

AMENDED IN ASSEMBLY JUNE 15, 2012

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)
(Coauthors: Senators Hancock and Lieu)

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 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 to determine whether dependent young are present within a home or business premise and to prevent orphaning young animals as a consequence of trapping and killing the mother.~~ 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:

SECTION 1. Section 4004 of the Fish and Game Code is amended to read:

4004. It is unlawful to do any of the following:

(a) Use a trap with saw-toothed or spiked jaws.

(b) Use or sell leghold steel-jawed traps with a spread of 5 ½ inches or larger without offset jaws.

(c) Use steel-jawed traps larger than size 1 ½ or with a spread larger than 4 ⅞ inches for taking muskrat.

(d) Set or maintain traps which do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency, except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner specified by the department. No registration fee shall be charged pursuant to this subdivision.

(e) Fail to visit and remove all animals from traps at least once daily. If the trapping is done pursuant to Section 4152 or 4180, the inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

(f) Use a steel leghold trap with a spread exceeding 7 ½ inches or killer-type trap of the conibear type that is larger than 6 inches by 6 inches, unless partially or wholly submerged in water.

(g) Set or maintain steel leghold traps within 30 feet of bait placed in a manner or position so that it may be seen by any soaring bird. As used in this subdivision, “bait” includes any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.

(h) Set or maintain steel leghold traps with a spread of 5 ½ inches or larger without a tension device.

(i) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. *This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set in water for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.*

(j) Solicit trapping business from the public for reasons of health or safety or any reason other than damage to crops or property 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 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:

(A) "Exclusion" means a method of allowing an animal to leave an area but not return.

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

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

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

9 4005. (a) Except as otherwise provided in this section, every
10 person, other than a fur dealer, who traps fur-bearing mammals or
11 nongame mammals, designated by the commission or who sells
12 raw furs of those mammals, shall procure a trapping license. “Raw
13 fur” means any fur, pelt, or skin that has not been tanned or cured,
14 except that salt-cured or sun-cured pelts are raw furs.

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

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

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

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

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

35 (e) Raw furs taken by persons providing trapping services for
36 profit shall not be sold.

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

39 (1) Officers or employees of federal, county, or city agencies
40 or the department, when acting in their official capacities, or

1 officers or employees of the Department of Food and Agriculture
2 when acting pursuant to the Food and Agricultural Code pertaining
3 to pests or pursuant to Article 6 (commencing with Section 6021)
4 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural
5 Code.

6 (2) Structural pest control operators licensed pursuant to Chapter
7 14 (commencing with Section 8500) of Division 3 of the Business
8 and Professions Code, when trapping rats, mice, voles, moles, or
9 gophers.

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

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

22 (1) Gophers.

23 (2) House mice.

24 (3) Moles.

25 (4) Rats.

26 (5) Voles.

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

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

36 4006. (a) A class I trapping license shall be issued as follows:

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

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

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

7 A license shall not be issued to a nonresident if the state in which
8 he or she resides does not provide for issuance of a nonresident
9 trapping license to California residents. Also, a nonresident issued
10 a license under this subdivision may take only those species, and
11 may take or possess only that quantity of a species that a resident
12 of California may take or possess under a nonresident trapping
13 license or permit in the state of residence of that nonresident.

14 (b) (1) The commission shall establish a base fee for a class II
15 trapping license, in an amount sufficient to recover all reasonable
16 administrative and implementation costs of the department and
17 commission relating to the license. The fee imposed pursuant to
18 this subdivision shall be adjusted pursuant to Section 713.

19 (2) Revenues of the license fees imposed pursuant to paragraph
20 (1) shall be available, upon appropriation by the Legislature, to
21 fund reimbursement of the department and commission for the
22 reasonable costs of the administration and enforcement of the
23 provisions of this code relating to class II trapping licenses and of
24 regulations adopted pursuant to those provisions.

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

27 4007. A class I trapping license authorizes the person to whom
28 it is issued to take, during the open season, fur-bearing mammals
29 and nongame mammals for a term of one year from July 1st, or if
30 issued after the beginning of that term, for the remainder of the
31 term and to sell the raw fur of these mammals.

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

34 4008. A trapping license shall not be issued to any applicant
35 within one year following the expiration of any trapping license
36 previously issued to that applicant unless the applicant has
37 submitted to the department a sworn statement showing the number
38 of each kind of fur-bearing mammals and nongame mammals taken
39 under the previous license. A class I trapping licensee shall provide

1 the names and addresses of the persons to whom furs were shipped
2 or sold.

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

5 4013. (a) A class II trapping licensee shall make a reasonable
6 effort ~~not to leave dependent young animals that are orphaned as~~
7 ~~a consequence of the trapping and killing of their mother to die~~
8 ~~within an area of a home or business that is inaccessible to the~~
9 ~~licensee to determine whether dependent young are present within~~
10 ~~a home or business premise and to prevent orphaning young~~
11 ~~animals as a consequence of trapping and killing the mother.~~
12 “Reasonable effort” is defined as taking steps to ascertain whether
13 dependent young animals are present, including, but not limited
14 to, any of the following:

15 (1) Using the natural history information that is included in the
16 class II trapping license application examination, *including*
17 *consideration of the time of year.*

18 (2) Requesting information from the potential client that would
19 indicate whether dependent young animals are present, such as
20 infant vocalization, *sounds in the early morning or daytime in a*
21 *localized area*, and other sounds and activity commonly associated
22 with young being present.

