

AMENDED IN ASSEMBLY MARCH 12, 2013

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

ASSEMBLY BILL

No. 1230

Introduced by Assembly Member Donnelly

February 22, 2013

An act to amend Section ~~2070~~ of 3960 of, to add Section 4756 to, and to repeal Sections 3032, 3960.2, 3960.4, and 3960.6 of, the Fish and Game Code, relating to ~~protected species mammals~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 1230, as amended, Donnelly. ~~Endangered species and threatened species: establishment of lists. Mammals: use of dogs to pursue bears and bobcats.~~

Existing law, with specified exceptions, makes it unlawful to permit or allow a dog to pursue any bear, as defined, or bobcat at any time. Existing law authorizes the Department of Fish and Wildlife to capture a dog not under the reasonable control of its owner or handler that is pursuing any bear or bobcat in violation of this prohibition or to capture or dispatch a dog inflicting injury or immediately threatening to inflict injury on any bear or bobcat at any time.

This bill would eliminate this prohibition, the exceptions, and this authority of the department. This bill would instead generally prohibit a person from using dogs to hunt, pursue, or molest bears, but would permit the use of one dog per hunter for the hunting of bears during open deer season, and the use of more than one dog per hunter during the open bear season except during the period when archery deer seasons or regular deer seasons are open.

Existing law authorizes the Fish and Game Commission to establish a hound tag program, imposing certain requirements on the licensure and use of hounds, as defined, to pursue mammals.

This bill would repeal this authorization.

Under existing law, except as excluded, violations of the Fish and Game Code are misdemeanors.

By changing the definition of a crime, this bill would impose a state-mandated local program.

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.

~~The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species. The act requires the commission to add or remove species from either list if it finds, upon the receipt of sufficient scientific information pursuant to the act, that the action is warranted.~~

~~This bill, instead, would require the commission to add or remove species based upon the receipt of adequate, rather than sufficient, scientific information.~~

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

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

- 1 SECTION 1. Section 3032 of the Fish and Game Code is
- 2 repealed.
- 3 3032. ~~(a) As used in this section:~~
- 4 (1) ~~“Bear” and “pursue” have the same meanings as defined in~~
- 5 Section 3960.
- 6 (2) ~~“Hound” means a dog used to pursue mammals.~~
- 7 ~~(b) The commission may establish a hound tag program.~~
- 8 ~~(c) If a hound tag program is established, the commission may~~
- 9 ~~require all of the following:~~
- 10 ~~(1) That each hound be issued a license tag bearing a unique~~
- 11 ~~identifying number that is to be worn at all times by the hound~~
- 12 ~~while pursuing mammals.~~

1 ~~(2) That all relevant local and state laws pertaining to dogs are~~
2 ~~being followed while the hound is being used to pursue mammals.~~

3 ~~(3) That each hound be microchipped with an implanted~~
4 ~~transponder that has a unique identification code.~~

5 ~~(4) That the owner maintain documentation showing that the~~
6 ~~hound is current on all required vaccinations and treatments for~~
7 ~~the prevention of rabies and any other disease specified by the~~
8 ~~department.~~

9 ~~(5) That the owner report, within 24 hours of its last sighting,~~
10 ~~any hound that is lost during hunting, pursuing, or tracking~~
11 ~~activities.~~

12 ~~(6) That the hound's tag identification number be recorded on~~
13 ~~the hunting tag of any animal taken using the services of the hound.~~

14 ~~(d) If a hound tag program is established, the commission may~~
15 ~~adjust the amount of the fees for the hound tag as necessary, to~~
16 ~~fully recover, but not exceed, all reasonable administrative and~~
17 ~~implementation costs of the department and the commission~~
18 ~~relating to the program.~~

19 *SEC. 2. Section 3960 of the Fish and Game Code is amended*
20 *to read:*

21 *3960. (a) As used in this section:*

22 *(1) "Pursue" means pursue, run, or chase.*

23 *(2) "Bear" means any black bear (Ursus americanus) found in*
24 *the wild in this state.*

25 ~~(b)~~

26 *3960. (a) It is unlawful to permit or allow any dog to pursue*
27 *any big game mammal during the closed season on that mammal,*
28 *to pursue any fully protected, rare, or endangered mammal at any*
29 *time, to pursue any bear or bobcat at any time, or to pursue any*
30 *mammal in a game refuge or ecological reserve if hunting within*
31 *that refuge or ecological reserve is unlawful.*

