
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Dave Min, Chair

2023 - 2024 Regular

Bill No:	AB 3162	Hearing Date:	June 11, 2024
Author:	Bennett		
Version:	April 4, 2024 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Katharine Moore		

Subject: Octopus: aquaculture: sale: prohibition

SUMMARY

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

BACKGROUND AND EXISTING LAW

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.

Existing law:

- 1) Establishes the California Department of Fish and Wildlife (CDFW) and the California Fish and Game Commission (Commission) in the California Natural Resources Agency.

In general, the Commission sets regulations that CDFW implements and enforces. CDFW also provides data and expertise to inform the Commission's decision-making process.

- 2) "Aquaculture" is defined as a form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "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)
- 3) Finds and declares, under the California Aquaculture Development Act, that it is in the interest of the people of the state that the practice of aquaculture be encouraged in order to augment food supplies, expand employment, promote economic activity, increase native fish stocks, enhance commercial and recreational fishing, and protect and better use the land and water resources of the state. (Public Resources Code § 826)
- 4) Authorizes the Commission to prohibit the placement of specific species of aquatic plants or animals in designated waters of the state. (FGC § 15202)
- 5) Prohibits any person to possess, sell, offer for sale, trade or distribute a shark fin, or detached tail of an elasmobranch, as provided. (FGC § 2021)
- 6) Prohibits any person to possess, sell, offer for sale, possess with intent to sell, or import with intent to sell ivory or rhinoceros horn, as provided. (FGC § 2022)
- 7) 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)

- 8) 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)

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.

ARGUMENTS IN SUPPORT

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. AB 3162 provides that clarity."

ARGUMENTS IN OPPOSITION

None received

COMMENTS

Other states have taken or are considering similar action. In Washington, HB 1153, a bill to prohibit octopus farming was signed by the Governor on March 13, 2024. A similar bill was introduced this year in the Hawaiian Legislature.

California has repeatedly taken action to promote animal welfare. Proposition 12, passed by the voters in 2018, requires that certain minimum amounts of space be provided to sows (mother pigs), egg-laying chickens, and calves used for veal. Trade in shark fins, as well as rhinoceros horn, among other animal parts, is also prohibited. After years of litigation, the ban on foie gras sales within the state was found to be constitutional in 2023.

Commercial and recreational take of wild octopus in state waters. Commercial take of octopus under a tidal invertebrate permit authorizes take between the high tide mark and 1,000 feet beyond the low tide mark of any shoreline (see Title 14, California

Code of Regulations, § 123). Methods of take allowed are by hook and line, by hand, or incidentally in the conduct of other fisheries. Apparently, there was only one hook and line landing in 2023.

Recreational anglers only need a fishing permit to take octopus. The methods allowed are by hook and line, and by hand. The daily limit is 35 octopuses.

This bill does not affect the permitted take of wild octopus in state waters.

SUGGESTED AMENDMENTS: none

SUPPORT

Animal Legal Defense Fund (co-sponsor)
Social Compassion in Legislation (co-sponsor)
A Passion for Paws Akita Rescue
Animal Coalition Group, Inc.
Animal Rights Initiative
Animal Solutions
Animal Wellness Action
Aquatic Life Institute
Barks of Love Animal Rescue
betterTogether Forever
Buddy's Angels Rescue Foundation
Catmosphere Laguna Foundation
Center for a Humane Economy
CleanEarth4Kids.org
Compassion in World Farming
Democrats for the Protection of Animals
Cultivate Empathy for All
Environmental Defense Center
Farm Sanctuary
FoodsbyJude
German Shepherd Rescue of Orange County
Greater Los Angeles Animal Spay Neuter Collaborative
Gurrs and Purrs Rescue
Hanaeleh
Humboldt Humane
Kesar & Cardi LLC
Kindred Spirits Care Farm
Latino Alliance for Animal Care Foundation
Love leo rescue
Mercy For Animals
Motherlode Feral Cat Alliance
Northwest Animal Rights Network
NY4Whales
Only Sunshine Sanctuary
Outta the Cage
Pasado Safe Haven
People Advocating for Animal Welfare – Contra Costa
People for the Ethical Treatment of Animals (PETA)

Poison Free Malibu
PreetiRang Sanctuary
Project Minnie
Sacramento Vegan Society
Saving Imperial Rescue
Shelter Transport Animal Rescue Team (START Rescue)
Take Me Home
Terra Advocati
The Animal Rescue Mission
The Canine Condition Foundation
The Humane League
The Humane Society of the United States
TippedEars
UnchainedTV
Westside German Shepherd Rescue
Women United for Animal Welfare
World Animal Protection

Numerous individuals

OPPOSITION

None received

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