

ASSEMBLY BILL

No. 1162

Introduced by Assembly Member Chesbro
(Coauthor: Senator Berryhill)

February 18, 2011

An act to amend Sections 2583, 2588, 12000, and 12154 of, and to add Sections 12013.3 and 12013.5 to, the Fish and Game Code, relating to wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 1162, as introduced, Chesbro. Wildlife: poaching.

(1) Existing law regulates the taking or possession of birds, mammals, fish, amphibians, and reptiles. Existing law relating to the control of illegally taken fish and wildlife authorizes the imposition of a civil penalty, not to exceed \$10,000, on any person who violates the Fish and Game Code or any regulation adopted to carry out that code, and, with the exercise of due care, should have known that the birds, mammals, amphibians, reptiles, or fish, or the endangered or threatened species, or the fully protected birds, mammals, or fish were taken, possessed, transported, imported, received, purchased, acquired, or sold in violation of, or in a manner unlawful under, existing law. Existing law requires those civil penalties to be deposited in the Fish and Game Preservation Fund.

This bill would increase the maximum civil penalty for a violation of the above provisions from \$10,000 to \$40,000. The bill would require revenues from civil penalties that relate to certain game species or parts thereof to be deposited in specified accounts within the fund.

(2) Existing law provides that, except as expressly provided otherwise in the Fish and Game Code, any violation of that code, or of any rule, regulation, or order made or adopted under that code, is a misdemeanor.

This bill would make a technical, nonsubstantive change to that provision.

(3) Existing law provides that any person who illegally takes, possesses, imports, exports, sells, purchases, barter, trades, or exchanges any amphibian, bird, fish, mammal, or reptile, or part thereof, for profit or personal gain, is guilty of a misdemeanor punishable by a fine of not less than \$5,000, nor more than \$40,000, or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. Existing law authorizes the department, upon a conviction of certain violations to suspend or permanently revoke a person's hunting or sport fishing license or permit privileges and authorizes the forfeiture of any device or apparatus, including a vessel, vehicle, or hunting or fishing gear, used in the commission of specified offenses.

This bill would subject any person who knowingly and illegally takes a trophy deer, elk, antelope, or bighorn sheep in specified ways to a fine of not less than \$5,000, nor more than \$40,000, or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. The bill would subject any person who uses a signal-emitting device, as defined, in conjunction with the take of bear for the purpose of selling or trafficking in bear parts to a fine of 10 times the market value of the bear parts, or \$10,000, whichever is greater. The bill would require the Fish and Game Commission to adopt regulations to implement these provisions, and would require all revenue from fines imposed pursuant to these provisions to be deposited in the Big Game Management Account. The bill would include those offenses in those suspension, revocation, and forfeiture provisions. By creating new crimes, this bill would impose a state-mandated local program.

(4) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 2583 of the Fish and Game Code is
2 amended to read:

3 2583. (a) Except as provided in subdivision (b), *the department*
4 *may impose a civil penalty in accordance with this chapter on any*
5 *person who violates this code or any regulation adopted to carry*
6 *out this code, and, with the exercise of due care, should have*
7 *known that the birds, mammals, amphibians, reptiles, or fish, or*
8 *the endangered or threatened species, or the fully protected birds,*
9 *mammals, or fish were taken, possessed, transported, imported,*
10 *received, purchased, acquired, or sold in violation of, or in a*
11 *manner unlawful under, this code, may be assessed a civil penalty*
12 *code.* The civil penalty imposed under this chapter by the
13 department shall not be more than ~~ten~~ *forty* thousand dollars
14 ~~(\$10,000)~~ *(\$40,000)* for each bird, mammal, amphibian, reptile,
15 or fish, or for each endangered or threatened species, or each fully
16 protected bird, mammal, or fish unlawfully taken, possessed,
17 transported, imported, received, purchased, acquired, or sold. This
18 civil penalty may be in addition to any other penalty, civil or
19 criminal, provided in this code or otherwise by law.

20 (b) ~~No~~ *A civil penalties penalty shall not be imposed under this*
21 *chapter until the guidelines for the imposition of the penalties are*
22 *adopted by the commission pursuant to Section 500.*

23 SEC. 2. Section 2588 of the Fish and Game Code is amended
24 to read:

25 2588. ~~All~~ *(a) Except as provided in subdivision (b), civil*
26 *penalties and revenues from forfeitures collected pursuant to this*
27 *chapter shall be deposited in the Fish and Game Preservation Fund.*

28 *(b) Notwithstanding any other provision of this code, all civil*
29 *penalties and other revenues pursuant to this chapter that relate*
30 *to the following game species or parts thereof shall be deposited*
31 *as follows:*

32 *(1) For waterfowl violations, revenues shall be deposited in the*
33 *Duck Stamp Account established in Section 3701.*

34 *(2) For upland game violations, revenues shall be deposited in*
35 *the Upland Game Bird Account established in Section 3684.*

36 *(3) For big game violations, revenues shall be deposited in the*
37 *Big Game Management Account established in Section 3953.*

1 SEC. 3. Section 12000 of the Fish and Game Code is amended
2 to read:

3 12000. (a) Except as *otherwise* expressly provided ~~otherwise~~
4 in this code, any violation of this code, or of any rule, regulation,
5 or order made or adopted under this code, is a misdemeanor.

