

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1162

Introduced by Assembly Member Chesbro
(Coauthor: Assembly Member Williams)
(Coauthor: Senator Berryhill)

February 18, 2011

An act to amend ~~Section~~ *Sections 2016 and 12154* of, ~~and to add~~ Sections 12013.3 and 12013.5 to, *and to repeal Section 2017 of*, the Fish and Game Code, relating to wildlife.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law prohibits a person, including the owner in lawful possession of the land and a person obtaining permission from the owner or person in lawful possession of the land, from taking any protected mammal or bird or discharging any firearm upon any land, where signs with specified wording and size requirements are displayed at specified intervals along all exterior boundaries and at all roads and trails entering the land. Other existing law makes it unlawful to enter any lands under cultivation or enclosed by a fence, belonging to, or occupied by, another, or to enter any uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than 3 to the mile along all exterior boundaries and at all roads and trails

entering those lands, for the purpose of discharging any firearm or taking or destroying any mammal or bird, including any waterfowl, on those lands without having first obtained written permission from the owner of those lands, or his or her agent, or the person in lawful possession of those lands.

This bill would repeal the provision relating to signage and the taking of protected mammals and birds. The bill would expand the trespass sign provision to encompass signs forbidding trespass or hunting, or both.

(1)

(2) 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~~ *Department of Fish and Game*, 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 seizure or forfeiture of any device or apparatus used in the commission of specified offenses. *The bill authorizes the person whose privileges are suspended or revoked to appeal the suspension or revocation to the Fish and Game Commission, and authorizes the commission to restore those privileges.*

This bill would subject any person who knowingly ~~and illegally takes~~ *violated and was convicted of violating certain provisions relating to* a trophy deer, elk, antelope, wild turkey, or bighorn sheep in specified ways to a fine of not less than \$5,000, nor more than \$40,000, for deer, elk, antelope, and bighorn sheep violations, and a fine of not less than \$2,000, nor more than \$5,000, for wild turkey violations, or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. The bill would require the ~~Fish and Game Commission~~ *commission* to adopt regulations to implement this provision. The bill would subject any person ~~who uses~~ *convicted of certain violations while using* 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 \$10,000 per bear part. The bill would require all revenue from fines imposed pursuant to these provisions to be deposited in the Big Game Management Account or the Upland Game Bird Account, based on the violation. The bill would include those

offenses in those suspension, revocation, and forfeiture provisions. *The bill would require the commission, upon the appeal of a suspended or revoked license, to consider specified factors.* By creating new crimes, this bill would impose a state-mandated local program.

(2)

(3) 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 2016 of the Fish and Game Code is
2 amended to read:

3 2016. It is unlawful to enter any lands under cultivation or
4 enclosed by a fence, belonging to, or occupied by, another, or to
5 enter any uncultivated or unenclosed lands, including lands
6 temporarily inundated by waters flowing outside the established
7 banks of a river, stream, slough, or other waterway, where signs
8 forbidding trespass *or hunting, or both*, are displayed at intervals
9 not less than three to the mile along all exterior boundaries and at
10 all roads and trails entering ~~such~~ *those* lands, for the purpose of
11 discharging any firearm or taking or destroying any mammal or
12 bird, including any waterfowl, on ~~such~~ *those* lands without having
13 first obtained written permission from the owner ~~of such lands~~, or
14 his *or her* agent, or the person in lawful possession ~~thereof~~. ~~Such~~
15 ~~signs of, those lands. Signs~~ may be of any size and wording, ~~other~~
16 ~~than the wording required for signs under Section 2017, which~~
17 ~~that~~ will fairly advise persons about to enter the land that the use
18 of ~~such~~ *the* land is so restricted.

19 SEC. 2. Section 2017 of the Fish and Game Code is repealed.

20 2017. It is unlawful to take any mammal or bird or to discharge
21 any firearm upon any land (whether fenced, cultivated, or not)
22 where signs, at least 8 ½ inches by 11 inches in size and reading:
23 “PRIVATE PROPERTY NO HUNTING” are displayed at intervals
24 not less than three to the mile along all exterior boundaries and at
25 all roads and trails entering the land.

1 This section applies to all persons, including the owner or the
2 person in lawful possession of the land, and any person obtaining
3 permission, written or oral, from the owner or the person in lawful
4 possession of the land, so long as the signs remain posted on the
5 land.

6 ~~Nothing in this section prohibits the owner or his or her agent~~
7 ~~from taking nonprotected mammals or birds on the land.~~

8 SECTION 1.

9 SEC. 3. Section 12013.3 is added to the Fish and Game Code,
10 to read:

11 ~~12013.3. (a) Any person who knowingly and illegally takes a~~
12 ~~trophy deer, elk, antelope, bighorn sheep, or wild turkey in any of~~
13 ~~the following ways shall be subject to a fine of not less than five~~
14 ~~thousand dollars (\$5,000), nor more than forty thousand dollars~~
15 ~~(\$40,000), for deer, elk, antelope, and bighorn sheep violations,~~
16 ~~and a fine of not less than two thousand dollars (\$2,000), nor more~~
17 ~~than five thousand dollars (\$5,000), for wild turkey violations, or~~
18 ~~imprisonment in the county jail for not more than one year, or both~~
19 ~~that fine and imprisonment:~~