32 ~~(e) (1) The department may take any of the following actions:~~

33 ~~(A) Capture~~

34 *(b) (1) Employees of the department may capture any dog not*
35 *under the reasonable control of its owner or handler, when that*
36 *uncontrolled dog is pursuing, in violation of this section, any big*
37 *game mammal, any bear or bobcat, or any fully protected, rare, or*
38 *endangered mammal.*

39 ~~(B) Capture~~

1 (2) *Employees of the department may capture or dispatch any*
2 *dog inflicting injury or immediately threatening to inflict injury*
3 *to any big game mammal during the closed season on that mammal,*
4 *and the department employee may capture or dispatch any dog*
5 *inflicting injury or immediately threatening to inflict injury on any*
6 *bear or bobcat at any time, or any fully protected, rare, or*
7 *endangered mammal at any time.*

8 ~~(C) Capture~~

9 (3) *Employees of the department may capture or dispatch any*
10 *dog inflicting injury or immediately threatening to inflict injury*
11 *to any mammal in a game refuge or ecological reserve if hunting*
12 *within that refuge or ecological reserve is unlawful.*

13 ~~(2)~~

14 (c) No criminal or civil liability shall accrue to any department
15 employee as a result of enforcement of this section. *For the purpose*
16 *of this section, “pursue” means pursue, run, or chase.*

17 ~~(3) This section does not apply to the use of dogs to pursue bears~~
18 ~~or bobcats by federal, state, or local law enforcement officers, or~~
19 ~~their agents or employees, when carrying out official duties as~~
20 ~~required by law.~~

21 ~~(4)~~

22 (d) Owners of dogs with identification, that have been captured
23 or dispatched, shall be notified within 72 hours after capture or
24 dispatch.

25 *SEC. 3. Section 3960.2 of the Fish and Game Code is repealed.*

26 ~~3960.2. (a) As used in this section, the terms “bear” and~~
27 ~~“pursue” have the same meanings as defined in Section 3960.~~

28 (b) Notwithstanding Section 3960, not more than three dogs
29 may be used to pursue bears or bobcats pursuant to a depredation
30 permit issued by the department, if all of the following conditions
31 are met:

32 (1) ~~The applicant demonstrates, in writing, that nonlethal and~~
33 ~~avoidance measures were undertaken prior to requesting the~~
34 ~~depredation permit.~~

35 (2) ~~The applicant demonstrates, in writing, the specific need for~~
36 ~~the use of dogs in carrying out the depredation permit.~~

37 (3) ~~The depredation permit authorizing the use of dogs is valid~~
38 ~~for the take of one bear or one bobcat.~~

39 (4) ~~The depredation permit authorizing the use of dogs is valid~~
40 ~~for a period not to exceed 20 consecutive days.~~

1 ~~(5) The depredation permit specifies the name and address of~~
2 ~~any dog handler who will be utilized in the pursuit or taking.~~

3 ~~(6) The dog handler has the depredation permit in his or her~~
4 ~~possession at all times during the pursuit or taking.~~

5 ~~(7) The dog handler does not pursue a bear or bobcat more than~~
6 ~~one mile off the property on which the depredation activity~~
7 ~~occurred.~~

8 ~~(e) After any taking of a bear, the applicant is required to submit~~
9 ~~the skull to the department as described in the department's Black~~
10 ~~Bear Management Plan. No part of any bear taken pursuant to a~~
11 ~~depredation permit may be sold, purchased, or possessed for sale,~~
12 ~~as described in Section 4758.~~

13 ~~(d) No holder of a depredation permit may solicit or receive~~
14 ~~compensation from any person in exchange for carrying out the~~
15 ~~terms of the permit. For these purposes, "compensation" means~~
16 ~~remuneration paid in money, property, or anything else of value.~~

17 ~~(e) The holder of a depredation permit, within 30 days of its~~
18 ~~issuance, shall report to the department detailing the use of the~~
19 ~~permit and the results of any pursuits, including information about~~
20 ~~bear or bobcat pursued and whether the bear or bobcat was or was~~
21 ~~not harmed, but not killed.~~

22 *SEC. 4. Section 3960.4 of the Fish and Game Code is repealed.*

23 ~~3960.4. (a) As used in this section, the terms "bear" and~~
24 ~~"pursue" have the same meanings as defined in Section 3960.~~

