

AMENDED IN ASSEMBLY APRIL 13, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2795**

**Introduced by Assembly Member Florez**

February 28, 2000

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~~An act to amend Sections 3511, 4700, 5050, and 5515 of the Fish and Game Code, relating to fish and game, and making An act to amend Section 5050 of the Fish and Game Code, relating to reptiles and amphibians, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2795, as amended, Florez. ~~Specially protected species Fully protected reptiles and amphibians.~~

~~(1) The existing California Endangered Species Act prohibits the importation, exportation, take, possession, purchase, or sale of any species that the Fish and Game Commission has determined to be an endangered species or a threatened species, except under certain circumstances or under authorization from the Department of Fish and Game. Other existing law establishes the Natural Community Conservation Planning Act which authorizes the department to enter into an agreement with any person for the purpose of preparing and implementing a Natural Community Conservation plan to provide comprehensive management and conservation of multiple wildlife species. Under that act, the commission, upon recommendation of the department, may authorize the taking of a candidate species whose~~

conservation, protection, restoration, and enhancement is provided for in a department approved natural community conservation plan, as specified.

Existing law prohibits the taking or possession of fully protected birds, mammals, reptiles, and amphibians, and fish or parts thereof, except as specified.

This bill would authorize the ~~commission and the department~~ *Department of Fish and Game* to authorize the taking of a fully protected bird, mammal, reptile, amphibian, or fish under the same circumstances that the commission or department may authorize the taking of an endangered, threatened, or candidate species pursuant to the above acts. The bill would provide that it is not unlawful to take any fully protected bird, mammal, reptile, amphibian, or fish in any manner that is not unlawful under the Endangered Species Act *blunt-nosed leopard lizard if the species is considered a covered species under a habitat conservation plan or natural community conservation plan.*

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

This bill would make an appropriation by imposing new duties on the department payable from that fund.

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

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

- 1 ~~SECTION 1. Section 3511 of the Fish and Game Code~~
- 2 *SECTION 1. Section 5050 of the Fish and Game Code*
- 3 *is amended to read:*
- 4 5050. ~~Fully~~ (a) *Except as provided in subdivision (b),*
- 5 *fully* protected reptiles and amphibians or parts thereof
- 6 may not be taken or possessed at any time and no
- 7 provision of this code or any other law shall be construed
- 8 to authorize the issuance of permits or licenses to take any
- 9 fully protected reptile or amphibian and no ~~such~~ permits



1 or licenses heretofore previously issued shall have any  
2 force or effect for any such that purpose; except that the.

3 (b) The commission or department may authorize the  
4 taking or possession of a fully protected reptile or  
5 amphibian under the following circumstances:

6 (1) The commission may authorize the collecting of  
7 ~~such species~~ a fully protected reptile or amphibian for  
8 necessary scientific research. ~~Legally~~

9 (2) The department may authorize the taking of the  
10 blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*)  
11 if the species is considered a covered species under a  
12 habitat conservation plan or natural community  
13 conservation plan.

14 (3) Legally imported fully protected reptiles or  
15 amphibians or parts thereof may be possessed under a  
16 permit issued by the department.

17 (c) The following are fully protected reptiles and  
18 amphibians:

19 ~~(a)~~

20 (1) Blunt-nosed leopard lizard (*Crotaphytus wislizenii*  
21 *silus*).

22 ~~(b)~~

23 (2) San Francisco garter snake (*Thamnophis sirtalis*  
24 *tetrataenia*).

25 ~~(c)~~

26 (3) Santa Cruz long-toed salamander (*Ambystoma*  
27 *macrodactylum croceum*).

28 ~~(d)~~

29 (4) Limestone salamander (*Hydromantes brunus*).

30 ~~(e)~~

31 (5) Black toad (*Bufo boreas exsul*). ~~is amended to~~  
32 ~~read:~~

33 3511. — (a) Except as provided in subdivisions (b) and  
34 (c), fully protected birds or parts thereof may not be  
35 taken or possessed at any time and no provision of this  
36 code or any other law shall be construed to authorize the  
37 issuance of permits or licenses to take any fully protected  
38 bird and no permits or licenses previously issued shall  
39 have any force or effect for that purpose.



1 ~~(b) The commission or department may authorize the~~  
2 ~~taking or possession of a fully protected bird under any of~~  
3 ~~the following circumstances:~~

4 ~~(1) The commission may authorize the collecting of~~  
5 ~~fully protected birds for necessary scientific research and~~  
6 ~~may authorize the live capture and relocation of those~~  
7 ~~species pursuant to a permit for the protection of~~  
8 ~~livestock.~~

9 ~~(2) The commission or the department may authorize~~  
10 ~~the taking of a fully protected bird under the same~~  
11 ~~conditions as it may authorize the taking of an~~  
12 ~~endangered, threatened, or candidate species pursuant~~  
13 ~~to Chapter 1.5 (commencing with Section 2050) of, or~~  
14 ~~Chapter 10 (commencing with Section 2800) of, Division~~  
15 ~~3.~~

