

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 2, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1480

Introduced by Senator Corbett
(Principal coauthor: Assembly Member Hill)

February 24, 2012

An act to amend Sections 4004, 4005, 4006, 4007, and 4008 of, and to add Sections 4013 and 4014 to, the Fish and Game Code, relating to trapping.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Corbett. Trapping.

(1) Existing law, except as specified, requires every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the Fish and Game Commission, or who sells raw furs of those mammals, to have a trapping license from the Department of Fish and Game. Certain persons taking mammals injurious to growing crops or other property are exempted from the trapping license requirement, except those persons providing trapping services for profit are required to obtain a trapping license from the department.

This bill would establish 2 classes of trapping licenses. The bill would authorize a person who has complied with all applicable licensing and license renewal requirements to trap wildlife for recreation or fur to be issued a class I trapping license. The bill would authorize specified persons trapping wildlife for a profit be issued a class II trapping license. The bill would require the department to publish a list of class II trapping licensees on its Internet Web site. The bill would authorize the

commission to issue a formal warning or suspend a license when a licensee is found, after a duly noticed hearing, to have published inconsistent information on wildlife diseases, as specified.

~~The bill would establish the Trapping Enforcement Account in the Fish and Game Preservation Fund. The bill would require fee revenues to be placed in the account, to be available, upon appropriation, for specified purposes relating to the enforcement of existing laws and regulations governing trapping.~~

The bill would require the commission to establish a base fee for a class II trapping license, in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the license. Revenues of those class II trapping license fees would be available, upon appropriation by the Legislature, to fund reimbursement of the department and commission for the reasonable costs of the administration, implementation, and enforcement of provisions of law relating to class II trapping licenses and of regulations adopted pursuant to those provisions.

The bill would require a class II trapping licensee to make a reasonable effort, as defined, not to leave dependent young animals, that are orphaned as a consequence of the trapping and killing of their mother, to die within an area of a home or business that is inaccessible to the licensee. The bill would further require class II trapping licensees to provide clients with a written contract, containing prescribed information, prior to setting traps.

(2) Existing law, except as expressly provided, makes any violation of the Fish and Game Code, or any rule, regulation, or order made or adopted under that code, a misdemeanor. Existing law makes certain actions relating to trapping unlawful.

The bill also would make it unlawful to kill any trapped mammal by listed methods or to solicit trapping services business from the public for reasons of health or safety pursuant to specified laws. The bill also would prohibit the trapping of bats, as specified. By specifying these new Fish and Game Code violations, thereby defining new crimes, this bill would impose a state-mandated local program.

(3) 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.

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 4004 of the Fish and Game Code is
2 amended to read:
- 3 4004. It is unlawful to do any of the following:
- 4 (a) Use a trap with saw-toothed or spiked jaws.
- 5 (b) Use or sell leghold steel-jawed traps with a spread of 5 ½
6 inches or larger without offset jaws.
- 7 (c) Use steel-jawed traps larger than size 1 ½ or with a spread
8 larger than 4 ⅞ inches for taking muskrat.
- 9 (d) Set or maintain traps which do not bear a number or other
10 identifying mark registered to the department or, in the case of a
11 federal, state, county, or city agency, bear the name of that agency,
12 except that traps set pursuant to Section 4152 or 4180 shall bear
13 an identifying mark in a manner specified by the department. No
14 registration fee shall be charged pursuant to this subdivision.
- 15 (e) Fail to visit and remove all animals from traps at least once
16 daily. If the trapping is done pursuant to Section 4152 or 4180, the
17 inspection and removal shall be done by the person who sets the
18 trap or the owner of the land where the trap is set or an agent of
19 either.
- 20 (f) Use a steel leghold trap with a spread exceeding 7 ½ inches
21 or killer-type trap of the conibear type that is larger than 6 inches
22 by 6 inches, unless partially or wholly submerged in water.
- 23 (g) Set or maintain steel leghold traps within 30 feet of bait
24 placed in a manner or position so that it may be seen by any soaring
25 bird. As used in this subdivision, “bait” includes any bait composed
26 of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.
- 27 (h) Set or maintain steel leghold traps with a spread of 5 ½
28 inches or larger without a tension device.
- 29 (i) Kill any trapped mammal in accordance with this section by
30 intentional drowning, injection with any chemical not sold for the
31 purpose of euthanizing animals, or thoracic compression,
32 commonly known as chest crushing.
- 33 (j) Solicit trapping business from the public for reasons of health
34 or safety or any reason other than damage to crops or property
35 under a class II license, pursuant to Section 4152, 4180, or 4011.

