

## **FISH AND GAME CODE - FGC**

### **DIVISION 6. FISH [5500 - 9101]**

*( Division 6 enacted by Stats. 1957, Ch. 456. )*

#### **PART 1. GENERALLY [5500 - 6956]**

*( Part 1 enacted by Stats. 1957, Ch. 456. )*

#### **CHAPTER 6. Kelp and Other Aquatic Plants [6650 - 6751]**

*( Chapter 6 enacted by Stats. 1957, Ch. 456. )*

### **ARTICLE 1. General Provisions [6650 - 6657]**

*( Article 1 enacted by Stats. 1957, Ch. 456. )*

#### **6650.**

Every person engaged in harvesting kelp or other aquatic plants for profit in the waters of this State shall have a license for that purpose.

*(Enacted by Stats. 1957, Ch. 456.)*

#### **6651.**

(a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars (\$100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

(c) This chapter does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Division 12 (commencing with Section 15000).

*(Amended by Stats. 2012, Ch. 559, Sec. 22. Effective January 1, 2013.)*

#### **6652.**

Every person engaged in harvesting kelp shall determine the weight by any method, including the displacement method, approved by the department of all wet kelp immediately after it is delivered to the licensee's place of business or elsewhere, and the weight shall be entered in a book to be kept by the licensee. The book shall be open at all times to the inspection of the department.

Every person engaged in harvesting kelp shall, on or before 10 days after each month of the term of the license, render a statement of the weight of all wet kelp harvested during the preceding month.

*(Amended by Stats. 1963, Ch. 212.)*

### **6653.**

The commission may make such regulations as may be necessary to insure the proper harvesting of kelp and other aquatic plants.

*(Enacted by Stats. 1957, Ch. 456.)*

### **6653.5.**

(a) The department may issue permits for the drying of agar-bearing marine plants subject to the regulations the commission may prescribe to provide for proper utilization of that resource.

(b) No person shall dry agar-bearing marine plants for profit unless the person has a permit issued under this section.

*(Added by Stats. 1984, Ch. 242, Sec. 1.)*

### **6654.**

If, at any time, the commission finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of any food for fish, the department shall serve on every person licensed to harvest kelp a written notice that the kelp bed or beds, or parts thereof, shall be closed to the harvesting of kelp for a period not to exceed one year.

*(Enacted by Stats. 1957, Ch. 456.)*

### **6655.**

Within 10 days after the service of such a notice, the person upon whom notice is served may demand a hearing upon the necessity for the closing of the kelp bed or beds, or parts thereof. Upon such demand for a hearing, the commission shall fix a time and place for the taking of evidence upon the necessity for the closing, which time shall be not less than 10 days nor more than 30 days from the date of such demand. The department shall serve written notice of the time and place of the hearing upon the person demanding the hearing, at least 10 days before the day set for the hearing. If no demand is made for a hearing within the time prescribed the kelp bed or beds, or parts thereof, shall remain closed to the harvesting of kelp for the time mentioned in the order.

*(Enacted by Stats. 1957, Ch. 456.)*

### **6656.**

The commission may revoke and prohibit reissuance for a period of not more than one year, the license of:

(a) Any person who harvests any kelp from a bed which is closed, between the time of service of notice upon him or her of the closing of the bed and the decision of the commission upon a hearing as to the necessity for the closing.

(b) Any person who violates any law or regulation of the commission relating to kelp. The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

*(Amended by Stats. 1986, Ch. 1244, Sec. 6.)*

#### 6657.

The commission may, subject to such regulations as it may deem proper, grant permits to any department of the United States Government or to any scientific or any educational institution, to harvest kelp at any time for scientific or experimental purposes without the payment of the kelp license or privilege tax imposed by this chapter.

*(Enacted by Stats. 1957, Ch. 456.)*

### **ARTICLE 2. Royalties [6680- 6680.]**

*( Heading of Article 2 amended by Stats. 1967, Ch. 1348. )*

#### 6680.

In addition to the license fee provided for in this chapter, every person harvesting kelp or other aquatic plants shall pay a royalty, as the commission may prescribe, of not less than five cents (\$0.05) per ton of wet kelp or wet aquatic plants harvested. Any revenues derived from such royalties shall not be available for expenditures until appropriated.

*(Amended by Stats. 1967, Ch. 1348.)*

### **ARTICLE 3. Exclusive Leases [6700 - 6711]**

*( Article 3 repealed and added by Stats. 1984, Ch. 1373, Sec. 2. )*

#### 6700.

The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed, or part thereof, if the commission determines that the lease is in the public interest. The commission shall describe the kelp beds of the state and adopt regulations for the leasing of the beds.

*(Repealed and added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### 6701.

Persons wishing to lease the exclusive privilege to harvest kelp shall submit a written application to the commission. An application shall include all of the following, and any other information the commission may prescribe:

- (a) The number of the kelp bed or beds to be leased.
- (b) The designated number of square miles in each bed.