25 ~~(b) Notwithstanding Section 3960, the department may authorize~~
26 ~~qualified individuals, educational institutions, governmental~~
27 ~~agencies, or nongovernmental organizations to use dogs to pursue~~
28 ~~bears or bobcats for the purpose of scientific research, provided~~
29 ~~that the research project is designed to do all of the following:~~

30 ~~(1) Contribute to knowledge of natural wildlife ecosystems.~~

31 ~~(2) Follow best practices and minimize disruptions in the lives~~
32 ~~and movements of bears, bobcats, and other wildlife, as well as~~
33 ~~impacts to the habitat while maintaining the applicant's objectives.~~

34 ~~(3) Directly or indirectly support the sustainability and survival~~
35 ~~of bear or bobcat populations and healthy ecosystems.~~

36 ~~(4) Not include the intentional injury or killing of any bear or~~
37 ~~bobcat.~~

38 ~~(5) Not include the intentional relocation of any bear or bobcat~~
39 ~~other than to areas suitable to them in the state. Any relocation~~
40 ~~shall comply with the requirements of Section 4190.~~

1 ~~(e) Any research project authorized pursuant to subdivision (b)~~
2 ~~shall be undertaken pursuant to a memorandum of understanding~~
3 ~~between the department and the authorized research entity that~~
4 ~~addresses all of the following:~~

5 ~~(1) Trapping and anesthetizing of the animals pursued, collection~~
6 ~~of diagnostic samples, attaching or surgically implanting~~
7 ~~monitoring or recognition devices or markings, and providing~~
8 ~~veterinary care or euthanasia, as required, for the health, safety,~~
9 ~~and humane treatment of the animals.~~

10 ~~(2) Qualifications of onsite field supervisors necessary for~~
11 ~~carrying out authorized research procedures.~~

12 ~~(3) Immediate reporting of any incidental mortality or injury to~~
13 ~~a bear or bobcat as a result of authorized research activities. Reports~~
14 ~~of any incidental mortality or injury to a bear or bobcat shall be~~
15 ~~made available to the public upon request.~~

16 ~~(4) Filing of annual and final progress reports of research~~
17 ~~involving pursuit by dogs. Annual and final progress reports shall~~
18 ~~be made available to the public upon request.~~

19 ~~(d) The department shall provide notice to the public of any~~
20 ~~bear or bobcat research project authorized pursuant to subdivision~~
21 ~~(b) at least 30 days prior to its initiation, and, upon request, shall~~
22 ~~make available to the public copies of the memorandum of~~
23 ~~understanding between the department and the authorized research~~
24 ~~entity required pursuant to subdivision (e).~~

25 *SEC. 5. Section 3960.6 of the Fish and Game Code is repealed.*

26 ~~3960.6. (a) As used in this section, the terms “bear” and~~
27 ~~“pursue” have the same meanings as defined in Section 3960.~~

28 ~~(b) Notwithstanding Section 3960, the pursuit of bears or bobcats~~
29 ~~by dogs that are guarding or protecting livestock or crops on~~
30 ~~property owned, leased, or rented by the owner of the dogs, is not~~
31 ~~prohibited if the dogs are maintained with, and remain in~~
32 ~~reasonable proximity to, the livestock or crops being guarded or~~
33 ~~protected.~~

34 *SEC. 6. Section 4756 is added to the Fish and Game Code, to*
35 *read:*

36 *4756. Except as provided in this section it is unlawful to use*
37 *dogs to hunt, pursue, or molest bears. The use of one dog per*
38 *hunter is permitted for the hunting of bears during the time that*
39 *the season is open for the taking of deer in the area of the state*
40 *affected. The use of more than one dog per hunter is permitted in*

1 *the hunting of bears during the open season on bears in the area*
2 *of the state affected except during the period when archery deer*
3 *seasons or regular deer seasons are open.*

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

13 ~~SECTION 1. Section 2070 of the Fish and Game Code is~~
14 ~~amended to read:~~

15 ~~2070. The commission shall establish a list of endangered~~
16 ~~species and a list of threatened species. The commission shall add~~
17 ~~or remove species from either list if it finds, upon the receipt of~~
18 ~~adequate scientific information pursuant to this article, that the~~
19 ~~action is warranted.~~