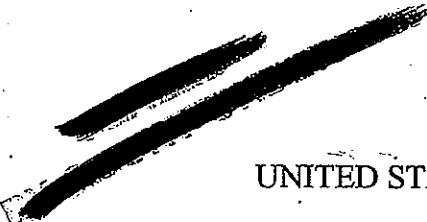


1 KEVIN V. RYAN (CASBN 118321)
2 United States Attorney

FILED
06 JAN 24 PM 2:40
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA



8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 **CR 06 00517 CW**

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 KEVIN THOMPSON, JOHN
16 NEWBERRY, IRA GASS, HIROSHI
17 ISHIKAWA, SION LIM, and VINCENT
18 NG,

19 Defendants.

VIOLATIONS: 18 U.S.C. § 371 –
Conspiracy to Violate the Lacey Act; 16
U.S.C. §§ 3372(a)(2)(A), 3372(a)(4),
3373(d)(1)(B) – Lacey Act Violations;
18 U.S.C. § 2 – Aiding & Abetting

OAKLAND VENUE

20 INDICTMENT

21 The Grand Jury charges that at all times relevant to this indictment:

22 The Defendants

23 1. KEVIN THOMPSON was a pastor at the Bay Area Family Church, Holy Spirit
24 Association - Unification Worldwide Church ("the Church") located at 2305 Washington
25 Avenue in San Leandro, California. THOMPSON and the Church co-owned a vessel
26 known as the Ocean Spirit (CF 9434 EX). The Church also owned a vessel known as
27 One Hope 150 (CF 7885KA), the One Hope 82 (CF 5016KB), and an eighteen foot vessel
28 (CF 6867KA).

INDICTMENT

Document No.
[Signature]
District Court
Criminal Case Processing

1 2. JOHN NEWBERRY worked at Pan Ocean Aquarium Inc. and resides in Hayward,
2 California. Before working at Pan Ocean Aquarium, NEWBERRY was a commercial
3 fishermen.

4 3. VINCE NG owned Amazon Aquarium Inc. located in Alameda, California.

5 4. SION LIM owned Bayside Aquatics, located in Oakland, California and resided in
6 San Francisco, California.

7 5. IRA GASS was a marine aquaria dealer in ^{AZUSA} ~~Asuza~~, California, who operated
8 Indorica, an aquaria business.

9 6. HIROSHI ISHIKAWA was a member of the Church and a fisherman.

10 REGULATORY BACKGROUND

11 7. California leopard sharks are a species of shark within the Triakidae family and are
12 commonly found in ocean waters along the Oregon, California, and Baja Mexico coasts.

13 Juvenile leopard sharks are commonly found in bays and estuaries from the
14 California/Oregon border south to Baja Mexico. The major pupping areas where young
15 California leopard sharks are born are within San Francisco and Monterey Bays; both
16 located in the Northern District of California. The pupping season extends from March
17 through July with a peak between April and May. Pups are born live and are
18 approximately 10 inches (25.4cm) in length.

19 8. In January 1994, California leopard sharks were afforded extra protection under
20 California State law when the California Department of Fish & Game Code placed a
21 minimum size limit of 36 inches for any commercial take of the species within California
22 jurisdiction. See Cal. Dept. Fish & Code §8388.5. This size limit was implemented
23 because the California leopard shark is a slow growing species which does not reach
24 sexual maturity until it is between 7 to 13 years of age. The species may live as long as
25 30 years. Because of these factors, and others, including increased commercial and sport
26 fishing, California State wildlife authorities have established these management measures
27 to ensure the species' ability to maintain healthy stocks in the wild.

28 //

1 9. The Lacey Act Amendments of 1981, Title 16, United States Code,
2 Section 3371 et. seq., (hereinafter "the Lacey Act"), among other things, make it an
3 offense for an individual or organization to knowingly engage in conduct that involves
4 the sale or purchase or, the offer of sale or purchase, or the intent to sell or purchase fish,
5 wildlife or plants, that were taken, possessed, transported or sold in violation of any
6 underlying law, treaty, or regulation.

