

AMENDED IN ASSEMBLY APRIL 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2205**

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**Introduced by Assembly Member Donnelly**  
*(Coauthors: Assembly Members Grove, Logue, and Olsen)*  
*(Coauthors: Senators Anderson, Berryhill, Knight, and Nielsen)*

February 20, 2014

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An act to amend ~~Section 3960 of, to add Section 4756 to, to repeal Sections 3032, 3960.4, and 3960.6 of, Sections 3960, 3960.2, 3960.4, and 3960.6 of, to add Sections 3960.3 and 4756 to,~~ and to repeal and add ~~Section 3960.2~~ 3032 of, the Fish and Game Code, relating to mammals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as amended, Donnelly. Mammals: use of dogs to pursue bears ~~and bobcats~~.

(1) 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~~ *the authority for the department to capture a dog not under the reasonable control of its owner or handler when the dog is pursuing any bear or to capture or dispatch a dog inflicting injury or immediately threatening injury on any bear.* This bill would require the Department of Fish and Wildlife

to make a specified report to the Fish and Game Commission on the status of bear populations, management, and related issues every 3 years. The bill would require the first report to be submitted on or before December 15, 2015, and would require the department, not later ~~that~~ *than* December 15 of each year the report is submitted, to notify, by certified mail, the board of supervisors of each county affected by bear interactions with the general public, of public safety impacts or concerns, bear depredation permit requests, and economic impacts due to bear damage to the extent of those incidences or impacts, and of its recommendations to the commission. This bill would generally prohibit a person from using dogs to hunt, pursue, or molest bears, except when recommended to the Department of Fish and Wildlife by a vote of the board of supervisors of any affected county following a public hearing, as specified. The bill would require the commission to authorize the use of dogs under those circumstances. This bill 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. By imposing new duties on local public officials, the bill would impose a state-mandated local program.

*(2) Existing law permits the Department of Fish and Wildlife to authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to use dogs to pursue bears for the purpose of prescribed scientific research. Existing law allows the pursuit of bears by dogs that are guarding or protecting livestock or crops on property owned, leased, or rented by the owner of the dogs if the dogs are maintained with, and remain in reasonable proximity to, the livestock or crops being guarded or protect.*

*This bill would eliminate these authorizations.*

~~(2)~~

*(3) 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. For these purposes, existing law defines a hound as a dog used to pursue ~~mammals~~ mammals.*

*This bill would repeal this authorization. This bill would define a hound as a dog used to pursue bears and require a hound stamp issued by the Department of Fish and Wildlife to lawfully pursue bears with hounds in a county where the use of hounds to pursue or take bears has been authorized by the commission. This bill would require the amount*

*of the fee to be determined by the commission to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and commission relating to the hound stamp and the use of dogs to pursue bears. This bill would require the revenues from the fee for a hound stamp to be deposited in the Bear Report Account, which this bill would create, in the Fish and Game Preservation Fund, and available upon appropriation by the Legislature, to permit separate accountability for the receipt and expenditure of these funds.*

(3)

(4) 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.

(4)

(5) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 3032 of the Fish and Game Code is  
2 repealed.

3 SEC. 2. Section 3032 is added to the Fish and Game Code, to  
4 read:

5 3032. (a) As used in this section, “hound” means a dog used  
6 to pursue bears.

7 (b) A hound stamp issued by the department is required to  
8 lawfully pursue bears with hounds in a county in which the  
9 commission has authorized the use of hounds to pursue or take  
10 bears pursuant to subdivision (e) of Section 3960.3.

11 (c) The fee for a hound stamp shall be an amount determined  
12 by the commission to fully recover, but not exceed, all reasonable

1 *administrative and implementation costs of the department and*  
 2 *the commission relating to the hound stamp and the use of dogs*  
 3 *to pursue bears, including the reasonable hound-stamp-related*  
 4 *costs of the triennial reporting required pursuant to subdivision*  
 5 *(a) of Section 3960.3 that exceed historical reporting undertaken*  
 6 *by the department.*

7 *(d) Revenues from the fee for a hound stamp shall be deposited*  
 8 *in the Bear Report Account, which is hereby created in the Fish*  
 9 *and Game Preservation Fund, and available upon appropriation*  
 10 *by the Legislature, to permit separate accountability for the receipt*  
 11 *and expenditure of these funds.*

12 ~~SEC. 2.~~

13 SEC. 3. Section 3960 of the Fish and Game Code is amended  
 14 to read:

15 3960. (a) It is unlawful to permit or allow any dog to pursue  
 16 any big game mammal during the closed season on that mammal,  
 17 to pursue any fully protected, rare, or endangered mammal at any  
 18 time, to pursue any bear ~~or bobcat~~ at any time, unless authorized  
 19 pursuant to Section ~~3960.2~~, 3960.3, *to pursue any bobcat at any*  
 20 *time*, or to pursue any mammal in a game refuge or ecological  
 21 reserve if hunting within that refuge or ecological reserve is  
 22 unlawful.

