

Assembly Bill No. 1420

CHAPTER 291

An act to amend Sections 3033, 3951, 4181, 12000, 12002.2, and 12155.5 of, and to add Section 3952 to, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 3, 2003. Filed with Secretary of State September 4, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1420, Laird. Fish and game: elk: fishing licenses.

(1) Existing law defines "disabled veteran," for purposes of issuing a reduced fee hunting license, as a person having a 70% or greater service-connected disability and an honorable discharge from military service.

This bill would instead define "disabled veteran" for that purpose as a person having a 50% or greater service-connected disability and an honorable discharge from military service.

(2) Under existing law, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, or gray squirrels, may apply to the department for a permit to kill that animal. The Department of Fish and Game, upon satisfactory evidence of the damage or destruction, is required to issue a revocable permit for the taking and disposition of the animal.

This bill would require the department to make certain determinations and specify certain corrective measures, prior to the issuing of a depredation permit for elk. The bill would require the department to develop a statewide elk management plan, consistent with the state's wildlife policy.

Existing law authorizes the Fish and Game Commission to take tule elk under certain conditions. When tule elk cause economic or environmental damage to property, existing law requires emphasis to be placed on managing the elk herd through the use of relocation, sporthunting, or other appropriate means, as determined by the department after consulting with the local landowners.

This bill would instead require that when tule elk cause property or environmental damage, emphasis is placed on managing the herd through the use of relocation, regulated hunting, or other appropriate methods, as determined by the department, in accordance with the statewide elk management plan, after consulting with local landowners.

(3) Existing law provides that any violation of the Fish and Game Code, or any regulation, rule, or order made pursuant to the code, is a misdemeanor.

This bill would instead make certain provisions relating to fishing licenses and stamps an infraction or misdemeanor.

(4) Under existing law, the penalty for not displaying a fishing license while fishing is at least \$250 for a first offense, \$500 for a subsequent offense, and not more than \$1,000 in either case.

This bill would reduce the minimum fine for a first time violation to \$100, and \$250 for a subsequent violation. The bill would authorize a court to dismiss a charge of failing to display a license under certain conditions.

(5) Existing law provides that any person whose license was revoked pursuant to certain provisions may appeal to the commission for reissuance of the license. Existing law provides for a public hearing prior to the commission terminating the license.

This bill would require the commission to adopt regulations and procedures governing the revocation or suspension of hunting or sport fishing privileges, which procedures shall provide for notice and an opportunity for a hearing. The bill would state that any person whose hunting or sport fishing privileges have been revoked and obtains, or attempts to obtain or possess, a hunting or sport fishing license is guilty of an infraction or a misdemeanor. Because the bill would create a new crime, the bill would impose a state-mandated local program.

(6) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and the commission to pay all necessary expenses incurred in carrying out the Fish and Game Code, and to pay the compensation and expenses of the commissioners and employees of the commission.

By imposing new duties on the department and the commission, the bill would make an appropriation.

(7) 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 3033 of the Fish and Game Code is amended to read:



3033. (a) The department shall, upon application and payment of a fee, issue a reduced fee hunting license, that authorizes the licensee to take any bird or mammal as otherwise authorized pursuant to this code and regulations adopted pursuant thereto, to a disabled veteran, as defined in subdivision (b), who has not been convicted of any violation of this code. The base license fee for a reduced fee hunting license shall be four dollars (\$4) for the hunting license year beginning on July 1, 1995, and, for the following years, this license fee may be annually reviewed and adjusted in accordance with Section 713.

(b) “Disabled veteran” means a person having a 50 percent or greater service-connected disability and an honorable discharge from military service. The person shall be eligible upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Department of Veterans Affairs or by presentation of a license issued pursuant to this section in the preceding license year.

SEC. 2. Section 3951 of the Fish and Game Code is amended to read:

3951. The commission may authorize the taking of tule elk pursuant to Section 332. When relocating tule elk, the department shall relocate the elk in areas suitable to them in the state and shall cooperate to the maximum extent possible with federal and local agencies and private property owners in relocating tule elk in suitable areas under their jurisdiction or ownership. When property or environmental damage occurs, emphasis shall be placed on managing each tule elk herd at a biologically sound level through the use of relocation, regulated hunting, or other appropriate methods, individually or in combination, as determined by the department in accordance with the statewide elk management plan developed pursuant to Section 3952, after consulting with local landowners.

The number of tule elk in the Owens Valley shall not be permitted to increase beyond 490, or any greater number hereafter determined by the department to be the Owens Valley’s holding capacity in accordance with game management principles.

SEC. 3. Section 3952 is added to the Fish and Game Code, to read:

3952. The department shall develop a statewide elk management plan, consistent with the state’s wildlife policy as set forth in Section 1801. The statewide elk management plan shall emphasize maintaining sufficient elk populations in perpetuity, while considering all of the following:

(a) Characteristics and geographic range of each elk subspecies within the state, including Roosevelt elk, Rocky Mountain elk, and tule elk.



