
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2023 - 2024 Regular Session

AB 3162 (Bennett) - Octopus: aquaculture: sale: prohibition

Version: April 4, 2024

Urgency: No

Hearing Date: June 24, 2024

Policy Vote: N.R. & W. 11 - 0

Mandate: Yes

Consultant: Ashley Ames

Bill Summary: This bill would prohibit the aquaculture of octopus and the sale of octopus resulting from aquaculture in the state, as provided

Fiscal Impact:

- Unknown, potentially significant ongoing costs (Fish and Game Preservation Fund [FGPF]) for the Department of Fish and Wildlife to enforce the prohibitions in this bill. DFW notes that currently wild octopuses are sold commercially, and if there is a situation where farmed octopus (non-California origin) is also present in a restaurant or grocery store, it is unlikely Department law enforcement would be able to tell the difference.
- Unknown cost pressure (General Fund) to prosecute and adjudicate any charges brought against defendants for a violation of the prohibitions in this bill, which would be considered a misdemeanor under Fish and Game Code (FGC) § 12000. Most FGC misdemeanors may be punished by up to six months in jail or a fine, or both. Successful prosecutions could result in the collection of fines and unknown potential civil penalty revenues. DFW's portion of any fines would be deposited into the FGPF, unless otherwise specified.

Background: All octopus species are members of the order Octopoda in the Cephalopod class within the Mollusca phylum (other mollusks include clams, mussels, oysters, and other shelled species). There are around 300 species of octopus included in the order.

Octopuses are able to change color and pattern and disguise themselves as they move along the seafloor. If their camouflage fails, an octopus can quickly propel itself away and disorient predators with a jet of ink. Octopuses are carnivores, and generally solitary. Several octopus species are found along the Pacific coast, including the giant Pacific octopus, which is the largest octopus species in the world with an arm span that can reach 14 feet.

Aquaculture in California, according to information available from California Department of Fish and Wildlife, 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. As of 2021, there were about 110 registered aquaculturists in the state. Species No species of octopus are raised by aquaculturists in California, and, in 2023, there were commercial landings of about 3,155 pounds of octopus in the state.

Given the popularity of octopus for human consumption – annual global landings appear to have increased at least 3-fold in the last 50 years - there is interest in developing octopus aquaculture. There do not appear to be any commercial-scale octopus aquaculture operations for human consumption. A Spanish seafood company, Nueva Pescanova, has sought permits for tank-based aquaculture of octopus on a dock in the Canary Islands. News reports indicate that the company claims to have made significant advancements to address the multiple challenges of farming octopus. Apparently, their intent is to produce about 3,000 metric tons annually from one million individual animals raised in small narrow cages. Recently, a Hawaiian octopus “farm” was also ordered to cease and desist all non-permitted aquaculture activities, and the owners claim the octopuses were not being raised for human consumption.

There are numerous challenges associated with octopus aquaculture. Octopuses, as noted above, are carnivores and eat live prey. Large-scale octopus cultivation would therefore require significant amounts of fish and other marine life: about 3 pounds of ingested food produce about one pound of octopus. Octopus waste includes elevated concentrations of nitrogen and phosphorus. This suggests that large-scale octopus aquaculture would, at a minimum, have significant challenges to achieve environmental sustainability.

Further, observations of captive octopuses have shown that they can become aggressive towards other octopus when confined. There is also a growing recognition of the intelligence of octopus, including their abilities to learn, problem-solve, use tools, and demonstrate behavioral flexibility in response to different stimuli that suggests some level of consciousness. Experts argue that there is strong evidence of sentience in octopus, and, for these and other reasons, that aquaculture is incapable of providing appropriate living conditions for octopus within a farm setting.

Proposed Law: This bill would prohibit the aquaculture of octopus and the sale of octopus resulting from aquaculture in the state, as provided. Specifically, this bill would:

- 1) Prohibit a person from engaging in the aquaculture of any species of octopus for the purpose of human consumption.
- 2) Prohibit a business owner or operator from knowingly engaging in the sale in the state of any species of octopus that is the result of aquaculture.
- 3) Define aquaculture for these purposes to mean the form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of any species of octopus including, but not limited to, the use of land-based recirculating aquaculture systems.
- 4) Make multiple relevant legislative findings and declarations, and provide that no reimbursement is required for a local mandate, as specified.

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