

AMENDED IN SENATE MAY 2, 2013

SENATE BILL

No. 392

Introduced by Senator Berryhill

February 20, 2013

An act to amend ~~Sections 19, 3080, and 12000~~ *Section 3080* of the Fish and Game Code, relating to fish and wildlife resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 392, as amended, Berryhill. Fish and Game Code: ~~violations.~~ *possession limit.*

~~(1) Existing~~

Existing law makes it unlawful to take, among other animals, mammals and birds outside of established seasons or to exceed any bag limit or possession limit established in the Fish and Game Code or by regulations adopted by the Fish and Game Commission. However, existing law authorizes possession of a game bird or mammal during a period other than the open season if the person possesses a hunting license and tag or tags issued to that person for the current or immediate past license year or the person receives the game bird or mammal from that licensee and has specific documentation that the recipient is a donor intermediary, as defined.

This bill would ~~exempt from any possession limit established for a game bird, a game bird processed for immediate consumption while located at a personal abode or migratory bird preservation facility. The bill would also require the Fish and Game Commission to adopt regulations to define "processed for immediate consumption."~~

~~(2) The Fish and Game Code provides that, except as expressly provided otherwise in that 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 authorize a judge to reduce a misdemeanor violation to an infraction if the Department of Fish and Wildlife recommends that the violation be prosecuted as an infraction.

This bill would require the commission, on or before January 1, 2015, to recommend legislation or adopt regulations to clarify when a possession limit is not violated by processing into food lawfully taken game birds and waterfowl.

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

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

1 ~~SECTION 1. Section 19 of the Fish and Game Code is amended~~
2 ~~to read:~~

3 ~~19. “Possession limit” means the maximum, in number or~~
4 ~~amount, of birds, mammals, fish, reptiles, or amphibians that may~~
5 ~~be lawfully possessed by any one person.~~

6 ~~SEC. 2.~~

7 *SECTION 1.* Section 3080 of the Fish and Game Code is
8 amended to read:

9 3080. (a) For the purposes of this section, “donor intermediary”
10 means a recipient who receives game birds or mammals from a
11 donor to give to a charitable organization or charitable entity. A
12 donor intermediary possessing game birds or mammals during a
13 period other than the open season shall have the documentation
14 described in paragraph (2) or (3) of subdivision (b). There is no
15 required format for the documentation. Any written documentation
16 containing the required information shall be deemed to comply
17 with this section.

18 (b) The possession limit of any game bird or mammal may be
19 possessed during a period other than the open season if one of the
20 following conditions apply:

21 (1) The person has in his or her possession a hunting license
22 and validated tag or tags for the species possessed, or copies of
23 the license and tag or tags. The license and tag or tags shall have
24 been issued to that person for the current or immediate past license
25 year.

1 (2) The person received the game bird or mammal from a person
2 described in paragraph (1), and the recipient has a photocopy of
3 the donor's hunting license and the applicable validated tag or tags
4 that has been signed and dated by the donor confirming the
5 donation. The photocopied license and tag or tags shall be from
6 the current or immediate past license year.

7 (3) The person received the game bird or mammal from a person
8 described in paragraph (1), and the recipient has a signed and dated
9 document confirming the donation that includes the donor's name,
10 address, hunting license number, and applicable tag numbers for
11 the species possessed. The license and tag or tags shall be for the
12 current or immediate past license year.

13 (c) The documentation required by subdivision (b) shall be made
14 available to the department as described in Section 2012. Charitable
15 organizations or charitable entities receiving and distributing game
16 birds or mammals for charitable or humane purposes, shall maintain
17 the documentation described in paragraph (2) or (3) of subdivision
18 (b) for one year from the date of disposal.

19 (d) This section does not authorize the possession of game birds
20 or carcasses or parts of a game bird or carcass contrary to
21 regulations issued pursuant to the federal Migratory Bird Treaty
22 Act (16 U.S.C. Sec. 703 et seq.).

23 ~~(e) A possession limit established for game birds shall not apply
24 to a game bird processed for immediate consumption while located
25 at a personal abode or migratory bird preservation facility. The
26 commission shall adopt regulations defining the term "processed
27 for immediate consumption."~~

28 *(e) On or before January 1, 2015, the commission shall
29 recommend legislation or adopt regulations to clarify when a
30 possession limit is not violated by processing into food lawfully
31 taken game birds and waterfowl.*

32 ~~SEC. 3. Section 12000 of the Fish and Game Code is amended
33 to read:~~

34 ~~12000. (a) Except as expressly provided otherwise in this code,
35 any violation of this code, or of any rule, regulation, or order made
36 or adopted under this code, is a misdemeanor.~~

37 ~~(b) Notwithstanding subdivision (a), any person who violates
38 any of the following statutes or regulations is guilty of an infraction
39 punishable by a fine of not less than one hundred dollars (\$100)~~

- 1 ~~and not to exceed one thousand dollars (\$1,000), or of a~~
- 2 ~~misdemeanor:~~
- 3 ~~(1) Section 2009.~~
- 4 ~~(2) Subdivision (a) of Section 6596.~~
- 5 ~~(3) Section 7149.8.~~
- 6 ~~(4) Section 7360.~~
- 7 ~~(5) Sections 1.14, 1.17, 1.18, 1.62, 1.63, and 1.74 of Title 14 of~~
- 8 ~~the California Code of Regulations.~~
- 9 ~~(6) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive,~~
- 10 ~~of Title 14 of the California Code of Regulations.~~
- 11 ~~(7) Sections 27.56 to 30.10, inclusive, of Title 14 of the~~
- 12 ~~California Code of Regulations.~~
- 13 ~~(8) Sections 40 to 43, inclusive, of Title 14 of the California~~
- 14 ~~Code of Regulations.~~
- 15 ~~(9) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of~~
- 16 ~~the California Code of Regulations.~~
- 17 ~~(10) Sections 505, 507 to 510, inclusive, and 550 to 553,~~
- 18 ~~inclusive, of Title 14 of the California Code of Regulations.~~
- 19 ~~(11) Sections 630 to 630.5, inclusive, of Title 14 of the~~
- 20 ~~California Code of Regulations.~~
- 21 ~~(e) Notwithstanding subdivision (a), a judge may reduce a~~
- 22 ~~misdemeanor violation to an infraction if the department~~
- 23 ~~recommends that the violation be prosecuted as an infraction.~~