23 (b) (1) Employees of the department may capture any dog not  
 24 under the reasonable control of its owner or handler, when that  
 25 uncontrolled dog is pursuing, in violation of this section, any big  
 26 game ~~mammal~~ *mammal*, *bobcat*, or any fully protected, rare, or  
 27 endangered mammal.

28 (2) Employees of the department may capture or dispatch any  
 29 dog inflicting injury or immediately threatening to inflict injury  
 30 to any big game mammal during the closed season on that mammal,  
 31 and the employee may capture or dispatch any dog inflicting injury  
 32 or immediately threatening to inflict injury on any *bobcat or any*  
 33 *fully protected, rare, or endangered mammal at any time.*

34 (3) Employees of the department may capture or dispatch any  
 35 dog inflicting injury or immediately threatening to inflict injury  
 36 to any mammal in a game refuge or ecological reserve if hunting  
 37 within that refuge or ecological reserve is unlawful.

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

1 (d) Owners of dogs with identification that have been captured  
2 or dispatched shall be notified within 72 hours after capture or  
3 dispatch.

4 ~~SEC. 3. Section 3960.2 of the Fish and Game Code is repealed.~~

5 *SEC. 4. Section 3960.2 of the Fish and Game Code is amended*  
6 *to read:*

7 3960.2. (a) As used in this section, the terms “bear” and term  
8 “pursue” ~~have~~ *has* the same ~~meanings~~ *meaning* as defined in  
9 Section 3960.

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

14 (1) The applicant demonstrates, in writing, that nonlethal and  
15 avoidance measures were undertaken prior to requesting the  
16 depredation permit.

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

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

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

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

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

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

30 ~~(e) After any taking of a bear, the applicant is required to submit~~  
31 ~~the skull to the department as described in the department’s Black~~  
32 ~~Bear Management Plan. No part of any bear taken pursuant to a~~  
33 ~~depredation permit may be sold, purchased, or possessed for sale,~~  
34 ~~as described in Section 4758.~~

35 ~~(d)~~

36 (c) No holder of a depredation permit may solicit or receive  
37 compensation from any person in exchange for carrying out the  
38 terms of the permit. For these purposes, “compensation” means  
39 remuneration paid in money, property, or anything else of value.

40 (e)

1 (d) The holder of a depredation permit, within 30 days of its  
2 issuance, shall report to the department detailing the use of the  
3 permit and the results of any pursuits, including information about  
4 bear or any bobcat pursued and whether the bear or bobcat was or  
5 was not harmed, but not killed.

6 ~~SEC. 4.— Section 3960.2 is added to the Fish and Game Code,~~  
7 ~~to read:~~

8 ~~3960.2.— (a) On or before December 15, 2015, and on or before~~  
9 ~~December 15 of every third year thereafter, the department shall~~  
10 ~~report to the Fish and Game Commission on the status of bear~~  
11 ~~populations and management. The report shall include, but is not~~  
12 ~~limited to, department activities relating to bear management, the~~  
13 ~~general health of bear populations, information on the incidences~~  
14 ~~of bear interactions with the general public, public safety impacts~~  
15 ~~and concerns, bear depredation permit requests, an estimate of the~~  
16 ~~economic impact of damage done by bears, an estimate of the cost~~  
17 ~~to the department to address bear-related incidents during the~~  
18 ~~previous three years, and the amount of revenue derived from the~~  
19 ~~sale of bear tags during the three previous fiscal years. The report~~  
20 ~~shall also include recommendations to the commission regarding~~  
21 ~~the possible need to adjust annual bear harvest quotas or to take~~  
22 ~~steps necessary to increase or reduce take in order to address bear~~  
23 ~~management or population health concerns.~~