7 Count One: 18 U.S.C. § 371 – Conspiracy to Violate Lacey Act

8 10. The allegations in paragraphs 1 through 9 are hereby realleged and incorporated
9 by reference.

10 11. From on or about June 1996 through on or about May 2004, in the Northern
11 District of California, the defendants,

12
13 JOHN NEWBERRY,
14 KEVIN THOMPSON,
15 IRA GASS,
16 VINCENT NG,
17 and
18 HIROSHI ISHIKAWA,

19 together with others known and unknown to the Grand Jury, did knowingly and
20 intentionally conspire to violate the Lacey Act, in violation of Title 16, United States
21 Code, Sections §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1)(B).

22 METHODS AND MEANS OF THE CONSPIRACY

23 12. The defendants achieved, and attempted to achieve, the objectives of their
24 conspiracy using the following means and methods, among others:

25 A. It was part of the conspiracy that defendants and others took thousands of
26 undersized (under 36 inches in length) California leopard sharks from the San Francisco
27 Bay, located in the Northern District of California.

28 B. It was further part of the conspiracy that defendants and others stored these
undersized California leopard sharks at locations within the Northern District of
California.

//

1 C. It was further part of the conspiracy that defendants and others shipped
2 these undersized California leopard sharks from the Northern District of California to pet
3 trade distributors located throughout the United States and worldwide.

4 D. It was further part of the conspiracy that defendants labeled these
5 undersized California Leopard sharks as "tropical fish" prior to shipping.

6 E. It was further part of the conspiracy that defendant KEVIN THOMPSON
7 and others deposited money from the sale of undersized California Leopard sharks into
8 bank accounts located within the Northern District of California.

9 OVERT ACTS

10 13. In furtherance of the conspiracy, and to effect the objects thereof, the defendants
11 committed the following overt acts, among others, in the Northern District of California
12 and elsewhere:

13 *Sale to Miami, Florida*

14 14. On or about June 2, 2002, KEVIN THOMPSON paid HIROSHI ISHIKAWA
15 \$201.00 for the catching and handling of approximately 67 juvenile leopard sharks.

16 15. On or about June 17, 2002, a shipment of approximately 20 juvenile leopard
17 sharks was shipped from the Northern District of California to Company A, located in
18 Miami, Florida. The shipment was labeled "tropical fish." The American Airlines air bill
19 identifies KEVIN THOMPSON as the shipper and Company A as the recipient of the
20 shipment. JOHN NEWBERRY signed the air bill on behalf of the shipper.

21 16. On or about July 22, 2002, KEVIN THOMPSON deposited a check for \$702.00
22 from Company A into his personal bank account at Washington Mutual Bank.

23 *Sale to Romulus, Michigan*

24 17. On or about July 2, 2002, KEVIN THOMPSON paid HIROSHI ISHIKAWA
25 \$270.00 for the catching and handling of approximately 90 juvenile leopard sharks.

26 18. On or about July 6, 2002, a shipment of approximately 36 juvenile leopard sharks
27 was shipped from the Northern District of California to Company B, located in Romulus,
28 Michigan. The shipment was labeled "tropical fish." The Northwest Airlines air bill

1 identifies JOHN NEWBERRY as the shipper and Company B as the recipient of the
2 shipment.

3 19. On or about July 22, 2002, KEVIN THOMPSON deposited a check for \$783.00
4 from Company B into his personal bank account at Washington Mutual Bank.

5 *Sales to Chicago, Illinois*

6 20. On or about August 13, 2001, a shipment of approximately 36 juvenile leopard
7 sharks was shipped from the Northern District of California to Company C, located in
8 Chicago, Illinois. The shipment was labeled "tropical fish." The American Airlines air
9 bill identifies KEVIN THOMPSON as the shipper and Company C as the recipient of the
10 shipment.

11 21. On or about August 14, 2001, KEVIN THOMPSON paid Fisherman A \$164.00
12 for the catching and handling of 82 juvenile leopard sharks.