*(Repealed and added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6701.5.**

A deposit of not less than forty dollars (\$40) for each square mile, or fraction thereof, of the total area of the kelp bed or beds which are designated in the application shall be submitted with the application. The deposit shall be refunded to the person making the application unless a lease is executed.

*(Added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6702.**

- (a) If the commission finds that the kelp beds included in the application are available for lease and that the lease would be in the public interest, the commission shall publish a notice that the area is being considered for leasing.
- (b) The commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. Except as provided in this subdivision, the publication shall be made pursuant to Section 6066 of the Government Code.
- (c) If the commission receives more than one application for the lease of a kelp bed or beds, it shall advertise for bids on the area being considered for leasing. The commission shall award the lease of that area to the highest qualified bidder.

*(Repealed and added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6703.**

The initial term of a lease for the exclusive privilege of harvesting kelp shall not exceed 20 years. No lessee shall have an exclusive lease, excluding subleases, to an area in excess of 25 square miles or 50 percent of the total area of the kelp resource as shown on the maps of the resource prepared by the commission, whichever is greater.

*(Amended by Stats. 1988, Ch. 295, Sec. 1.)*

#### **6704.**

(a) Each kelp bed lease entered into or renewed, on and after January 1, 1985, shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If the commission determines that the lessee has complied with the terms of the lease, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee.

(b) If terms for a renewal of the lease are not agreed upon, or the commission determines that the lessee has not complied with the terms of the lease, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(c) If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(d) The duration of the term of any renewal of a lease shall not exceed 20 years.

*(Repealed and added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6705.**

Notwithstanding Section 6704, with respect to any kelp lease in effect on January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If the lessee does not renew the lease, or if terms are not agreed upon, the commission shall advertise for bids on the individual kelp beds comprising the lease. The term of any renewal of a lease shall not exceed 20 years. Any lease in effect on January 1, 1985, may be performed pursuant to its terms, notwithstanding this article, but any renewal of that lease is subject to this article.

*(Repealed and added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6706.**

Notwithstanding Sections 6703 and 6704, at any time during the term of a lease, the commission and the lessee may negotiate and enter into a new lease on terms agreed upon between the two parties, if the commission determines that such a new lease would be in the best interest of the state. The initial term of the new lease shall not exceed 20 years.

*(Repealed and added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6707.**

Each lease entered into, or renewed, on or after January 1, 1985, shall require, in addition to the license fee required by this chapter, a payment by the lessee or any sublessee of not less than the minimum royalty established under Article 2 (commencing with Section 6680), for all kelp harvested from the lease area, and shall provide for an annual advance payment of not less than forty dollars (\$40) per square mile per year for the kelp bed leased, to be credited against the amount payable by

the lessee, or sublessee, as the case may be, for each ton of kelp harvested during the ensuing year. The lease shall, in addition, include provisions for forfeiture of the lease if the annual payment is not made in advance.

*(Amended by Stats. 1988, Ch. 295, Sec. 2.)*

#### **6708.**

A lease may not be assigned, in whole or in part, by the lessee, either voluntarily or by operation of law, and no subleases or other rights may be granted thereunder by the lessee without the prior approval of the commission, subject to the conditions that the commission prescribes. The lease shall be forfeited in the event of a violation of this section. Each lease shall contain a statement of the contents of this section.

*(Amended by Stats. 1988, Ch. 295, Sec. 3.)*

#### **6709.**

A lease, or any renewal thereof, shall be submitted to, and approved by, the Department of General Services.

*(Added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6710.**

When an exclusive privilege to harvest kelp has been granted by lease by the commission, the commission shall furnish a true copy thereof to the department. The department shall file a notice for record in the recorder's office of the county in which the kelp bed or beds, or part thereof, are located, setting forth the name of the person having the privilege, the description of the kelp bed or beds, or part thereof, and the time for which the privilege has been granted. The notice required to be filed for record under this section may be a copy of the executed lease.

*(Added by Stats. 1984, Ch. 1373, Sec. 2.)*

#### **6711.**

The department shall inform the State Lands Commission of all kelp bed leases executed pursuant to this chapter, and shall furnish the State Lands Commission with the information concerning these leases that it may require.

*(Added by Stats. 1984, Ch. 1373, Sec. 2.)*

### **ARTICLE 4. Noncommercial Use of Kelp [6750 - 6751]**

*( Article 4 added by Stats. 1972, Ch. 468. )*

#### **6750.**

The commission may regulate the taking, collecting, harvesting, gathering, or possession of kelp for purposes other than profit.

*(Added by Stats. 1972, Ch. 468.)*

**6751.**

The provisions of Article 1 (commencing with Section 6650), Article 2 (commencing with Section 6680), and Article 3 (commencing with Section 6700) of this chapter do not apply to the taking, collecting, harvesting, gathering, or possession of kelp under this article.

*(Added by Stats. 1972, Ch. 468.)*