- (b) Habitat conditions and trends within the state.
- (c) Major factors affecting elk within the state, including, but not limited to, conflicts with other land uses.
- (d) Management activities necessary to achieve the goals of the plan and to alleviate property damage.
- (e) Identification of high priority areas for elk management.
- (f) Methods for determining population viability and the minimum population level needed to sustain local herds.
- (g) Description of the necessary contents for individual herd management plans prepared for high priority areas.

SEC. 4. Section 4181 of the Fish and Game Code is amended to read:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, or gray squirrels, may apply to the department for a permit to kill the mammals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the mammals under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Mammals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

(b) The permit issued for taking bears pursuant to subdivision (a) shall contain the following facts:

- (1) Why the issuance of the permit was necessary.
- (2) What efforts were made to solve the problem without killing the bears.
- (3) What corrective actions should be implemented to prevent reoccurrence.

(c) With respect to wild pigs, the department shall provide an applicant for a depredation permit to take wild pigs or a person who reports taking wild pigs pursuant to subdivision (b) of Section 4181.1 with written information that sets forth available options for wild pig control, including, but not limited to, depredation permits, allowing



periodic access to licensed hunters, and holding special hunts authorized pursuant to Section 4188. The department may maintain and make available to these persons lists of licensed hunters interested in wild pig hunting and lists of nonprofit organizations that are available to take possession of depredated wild pig carcasses.

(d) With respect to elk, the following procedures shall apply:

(1) Prior to issuing a depredation permit pursuant to subdivision (a), the department shall do all of the following:

(A) Verify the actual or immediately threatened damage or destruction.

(B) Provide a written summary of corrective measures necessary to immediately alleviate the problem.

(C) Determine the viability of the local herd, and determine the minimum population level needed to maintain the herd.

(D) Ensure the permit will not reduce the local herd below the minimum.

(E) Work with affected landowners to develop measures to achieve long-term resolution, while maintaining viability of the herd.

(2) After completing the statewide elk management plan pursuant to Section 3952, the department shall use the information and methods contained in the plan to meet the requirements of subparagraphs (C), (D), and (E) of paragraph (1).

SEC. 5. Section 12000 of the Fish and Game Code is amended to read:

12000. (a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

(b) Notwithstanding subdivision (a), any person who violates any of the following statutes or regulations, as those statutes or regulations read on January 1, 2003, is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000), or of a misdemeanor:

(1) Subdivision (a) of Section 6596.

(2) Section 7149.8.

(3) Section 7360.

(4) Section 1.74 of Title 14 of the California Code of Regulations.

(5) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.

(6) Sections 27.56, 27.65, and 27.70 of Title 14 of the California Code of Regulations.

(7) Sections 27.85 to 30.10, inclusive, of Title 14 of the California Code of Regulations.



(8) Sections 40 to 43, inclusive, of Title 14 of the California Code of Regulations.

(9) Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.

(10) Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.

SEC. 6. Section 12002.2 of the Fish and Game Code is amended to read:

12002.2. (a) Notwithstanding any other provision of law, a violation of Section 7145 or of a regulation requiring a license to be displayed is an infraction, punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) for a first offense. If a person is convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed within five years of a separate offense resulting in a conviction of a violation of Section 7145 or of a regulation requiring a license to be displayed, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250) or more than one thousand dollars (\$1,000).

(b) If a person is convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed and produces in court a license issued pursuant to Section 7145 and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation of Section 7145 or of the regulation requiring a license to be displayed to twenty-five dollars (\$25).

(c) If a person is charged with a violation of Section 7145 or of a regulation requiring a license to be displayed, and produces in court a lifetime sport fishing license or lifetime sportsman's license issued in his or her name pursuant to Section 714, and if the taking was otherwise lawful, in terms of season, limit, time, and area, the court may dismiss the charge.

(d) A person shall not be charged or convicted for both a violation of Section 7145 and a regulation requiring a license to be displayed for the same act.

SEC. 7. Section 12155.5 of the Fish and Game Code is amended to read:

12155.5. (a) The commission shall adopt regulations and procedures governing the revocation or suspension of hunting or sport fishing privileges. The regulations shall provide for notice and opportunity for a hearing.

(b) Any person, whose license was revoked pursuant to Section 12154, 12155, or 12156, may appeal to the commission for reissuance



of the license and termination of the prohibition against the taking of fish, reptiles, amphibia, or birds or mammals.

(c) After a public hearing at which the person has appeared in person, the commission may terminate the prohibition and authorize the issuance of a license if it finds that there are sufficient mitigating circumstances to warrant that action.

(d) It is unlawful for a person whose hunting or sport fishing privileges have been revoked or suspended to obtain or attempt to obtain, or to possess a hunting or sport fishing license, permit, or tag during that suspension or revocation period.

(e) Any person who violates subdivision (d) is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000), or of a misdemeanor.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