13 22. On or about August 20, 2001, KEVIN THOMPSON deposited a check for
14 \$804.00 from Company C into his personal bank account at Washington Mutual Bank.

15 23. On or about April 27, 2003, a shipment of approximately 30 juvenile leopard
16 sharks was shipped from the Northern District of California to Company C in Chicago,
17 Illinois. The shipment was labeled "tropical fish." The American Airlines air bill
18 identifies KEVIN THOMPSON as the shipper and Company C as the recipient of the
19 shipment. JOHN NEWBERRY signed the air bill on behalf of the shipper.

20 24. On or about April 27, 2003, JOHN NEWBERRY sent an invoice for \$798.00 to
21 Company C for the shipment of juvenile leopard sharks, stating that payment should be
22 made to KEVIN THOMPSON.

23 25. On or about May 6, 2003, KEVIN THOMPSON deposited a check for \$798.00
24 from Company C into his personal bank account at Washington Mutual Bank.

25 26. On or about June 30, 2003, KEVIN THOMPSON paid HIROSHI ISHIKAWA
26 \$606.00 for the catching and handling of approximately 202 juvenile leopard sharks.

27 //

28 //

1 27. On or about April 1, 2004, a shipment of approximately 101 juvenile leopard
2 sharks was shipped from the Northern District of California to Company C in Chicago,
3 Illinois. The American Airlines air bill identifies KEVIN THOMPSON as the shipper
4 and Company C as the recipient of the shipment. VINCENT NG signed the air bill on
5 behalf of the shipper.

6 28. On or about April 1, 2004, JOHN NEWBERRY sent an invoice for \$2,595.00 to
7 Company C for the shipment of juvenile leopard sharks, stating that payment should be
8 made to VINCENT NG.

9 29. Because all of the 101 juvenile leopard sharks died before arriving at Company
10 C, another shipment of 102 juvenile leopard sharks was shipped to Company C on or
11 about April 20, 2004.

12 30. JOHN NEWBERRY sent an invoice for ~~\$2,638.00~~ ^{\$ 2688.00 JF} to Company C for the
13 shipment of 102 juvenile leopard sharks, stating that payment should be made to
14 VINCENT NG.

15 31. On or about May 6, 2004, VICNENT NG deposited a check from Company C
16 for ~~\$2,638.00~~ ^{\$ 2688.00 JF} into this Amazon Aquarium Wells Fargo bank account as payment for the
17 second shipment of 102 juvenile leopard sharks.

18 *Sale to Milford, Connecticut*

19 32. On or about April 28, 2003, a shipment of approximately 20 juvenile leopard
20 sharks was shipped from the Northern District of California to Company D, located in
21 Milford, Connecticut. The shipment was labeled "tropical fish." An American Airlines
22 air bill identifies KEVIN THOMPSON as the shipper and Company D as the recipient of
23 the shipment. JOHN NEWBERRY signed the air bill on behalf of the shipper.

24 33. On or about May 12, 2003, VINCENT NG deposited a check for \$1,360.00 from
25 Company D into his Amazon Aquarium Wells Fargo bank account.

26 //

27 //

28

Sale to The Netherlands

1
2 34. On or about June 3, 2000, a shipment of approximately 24 juvenile leopard
3 sharks was shipped from the Northern District of California to Monrovia, California. The
4 shipment was labeled "tropical fish." A Southwest Airlines air bill identifies the shipper
5 as JOHN NEWBERRY and the recipient as Indorica Fish Imports, owned by IRA GASS.

6 35. On or about June 6, 2000, IRA GASS shipped approximately 33 juvenile leopard
7 sharks to Company E, located in the Netherlands, with a total value of \$2,145.00. IRA
8 GASS identified the shipment as both "live tropical fish" and "common sharks."

9 36. On or about June 28, 2000, KEVIN THOMPSON deposited a check from IRA
10 GASS for \$510.00 into his Washington Mutual Account.