24 ~~(b) Not later than December 15 of each year that a report is~~  
25 ~~submitted pursuant to subdivision (a), the department shall notify~~  
26 ~~the board of supervisors of each county affected by bear~~  
27 ~~interactions with the general public, by certified mail, of public~~  
28 ~~safety impacts or concerns, bear depredation permit requests, and~~  
29 ~~economic impacts due to bear damage to the extent of those~~  
30 ~~incidences or impacts, and of its recommendations to the~~  
31 ~~commission pursuant to subdivision (a).~~

32 ~~(c) The board of supervisors of any county notified by the~~  
33 ~~department may do either of the following:~~

34 ~~(1) Elect to hold a public hearing on the public safety,~~  
35 ~~depredation, or economic impacts of bears in their county and the~~  
36 ~~proposed recommendations of the department. The hearing shall~~  
37 ~~be held prior to February 1 of that year. The director of the~~  
38 ~~department or his or her representative shall attend the hearing.~~

39 ~~(2) Elect, by resolution, not to hold a public hearing.~~

1 ~~(d) The board of supervisors of any county notified by the~~  
2 ~~department which has held a public hearing may, not later than~~  
3 ~~March 1 of that year, by resolution, recommend to the department~~  
4 ~~that the use of dogs be authorized to pursue or take bears and~~  
5 ~~bobeats in that county to assist in meeting bear management~~  
6 ~~concerns. The recommendation shall be based upon the testimony~~  
7 ~~and information presented at the hearing or presented to the board~~  
8 ~~of supervisors at its meeting to consider the resolution.~~

9 ~~(e) The department shall recommend to the commission, and~~  
10 ~~the commission shall authorize, the use of dogs to pursue or take~~  
11 ~~bears and bobeats during the open season for those species in each~~  
12 ~~county from which the department has received from the board of~~  
13 ~~supervisors a resolution recommending that the use of dogs be~~  
14 ~~authorized to pursue or take bears and bobeats in that county.~~

15 ~~(f) The commission shall amend its regulations relating to the~~  
16 ~~use of dogs to pursue bears and bobeats as necessary to conform~~  
17 ~~with this section.~~

18 *SEC. 5. Section 3960.3 is added to the Fish and Game Code,*  
19 *to read:*

20 *3960.3. (a) On or before December 15, 2015, and on or before*  
21 *December 15 of every third year thereafter, the department shall*  
22 *report to the Fish and Game Commission on the status of bear*  
23 *populations and management. The report shall include, but is not*  
24 *limited to, department activities relating to bear management, the*  
25 *general health of bear populations, information on the incidences*  
26 *of bear interactions with the general public, public safety impacts*  
27 *and concerns, bear depredation permit requests, an estimate of*  
28 *the economic impact of damage done by bears, an estimate of the*  
29 *cost to the department to address bear-related incidents during*  
30 *the previous three years, and the amount of revenue derived from*  
31 *the sale of bear tags during the three previous fiscal years. The*  
32 *report shall also include recommendations to the commission*  
33 *regarding the possible need to adjust annual bear harvest quotas*  
34 *or to take steps necessary to increase or reduce take in order to*  
35 *address bear management or population health concerns.*

36 *(b) Not later than December 15 of each year that a report is*  
37 *submitted pursuant to subdivision (a), the department shall notify*  
38 *the board of supervisors of each county affected by bear*  
39 *interactions with the general public, by certified mail, of public*  
40 *safety impacts or concerns, bear depredation permit requests, and*

1 *economic impacts due to bear damage to the extent of those*  
 2 *incidences or impacts, and of its recommendations to the*  
 3 *commission pursuant to subdivision (a).*

4 *(c) The board of supervisors of any county notified by the*  
 5 *department may do either of the following:*

6 *(1) Elect to hold a public hearing on the public safety,*  
 7 *depredation, or economic impacts of bears in their county and the*  
 8 *proposed recommendations of the department. The hearing shall*  
 9 *be held prior to February 1 of that year. The director of the*  
 10 *department or his or her representative shall attend the hearing.*

11 *(2) Elect, by resolution, not to hold a public hearing.*

12 *(d) The board of supervisors of any county notified by the*  
 13 *department which has held a public hearing may, not later than*  
 14 *March 1 of that year, by resolution, recommend to the department*  
 15 *that the use of dogs be authorized to pursue or take bears in that*  
 16 *county to assist in meeting bear management concerns. The*  
 17 *recommendation shall be based upon the testimony and information*  
 18 *presented at the hearing or presented to the board of supervisors*  
 19 *at its meeting to consider the resolution.*