23 (3) Conducting a visual inspection of the area where sounds or
24 activity have been reported *when areas that may have well-hidden*
25 *young can be thoroughly inspected visually.*

26 (4) Monitoring an entry point with a paper block ~~or~~, tracking
27 powder, *surveillance, or recording device* to determine whether
28 the entry is disturbed on a daily basis, indicating a mother returning
29 to her young.

30 (5) Using a heat sensor, *portable motion-activated camera, or*
31 *other monitoring, recording, surveillance, or other technology.*

32 (6) Affixing a ~~one-way door attached to a~~ holding cage across
33 an entry point of a structure to visually confirm whether ~~the animal~~
34 ~~is a lactating female is present.~~ *Holding cages should be checked*
35 *on a priority basis within the lawful 24 hour trap check*
36 *requirement period pursuant to subdivision (e) of Section 4004.*
37 *When feasible, double-opening holding cages should be set to*
38 *identify whether a lactating female, sleeping separately from her*
39 *young during weaning, is returning to her young during her natural*

1 *foraging period. A single-opening holding cage should be removed*
2 *if it is observed that a struggle to enter has occurred.*

3 (7) Other methods of identifying whether young dependent
4 animals are present.

5 (b) A lactating female animal shall not be killed, and traps shall
6 not be set, *except as provided in paragraph (6) of subdivision (a),*
7 *if young animal sounds have been reported or it is known or*
8 *suspected that dependent young animals exist on the premises and*
9 ~~*the removal of young is not possible due to the fact that the area*~~
10 ~~*from which the licensee is trying to remove the animals is*~~
11 ~~*inaccessible to the licensee the young are inaccessible within the*~~
12 ~~*structure.*~~

13 (c) If a licensee determines that young dependent animals are
14 present, the licensee shall use lawful and humane methods ~~to that~~
15 encourage the mother to relocate the young from the area from
16 which the licensee is trying to remove the animals. *One-way doors*
17 *may be installed when the young are confirmed to be leaving and*
18 *returning to the natal den, and the entry points may be sealed when*
19 *monitoring confirms that the mother and young have left the natal*
20 *den and no further activity is occurring.*

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

23 4014. (a) Class II trapping licensees that provide trapping
24 services for profit pursuant to Section 4152 or 4180 shall provide
25 each client with a written contract prior to setting traps.

26 (b) The written contract shall contain the following information
27 and disclosures and shall be printed in at least 12-point typeface
28 beginning on and continuing from the upper half of the first page
29 of the contract:
30

31 California law requires consumers to be provided with the
32 following information and disclosures prior to traps being set,
33 when hiring wildlife trapping services.

34 • Name and current contact information of the person setting
35 a trap.

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

39 • "It is only lawful to trap wildlife for a profit in California
40 if damage to crops or property has occurred. Animals posing a risk

1 to human health or safety may only be taken by specified
2 government officials (Sections 4011, 4152, and 4180 of the Fish
3 and Game Code).”

4 • “This is a description of the property damage as confirmed
5 by the licensed trapper through visual inspection:

6 _____.”

7 • “This is the target animal or species responsible for the
8 damage:

9 _____.”

10 • “All furbearing and nongame mammals that are legal to
11 trap must be immediately killed or released. Unless released,
12 trapped animals shall be killed by shooting where local ordinances,
13 landowners, and safety permit (Section 465.5(g)(1) of Title 14 of
14 the California Code of Regulations).”

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

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

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

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

37 • “The following methods of dispatching trapped mammals
38 are prohibited: drowning, chest crushing, or injection with any
39 chemical not sold for the purpose of animal euthanasia (Section
40 4004 of the Fish and Game Code).”

1 • An identifying tag issued by the Department of Fish and
2 Game is required to be affixed to every trap that is set (Section
3 465.5(g)(1) of Title 14 of the California Code of Regulations).

4 • A person shall not trap a bat. Bats may be excluded,
5 pursuant to Section 4004(k) of the Fish and Game Code, during
6 certain time periods, as specified in Section 4004(k) of the Fish
7 and Game Code. Where necessary to protect human health or
8 safety, the department may exclude bats, as specified in Section
9 4004(k) of the Fish and Game Code.

10 • Address and signature of client:
11 _____.

12 • Signature of licensed trapper who will be placing traps:
13 _____.

14 • The following is a true and accurate list of each animal (by
15 species) trapped at this address, the date each animal was removed,
16 and the final disposition of the removed animal.

17 Species Trapped: _____

18 Date: _____

19 Final disposition: _____
20

21 SEC. 8. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.