(k) (1) Trap bats, except that nets may be used for nonlethal control of property damage or for protection of human health or safety. Nets and exclusion are the only lawful methods of removing bats from a structure. Except as provided for in paragraph (2), bats may be excluded only outside of the periods during which nonflying young are present and when bats are in torpor or hibernation. This ~~section~~ *subdivision* shall not affect a person possessing a scientific collector's permit, pursuant to Section 1002 or 2081.

(2) Bats may be excluded to protect human health or safety at any time when in accordance with subparagraphs (A) and (B).

(A) If there are holes or cracks in a structure that allow bats to enter the interior area of a structure that humans occupy, it is the responsibility of a property owner or a designated agent or licensee to seal or screen or otherwise close these holes to prevent bats from entering the structure. If the property owner or a designated agent or licensee is unable to seal, screen, or otherwise close the holes or cracks that allow bats to enter the structure, the property owner or a designated agent or licensee shall contact the nearest regional office of the department prior to taking any action to exclude the bats.

(B) If a property owner or a designated agent or licensee contacts a regional office of the department to report that bats are entering the interior of a structure that is occupied by humans and is unable to seal those access points that allow bats entry, the department shall assist the property owner or a designated agent or licensee in addressing this risk to human health or safety. The department may assist by recommending the appropriate course of action and may request that the property owner or a designated agent or licensee grant permission for a department warden or biologist to enter the affected structure to further assist the property owner or a designated agent or licensee. The department may want to identify the species of bat, the protected status of the bat, the size of the colony, or other factors in providing an effective remedy to protect the health or safety of all occupants of the structure and the protection of bats. The department shall not prohibit any person from excluding bats for the protection of human health or safety.

(3) For purposes of this subdivision, the following terms have the following meanings:

1 (A) “Exclusion” means a method of allowing an animal to leave
2 an area but not return.

3 (B) “Protection of human health or safety” means preventing
4 direct human contact with bats within any structure.

5 (C) “Torpor or hibernation” means a period in which the
6 consistent weekday temperature remains consistently ~~over~~ *under*
7 50 degrees Fahrenheit for seven consecutive days except as
8 otherwise authorized by the department.

9 SEC. 2. Section 4005 of the Fish and Game Code is amended
10 to read:

11 4005. (a) Except as otherwise provided in this section, every
12 person, other than a fur dealer, who traps fur-bearing mammals or
13 nongame mammals, designated by the commission or who sells
14 raw furs of those mammals, shall procure a trapping license. “Raw
15 fur” means any fur, pelt, or skin that has not been tanned or cured,
16 except that salt-cured or sun-cured pelts are raw furs.

17 (b) The department shall develop standards that are necessary
18 to ensure the competence and proficiency of applicants for a
19 trapping license. A person shall not be issued a license until he or
20 she has passed a test of his or her knowledge and skill in this field.

21 (c) Persons trapping mammals in accordance with Section 4152
22 or 4180 are not required to procure a trapping license except when
23 providing trapping services for profit.

24 (d) (1) A person who has complied with all applicable licensing
25 and license renewal requirements to trap wildlife for recreation or
26 fur may be issued a class I trapping license.

27 (2) A person who has passed the trapping license application
28 test established by the department pursuant to subdivision (b) for
29 persons trapping wildlife for a profit in accordance with Section
30 4152 or 4180 may be issued a class II trapping license. The
31 department shall publish on the Internet Web site of the department
32 a list of class II licensees authorized to provide trapping services
33 to the public for a profit in accordance with Section 4152 or 4180
34 and the registered business name under which the licensee operates.

35 (3) A license shall be renewed only for the category of license
36 that is currently possessed.

37 (e) ~~No raw~~ Raw furs taken by persons providing trapping
38 services for profit ~~may~~ *shall not* be sold.

39 (f) The license requirement imposed by this section does not
40 apply to any of the following:

(1) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(2) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(3) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(g) Except for species that are listed pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or Chapter 8 (commencing with Section 4700), nothing in this code or regulations adopted pursuant thereto shall prevent or prohibit a person from trapping any of the following animals:

(1) Gophers.

(2) House mice.

(3) Moles.