16 ~~(3) Legally imported fully protected birds or parts~~  
17 ~~thereof may be possessed under a permit issued by the~~  
18 ~~department.~~

19 ~~(c) A taking of a fully protected bird in any manner~~  
20 ~~that is not unlawful under Chapter 1.5 (commencing with~~  
21 ~~Section 2050) of Division 3 for purposes of taking an~~  
22 ~~endangered, threatened, or candidate species, is not~~  
23 ~~unlawful under this section.~~

24 ~~(d) The following are fully protected birds:~~

25 ~~(1) American peregrine falcon (*Falco peregrinus*~~  
26 ~~*anatum*).~~

27 ~~(2) Brown pelican.~~

28 ~~(3) California black rail (*Laterallus jamaicensis*~~  
29 ~~*eoturniculus*).~~

30 ~~(4) California clapper rail (*Rallus longirostris*~~  
31 ~~*obsoletus*).~~

32 ~~(5) California condor (*Gymnogyps californianus*).~~

33 ~~(6) California least tern (*Sterna albifrons browni*).~~

34 ~~(7) Golden eagle.~~

35 ~~(8) Greater sandhill crane (*Grus canadensis tabida*).~~

36 ~~(9) Light-footed clapper rail (*Rallus longirostris*~~  
37 ~~*levipes*).~~

38 ~~(10) Southern bald eagle (*Haliaeetus leucocephalus*~~  
39 ~~*leucocephalus*).~~

40 ~~(11) Trumpeter swan (*Cygnus buccinator*).~~



1 ~~(12) White-tailed kite (*Elanus leucurus*).~~

2 ~~(13) Yuma clapper rail (*Rallus longirostris*~~  
3 ~~yumanensis).~~

4 ~~SEC. 2. Section 4700 of the Fish and Game Code is~~  
5 ~~amended to read:~~

6 ~~4700. (a) Except as provided in subdivisions (b) and~~  
7 ~~(c), fully protected mammals or parts thereof may not be~~  
8 ~~taken or possessed at any time and no provision of this~~  
9 ~~code or any other law shall be construed to authorize the~~  
10 ~~issuance of permits or licenses to take any fully protected~~  
11 ~~mammal and no permits or licenses previously issued~~  
12 ~~shall have any force or effect for that purpose.~~

13 ~~(b) The commission or department may authorize the~~  
14 ~~taking or possession of a fully protected mammal under~~  
15 ~~any of the following circumstances:~~

16 ~~(1) The commission may authorize the collecting of~~  
17 ~~fully protected mammals for necessary scientific~~  
18 ~~research.~~

19 ~~(2) The commission or the department may authorize~~  
20 ~~the taking of a fully protected mammal under the same~~  
21 ~~conditions as it may authorize the taking of an~~  
22 ~~endangered, threatened, or candidate species pursuant~~  
23 ~~to Chapter 1.5 (commencing with Section 2050) of, or~~  
24 ~~Chapter 10 (commencing with Section 2800) of, Division~~  
25 ~~3.~~

26 ~~(3) Legally imported fully protected mammals or~~  
27 ~~parts thereof may be possessed under a permit issued by~~  
28 ~~the department.~~

29 ~~(c) A taking of a fully protected mammal in any~~  
30 ~~manner that is not unlawful under Chapter 1.5~~  
31 ~~(commencing with Section 2050) of Division 3 for~~  
32 ~~purposes of taking an endangered, threatened, or~~  
33 ~~candidate species, is not unlawful under this section.~~

34 ~~(d) The following are fully protected mammals:~~

35 ~~(1) Morro Bay kangaroo rat (*Dipodomys heermanni*~~  
36 ~~morroensis).~~

37 ~~(2) Bighorn sheep (*Ovis canadensis*), except Nelson~~  
38 ~~bighorn sheep (subspecies *Ovis canadensis nelsoni*) as~~  
39 ~~provided by subdivision (b) of Section 4902.~~