6 (b) Notwithstanding subdivision (a), any person who violates
7 any of the following statutes or regulations is guilty of an infraction
8 punishable by a fine of not less than one hundred dollars (\$100)
9 and not to exceed one thousand dollars (\$1,000), or of a
10 misdemeanor:

- 11 (1) Section 2009.
- 12 (2) Subdivision (a) of Section 6596.
- 13 (3) Section 7149.8.
- 14 (4) Section 7360.
- 15 (5) Sections 1.14, 1.17, 1.18, 1.62, 1.63, and 1.74 of Title 14 of
16 the California Code of Regulations.
- 17 (6) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive,
18 of Title 14 of the California Code of Regulations.
- 19 (7) Sections 27.56 to 30.10, inclusive, of Title 14 of the
20 California Code of Regulations.
- 21 (8) Sections 40 to 43, inclusive, of Title 14 of the California
22 Code of Regulations.
- 23 (9) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of
24 the California Code of Regulations.
- 25 (10) Sections 505, 507 to 510, inclusive, and 550 to 553,
26 inclusive, of Title 14 of the California Code of Regulations.
- 27 (11) Sections 630 to 630.5, inclusive, of Title 14 of the
28 California Code of Regulations.

29 SEC. 4. Section 12013.3 is added to the Fish and Game Code,
30 to read:

31 12013.3. (a) Any person who knowingly and illegally takes a
32 trophy deer, elk, antelope, or bighorn sheep in any of the following
33 ways shall be subject to a fine of not less than five thousand dollars
34 (\$5,000), nor more than forty thousand dollars (\$40,000), or
35 imprisonment in the county jail for not more than one year, or both
36 that fine and imprisonment:

- 37 (1) Outside the legal season.
- 38 (2) With the aid of artificial light.
- 39 (3) With the aid of bait.
- 40 (4) Results in unnecessary and wanton waste of game.

1 (b) The commission shall adopt regulations to implement this
2 section, including establishing a trophy designation and monetary
3 value based on the size or related characteristics of deer, elk,
4 antelope, and bighorn sheep or parts thereof.

5 (c) All revenue from fines imposed pursuant to this section shall
6 be deposited in the Big Game Management Account established
7 in Section 3953.

8 SEC. 5. Section 12013.5 is added to the Fish and Game Code,
9 to read:

10 12013.5. (a) Any person who uses a signal-emitting device in
11 conjunction with the take of bear for the purpose of selling or
12 trafficking in bear parts shall be subject to a fine of ten times the
13 market value of the bear parts, or ten thousand dollars (\$10,000),
14 whichever is greater. For purposes of this section, a
15 “signal-emitting device” means any device capable of generating
16 radio, cellular, satellite, or other signal transmission for purposes
17 of providing communication or location information.

18 (b) The commission shall adopt regulations to implement this
19 section, including, but not limited to, establishing a market value
20 for bear parts.

21 (c) All revenue from fines imposed pursuant to this section shall
22 be deposited in the Big Game Management Account established
23 in Section 3953.

24 SEC. 6. Section 12154 of the Fish and Game Code is amended
25 to read:

26 12154. (a) Upon a conviction of a violation of Section ~~12012~~
27 ~~or 12013~~, *12012, 12013, 12013.3, or 12013.5*, the department may
28 suspend or permanently revoke a person’s hunting or sport fishing
29 license or permit privileges. Any person whose privileges are
30 suspended or revoked pursuant to this section may appeal the
31 suspension or revocation to the commission. The commission shall
32 initiate the appeal process within 12 months of the violator’s appeal
33 request. The department may adopt regulations to implement this
34 subdivision.

35 (b) Pursuant to subdivision (c) of Section 12157, a judge may
36 order the seizure or forfeiture of any device or apparatus, including
37 a vessel, vehicle, or hunting or fishing gear, that is used in
38 committing an offense punishable under Section ~~12012 or 12013~~
39 *12012, 12013, 12013.3, or 12013.5*.

1 SEC. 7. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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