Sale to England

11
12 37. On or about June 3, 2001, a shipment of approximately 36 juvenile leopard
13 sharks was shipped from the Northern District of California to Monrovia, California. A
14 Southwest Airlines air bill identifies JOHN NEWBERRY as the shipper and the recipient
15 as Indorica Fish Imports, owned by IRA GASS.

16 38. On or about June 4, 2001, IRA GASS shipped approximately 30 juvenile leopard
17 sharks to Company F, located in Hertfordshire, United Kingdom. The Virgin Atlantic air
18 bill identifies Indorica Fish Import as the shipper and indicates the total value of the
19 shipment as \$1,350.00. The shipment was labeled "tropical fish."

20 39. On or about May 30, 2001, KEVIN THOMPSON deposited a check for \$724.00
21 from IRA GASS into his Washington Mutual bank account.

Sale to Texas

22
23 40. On or about July 21, 2002, a shipment of approximately 20 juvenile leopard
24 sharks was shipped from the Northern District of California to Monrovia, California. A
25 Southwest Airlines air bill identifies JOHN NEWBERRY as the shipper and the recipient
26 as Indorica Fish Imports, owned by IRA GASS.

27 //

28 //

1 41. On or about July 22, 2002, IRA GASS shipped approximately 10 juvenile
2 leopard sharks to Company G in Houston, Texas.

3 42. On or about July 23, 2002, IRA GASS wrote a check to JOHN NEWBERRY for
4 \$600.00.

5 All in violation of Title 18, United States Code, Section 371.

6 Count Two: 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)

7 43. The allegations in paragraphs 1 through 9 are hereby realleged and incorporated
8 by reference.

9 44. On or about April 27, 2003, in the Northern District of California and elsewhere,
10 the defendants,

11 JOHN NEWBERRY,
12 HIROSHI ISHIKAWA,
13 and
KEVIN THOMPSON,

14 did knowingly engage in conduct that involved the sale of, offer of sale and purchase of,
15 and intent to sell and purchase fish with a market value in excess of \$350.00, that is,
16 approximately thirty (30) leopard sharks (*Triakis semifasciata*), and did knowingly
17 transport, sell, receive, and acquire said fish in interstate commerce, knowing that said
18 fish were taken, possessed, transported, and sold in violation of and in a manner unlawful
19 under the laws and regulations of the State of California, specifically, California Fish &
20 Game Code, Section 8388.5(a), "Leopard shark; minimum size", in that said leopard
21 sharks were less than 36 inches in total length.

22 All in violation of Title 16, United States Code, Sections 3372(a)(2)(A) and
23 3373(d)(1)(B), and Title 18, United States Code, Section 2.

24 Count Three: 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)

25 45. The allegations in paragraphs 1 through 9 are hereby realleged and incorporated
26 by reference.

27 46. On or about April 20, 2004, in the Northern District of California and elsewhere,
28 the defendants,

1 KEVIN THOMPSON,
2 JOHN NEWBERRY,
3 and
4 VINCENT NG,

5 did knowingly engage in conduct that involved the sale of, offer of sale and purchase of,
6 and intent to sell and purchase fish with a market value in excess of \$350.00, that is,
7 approximately one hundred and two (102) leopard sharks (*Triakis semifasciata*), and did
8 knowingly transport, sell, receive, and acquire said fish in interstate commerce, knowing
9 that said fish were taken, possessed, transported, and sold in violation of and in a manner
10 unlawful under the laws and regulations of the State of California, specifically, California
11 Fish & Game Code, Section 8388.5(a), "Leopard shark; minimum size", in that said
12 leopard sharks were less than 36 inches in total length.

13 All in violation of Title 16, United States Code, Sections 3372(a)(2)(A) and
14 3373(d)(1)(B), and Title 18, United States Code, Section 2.

15 Count Four: 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)

16 47. The allegations in paragraphs 1 through 9 are hereby realleged and incorporated
17 by reference.

