

## Senate Bill No. 1153

### CHAPTER 480

An act to amend Sections 4181 and 13220 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 10, 2004. Filed with Secretary of State September 10, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1153, Chesbro. Fish and Game Commission: Department of Fish and Game: wild turkeys: appropriations.

(1) 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 of Fish and Game for a permit to kill that animal. The department, upon satisfactory evidence of the damage or destruction, is required to issue a revocable permit for the taking and disposition of the animal. Existing law prohibits the use of poison to take a gray squirrel under that provision.

This bill would also allow any owner or tenant of land or property that is being damaged or destroyed by wild turkeys to apply to the department for a permit to kill those animals. The bill would also prohibit the use of poison to take a wild turkey.

(2) Existing law authorizes the commission, if a landowner or tenant applies for a permit to kill wild pigs or deer, in lieu of that permit, and with the consent of, or upon the request of, the landowner or tenant, under appropriate regulations, to authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs or deer in sufficient numbers to stop the damage or threatened damage.

This bill would amend that provision to include wild turkeys, and would additionally require the department, if a landowner or tenant applies for a permit for wild pigs, wild turkeys, or deer, to notify the landowner or tenant about specified available options for allowing access by licensed hunters.

(3) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department for payment of refunds of sums it determines have been erroneously deposited in the fund and for the payment of all necessary expenses incurred in carrying out the Fish and Game Code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish, and to the Fish and Game



Commission to pay the compensation and expenses of the commissioners and employees of the commission.

This bill would instead, commencing with the 2005–06 fiscal year, make the money in the Fish and Game Preservation Fund available for expenditure by the department and the commission only upon appropriation by the Legislature for those purposes.

The bill would impose new duties on the department and the commission relating to issuance of permits for killing wild turkeys, and because the Fish and Game Preservation Fund is currently continuously appropriated, the bill would make an appropriation.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. 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, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the animals. 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 animals 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. Animals 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 or wild turkey 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 depredating 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. 2. Section 4188 of the Fish and Game Code is amended to read:

4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant about available options for allowing access by licensed hunters, including, but not limited to, access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 to control wild pigs, wild turkeys, and deer.

(b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of, or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory



involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

SEC. 3. Section 13220 of the Fish and Game Code is amended to read:

13220. Except as provided in Section 13230, the money in the Fish and Game Preservation Fund, commencing with the 2005–06 fiscal year, is available for expenditure, upon appropriation by the Legislature, for all of the following purposes:

(a) To the department for payment of refunds of sums determined by it to have been erroneously deposited in the fund, including, but not limited to, money received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures, or services.

(b) To the department for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish.

(c) To the commission for expenditure in accordance with law for the payment of the compensation and expenses of the commissioners and employees of the commission.

