

First Supplement to Memorandum 2014-38

Fish and Game Law: Proposed Division 5, Part 2, Title 2 (Birds)

The Commission¹ is presently studying a proposed recodification of the Fish and Game Code.² A staff draft of proposed Title 2 of Part 2 of Division 5 (“Birds”) is attached to Memorandum 2014-38.

As indicated in that memorandum, the title contained in that staff draft would appear in a division of the proposed law entitled “Hunting, Fishing, and Other Public Use,” and within a part entitled “Hunting.”³ The provisions in Title 2 therefore primarily relate to the hunting of birds.

The staff has identified three sections of the existing code,⁴ relating to falconry, that are not included in the staff draft of proposed Title 2. Falconry involves the training and use of a bird of prey (e.g., a falcon, hawk, eagle, or owl) to hunt wild birds and small mammals.

As these provisions relate to both birds and hunting, they could be included in Title 2, within the chapter governing “Birds of Prey.”

Alternatively, since the provisions relate to a method of hunting both birds and mammals, the provisions could be located with the provisions that regulate hunting generally, near other provisions governing hunting methods. See, e.g., proposed Sections 6000 (shooting from vehicle), 6005 (prohibited shotguns), 6010 (trap guns), 6020 (other prohibited methods of taking), 6025 (herding with vehicle), 6030 (use of computer to hunt).

If the staff were to add the provisions to proposed Title 2, they could be drafted as follows:

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See Memorandum 2012-41.

3. Memorandum 2014-28, p. 1.

4. Fish & Game Code §§ 395, 396, 398.

CHAPTER 5. BIRDS OF PREY

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Article 2. Falconry

§ 7805. Regulations

7805. The commission may adopt regulations for the possession or training, and the capture, importation, exportation, or intrastate transfer, of any bird in the orders Falconiformes and Strigiformes (birds-of-prey) used in the practice of falconry, and may authorize the issuance and provide for the revocation of licenses and permits to persons for the practice of falconry.

Comment. Section 7805 continues former Fish and Game Code Section 395(a) without change, except as indicated below:

The following nonsubstantive change is made:

- A comma is added for clarity.

§ 7810. Required license

7810. It is unlawful to capture, possess, or train any bird in the orders Falconiformes and Strigiformes (birds-of-prey) in the practice of falconry without procuring a falconry license.

Comment. Section 7810 continues former Fish and Game Code Section 395(b) without change.

§ 7815. License duration

7815. ~~The~~ A falconry license shall be valid for a license year beginning on July 1 and ending on the last day of June of the next succeeding calendar year. If issued after July 1 of any year, a falconry license is valid for the remainder of that license year.

Comment. Section 7815 continues former Fish and Game Code Section 396(a) without change, except as indicated below:

The following nonsubstantive change is made:

- The word "The" is replaced with "A."

§ 7820. License fee

7820. (a) ~~For the license years beginning on or after March 1, 1987, the~~ The fee for a falconry license is a base fee of thirty dollars (\$30) as adjusted under Section 713 ~~2780~~.

(b) ~~The~~ The base year for determining the inflationary index applied to the fee ~~established by Section 396~~ provided in subdivision (a) shall be the 1984–85 fiscal year, ~~and the base year for determining the inflationary index to be applied to the fee established by Section 397 shall be the 1985–86 fiscal year.~~

Comment. Subdivision (a) of Section 7820 continues former Fish and Game Code Section 396(b) without change, except as indicated below:

The following nonsubstantive changes are made:

- The words “For the license years beginning on or after March 1, 1987” are deleted as obsolete.
- A cross-reference to former Fish and Game Code Section 713 is updated.

Subdivision (b) continues former Fish and Game Code Section 398 without change, except as indicated below:

The following nonsubstantive changes are made:

- The words “established by Section 396” are replaced with “provided in subdivision (a).”
- The language of the provision relating to an index to be applied to the fee established by former Fish and Game Code Section 397 is deleted as obsolete, based on the repeal of former Fish and Game Code Section 397. See 2007 Cal. Stat. ch. 285.

Does the Commission wish to add these provisions to proposed Title 2 (“Birds”), with or without changes, or would the Commission prefer that the provisions be located with the general hunting provisions that regulate methods of hunting?

Respectfully submitted,

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