18 48. On or about June 3, 2001 in the Northern District of California and elsewhere,
19 the defendants,

20 JOHN NEWBERRY,
21 IRA GASS,
22 and
23 KEVIN THOMPSON,

24 did knowingly engage in conduct that involved the sale of, offer of sale and purchase of,
25 and intent to sell and purchase fish with a market value in excess of \$350.00, that is,
26 approximately thirty (30) leopard sharks (*Triakis semifasciata*), and did knowingly
27 transport, sell, receive, and acquire said fish in interstate commerce, knowing that said
28 fish were taken, possessed, transported, and sold in violation of and in a manner unlawful
under the laws and regulations of the State of California, specifically, California Fish &
Game Code, Section 8388.5(a), "Leopard shark; minimum size", in that said leopard

1 sharks were less than 36 inches in total length.

2 All in violation of Title 16, United States Code, Sections 3372(a)(2)(A) and
3 3373(d)(1)(B), and Title 18, United States Code, Section 2.

4 Count Five: 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)

5 49. The allegations in paragraphs 1 through 9 are hereby realleged and incorporated
6 by reference.

7 50. On or about May 6, 2004 in the Northern District of California and elsewhere,
8 the defendants,

9 VINCENT NG,
10 and
SION LIM,

11 did knowingly engage in conduct that involved the sale of, offer of sale and purchase of,
12 and intent to sell and purchase fish with a market value in excess of \$350.00, that is,
13 approximately twenty (20) leopard sharks (*Triakis semifasciata*), and did knowingly
14 transport, sell, receive, and acquire said fish in interstate commerce, knowing that said
15 fish were taken, possessed, transported, and sold in violation of and in a manner unlawful
16 under the laws and regulations of the State of California, specifically, California Fish &
17 Game Code, Section 8388.5(a), "Leopard shark; minimum size", in that said leopard
18 sharks were less than 36 inches in total length.

19 All in violation of Title 16, United States Code, Sections 3372(a)(2)(A) and
20 3373(d)(1)(B), and Title 18, United States Code, Section 2.

21 Dated: A TRUE BILL.

22 JAN 24 2006

23 J. Fawcett
FOREPERSON

24 KEVIN V. RYAN
United States Attorney

25 Kevin V. Ryan

26 EUMIL L. CHOI
27 Chief, Criminal Division

28 (Approved as to form: Francis O. Geis
AUSA GEIS

CALIFORNIA 1993 LEGISLATIVE SERVICE
1993 Portion of 1993-94 Regular Session

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Additions are indicated by <<+ Text +>>; deletions by <<- Text ->>. Changes in tables are made but not highlighted.

CHAPTER 1100
A.B. No. 1406
FISH AND GAME--COMMERCIAL FISHING--LIMITATIONS ON TAKING

AN ACT to amend Sections 8305, 8308, 8311, 8313, and 8314 of, and to add Section 8388.5 to, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor October 10, 1993.]

[Filed with Secretary of State October 11, 1993.]
LEGISLATIVE COUNSEL'S DIGEST

AB 1406, Morrow. Commercial fishing: abalone, logbooks, and leopard shark.

(1) Existing law, until January 1, 1994, establishes bag limits for the taking of abalone for commercial purposes and imposes an additional landing tax on abalone to fund the Abalone Resources Restoration and Enhancement Program. Existing law also prohibits the taking of black abalone within one mile of specified channel islands and along the mainland coast until January 1, 1994, and along the mainland coast thereafter.

This bill would extend the operation of those bag limits and additional landing tax to January 1, 1997. Because the revenue from the tax is deposited in the Fish and Game Preservation Fund, which is continuously appropriated to the Department of Fish and Game to carry out the Fish and Game Code, and because a portion of the tax is authorized to be used to administer that enhancement program, the bill would make an appropriation.

The bill also would prohibit the taking of black abalone for commercial purposes anywhere until January 1, 1997, and within one mile of the specified channel islands and along the mainland coast, except as authorized, thereafter.

(2) The bill would also establish a minimum length for leopard shark taken, possessed, sold, or purchased for commercial purposes.

