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AMENDED IN SENATE MAY 20, 1997
AMENDED IN SENATE MAY 14, 1997
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SENATE BILL

No. 329

Introduced by Senator McPherson
(Principal coauthor: Assembly Member Keeley)
(~~Coauthor: Assembly Member Brown~~)
(*Coauthors: Assembly Members Brown and Honda*)

February 12, 1997

An act to amend Sections 4181, 4181.1, and 4651 of, and to add Section 4181.2 to, the Fish and Game Code, relating to game, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as amended, McPherson. Depredation: wild pigs.

(1) Existing law provides that, except for mountain lions, the owner or tenant of land or property that is being damaged or destroyed by specified mammals, including wild pigs, may apply to the Department of Fish and Game for a permit to kill



the animal. Existing law requires the department to provide the applicant for a depredation permit to take wild pigs with specified information on available options for wild pig control.

This bill would require the department to also furnish that information to a person who reports the taking of wild pigs that are found in the act of damaging or destroying property. In addition, the bill would authorize the department to maintain and make available to these persons lists of hunters interested in wild pig hunting and lists of nonprofit organizations that are available to take possession of depredating wild pig carcasses.

(2) Existing law designates those mammals that are game mammals, including wild pigs, for purposes of the Fish and Game Code and regulations adopted pursuant to that code. Existing law makes it unlawful for a person to take wild pigs, except those damaging or destroying property, unless the person has a hunting license and license tag, or to possess a wild pig that is not tagged.

This bill would exempt the possession of certain depredating wild pigs from that tagging requirement.

(3) Existing law authorizes the immediate taking of a bear or wild pig that is encountered in the act of inflicting injury to, molesting, or killing livestock if the taking is reported to the department no later than the next working day.

This bill would, instead, with respect to wild pigs, authorize the immediate taking of a wild pig that is encountered while in the act of pursuing or worrying livestock or damaging or destroying, or threatening to immediately damage or destroy, land or property, including, but not limited to, rare, threatened, or endangered native plants, wildlife, or aquatic species, by the owner of the livestock, land, or property or the owner's agent or employee, or by an agent or employee of any federal, state, county, or city entity when acting in his or her official capacity. The bill would require the person taking a wild pig under the bill to report the taking no later than the next working day to the department and to make the carcass available to the department. The bill would authorize possession of the carcass of a wild pig taken under the bill, unless otherwise directed by the department. The bill would require the person possessing the carcass to make use of the



carcass and would authorize the transfer of the carcass to another person or entity without compensation. The bill would also define “damage” for certain other provisions of law relating to damage caused by depredating wild pigs, and would require the department to develop statewide guidelines for determining the damage caused by wild pigs.

(4) Existing law requires the department to prepare a plan for the management of wild pigs, including specified matters.

This bill would authorize the plan to encourage mitigation of depredation by sport hunting and provide for live trapping and relocation of wild pigs to areas suitable and accessible to mitigation of depredation with the consent of the landowner and after consultation with adjacent landowners who may be impacted.

(5) Because a violation of the bill or regulations adopted pursuant to the bill would be a misdemeanor under existing law, the bill would impose a state-mandated local program.

(6) 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.

(7) Existing law continuously appropriates the money in the Fish and Game Preservation Fund, among other things, to pay specified refunds and to pay all necessary expenses incurred in carrying out the Fish and Game Code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish.

Because this bill would change and impose new duties on the department, it would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 4181 of the Fish and Game Code
2 is amended to read:
3 4181. (a) Except as provided in Section 4181.1, any
4 owner or tenant of land or property that is being damaged



1 or destroyed or is in danger of being damaged or
2 destroyed by elk, bear, beaver, wild pig, or gray squirrels,
3 may apply to the department for a permit to kill the
4 mammals. The department, upon satisfactory evidence of
5 the damage or destruction, actual or immediately
6 threatened, shall issue a revocable permit for the taking
7 and disposition of the mammals under regulations
8 adopted by the commission. The permit shall include a
9 statement of the penalties that may be imposed for a
10 violation of the permit conditions. Mammals so taken
11 shall not be sold or shipped from the premises on which
12 they are taken except under instructions from the
13 department. No ~~iron~~ *iron-jawed* or steel-jawed or any
14 type of metal-jawed trap shall be used to take any bear
15 pursuant to this section. No poison of any type may be
16 used to take any gray squirrel pursuant to this section.
17 The department shall designate the type of trap to be
18 used to insure the most humane method is used to trap
19 gray squirrels. The department may require trapped
20 squirrels to be released in parks or other nonagricultural
21 areas. It shall be unlawful for any person to violate the
22 terms of any permit issued under this section.

23 (b) The permit issued for taking bears pursuant to
24 subdivision (a) shall contain the following facts:

25 (1) Why the issuance of the permit was necessary.

26 (2) What efforts were made to solve the problem
27 without killing the bears.

28 (3) What corrective actions should be implemented to
29 prevent reoccurrence.

