

Perspective: California's new law cracks down on commercial-scale poaching in MPAs

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By Zachary Plopper

On 1 January 2019 a new law takes effect in California (US) to address commercial-scale poaching in the state's marine protected areas. Assembly Bill 2369, authored by Assemblywoman Lorena Gonzalez Fletcher, substantially increases fines and penalties for commercial poaching in the state's MPAs. The bill, signed into law by Governor Jerry Brown on 25 August 2018, was supported by diverse coastal stakeholders in California including conservation organizations, businesses, angler clubs, and tribes.

While California Department of Fish and Wildlife officers are in the field citing MPA violators and City and District Attorneys are successfully prosecuting MPA poaching cases, there is a small percentage of licensed commercial fishing operations and Commercial Passenger Fishing Vessels (CPFVs, or so-called "party boats") operating in violation of California's MPA regulations. Commercial poaching in California MPAs can have a detrimental impact across the entire state MPA network and foster even more poaching behavior.

Previously, fines for commercial-scale take within MPAs could be less than the cost of doing business for many operators, sending the wrong message to businesses thinking about illegal take in the MPAs. Penalties for commercial-scale poaching had not been sufficient to deter commercial-scale poaching in California. Organizations such as WILD Coast, anglers' clubs, tribes, and other stakeholders recognized that an intervention was needed so commercial poachers were faced with fines appropriate for their crimes.

Prior to the new law, fines imposed by the courts on commercial violations were in the US\$200-\$4000 range, with \$1000 a typical fine. Commercial fishing, depending on the type, can gross anywhere from \$5000 to \$20,000 for a single trip. A \$1000 fine could be considered by poachers to be worth the risk. The new law will help ensure that appropriate fines are issued by the courts for commercial-scale MPA poaching and do not involve a lengthy administrative process.

Significant penalties

Starting 1 January 2019, a business or captain in violation may be fined \$5000 to \$40,000 per crime and face up to a year in jail on a misdemeanor conviction. Penalties for a repeat offense will be \$10,000 to \$50,000 and up to a year in jail on a misdemeanor conviction. Repeat offenders will also face the potential revocation of fishing privileges by the California Department of Fish and Wildlife.

Also included in the new legislation, businesses will not be able to transfer a permit if they are awaiting final resolution of any pending criminal, civil, or administrative action that could affect the status of their permit. In the past, some fishermen under investigation for unlawful fishing would sell valuable fishing permits, sometimes for several hundred thousand dollars, rather than face the consequences of their actions, which could include potential permit revocation.

The new law appropriately stiffens penalties for commercial-scale MPA crimes in California, which supporters hope will serve as a strong deterrent to would-be poachers. According to Assemblywoman Gonzalez Fletcher, the author of the bill, "This law is an important step in preserving the very delicate coastal ecosystems in California's protected marine areas. These greedy poachers have done an enormous amount of damage, showing that the current penalties are nominal to their bottom line and they don't seem to work. I'm pretty sure this new law's threat of a hefty fine will get their attention."

Commercial poaching impacting MPAs

In California, commercial-scale poaching in MPAs was not recognized as a major problem until several cases emerged in

2018 before the Fish and Game Commission and City and District Attorney offices. In perhaps the highest-profile case, the *Pacific Star* (a CPFV) was issued a five-year suspension after a 2013 sting operation by California Department of Fish and Wildlife that documented multiple Fish and Game Code violations including fishing within a State Marine Reserve (a no-take MPA). This penalty marked the first time since completion of the statewide MPA network that the Fish and Game Commission had suspended a license for poaching in an MPA.

Other CPFVs and commercial operators have been cited in recent years in California for MPA violations.

With the new law taking effect in January, MPA supporters are hopeful that it will deter poaching and result in significant penalties for those who do poach at a commercial scale in the state's MPAs. The law also complements a previously enacted law from 2015 that authorizes wildlife officers to cite a recreational-level poaching offense in an MPA as either a misdemeanor or a lower-level infraction that can be processed in traffic court. With the passage of the new legislation, California now has laws on the books appropriate to address the varying types of poaching that happen in MPAs located off its populated coastline.

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