(3) Because any violation of the requirements in the bill would be a crime under other existing provisions of law, the bill would impose a state-mandated local program by creating a new crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 8305 of the Fish and Game Code, as amended by Section 5 of Chapter 1216 of the Statutes of 1992, is amended to read:

<< CA FISH & G § 8305 >>

8305. (a) Notwithstanding Section 8606 or any other provision of law, it is unlawful to take abalone for commercial purposes in Districts 6, 7, 16, 17, and 19A; in District 10 north of Point Lobos; and in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) It is unlawful to take abalone for commercial purposes in waters less than 20 feet deep in District 19 adjacent to the mainland south of Point Dume; in District 20 between Southeast Rock and China Point; and in District 20A.

(c) Black abalone may not be taken at any time for commercial purposes <<-* * *->>.

(d) This section shall remain in effect only until January 1, <<+1997+>>, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, <<+1997+>>, deletes or extends that date.

SEC. 2. Section 8305 of the Fish and Game Code, as amended by Section 6 of Chapter 1216 of the Statutes of 1992, is amended to read:

<< CA FISH & G § 8305 >>

8305. (a) Notwithstanding Section 8606 or any other provision of law, it is unlawful to take abalone for commercial purposes in Districts 6, 7, 16, 17, and 19A, in District 10 north of Point Lobos, and in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) It is unlawful to take abalone for commercial purposes in waters less than 20 feet deep south of Point Dume in District 19 adjacent to the mainland, in District 20 between Southeast Rock and China Point, and in District 20A.

(c) Black abalone may not be taken at any time for commercial purposes <<+ within one mile of the shores of Anacapa, Santa Barbara, or Santa Cruz Island, or+>> along the mainland coast, except as otherwise specifically authorized by this article.

(d) This section shall become operative on January 1, <<+1997+>>.

SEC. 3. Section 8308 of the Fish and Game Code, as amended by Section 19 of Chapter 1288 of the Statutes of 1990, is amended to read:

<< CA FISH & G § 8308 >>

8308. (a) It is unlawful for a holder of a commercial abalone diving permit to possess, transport, control, or land more than 180 each of red, green, pink, or black abalone on any day, or for there to be more than 360 total of any one species of abalone on a vessel at any time. This subdivision does not prohibit more than 360 of any one species of abalone to be in possession or controlled by an abalone diving permittee when those abalone are being transported on land south of the county line between the County of San Luis Obispo and the County of Santa Barbara.

(b) Notwithstanding subdivision (a), in District 10, it is unlawful for a holder of a commercial abalone diving permit to possess, transport, or control on a fishing vessel, or to land more than 84 abalone on any day, or for there to be more than 168 total abalone on a vessel at any time.

(c) The court shall order the department to permanently revoke, and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of any person convicted of a violation of subdivision (a) or (b) if the court finds that the person possessed more than one and one-half times the number of abalone permitted at the time of the offense. That person shall not, thereafter be eligible for any license or permit to take or possess fish for sport or commercial purposes.

(d) This section shall remain in effect only until January 1, <<+1997+>>, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, <<+1997+>>, deletes or extends that date.

SEC. 4. Section 8308 of the Fish and Game Code, as added by Section 20 of Chapter 1288 of the Statutes of 1990, is amended to read:

<< CA FISH & G § 8308 >>

8308. (a) It is unlawful for a holder of a permit which authorizes the taking of abalone for commercial purposes to possess, transport, control, or land more than 180 black abalone at any time or for there to be more than 360 black abalone on a vessel. This subdivision does not prohibit more than 180 black abalone to be in possession or controlled by an abalone diving permittee when those abalone are being transported on land.

(b) Notwithstanding subdivision (a), in District 10 it is unlawful for a holder of a commercial abalone diving permit which authorizes the taking of abalone for commercial purposes to possess, transport, or control on a fishing vessel, or to land more than 84 abalone, or for there to be more than 168 total abalone on a vessel at any time.

(c) This section shall become operative on January 1, <<+1997+>>.

