (FGC § 9005).
- 8) Defines "aquaculture" as a form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes (FGC § 17).
- 9) Requires the owner of an aquaculture facility to register certain information with DFW by March 1 of each year, and requires DFW to impose prescribed fees for registration and renewal (FGC § 15000 *et seq.*, § 15101).
- 10) 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 (FGC § 15103).

- 11) Imposes a penalty for delinquent payment of aquaculture fees (FGC § 15104).
- 12) Increases, until January 1, 2024, registration, renewal, surcharge, and penalty fees, as provided (FGC § 15101, § 15103, § 15104).
- 13) Requires DFW, at least once every five 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 (FGC § 15105).
- 14) Requires DFW to prepare and submit to the Legislature, on or before February 1, 2022, and every five years thereafter, a report regarding the aquaculture program, as provided (FGC § 15105).
- 15) Makes a violation of the FGC, or of any rule, regulation, or order made or adopted under the code, a misdemeanor, unless another penalty is expressly provided (FGC § 12000).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, “California takes great pride in its fishermen and all the hard work they put into boosting local economies and putting healthy, fresh food on our plates. These fishermen risk their lives every day doing their jobs in dangerous and even life-threatening conditions. It is time to promote safety, code consistency, and opportunity. The Joint Committees on Fisheries and Aquaculture works with the tens of thousands of hard-working men and women of the Golden State’s seafood industry – worth \$9 billion – and advances an omnibus bill every few years to remedy issues and challenges large and small. [This bill], the Fisheries Omnibus Bill, addresses issues related to fisheries across the Golden State.”
- 2) **Background.** *Live bait.* The live bait fishery provides bait fish for recreational and commercial fisheries in California and is primarily used by commercial passenger fishing vessels and private fishing vessels, with some live bait also sold to commercial fishing operations. Live bait is an important fishery in California and provides substantial economic value. Sardine and northern anchovy are the main species taken in this fishery, though market squid is also used in smaller quantities. In California, the live bait fishery is open year-round, and is primarily located in Southern California with smaller fisheries in San Francisco Bay and Monterey Bay as well as other ports to the north.

Historically, FGC § 8030(g) was assumed to exempt live bait businesses from obtaining a license or reporting live bait catch. However, in 2019, Pacific sardine, a key species in the live bait fishery, was listed as overfished by the National Marine Fisheries Service. Allowing the live bait fishery to continue to target sardine without risking continued overfishing required total catch accounting and all live bait businesses to report catch. In this context, FGC § 8030 was determined to not provide the previously assumed blanket exemption for licensure and reporting. Since live bait operations are required to obtain a fish receivers license under FGC § 8030, they do not qualify for the exemption from landing fees in §

8041(c), which is intended to exempt live bait fisheries. This bill corrects this issue by clarifying a licensure exception for a person who purchases, sells, takes, or receives live marine fish for use exclusively as live bait, that is not brought ashore, and who has registered as a live bait dealer with DFW.

Existing language in FGC § 8043 does not address how live bait that is brought to offshore holding pens should be accounted for when tracking total catch of a species. FGC § 8043 also does not define “accurate weight” as used in the section. Live bait cannot be weighed on a scale and there is no clear explanation of what should be recorded on electronic fish tickets because “accurate weight” is not defined. This bill provides a specific exemption for the live bait fishery and authorizes DFW to establish an alternate weight determination process for live bait. This bill also defines “accurate weight,” which is a measurement required for all other landings.

Landing receipts. Reporting requirements include the specification of “price” information when fish are offloaded. In many cases, live bait is not purchased from the commercial fishing vessel as normally occurs in other fisheries. In some cases, the bait receiver owns or operates their own catch vessels, and the acquisition of the bait is a cost built into their business model. In other cases, independent fishermen transfer the bait to the receiver, but are not paid directly by the pound of fish sold, but rather as a percentage of revenue made by the bait dealer from later sales, or as a part of passenger fees on the commercial passenger fishing vessels served. In either case, a traditional “price per pound” is not available at the time of transfer from the commercial fishing vessel and may never be correct or applicable. This bill exempts the live bait fishery from providing price information on electronic landing receipts.

FGC § 8046 does not make it clear that an electronic fish ticket must still be prepared and retained by the licensed fisherman landing the fish and the live bait operator receiving the fish. This bill clarifies that live bait receivers must prepare an electronic fish ticket.

Additionally, the historic use of paper landing receipts was prohibited via regulation in 2019 and replaced by the use of electronic fish tickets. This bill removes references to “landing receipts” in several code sections and updates these sections with the term “electronic fish ticket.”

Transfer at sea. Current statute unintentionally allows for transfer at sea of marine resources other than live bait without an accurate weight. FGC § 8043 requires that certain information be included when reporting landings, such as accurate weight. However, transfer of fish from vessel to vessel at sea precludes accurate weight accounting and current statute does not clearly prohibit such transfers. This bill prohibits the receipt, purchase, or transfer of fish from occurring at sea or from vessel to vessel, except for certain live marine fish used as bait or as prescribed by regulation.

