

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 3162 (Bennett) – As Amended April 4, 2024

SUBJECT: Octopus: aquaculture: sale: prohibition

SUMMARY: Prohibits a person from engaging in octopus aquaculture for human consumption and prohibits the sale of an octopus that is known to be the result of aquaculture. Specifically, **this bill:**

- 1) Prohibits a person from engaging in octopus aquaculture for the purpose of human consumption.
- 2) Prohibits a business owner or operator from knowingly engaging in the sale of any species of octopus.
- 3) Clarifies for the purposes of this bill that “aquaculture” means the form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of octopus, which includes, but is not limited to, the use of land-based recirculating aquaculture systems.
- 4) Makes findings and declarations regarding the intelligence of octopuses and the likely challenges of octopus aquaculture.

EXISTING LAW:

- 1) Defines “aquaculture” as the form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water; and specifies that 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 [Fish and Game Code (FGC) § 17].
- 2) Enables the Fish and Game Commission (Commission) prohibit the placement of specific species of aquatic plants or animals in designated waters of the state (FGC § 15202).
- 3) Prohibits the import of the dead body, a part or product thereof, of various animals including polar bear, leopard, sea turtle, dolphin, elephant, and alligator into the state for commercial purposes (Penal Code § 653o).
- 4) Prohibits the take, possession, or landing of octopuses, among other animals, for the purposes of the marine aquaria pet trade, without a valid permit (FGC § 8597).
- 5) Provides that any violation of the FGC or any rule, regulation, or order made or adopted under the FGC is a misdemeanor, except where expressly provided otherwise. Generally makes a misdemeanor punishable by a fine of not more than \$1,000, imprisonment in county jail for not more than six months, or by both the fine and imprisonment. (FGC § 12000; § 12002).

- 6) Prohibits a person from force feeding a bird for the purpose of enlarging the bird's liver beyond normal size, or hire another person to do so; and prohibits a product sold in the state to be a result of that practice (Health and Safety Code §§ 25981, 25982).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill prohibits the aquaculture of octopuses for human consumption and prohibits the knowing sale of octopuses that are a result of aquaculture. According to the author, "Octopuses are primarily solitary creatures that are not suited for large scale breeding. They have demonstrated an aptitude for learning and their acute intelligence is becoming well recorded among the scientific community. Outside the U.S., there is a growing trend of recognizing the sentience of this eight-legged cephalopod and the inappropriateness of captive breeding and harvesting. Currently there are no known large-scale octopus breeding and harvesting programs in California. Now is the appropriate time to make it clear that California does not support this activity. [This bill] provides that clarity."
- 2) **Background.** An Octopuses are members of the order Octopoda, a name derived from the Greek works for 'eight' and 'leg.' There are around 300 species of octopus included in the order. Octopuses are masters of disguise, able to change color and pattern as they travel along the seafloor using their eight arms. If the camouflage fails, the octopus can quickly propel itself away and disorient predators with a jet of ink. Several octopus species are found along the Pacific coast, including the giant Pacific octopus, which is the largest octopus species in the world with arm span that can reach 14 feet.

California aquaculture. The California Department of Fish and Wildlife (DFW) and the Commission are the principal state government entities responsible for the management, protection, and conservation of the state's fish and wildlife resources. As part of that responsibility, the Commission has the authority to regulate certain aspects of commercial marine aquaculture on state lands or in state waters, while DFW has management responsibility. Commercial aquaculture in California is relatively modest in scale, but supports many different species, raised for many diverse purposes, and are cultured using a variety of techniques. So far, none of the species can be considered commodity products; each of them fit into fairly small-volume, high-value niche markets. A total of 5,740 acres of California public tidelands are leased for marine aquaculture, the majority in Humboldt and Tomales Bays, according to the 2020 report *The Status of Commercial Marine Aquaculture in California*.

Aquaculture, not octoculture. The market and consumption of octopus in California and the rest of the United States is significantly less than other countries where octopus is considered a delicacy. Because of the solitary nature and habitat of octopuses, they are generally caught with traps and nets, which does not enable an easy, substantial haul. To meet the growing demand, some countries are experimenting with raising octopuses by aquaculture. A Spanish seafood company, Nueva Pescanova, plans to build a farm along the Canary Islands to culture octopuses in tanks. Recently, a Hawaiian octopus "farm" was ordered to cease and desist nonpermitted aquaculture activities. The owners of the establishment note that, despite the name of their business, the octopuses were not reared for human consumption.

In response to this, Washington state introduced HB 1153 this year to prohibit octopus farming, which was signed by the Governor on March 13, 2024. Hawaii also introduced similar legislation this year (HB 2262).

There are currently no octopus aquaculture operations in California. Violating this section of code would be a misdemeanor according to FGC § 12000.

- 3) **Arguments in support.** Numerous animal welfare groups write in support citing the reasons to preemptive banning octopus aquaculture such as the environmental impact of feeding carnivorous octopuses, the recognized intelligence of octopuses, and the lack of humane farming and slaughter methods.

REGISTERED SUPPORT / OPPOSITION:

Support

Animal Legal Defense Fund (Co-Sponsor)
 Social Compassion in Legislation (Co-Sponsor)
 1323 Individuals
 A Passion for Paws - Akita Rescue
 Animal Rights Initiative
 Animal Solutions
 Aquatic Life Institute
 Barks of Love Animal Rescue
 Better Together Forever
 Buddy's Angels
 Compassion in World Farming
 Cultivate Empathy for All
 Environmental Defense Center
 Farm Sanctuary
 Greater Los Angeles Animal Spay Neuter Collaborative
 Hanaeleh
 Humane League; the
 Humane Society of The United States; the
 Humboldt Humane
 I Am an Individual
 Kesar and Cardi LLC
 Kindred Spirits Care Farm
 Latino Alliance for Animal Care Foundation
 Los Angeles Democrats for the Protection of Animals
 Love Leo Rescue
 Mercy for Animals
 Motherlode Feral Cat Alliance
 Northwest Animal Rights Network
 NY 4 Whales
 Only Sunshine Sanctuary
 Outta the Cage
 Paaw- People Advocating for Animal Welfare
 Pasado's Safe Haven

People for the Ethical Treatment of Animals
Poison Free Malibu
Preetirang Sanctuary
Project Minnie
Saving Imperial Rescue
Take Me Home
The Animal Coalition Group
Tippedears
Unchainedtv
Women United for Animal Welfare
World Animal Protection

Opposition

None on file

Analysis Prepared by: Stephanie Mitchell / W., P., & W. / (916) 319-2096