SEC. 5. Section 8311 of the Fish and Game Code is amended to read:

<< CA FISH & G § 8311 >>

8311. (a) Notwithstanding Section 12000, and in addition to Section 12009, if any person is convicted of a violation of a regulation permitting the taking of abalone under a sportfishing or sport ocean fishing license issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1 of Part 2, and that person had more than seven times the number of abalone permitted to be possessed under those regulations, that person shall be fined not less than five times the prevailing market value of the abalone.

(b) In addition to the fine, upon a conviction punishable under this section, the court shall order the department to revoke, and the department shall revoke, the person's sportfishing or sport ocean fishing license for one year.

(c) If the court finds that the person convicted of a violation punishable under this section had more than seven times the number of abalone permitted, had more than seven undersized abalone, or had more than seven abalone removed from the shell, or has had his or her fishing privileges revoked pursuant to subdivision (b) for three separate convictions punishable under this section, the court shall order the department to permanently revoke, and the department shall permanently revoke, the person's sportfishing or sport ocean fishing license. A person whose sportfishing privilege is revoked pursuant to this section shall not be eligible for any license or permit, including, but not limited to, a commercial fishing license, to take or possess fish in this state for life.

(d) This section shall remain in effect only until January 1, <<+1997+>>, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, <<+1997+>>, deletes or extends that date.

SEC. 6. Section 8313 of the Fish and Game Code is amended to read:

<< CA FISH & G § 8313 >>

8313. (a) Any person who is required to pay a landing tax for abalone pursuant to Sections 8041 and 8042 shall pay, in addition to the landing taxes determined pursuant to Section 8051, an additional tax of nineteen and one-half cents (\$0.195) for each pound, or fraction thereof, of abalone, determined as provided in Section 8042.

(b) This section shall remain in effect only until January 1, <<+1997+>>, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, <<+1997+>>, deletes or extends that date.

SEC. 7. Section 8314 of the Fish and Game Code is amended to read:

<< CA FISH & G § 8314 >>

8314. (a) The landing tax collected pursuant to Section 8313 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. Not more than 15 percent of the landing tax collected pursuant to Section 8313 may be used for administration by the department. Any interest on the revenues from the landing tax collected pursuant to Section 8313 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 is required to pay landing taxes pursuant to Section 8313. Each of the five remaining members shall hold a current commercial abalone diving permit, and represent the following groups and organizations:

(1) One member shall be selected from divers with a place of residence north of Point Sur.

(2) One member shall be selected from divers with a place of residence south of Point Dume.

(3) One member shall be selected from divers with a place of residence south of Point Sur and north of Point Dume.

(4) Two members shall be selected from the membership of the California Abalone Association without regard to place of residence. This subdivision does not prohibit persons selected pursuant to paragraph (1), (2), or (3) from also being members of the California Abalone Association.

(c) The advisory committee shall make recommendations to the director and the director shall use his or her best efforts to implement those recommendations for activities to be conducted with funds collected pursuant to Section 8313, and those funds collected from any previous calendar year shall be available for use for those activities.

(d) This section shall remain in effect only until January 1, <<+1997+>>, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, <<+1997+>>, deletes or extends that date.

SEC. 8. Section 8388.5 is added to the Fish and Game Code, to read:

<< CA FISH & G § 8388.5 >>

8388.5. (a) A person shall not take, possess, sell, or purchase for commercial purposes any leopard shark less than 36 inches in total length.

(b) Notwithstanding subdivision (a), leopard sharks less than 36 inches in total length possessed by a person for aquarium display on or before January 1, 1994, may be retained by that person if a letter declaring that the shark was legally obtained prior to January 1, 1994, is provided to the Sacramento office of the department on or before January 1, 1995.