Sea Urchin Commission. The California Sea Urchin Commission, a state marketing program, was founded in 2004 and its mission is to “ensure a reliable, sustainable supply of quality sea urchin products to consumers and enhance the performance of California’s sea urchin industry.” According to its website, the Sea Urchin Commission seeks to support coastal communities and fair income levels for commercial fishers. Sea Urchin Commission activities include undertaking industry initiatives, conducting public outreach and educational

programs, developing new or expanding existing markets, and advocating for the urchin fishery, among other things.

Sea urchin landings have decreased from 14 million pounds in 2013 to just under 3 million pounds in 2022 due to the sustained kelp loss along the coast, among other reasons. An assessment of three-cents per landed pound of urchin supports the Sea Urchin Commission. As fishery landings have declined, assessment revenue to the Sea Urchin Commission has also declined. From 2020 – 2022, there were approximately 240 commercial sea urchin divers, and approximately 130 crewmembers assisting the divers (the 2023 permit fees for each are \$575.75 and \$52.25, respectively). The Sea Urchin Commission’s total budgeted expenditures for fiscal year 2022-2023 was \$147,953, which is a very small annual budget compared to other agricultural marketing programs. Total budgeted revenue in fiscal year 2022 – 2023 was \$65,000.

This bill would require DFW, upon notice of the California Sea Urchin Commission, to charge an additional \$200 for a sea urchin diving permit. That revenue would be distributed to the California Sea Urchin Commission. The fee increase may also expedite the goal of reducing the number of sea urchin permit holders to 150 due to the added cost.

Line marking. SB 1309 (McGuire), Chapter 985, Statutes of 2018, required standardized line marking of traps for those fisheries in which DFW determines it is appropriate, with regulations to be established by January 1, 2020. Regulations for the standardized marking of Dungeness crab traps were promulgated by that date.

Standardized marking of lines can help to identify the fishery that is the source of marine debris if the line is lost, required identifying trap tags are missing, or the line or associated gear entangles marine mammals. However, requiring the Dungeness crab fishery to clearly mark their gear with limited requirements for other fisheries to do the same will likely increase the number of known Dungeness crab entanglements while doing little to reduce the incidence of unknown entanglements. This bill requires DFW to adopt regulations regarding the marking and color-coding of lines used in all state managed fisheries.

California Aquaculture Program. Aquaculture in California, according to information available from DFW, is very diverse and includes a variety of species raised in different environments. It ranges from the raising of freshwater fish or seaweeds in tanks on land to the cultivation of oysters in bay tidelands. Many of the species raised—oysters, mussels, clams, abalone and seaweed—are produced for high-value niche markets. From 2020 – 2022 there were about 110 registered aquaculturists in the state, and most commercial marine aquaculture occurs in the state’s estuaries and bays. While about 5,700 acres of state water bottoms and tidelands are leased for aquaculture, estimates are that less than 10% of that area is actively cultivated.

Current 2023 fees for a new aquaculture permit, aquaculture renewal permit, late fee, and aquaculture surcharge are \$1,025.75, \$644, \$192.50, and \$769, respectively. The surcharge applies to aquaculturists with gross annual sales of aquaculture products during the prior calendar year in excess of \$25,000. These fees raised in aggregate about \$103,000 annually from 2020 – 2022 to help support the aquaculture program at DFW. The raised surcharge and the relatively increased aquaculture fee rates are due to sunset on January 1, 2024. A rough calculation indicates that if these were allowed to sunset, fee revenue would decrease about

30%.

SB 1392 (McGuire), Chapter 307, Statutes of 2022, extended the aquaculture surcharge and relatively increased aquaculture fees for one year only as a legislatively-mandated report examining the cost of the aquaculture program was not released until August 2022. The 2022 aquaculture report showed a 78% shortfall in resources for the California Aquaculture Program to meet its “mission level” of service, including leasing-associated expenses. The program operates at a deficit, and collected fees, including the surcharge and statutorily increased fees, do not cover DFW’s and the Fish and Game Commission’s actual costs. As noted in the report, the DFW Aquaculture program “may continue to face difficulties in providing coordination, resource management, and administrative oversight.”

While the current fees are insufficient, having the surcharge and increased fees lapse and return to prior levels would further decrease funds for the aquaculture program. This bill extends the sunset by another year, and future legislation is anticipated that will determine the path forward for the aquaculture program.

- 3) **Arguments in support.** The California Aquaculture Association writes in support of the extension of the aquaculture fee enhancements. The California Sea Urchin Commission and the California Fisheries and Seafood Institute write in support of the increased sea urchin diving permit fee.
- 4) **Related legislation.** SB 1392 (McGuire), Chapter 307, Statutes of 2022, extends sunsets relating to aquaculture fees until January 1, 2024.

SB 80 (McGuire), Chapter 757, Statutes of 2021, institutes numerous changes to the commercial Dungeness and rock crab fisheries, among other provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Aquaculture Association
California Fisheries and Seafood Institute
California Sea Urchin Commission

Opposition

None on file

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