

Assembly Bill No. 739

CHAPTER 771

An act to amend Section 12002 of, and to add Section 12003.1 to, the Fish and Game Code, relating to fish and game.

[Approved by Governor October 7, 1997. Filed
with Secretary of State October 8, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 739, Machado. Fish and game: penalties.

(1) Under existing law, the punishment for violations of the Fish and Game Code are specified, including maximum fines and imprisonment for the knowing unlawful taking of a mammal, bird, amphibian, reptile, fish, or any other species in violation of the code. Certain other violations of that code are subject to other enhanced maximum fines and imprisonment.

This bill would impose minimum and maximum punishments for the knowing and intentional taking of any mammal, bird, or fish, as specified. The bill would require the court to apply not less than the minimum punishment as provided in the bill, except in cases where the court determines that, as to the imprisonment sentence only, the interests of justice would best be served by granting probation or suspending the imposition or execution of the imprisonment sentence. Under the bill, if the court grants probation to a defendant, the court may impose as a condition of that probation that the defendant perform not more than 100 hours of community service, as specified. If community service is imposed, the bill would also require the defendant to attend a hunter safety course, as specified. Because the bill would change the penalty for a crime, the bill would impose a state-mandated local program.

The bill would also provide that any license or permit issued pursuant to the Fish and Game Code to a defendant who fails to appear at a court hearing or pay a fine imposed for a violation of that code, except as specified, shall be immediately suspended and the license or permit shall not be reinstated or renewed, nor shall another license or permit be issued to the defendant until the court proceeding is completed or the fine is paid.

(2) 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 people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the knowing and intentional taking of mammals, birds, and fish in excess of that permitted by law is a serious offense warranting special consideration by law enforcement and the judiciary. It is the intent of the Legislature that any knowing and intentional violation of the Fish and Game Code be diligently pursued and fully adjudicated.

SEC. 2. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000), imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars (\$2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

- (1) Section 1059.
- (2) Subdivision (d) of Section 4004.
- (3) Section 4600.
- (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- (5) A first violation of Section 8670.
- (6) Section 10500.
- (7) Section 3005.9.

(8) A violation of commission regulations which is discovered pursuant to Section 3005.91 or 3005.92.

(9) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) (1) A license or permit issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended. The license or permit shall not be reinstated or renewed, and no other license or permit shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454, 6650, or 6653.5.

SEC. 3. Section 12003.1 is added to the Fish and Game Code, to read:

12003.1. (a) Unless a minimum punishment is otherwise provided, the punishment for the knowing and intentional taking of a mammal, bird, or fish in excess of the quantity permitted by other provisions of this code or regulations adopted pursuant thereto, not in compliance with size or sex limitations in other provisions of this code or regulations adopted pursuant thereto, or from which only external body parts, including, but not limited to, antlers, horns,



hides, feathers, or fins, are removed for use in violation of this code or regulations adopted pursuant thereto, shall be not less than two hundred fifty dollars (\$250) for a first violation and not less than five hundred dollars (\$500) and imprisonment in the county jail for not less than 30 days for a second or subsequent violation. The court shall apply not less than the minimum punishment as specified in this subdivision except in those cases where the court determines that, as to the imprisonment sentence only, the interests of justice would best be served by granting probation or suspending the imposition or execution of imprisonment sentence.

(b) If the court grants probation to any person punished under subdivision (a), in addition to any other terms or conditions imposed by the court, the court may impose as a condition of that probation that the person perform not more than 100 hours of community service in the county in which the violation occurred. To the extent practicable, the service shall involve work relating to natural resources. The service shall be performed during a time that does not interfere with the person's school attendance or employment. If the court requires a person to perform community service under this subdivision, that person shall also be required to attend a hunter safety course as described in Section 3051. The person, and not the court, shall be responsible for paying all fees and costs related to the course.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