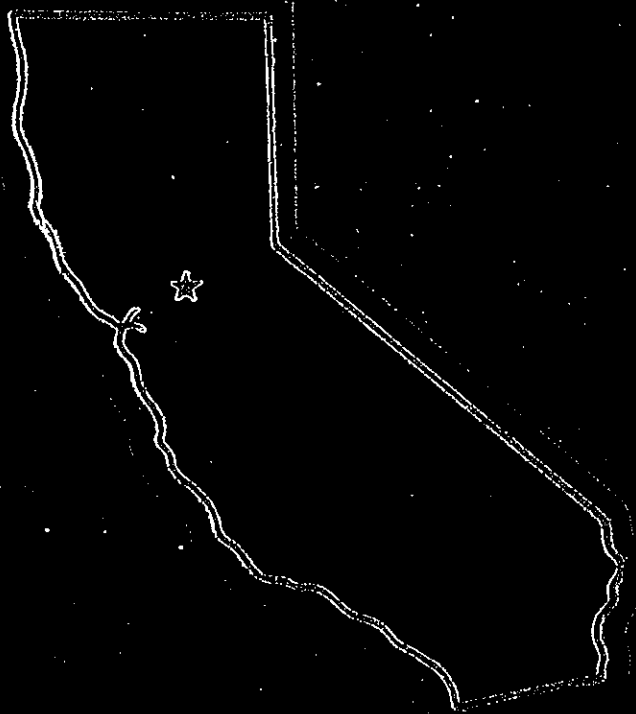
SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred

by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CA LEGIS 1100 (1993)

END OF DOCUMENT

West's
ANNOTATED
CALIFORNIA CODES



FISH AND GAME CODE
Sections 3651 to 8600

§§ 8388.1, 8388.2
Repealed

related to enhancement and a season harvest quota for Pacific mackerel. See Fish and Game Code § 8410 et seq.

Former § 8388.1, added by Stats.1977, c. 92, p. 513, § 1, providing for amounts of Pacific

mackerel which could be taken, was repealed by Stats.1977, c. 92, p. 514, § 3, eff. Jan. 1, 1978.

FISH
Div. 6

§ 8388.3. Renumbered § 8388.1 and amended by Stats.1978, c. 327, p. 670, § 2, eff. June 30, 1978

Historical and Statutory Notes

Section 8388.3 was suspended by Stats.1978, c. 327 and was renumbered § 8388.1 and amended by § 2 of that Act. The legislative counsel's digest for Stats.1978, c. 327, provides,

in part: "This bill would suspend these provisions until January 1, 1981, and would require an annual report to the legislature regarding the Pacific mackerel resource."

§ 8388.5. Leopard shark; minimum size

(a) A person shall not take, possess, sell, or purchase for commercial purposes any leopard shark less than 36 inches in total length.

(b) Notwithstanding subdivision (a), leopard sharks less than 36 inches in total length possessed by a person for aquarium display on or before January 1, 1994, may be retained by that person if a letter declaring that the shark was legally obtained prior to January 1, 1994, is provided to the Sacramento office of the department on or before January 1, 1995.

(Added by Stats.1993, c. 1100 (A.B.1406), § 8.)

Historical and Statutory Notes

Former § 8388.5, added by Stats.1978, c. 327, p. 671, § 4, providing for enhancement of

allowable catch of Pacific mackerel, was repealed by Stats.1980, c. 121, § 4.

Library References

Fish ⇨13(1).
WESTLAW Topic No. 176.
C.J.S. Fish § 28.

§§ 8388.6, 8388.7. Repealed by Stats.1980, c. 121, p. 289, §§ 5, 6, eff. May 23, 1980, operative July 1, 1980

Historical and Statutory Notes

Section 8388.6, added by Stats.1978, c. 327, p. 671, § 5, provided for enhancement and adjustment of allowable catch of Pacific mackerel.

Section 8388.7, added by Stats.1972, c. 608, p. 1077, § 4, amended by Stats.1978, c. 327, p.

672, § 6, specified the season for Pacific mackerel. See Fish and Game Code § 8410 et seq.

§ 8389. Herring eggs; permit; royalty; exception

(a) Herring eggs may only be taken for commercial purposes under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe. In addition to the license fees provided for in this code, every person taking herring eggs under this section shall pay a royalty, as the commission may prescribe, of not less than fifty dollars (\$50) per ton of herring eggs taken.

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