

Assembly Bill No. 2999

Passed the Assembly July 15, 2008

Chief Clerk of the Assembly

Passed the Senate July 10, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 2000.5 of the Fish and Game Code, to amend Section 19348 of the Food and Agricultural Code, and to add Section 91.8 to the Streets and Highways Code, relating to animal carcasses.

LEGISLATIVE COUNSEL'S DIGEST

AB 2999, Huffman. Animal carcasses: removal from highways.

Existing law provides that the accidental taking of a bird, mammal, reptile, or amphibian by collision with a motor vehicle while the vehicle is being operated on a road or highway is not a violation of law. However, this provision does not authorize a person to possess the bird, mammal, reptile, or amphibian.

This bill would authorize the state or local agency having jurisdiction of a road or highway to remove an accidental take from the road or highway.

Existing law prohibits a dead animal hauler or any other person from transporting any dead animal to any place, other than to certain specified facilities or destinations, unless a certain waiver is granted by the State Veterinarian.

This bill would make those provisions inapplicable to the Department of Transportation or local agencies having jurisdiction over a road or highway when engaged in removing animal carcasses from the road or highway.

Existing law provides that the Department of Transportation has full possession and control of the state highway system and associated property.

This bill would require the department, within its maintenance program, to establish certain procedures for the removal and disposal of animal carcasses on state highways. The bill, notwithstanding other laws, including laws relative to prohibitions on the possession and transportation of endangered or protected species, or the property rights associated with livestock and other commercially valuable animals, would authorize the department to remove or relocate an animal carcass from a state highway for safety purposes.

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

SECTION 1. Section 2000.5 of the Fish and Game Code is amended to read:

2000.5. (a) Notwithstanding Section 219, 2000, or any other provision of law, and notwithstanding any requirement for a permit or license or other entitlement to take a species, the accidental taking of a bird, mammal, reptile, or amphibian by collision with a motor vehicle while the vehicle is being operated on a road or highway is not a violation of this code or a regulation adopted pursuant to this code. For purposes of this section, “highway” means highway as defined by Section 360 of the Vehicle Code and “road” means road as defined by Section 527 of the Vehicle Code. Nothing in this section authorizes a person to possess any bird, mammal, reptile, or amphibian accidentally taken by collision with a motor vehicle as provided in this subdivision. However, accidental takes on the road or highway may be removed by the state or local agency having jurisdiction over the road or highway.

(b) This section does not apply to Chapter 1.5 (commencing with Section 2050).

SEC. 2. Section 19348 of the Food and Agricultural Code is amended to read:

19348. (a) Unless a waiver is granted by the State Veterinarian in conjunction with implementation of Section 9562, no dead animal hauler or any other person shall transport any dead animal to any place, other than to a licensed rendering plant, a licensed collection center, an animal disease diagnostic laboratory acceptable to the department, the nearest crematory, or to a destination in another state that has been approved for that purpose by the appropriate authorities in that state.

(b) Nothing in this section shall be interpreted to conflict with any state or federal environmental or zoning law, or to prohibit an owner of a live animal from burying the animal on the owner’s property after the animal dies if the burial is within three miles of where the animal died.

(c) Subdivision (a) does not apply to the Department of Transportation or to local agencies having jurisdiction over a road or highway when engaged in removing animal carcasses from the road or highway.

SEC. 3. Section 91.8 is added to the Streets and Highways Code, to read:

91.8. (a) The department shall, within its maintenance program, establish procedures for the removal and disposal of animal carcasses on state highways.

(b) Notwithstanding any other provision of law, including, but not limited to, prohibitions on the possession and transportation of endangered or protected species, or the property rights associated with livestock and other commercially valuable animals, the department may remove or relocate an animal carcass from a state highway for safety purposes.

(c) The department shall dispose of animal carcasses in an environmentally appropriate manner considering both of the following:

(1) The animal's probable legal status, whether as domestic or commercial property, wild, feral, protected, or endangered, as follows:

(A) When practicable, an owner of a domestic animal shall be notified of the location or disposition of the animal carcass. Unless returned to the owner, license tags, nameplates, or other identification shall be retained by the department for 30 days.

(B) A branded livestock carcass shall be removed from the roadway but not otherwise transported until the owner is contacted. If the owner cannot be identified, the department shall notify the regional brand inspector.

(C) In the case of wild, feral, protected, or endangered animals, disposal shall be accomplished in accordance with applicable provisions of the Fish and Game Code.

(2) If disposal technologies including, but not limited to, natural decomposition, burial, incineration, donation, rendering, or composting are not available or practicable, the department may use any nontraditional or novel technology that may be appropriate under the circumstances.

(d) Animal carcasses shall not be relocated to or disposed of within 150 feet of waterways or drainageways that lead directly to waterways, or buried within five feet of groundwater.

(e) The department shall maintain a record of designated disposal sites used for consolidation of animal carcasses.

Approved _____, 2008

Governor