30 (c) With respect to wild pigs, the department shall
31 provide an applicant for a depredation permit to take
32 wild pigs or a person who reports taking wild pigs
33 pursuant to subdivision (b) of Section 4181.1 with written
34 information that sets forth available options for wild pig
35 control, including, but not limited to, depredation
36 permits, allowing periodic access to licensed hunters, and
37 holding special hunts authorized pursuant to Section
38 4188. The department may maintain and make available
39 to these persons lists of licensed hunters interested in wild
40 pig hunting and lists of nonprofit organizations that are



1 available to take possession of depredated wild pig
2 carcasses.

3 SEC. 2. Section 4181.1 of the Fish and Game Code is
4 amended to read:

5 4181.1. (a) Any bear that is encountered while in the
6 act of inflicting injury to, molesting, or killing, livestock
7 may be taken immediately by the owner of the livestock
8 or the owner's employee if the taking is reported no later
9 than the next working day to the department and the
10 carcass is made available to the department.

11 (b) Notwithstanding Section 4652, any wild pig that is
12 encountered while in the act of inflicting injury to,
13 molesting, pursuing, worrying, or killing livestock or
14 damaging or destroying, or threatening to immediately
15 damage or destroy, land or other property, including, but
16 not limited to, rare, threatened, or endangered native
17 plants, wildlife, or aquatic species, may be taken
18 immediately by the owner of the livestock, land, or
19 property or the owner's agent or employee, or by an
20 agent or employee of any federal, state, county, or city
21 entity when acting in his or her official capacity. The
22 person taking the wild pig shall report the taking no later
23 than the next working day to the department and shall
24 make the carcass available to the department. Unless
25 otherwise directed by the department and
26 notwithstanding Section 4657, the person taking a wild
27 pig pursuant to this subdivision, or to whom the carcass
28 of a wild pig taken pursuant to this subdivision is
29 transferred pursuant to subdivision (c), may possess the
30 carcass of the wild pig. The person in possession of the
31 carcass shall make use of the carcass, which may include
32 an arrangement for the transfer of the carcass to another
33 person or entity, such as a nonprofit organization, without
34 compensation. The person who arranges this transfer
35 shall be deemed to be in compliance with Section 4304.
36 A violation of this subdivision is punishable pursuant to
37 Section 12000. It is the intent of the Legislature that
38 nothing in this subdivision shall be interpreted to
39 authorize a person to take wild pigs pursuant to this
40 subdivision in violation of a state statute or regulation or



1 a local zoning or other ordinance that is adopted pursuant
2 to other provisions of law and that restricts the discharge
3 of firearms.

4 (c) The department shall make a record of each report
5 made pursuant to subdivision (a) or (b) and may have an
6 employee of the department investigate the taking or
7 cause the taking to be investigated. The person taking a
8 wild pig shall provide information as deemed necessary
9 by the department. Upon completion of the
10 investigation, the investigator may, upon a finding that
11 the requirements of this section have been met with
12 respect to the particular bear or wild pig taken under
13 subdivision (a) or (b), issue a written statement to the
14 person confirming that the requirements of this section
15 have been met. The person who took the wild pig may
16 transfer the carcass to another person without
17 compensation.

18 (d) Notwithstanding Section 4763, any part of any bear
19 lawfully possessed pursuant to this section is subject to
20 Section 4758.

21 (e) Nothing in this section prohibits federal, state, or
22 county trappers from killing or trapping bears when the
23 bears are killing or molesting livestock, but no ~~iron-~~
24 *iron-jawed* or steel-jawed or any type of metal-jawed trap
25 shall be used to take the bear, and no person, including
26 employees of the state, federal, or county government,
27 shall take bear with ~~iron-~~ *iron-jawed* or steel-jawed or any
28 type of metal-jawed traps.

29 SEC. 3. Section 4181.2 is added to the Fish and Game
30 Code, to read:

31 4181.2. For the purposes of this article relating to
32 damage caused by wild pigs, “damage” means loss or
33 harm resulting from injury to person or property. The
34 department shall develop statewide guidelines to aid in
35 determining the damage caused by wild pigs. The
36 guidelines shall consider various uses of the land
37 impacted by pigs.

38 SEC. 4. Section 4651 of the Fish and Game Code is
39 amended to read:



1 4651. (a) The department shall prepare a plan for the
2 management of wild pigs. Under the plan, the status and
3 trend of wild pig populations shall be determined and
4 management units shall be designated within the state.
5 The plan may establish pig management zones to address
6 regional needs and opportunities. In preparing the plan,
7 the department shall consider available, existing
8 information and literature relative to wild pigs.

9 (b) The plan may include all of the following:

10 (1) The distribution and abundance of wild pigs, as
11 described in Section 3950.

12 (2) A survey of range conditions.

13 (3) Recommendations for investigations and
14 utilization of wild pigs.

15 (4) Encouraging mitigation of depredation by sport
16 hunting pursuant to this chapter.

17 (5) Live trapping and relocation of wild pigs to areas
18 suitable and accessible to mitigation of depredation, with
19 the consent of the landowner and after prior consultation
20 with adjacent landowners who, in the department's
21 opinion may be impacted, pursuant to this chapter.

22 SEC. 5. No reimbursement is required by this act
23 pursuant to Section 6 of Article XIII B of the California
24 Constitution because the only costs that may be incurred
25 by a local agency or school district will be incurred
26 because this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section
29 17556 of the Government Code, or changes the definition
30 of a crime within the meaning of Section 6 of Article
31 XIII B of the California Constitution.

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

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