

Assembly Bill No. 120

CHAPTER 133

An act to amend Sections 12212, 12240, and 12500.9 of, and to add Sections 12241 and 19620.2 to, the Business and Professions Code, to amend Section 5653.1 of, and to amend and add Section 8051.4 of, the Fish and Game Code, to amend Sections 9185, 9186, 9187, 9188, 18932.1, 18932.2, 18947, 19032, 19033.1, 19445, 19447, 24563, and 52356 of, to amend and repeal Sections 18980, 18981, 19010, 19011, 24744, 25053, and 25055 of, to add Sections 18947.2, 18955, 24752, and 25063 to, to add and repeal Section 9184 of, to repeal Sections 486 and 7274 of, to repeal and add Sections 19040, 24746, and 24748 of, and to repeal and add Sections 24745 and 25056 of, the Food and Agricultural Code, to amend and repeal Sections 8574.9 and 8574.10 of, and to amend, repeal, and add Sections 8574.7, 8670.3, 8670.7, 8670.28, 8670.29, 8670.35, 8670.36, 8670.40, 8670.54, and 8670.55 of, the Government Code, to amend Sections 3401 and 5007 of, and to amend, repeal, and add Section 8755 of the Public Resources Code, to amend and repeal Section 46026 of the Revenue and Taxation Code, and to amend Section 13628.5 of the Water Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 26, 2011. Filed with
Secretary of State July 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 120, Committee on Budget. Public Resources.

(1) Existing law governs weights and measures in this state, and authorizes the Secretary of Food and Agriculture to enforce those provisions, as specified. Existing law requires the secretary to adopt all necessary regulations governing the inspection frequency of all commercially used weights, measures, and weighing and measuring apparatus. Existing law provides that fees collected pursuant to this provision shall be credited to the General Fund.

This bill would provide that the fees described above shall be credited to the Department of Food and Agriculture Fund, rather than the General Fund. The bill would make related technical changes.

(2) Existing law governing weights and measures also provides that there is in each county the office of county sealer, as defined, of weights and measures to administer those provisions, as specified. Existing law requires each sealer, within his or her county, to try and test all weights, scales, beams, measures, instruments or mechanical devices for weighing or measurements, and other devices, as specified, to calibrate, test, weigh, and measure, and certify to the accuracy of, noncommercial weights and

application fees for initial and renewal of licenses for livestock meat inspectors and processing inspectors, and licensing fees for the operation of slaughterhouses. Existing law defines a meat processing establishment for purposes of the act to include, among other places, an establishment where livestock products of swine are cooked. Existing law requires the secretary to report to the Controller at least once each month the total amount of money collected pursuant to these provisions and to pay into the State Treasury the entire amount of the receipts that shall be credited to the General Fund.

This bill would delete establishments where livestock products of swine are cooked from the definition of a meat processing establishment for purposes of the act. The bill would set forth a specified definition for "smoking" for purposes of the act. The bill would increase the fees for licenses and renewal of licenses, impose specified penalties for the failure to pay the fee for renewal of a license prior to the expiration date of the license, and establish criteria for the fee for a license application submitted upon change of ownership of a custom slaughterhouse, as specified. The bill would repeal, on January 1, 2017, the provisions establishing application fees for initial and renewal of licenses for livestock meat inspectors and processing inspectors, and other fees, as specified, for the operation of slaughterhouses. The bill would set forth a specified standard for fees, charges, and collections made pursuant to these provisions and would provide that these amounts be deposited into the Department of Food and Agriculture Fund, including penalties that would be made available for use upon appropriation by the Legislature. The bill would make other similar changes. The bill would also delete the requirement that the secretary report to the Controller the total amount of money collected at least once each month.

The bill would also prohibit a person from operating an establishment performing any of the functions listed in the act, unless the establishment is licensed and meets building and sanitation standards. Because a violation of the act is a crime, the bill would impose a state-mandated local program.

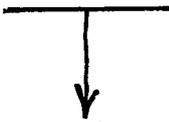
(10) Existing law provides for the regulation, inspection, and licensing of poultry plants and poultry meat inspectors.

This bill would revise the licensing scheme and increase the fees for the licensing and renewal of licenses in connection with poultry plant operations and poultry meat inspections, and would repeal the licensing provisions, as specified, on January 1, 2017. The bill would make other related changes.

(11) Existing law, the California Seed Law, requires certain persons involved in selling agricultural or vegetable seeds to register with the secretary and pay assessments, as specified. Existing law requires that total expenditures from funds derived from registration fees and assessments, as specified, not exceed the department's cost of carrying out these provisions, except as specified.

This bill would delete the specified exception.