20 (1) ~~Outside the legal season.~~

21 (2) ~~With the aid of artificial light.~~

22 (3) ~~With the aid of bait.~~

23 (4) ~~Results in unnecessary and wanton waste of game.~~

24 (5) ~~Without first purchasing or otherwise lawfully obtaining~~
25 ~~any required deer, elk, antelope, or bighorn sheep tag.~~

26 *12013.3. (a) Notwithstanding Section 12002, 12003.2, 12008,*
27 *or 12008.5, the punishment for any person who knowingly violated*
28 *and has been convicted of the following provisions where the*
29 *violation involved a trophy deer, elk, antelope, or bighorn sheep*
30 *shall be a fine of not less than five thousand dollars (\$5,000), nor*
31 *more than forty thousand dollars (\$40,000), and where the*
32 *violation involved a wild turkey, a fine of not less than two*
33 *thousand dollars (\$2,000), nor more than five thousand dollars*
34 *(\$5,000), or imprisonment in the county jail for not more than one*
35 *year, or both that fine and imprisonment:*

36 (1) *Section 2001, if the person took an animal outside the*
37 *established season.*

38 (2) *Section 2005.*

39 (3) *Section 257.5 of Title 14 of the California Code of*
40 *Regulations.*

1 (4) Section 4304.

2 (5) Section 4330.

3 (6) Section 1054.2, if the person failed to procure the required
4 license or tag prior to taking a deer, elk, antelope, or bighorn
5 sheep.

6 (b) The commission shall adopt regulations to implement this
7 section, including establishing a trophy designation and monetary
8 value based on the size or related characteristics of deer, elk,
9 antelope, bighorn sheep, and wild turkeys or parts thereof.

10 (c) All revenue from fines imposed pursuant to this section for
11 deer, elk, antelope, and bighorn sheep violations shall be deposited
12 in the Big Game Management Account established in Section 3953
13 and shall be used for the big game management purposes described
14 in that section.

15 (d) All revenue from fines imposed pursuant to this section for
16 wild turkey violations shall be deposited in the Upland Game Bird
17 Account established in Section 3684 and shall be used for the
18 upland game bird conservation purposes described in that section.

19 (e) Moneys equivalent to 50 percent of the revenue from any
20 fine collected pursuant to this section shall be paid to the county
21 in which the offense was committed, pursuant to Section 13003.
22 The county board of supervisors shall first use revenues pursuant
23 to this subdivision to reimburse the costs incurred by the district
24 attorney or city attorney in investigating and prosecuting the
25 violation. Any excess revenues may be expended in accordance
26 with Section 13103.

27 ~~SEC. 2.~~

28 *SEC. 4.* Section 12013.5 is added to the Fish and Game Code,
29 to read:

30 12013.5. (a) ~~Any person who uses~~ *In addition to any other*
31 *penalties provided in this code, any person convicted of violating*
32 *this code or any regulation adopted pursuant thereto while using*
33 *a signal-emitting device in conjunction with the take of bear for*
34 *the purpose of selling or trafficking in bear parts shall be subject*
35 *to a fine of ten thousand dollars (\$10,000) per bear part. For*
36 *purposes of this section, a “signal-emitting device” means any*
37 *device capable of generating radio, cellular, satellite, or other signal*
38 *transmission for purposes of providing communication or location*
39 *information.*

1 (b) All revenue from fines imposed pursuant to this section shall
2 be deposited in the Big Game Management Account established
3 in Section 3953 and shall be used for the big game management
4 purposes described in that section.

5 (c) Moneys equivalent to 50 percent of the revenue from any
6 fine collected pursuant to this section shall be paid to the county
7 in which the offense was committed, pursuant to Section 13003.
8 The county board of supervisors shall first use revenues pursuant
9 to this subdivision to reimburse the costs incurred by the district
10 attorney or city attorney in investigating and prosecuting the
11 violation. Any excess revenues may be expended in accordance
12 with Section 13103.

13 ~~SEC. 3.~~

14 *SEC. 5.* Section 12154 of the Fish and Game Code is amended
15 to read:

16 12154. (a) Upon a conviction of a violation of *this code or*
17 *any regulation adopted pursuant thereto that is punishable*
18 *pursuant to* Section 12012, 12013, 12013.3, or 12013.5, the
19 department may suspend or permanently revoke a person’s hunting
20 or sport fishing license or permit privileges. ~~Any~~

21 (b) (1) Any person whose privileges are suspended or revoked
22 pursuant to this section may appeal the suspension or revocation
23 to the commission. The commission shall initiate the appeal process
24 within 12 months of the violator’s appeal request. The commission
25 *shall consider at least the nature, circumstances, extent, and*
26 *gravity of the person’s violations, the person’s culpability for the*
27 *violations, and the injury to natural resources by the violations,*
28 *and* may restore a person’s hunting or sport fishing license or
29 permit privileges. ~~The~~

30 (2) *The* department may adopt regulations to implement this
31 subdivision.

32 ~~(b)~~

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

38 ~~SEC. 4.~~

39 *SEC. 6.* No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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