20 *(e) The department shall recommend to the commission, and*  
 21 *the commission shall authorize, the use of dogs to pursue or take*  
 22 *bears during the open season for those species in each county from*  
 23 *which the department has received from the board of supervisors*  
 24 *a resolution recommending that the use of dogs be authorized to*  
 25 *pursue or take bears in that county.*

26 *(f) The commission shall amend its regulations relating to the*  
 27 *use of dogs to pursue bears as necessary to conform with this*  
 28 *section.*

29 ~~SEC. 5. Section 3960.4 of the Fish and Game Code is repealed.~~

30 *SEC. 6. Section 3960.4 of the Fish and Game Code is amended*  
 31 *to read:*

32 *3960.4. (a) As used in this section, the terms “bear” and*  
 33 *“pursue” have term “pursue” has the same meanings as defined*  
 34 *in Section 3960.*

35 *(b) Notwithstanding Section 3960, the department may authorize*  
 36 *qualified individuals, educational institutions, governmental*  
 37 *agencies, or nongovernmental organizations to use dogs to pursue*  
 38 *bears or bobcats for the purpose of scientific research, provided*  
 39 *that the research project is designed to do all of the following:*

40 *(1) Contribute to knowledge of natural wildlife ecosystems.*

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

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

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

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

12 (c) Any research project authorized pursuant to subdivision (b)  
13 shall be undertaken pursuant to a memorandum of understanding  
14 between the department and the authorized research entity that  
15 addresses all of the following:

16 (1) Trapping and anesthetizing of the animals pursued, collection  
17 of diagnostic samples, attaching or surgically implanting  
18 monitoring or recognition devices or markings, and providing  
19 veterinary care or euthanasia, as required, for the health, safety,  
20 and humane treatment of the animals.

21 (2) Qualifications of onsite field supervisors necessary for  
22 carrying out authorized research procedures.

23 (3) Immediate reporting of any incidental mortality or injury to  
24 a ~~bear or~~ bobcat as a result of authorized research activities. Reports  
25 of any incidental mortality or injury to a ~~bear or~~ bobcat shall be  
26 made available to the public upon request.

27 (4) Filing of annual and final progress reports of research  
28 involving pursuit by dogs. Annual and final progress reports shall  
29 be made available to the public upon request.

30 (d) The department shall provide notice to the public of any  
31 ~~bear or~~ bobcat research project authorized pursuant to subdivision  
32 (b) at least 30 days prior to its initiation, and, upon request, shall  
33 make available to the public copies of the memorandum of  
34 understanding between the department and the authorized research  
35 entity required pursuant to subdivision (c).

36 ~~SEC. 6. Section 3960.6 of the Fish and Game Code is repealed.~~

37 *SEC. 7. Section 3960.6 of the Fish and Game Code is amended*  
38 *to read:*

1 3960.6. (a) As used in this section, the terms “bear” and  
2 “pursue” have term “pursue” has the same meanings as defined  
3 in Section 3960.

4 (b) Notwithstanding Section 3960, the pursuit of bears or bobcats  
5 by dogs that are guarding or protecting livestock or crops on  
6 property owned, leased, or rented by the owner of the dogs, is not  
7 prohibited if the dogs are maintained with, and remain in  
8 reasonable proximity to, the livestock or crops being guarded or  
9 protected.

10 ~~SEC. 7.~~

11 *SEC. 8.* Section 4756 is added to the Fish and Game Code, to  
12 read:

13 4756. Except as provided in this section it is unlawful to use  
14 dogs to hunt, pursue, or molest bears. The use of one dog per hunter  
15 is permitted for the hunting of bears during the time that the season  
16 is open for the taking of deer in the area of the state affected. The  
17 use of more than one dog per hunter is permitted in the hunting of  
18 bears during the open season on bears in the area of the state  
19 affected except during the period when archery deer seasons or  
20 regular deer seasons are open.

21 ~~SEC. 8.~~

22 *SEC. 9.* No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution for certain  
24 costs that may be incurred by a local agency or school district  
25 because, in that regard, this act creates a new crime or infraction,  
26 eliminates a crime or infraction, or changes the penalty for a crime  
27 or infraction, within the meaning of Section 17556 of the  
28 Government Code, or changes the definition of a crime within the  
29 meaning of Section 6 of Article XIII B of the California  
30 Constitution.

31 However, if the Commission on State Mandates determines that  
32 this act contains other costs mandated by the state, reimbursement  
33 to local agencies and school districts for those costs shall be made  
34 pursuant to Part 7 (commencing with Section 17500) of Division  
35 4 of Title 2 of the Government Code.