(4) Rats.

(5) Voles.

(h) Notwithstanding Section 12156, the commission may issue a formal warning or suspend a license when a licensee is found, after a duly noticed public hearing, to have published information about wildlife diseases that is inconsistent with the information about wildlife diseases published by the federal Centers for Disease Control and Prevention or by the department. The commission may consider other sources of information as appropriate.

SEC. 3. Section 4006 of the Fish and Game Code is amended to read:

4006. (a) A *class I* trapping license shall be issued as follows:

(a)

1 (1) To any resident of this state over the age of 16 years upon
2 payment of a base fee of forty-five dollars (\$45), as adjusted under
3 Section 713.

4 ~~(b)~~

5 (2) To any resident of this state under the age of 16 years upon
6 payment of a base fee of fifteen dollars (\$15), as adjusted under
7 Section 713.

8 ~~(c)~~

9 (3) To any person not a resident of this state upon payment of
10 a base fee of two hundred twenty-five dollars (\$225), as adjusted
11 under Section 713.

12 A license shall not be issued to a nonresident if the state in which
13 he or she resides does not provide for issuance of a nonresident
14 trapping license to California residents. Also, a nonresident issued
15 a license under this subdivision may take only those species, and
16 may take or possess only that quantity of a species ~~which~~ that a
17 resident of California may take or possess under a nonresident
18 trapping license or permit in the state of residence of that
19 nonresident.

20 *(b) (1) The commission shall establish a base fee for a class II*
21 *trapping license, in an amount sufficient to recover all reasonable*
22 *administrative and implementation costs of the department and*
23 *commission relating to the license. The fee imposed pursuant to*
24 *this subdivision shall be adjusted pursuant to Section 713.*

25 ~~(d) The Trapping Enforcement Account is hereby established~~
26 ~~within the Fish and Game Preservation Fund.~~

27 (2) Revenues of the license fees imposed pursuant to ~~this section~~
28 ~~paragraph (1)~~ shall be deposited in the Trapping Enforcement
29 Account and moneys in the account shall be available, upon
30 appropriation by the Legislature, to fund *reimbursement of the*
31 *department and commission for the reasonable costs of the*
32 *administration and enforcement of the provisions of this code*
33 *relating to class II trapping licenses and of regulations adopted*
34 *pursuant to those provisions.*

35 SEC. 4. Section 4007 of the Fish and Game Code is amended
36 to read:

37 4007. A class I trapping license authorizes the person to whom
38 it is issued to take, during the open season, fur-bearing mammals
39 and nongame mammals for a term of one year from July 1st, or if

1 issued after the beginning of that term, for the remainder of the
2 term and to sell the raw fur of these mammals.

3 SEC. 5. Section 4008 of the Fish and Game Code is amended
4 to read:

5 4008. A trapping license shall not be issued to any applicant
6 within one year following the expiration of any trapping license
7 previously issued to that applicant unless the applicant has
8 submitted to the department a sworn statement showing the number
9 of each kind of fur-bearing mammals and nongame mammals taken
10 under the previous license. A class I trapping licensee shall provide
11 the names and addresses of the persons to whom furs were shipped
12 or sold.

13 SEC. 6. Section 4013 is added to the Fish and Game Code, to
14 read:

15 4013. (a) A class II trapping licensee shall make a reasonable
16 effort not to leave dependent young animals that are orphaned as
17 a consequence of the trapping and killing of their mother to die
18 within an area of a home or business that is inaccessible to the
19 licensee. "Reasonable effort" is defined as taking steps to ascertain
20 whether dependent young animals are present, including, but not
21 limited to, any of the following:

22 (1) Using the natural history information that is included in the
23 class II trapping license application examination.

24 (2) Requesting information from the potential client that would
25 indicate whether dependent young animals are present, such as
26 infant vocalization and other sounds and activity commonly
27 associated with young being present.

28 (3) Conducting a visual inspection of the area where sounds or
29 activity have been reported.

30 (4) Monitoring an entry point with a paper block or tracking
31 powder to determine whether the entry is disturbed on a daily basis,
32 indicating a mother returning to her young.

33 (5) Using a heat sensor or other technology.

34 (6) Affixing a one-way door attached to a holding cage across
35 an entry point of a structure to visually confirm whether the animal
36 is a lactating female.

37 (7) Other methods of identifying whether young dependent
38 animals are present.