40 ~~(3) Northern elephant seal (*Mirounga angustirostris*).~~



- 1 ~~(4) Guadalupe fur seal (*Arctocephalus townsendi*).~~  
2 ~~(5) Ring-tailed cat (genus *Bassariseus*).~~  
3 ~~(6) Pacific right whale (*Eubalaena sieboldi*).~~  
4 ~~(7) Salt marsh harvest mouse (*Reithrodontomys*~~  
5 ~~*raviventris*).~~  
6 ~~(8) Southern sea otter (*Enhydra lutris nereis*).~~  
7 ~~(9) Wolverine (*Gulo luseus*).~~  
8 ~~SEC. 3. Section 5050 of the Fish and Game Code is~~  
9 ~~amended to read:~~  
10 ~~5050. (a) Except as provided in subdivisions (b) and~~  
11 ~~(c), fully protected reptiles and amphibians or parts~~  
12 ~~thereof may not be taken or possessed at any time and no~~  
13 ~~provision of this code or any other law shall be construed~~  
14 ~~to authorize the issuance of permits or licenses to take any~~  
15 ~~fully protected reptile or amphibian and no permits or~~  
16 ~~licenses previously issued shall have any force or effect for~~  
17 ~~that purpose.~~  
18 ~~(b) The commission or department may authorize the~~  
19 ~~taking or possession of a fully protected reptile or~~  
20 ~~amphibian under any of the following circumstances:~~  
21 ~~(1) The commission may authorize the collecting of~~  
22 ~~fully protected reptiles and amphibians for necessary~~  
23 ~~scientific research.~~  
24 ~~(2) The commission or the department may authorize~~  
25 ~~the taking of a fully protected reptile or amphibian under~~  
26 ~~the same conditions as it may authorize the taking of an~~  
27 ~~endangered, threatened, or candidate species under~~  
28 ~~Chapter 1.5 (commencing with Section 2050) of, or~~  
29 ~~Chapter 10 (commencing with Section 2800) of, Division~~  
30 ~~3.~~  
31 ~~(3) Legally imported fully protected reptiles or~~  
32 ~~amphibians or parts thereof may be possessed under a~~  
33 ~~permit issued by the department.~~  
34 ~~(c) A taking of a fully protected reptile or amphibian~~  
35 ~~in any manner that is not unlawful under Chapter 1.5~~  
36 ~~(commencing with Section 2050) of Division 3 for~~  
37 ~~purposes of taking an endangered, threatened, or~~  
38 ~~candidate species, is not unlawful under this section.~~  
39 ~~(d) The following are fully protected reptiles and~~  
40 ~~amphibians:~~

1 ~~(1) Blunt-nosed leopard lizard (*Crotaphytus wislizenii*~~  
2 ~~silus).~~

3 ~~(2) San Francisco garter snake (*Thamnophis sirtalis*~~  
4 ~~tetrataenia).~~

5 ~~(3) Santa Cruz long-toed salamander (*Ambystoma*~~  
6 ~~macrodaetylum croceum).~~

7 ~~(4) Limestone salamander (*Hydromantes brunus*).~~

8 ~~(5) Black toad (*Bufo boreas exsul*).~~

9 SEC. 4. ~~Section 5515 of the Fish and Game Code is~~  
10 ~~amended to read:~~

11 ~~5515. (a) Except as provided in subdivisions (b) and~~  
12 ~~(c), fully protected fish or parts thereof may not be taken~~  
13 ~~or possessed at any time and no provision of this code or~~  
14 ~~any other law shall be construed to authorize the issuance~~  
15 ~~of permits or licenses to take any fully protected fish and~~  
16 ~~no permits or licenses previously issued shall have any~~  
17 ~~force or effect for that purpose.~~

18 ~~(b) The commission or department may authorize the~~  
19 ~~taking or possession of a fully protected fish under any of~~  
20 ~~the following circumstances:~~

21 ~~(1) The commission may authorize the collecting of~~  
22 ~~fully protected birds for necessary scientific research.~~

23 ~~(2) The commission or the department may authorize~~  
24 ~~the taking of a fully protected fish under the same~~  
25 ~~conditions as it may authorize the taking of an~~  
26 ~~endangered, threatened, or candidate species pursuant~~  
27 ~~to Chapter 1.5 (commencing with Section 2050) of, or~~  
28 ~~Chapter 10 (commencing with Section 2800) of, Division~~  
29 ~~3.~~

30 ~~(3) Legally imported fully protected fish or parts~~  
31 ~~thereof may be possessed under a permit issued by the~~  
32 ~~department.~~

33 ~~(c) A taking of a fully protected fish in any manner~~  
34 ~~that is not lawful under Chapter 1.5 (commencing with~~  
35 ~~Section 2050) of Division 3 for purposes of taking an~~  
36 ~~endangered, threatened, or candidate species, is not~~  
37 ~~unlawful under this section.~~

38 ~~(d) The following are fully protected fish:~~

39 ~~(1) Colorado River squawfish (*Ptychocheilus lucius*).~~

40 ~~(2) Thicketail chub (*Gila crassicauda*).~~



- 1 ~~(3) Mohave chub (*Gila mohavensis*).~~
- 2 ~~(4) Lost River sucker (*Catostomus luxatus*).~~
- 3 ~~(5) Modoc sucker (*Catostomus microps*).~~
- 4 ~~(6) Shortnose sucker (*Chasmistes brevirostris*).~~
- 5 ~~(7) Humpback sucker (*Xyrauchen texanus*).~~
- 6 ~~(8) Owens River pupfish (*Cyprinodon radiosus*).~~
- 7 ~~(9) Unarmored threespine stickleback (*Gasterosteus*~~
- 8 ~~*aculeatus williamsoni*).~~
- 9 ~~(10) Rough sculpin (*Cottus asperimus*).~~

