

ASSEMBLY BILL

No. 1046

**Introduced by Assembly Member Bill Berryhill
(Coauthors: Assembly Members Halderman, Jones, and Olsen)**

February 18, 2011

An act to amend Sections 200 and 703 of the Fish and Game Code, relating to game hunting.

LEGISLATIVE COUNSEL'S DIGEST

AB 1046, as introduced, Bill Berryhill. Hunting or taking game.

The California Constitution establishes the Fish and Game Commission and provides for the delegation to the commission of powers relating to the protection and propagation of fish and game. Existing statutory law delegates to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles in accordance with prescribed laws. Existing law excepts from that statutory delegation the power to regulate the taking, possessing, processing, or use of fish, amphibia, kelp, or other aquatic plants for commercial purposes.

This bill would also except from that statutory delegation the power to impose an absolute prohibition on hunting or taking game. The bill would not prohibit the commission, in accordance with the California Constitution, from imposing conditions necessary for the protection and propagation of game.

Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code. Existing law requires the commission to formulate general policies for the conduct of the department. Existing law requires the Director of Fish

and Game to be guided by those policies and requires the director to be responsible to the commission for the administration of the department in accordance with those policies.

This bill would prohibit the policies of the department from including an absolute prohibition on hunting or taking game.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 200 of the Fish and Game Code is
2 amended to read:

3 200. (a) There is hereby delegated to the commission the
4 power to regulate the taking or possession of birds, mammals, fish,
5 ~~amphibia~~, *amphibians*, and reptiles to the extent and in the manner
6 prescribed in this article.

7 ~~No~~

8 (b) *No* power is delegated to the commission by this article to
9 regulate the taking, possessing, processing, or use of fish, ~~amphibia~~,
10 *amphibians*, kelp, or other aquatic plants for commercial purposes,
11 and no provision of this code relating or applying thereto, nor any
12 regulation of the commission made pursuant to ~~such~~ *that* provision,
13 shall be affected by this article or any regulation made under this
14 article.

15 (c) *No power is delegated to the commission by this article to*
16 *impose an absolute prohibition on hunting or taking game. This*
17 *subdivision does not prohibit the commission, in accordance with*
18 *Section 20 of Article IV of the California Constitution, from*
19 *imposing conditions necessary for the protection and propagation*
20 *of game.*

21 SEC. 2. Section 703 of the Fish and Game Code is amended
22 to read:

23 703. (a) ~~General~~ *The commission shall formulate general*
24 *policies for the conduct of the department shall be formulated by*
25 ~~the commission~~ *department.* The director shall be guided by those
26 policies and shall be responsible to the commission for the
27 administration of the department in accordance with those policies.

28 (b) *The policies of the department shall not include an absolute*
29 *prohibition on hunting or taking game.*

30 (b)

1 (c) The department shall respond to requests from the
2 Department of Forestry and Fire Protection, acting as the lead
3 agency for the review of timber harvesting plans, within the time
4 period required under Section 4582.6 of the Public Resources
5 Code, unless additional time is granted by the Department of
6 Forestry and Fire Protection. The department shall include specific
7 comments or recommendations, or both, on any significant
8 environmental issues raised by the proposed timber harvesting
9 plan in its area of jurisdiction, including any proposed mitigation
10 measures. The department shall also identify its statutory authority
11 for any requests or recommendations for mitigation that it may
12 determine to be necessary. If the department has no comment to
13 make on the proposed timber harvesting plan, it is not required to
14 submit a response.

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