39 (b) A lactating female animal shall not be killed, and traps shall
40 not be set if young animal sounds have been reported or it is known

1 or suspected that dependent young animals exist on the premises
2 and the removal of young is not possible due to the fact that the
3 area from which the licensee is trying to remove the animals is
4 inaccessible to the licensee.

5 (c) If a licensee determines that young dependent animals are
6 present, the licensee shall use lawful and humane methods to
7 encourage the mother to relocate the young from the area from
8 which the licensee is trying to remove the animals.

9 SEC. 7. Section 4014 is added to the Fish and Game Code, to
10 read:

11 4014. (a) Class II trapping licensees that provide trapping
12 services for profit pursuant to Section 4152 or 4180 shall provide
13 each client with a written contract prior to setting traps.

14 (b) The written contract shall contain the following information
15 and disclosures and shall be printed in at least 12-point typeface
16 beginning on and continuing from the upper half of the first page
17 of the contract:

18
19 California law requires consumers to be provided with the
20 following information and disclosures prior to traps being set,
21 when hiring wildlife trapping services.

22 • Name and current contact information of the person setting
23 a trap.

24 • The current year's trapping license number of the individual
25 setting a trap and the business name under which the services are
26 provided.

27 • "It is only lawful to trap wildlife for a profit in California
28 if damage to crops or property has occurred. Animals posing a risk
29 to human health or safety may only be taken by specified
30 government officials (Sections 4011, 4152, and 4180 of the Fish
31 and Game Code)."

32 • "This is a description of the property damage as confirmed
33 by the licensed trapper through visual inspection:

34 _____."

35 • "This is the target animal or species responsible for the
36 damage:

37 _____."

38 • "All furbearing and nongame mammals that are legal to
39 trap must be immediately killed or released. Unless released,
40 trapped animals shall be killed by shooting where local ordinances,

landowners, and safety permit (Section 465.5(g)(1) of Title 14 of the California Code of Regulations).”

- “Nontarget animals are defined as those animals that become accidentally trapped, but are not responsible for the documented property damage. These animals must be immediately released.”

- “Traps must be inspected and all animals removed at least once each day by the licensed trapper, the person hiring the trapper, or an agent thereof, pursuant to Sections 4152 and 4180 of the Fish and Game Code.”

- “This is the name and telephone number of the person charged with checking the traps each day: _____.”

- “A reasonable effort must be made to prevent orphaning dependent animal young. It is prohibited to set traps for an animal when young are inaccessible or to kill a lactating female animal if young are inaccessible within a structure such as a home or business as a consequence of trapping and killing the mother (Section 4013 of the Fish and Game Code). A reasonable effort includes, but is not limited to, (a) requesting information about sounds and activity that would indicate young animals are present, (b) inspecting the area where sounds or activity is occurring, and (c) monitoring an access point for evidence of a mother returning daily to her young (Section 4013 of the Fish and Game Code).”

- “The following methods of dispatching trapped mammals are prohibited: drowning, chest crushing, or injection with any chemical not sold for the purpose of animal euthanasia (Section 4004 of the Fish and Game Code).”

- An identifying tag issued by the Department of Fish and Game is required to be affixed to every trap that is set (Section 465.5(g)(1) of Title 14 of the California Code of Regulations).

- A person shall not trap a bat. Bats may be excluded, pursuant to Section 4004(k) of the Fish and Game Code, during certain time periods, as specified in Section 4004(k) of the Fish and Game Code. Where necessary to protect human health or safety, the department may exclude bats, as specified in Section 4004(k) of the Fish and Game Code.

- Address and signature of client:

_____.

- Signature of licensed trapper who will be placing traps:

1 _____.

2 • The following is a true and accurate list of each animal (by

3 species) trapped at this address, the date each animal was removed,

4 and the final disposition of the removed animal.

5 Species Trapped: _____

6 Date: _____

7 Final disposition: _____

8

9 SEC. 8. No reimbursement is required by this act pursuant to

10 Section 6 of Article XIII B of the California Constitution because

11 the only costs that may be incurred by a local agency or school

12 district will be incurred because this act creates a new crime or

13 infraction, eliminates a crime or infraction, or changes the penalty

14 for a crime or infraction, within the meaning of Section 17556 of

15 the Government Code, or changes the definition of a crime within

16 the meaning of Section 6 of Article XIII B of the California

17 Constitution.