(12) Existing law designates the issuance by the Department of Fish and Game of permits to operate vacuum or suction dredge equipment to be a project under the California Environmental Quality Act (CEQA), and



suspends the issuance of permits, and mining pursuant to a permit, until the department has completed an environmental impact report for the project as ordered by the court in a specified court action. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the Director of Fish and Game certifies to the Secretary of State that (a) the department has completed the environmental review of its existing vacuum or suction dredge equipment regulations as ordered by the court, (b) the department has transmitted for filing with the Secretary of State a certified copy of new regulations, as necessary, and (c) the new regulations are operative.

This bill would modify that moratorium to prohibit the use of vacuum or suction dredge equipment until June 30, 2016, or until the director's certification to the secretary as described above, whichever is earlier. The bill would additionally require the director to certify that the new regulations fully mitigate all identified significant environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(13) Existing law provides for the accounting and expenditure of funds collected pursuant to a former law relating to abalone. Existing law provides for the appointment of a 6-member Commercial Abalone Advisory Committee to make recommendations to the director for activities to be conducted with funds collected under that former law. The latter provision is repealed as of January 1, 2013.

This bill would, on January 1, 2012, abolish the committee and extend the operation of the accounting and expenditure provisions indefinitely.

(14) Existing law establishes the State Interagency Oil Spill Committee and specifies its membership. Existing law also provides for a review subcommittee in that committee.

This bill would, on January 1, 2012, repeal the committee and review committee. The bill would also make conforming changes.

(15) Existing law generally regulates the drilling, operation, maintenance, and abandonment of oil and gas wells. Existing law provides that the proceeds of charges levied, assessed, and collected upon the property of a person operating or owning an interest in the production of a well shall be used exclusively for the support and maintenance of the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation.

This bill instead would provide that the proceeds of those charges shall be used exclusively for the support and maintenance costs of the Department of Conservation incurred in the supervision of oil and gas operations.

(16) Under existing law, a public entity or public employee is not liable for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a unit of the state park system that is designated as closed, partially closed, or subject to service reduction by the Department of Parks and Recreation for purposes of achieving budget reductions, among other things.

This bill would delete these provisions and would instead limit a public entity or public employee from liability, as provided in the existing Tort



SEC. 4. Section 12500.9 of the Business and Professions Code is amended to read:

12500.9. The secretary shall charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by Section 12500.5. Costs incurred by the department that exceed the deposit shall be charged and collected upon completion of all prototype-approval testing. The fees shall be based upon the following criteria:

(a) The moneys collected are intended to compensate the secretary for the costs of time, mileage, equipment, and administrative services expended in providing prototype-approval service.

(b) The secretary may compensate county sealers of weights and measures, other weights and measures jurisdictions, or private laboratories for furnishing equipment and assisting the department in conducting prototype-approval activities.

(c) The amount of compensation provided for in subdivision (b) shall be based upon actual time, mileage, and equipment costs, as determined by the secretary.

(d) The secretary may charge an annual administrative fee not to exceed reasonable costs incurred for the maintenance of type approval certificates in hard copy and electronic formats.

(e) The secretary may adopt rules and regulations necessary to implement the provisions of this section.

(f) All fees collected under the provisions of this section shall be deposited in the Department of Food and Agriculture Fund.

SEC. 5. Section 19620.2 is added to the Business and Professions Code, to read:

19620.2. (a) Any unallocated balance from Section 19620.1 is hereby appropriated without regard to fiscal years for allocation by the Secretary of Food and Agriculture for capital outlay to California fairs for fair projects involving public health and safety, for fair projects involving major and deferred maintenance, for fair projects necessary due to any emergency, for projects that are required by physical changes to the fair site, for projects that are required to protect the fair property or installation, such as fencing and flood protection, and for the acquisition or improvement of any property or facility that will serve to enhance the operation of the fair.

(b) A portion of the funds subject to allocation pursuant to subdivision (a) may be allocated to California fairs for general operational support. It is the intent of the Legislature that these moneys be used primarily for those fairs whose sources of revenue may be limited for purposes specified in this section.

SEC. 6. Section 5653.1 of the Fish and Game Code is amended to read:

5653.1. (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental



impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until June 30, 2016, or until the director certifies to the Secretary of State that all of the following have occurred, whichever is earlier:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c) The Legislature finds and declares that this section, as added during the 2009–10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(d) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

SEC. 7. Section 8051.4 of the Fish and Game Code is amended to read:

8051.4. (a) The landing tax collected pursuant to former Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this subdivision. No more of the landing tax collected pursuant to former Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate may be used for administration by the department. Any interest on the revenues from the landing tax collected pursuant to former Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) A Commercial Abalone Advisory Committee shall be appointed by the director, consisting of six members who shall serve without compensation or reimbursement of expenses. One of the members shall be a person who was required to pay landing taxes pursuant to Section 8051.3 during the 1996–97 permit year. Each of the five remaining members shall have held



SEC. 74. There is hereby appropriated one thousand dollars (\$1,000) from the Wastewater Operation Certification Fund to the State Water Resources Control Board for administrative cost.

SEC. 75. 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. 76. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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