

Memorandum 2014-57

**Fish and Game Law:
Technical Revisions and Minor Substantive Improvements: Part 1
(Draft Recommendation)**

The Commission is presently preparing a recodification of the Fish and Game Code.¹ While that work proceeds, the Commission will separately recommend miscellaneous revisions that do not require recodification, in order to provide more immediate improvement of existing law.²

In June 2014, the Commission circulated the first of these interim proposals, a Tentative Recommendation on *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 1)*.³

At its October meeting, the Commission considered public comment on that tentative recommendation.⁴ Based on issues raised by the comment, the Commission decided to make some changes to the tentative recommendation.⁵ Decisions on some other issues were deferred until the December meeting.

This memorandum discusses those unresolved issues, considers new public comment, and presents a staff draft of a final recommendation. The new public comment is attached as an Exhibit, as follows:

Exhibit p.

- Sonke Mastrup, Executive Director of the Fish and Game Commission (10/21/14)1
- Angela Donlan, California Department of Fish and Wildlife (11/13/14)4

1. See Memorandum 2012-41.
 2. Minutes (Feb. 2014), p. 13.
 3. 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.
 4. See Exhibit to Memorandum 2014-49; Minutes (Oct. 2014), p. 5.
 5. Minutes (Oct. 2014), p. 5.

The staff draft incorporates all prior decisions that the Commission has made regarding this recommendation. For the purposes of illustration, it also includes the changes that the staff recommends in this memorandum. Any staff recommendation that is not approved by the Commission will be deleted from the draft.

The Commission needs to decide whether to approve the attached draft as a final recommendation, with or without changes, for printing and submission to the Legislature.

Unless otherwise indicated, all statutory references in this memorandum are to the Fish and Game Code.

ANIMAL PARTS

The Fish and Game Code is not consistent in expressly stating whether provisions that apply to particular types of animals also apply to *parts* of those animals.⁶

The tentative recommendation proposes to address that issue globally, by:

- (1) Adding a general rule of construction providing that references to animals include parts of animals (except where a provision or context requires otherwise).⁷
- (2) Deleting what would then be superfluous references to parts of animals, except where it appears that a separate reference to a part is needed.⁸

Commission Decisions

At the October meeting, the Commission decided to preserve apparently superfluous references to animal parts in seven provisions that often form the basis for jury instructions in criminal prosecutions.⁹ The Commission further decided that the Commission Comments following these sections should make clear that the retention of those references is not intended to affect the meaning of any other code section where such references were deleted.¹⁰

6. See Tentative Recommendation, pp. 2-4.

7. Proposed Section 80.

8. Tentative Recommendation, p. 3.

9. Minutes (Oct. 2014), p. 5. The code sections are Sections 22, 45, 54, 2000, 2002, 7370, and 12012.

10. Minutes (Oct. 2014), p. 5.

The Commission also decided that the proposed revision to Section 7370(a)(3) should be modified to more clearly express its meaning.¹¹

Those decisions are implemented in the attached draft as follows (with a few minor stylistic changes):

Fish & Game Code § 22 (amended). “Bird”

22. “Bird” means ~~any~~ a wild bird or any part thereof of a wild bird.

Comment. Section 22 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 45 (amended). “Fish”

45. “Fish” means a wild fish, mollusks, crustaceans, invertebrates, or amphibians, including any mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ova thereof of any of those animals.

Comment. Section 45 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 54 (amended). “Mammal”

54. “Mammal” means ~~any~~ a wild or feral mammal or any part thereof of a wild or feral mammal, but not any a wild, feral, or undomesticated burro.

Comment. Section 54 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

11. See Memorandum 2014-49, pp. 5, 7; Minutes (Oct. 2014), p. 5.

Fish & Game Code § 2000 (amended). Unauthorized take

2000. (a) It is unlawful to take any bird, mammal, fish, reptile, or amphibian except as provided in this code or ~~regulations made pursuant thereto~~ in a regulation adopted pursuant to this code.

(b) Possession of a bird, mammal, fish, ~~or~~ reptile, amphibian, or ~~parts thereof~~ part of any of those animals, in or on the fields, forests, or waters of this state, or while returning therefrom with fishing or hunting equipment, is prima facie evidence the possessor took the bird, mammal, fish, ~~or~~ reptile, amphibian, or ~~parts thereof~~ part of that animal.

Comment. Subdivision (b) of Section 2000 is amended to add amphibians.

Section 2000 is also amended to add subdivision designations and make nonsubstantive stylistic changes.

The references to a “part” of an animal in this section are superfluous. See Section 80 (reference to animal generally includes part of animal). They are retained solely for clarity, and are not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 2002 (amended). Unlawful possession

2002. It is unlawful to possess ~~any~~ a bird, mammal, fish, reptile, ~~or~~ amphibian, or ~~parts thereof~~ part of any of those animals, taken in violation of ~~any of the provisions~~ a provision of this code, ~~or of any or regulation made under it~~ adopted pursuant to this code.

Comment. Section 2002 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 7370 (amended). Sturgeon

7370. (a) It is unlawful to take or possess for commercial purposes, buy or sell, or to offer to buy or sell, any whole sturgeon, or any part ~~thereof~~ of a sturgeon, including, but not limited to, its eggs, except as follows:

(1) A sturgeon, ~~or parts thereof~~ part of a sturgeon, or sturgeon eggs ~~that is~~ taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, may be bought or sold ~~or purchased~~ subject to regulations of the commission.

(2) A sturgeon, ~~or parts thereof~~ part of a sturgeon, or sturgeon eggs ~~that is~~ taken commercially in another state that permits the sale of ~~the fish~~ sturgeon, and lawfully imported under Section 2363, may be possessed, bought, or sold, ~~or purchased.~~

(3) Sturgeon, or ~~parts thereof~~ part of a sturgeon, taken pursuant to a sport fishing license, that is processed in accordance with Section 7230.

(b) For purposes of this section, it is prima facie evidence that a sturgeon, ~~or parts thereof~~ or part of a sturgeon, is possessed for commercial purposes, if the possession ~~of sturgeon~~ is more than two times the sport bag limit.

Comment. Section 7370 is amended to make nonsubstantive stylistic changes.

The references to a “part” of an animal in this section are superfluous. See Section 80 (reference to animal generally includes part of animal). They are retained solely for clarity, and are not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 12012 (amended). Punishment for illegal action

12012. (a) Any person who illegally takes, possesses, imports, exports, sells, purchases, barter, trades, or exchanges ~~any amphibian,~~ a bird, fish, mammal, ~~or~~ reptile, amphibian, or ~~part thereof~~ of any of those animals, for profit or personal gain, is guilty of a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000), nor more than forty thousand dollars (\$40,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

....

Comment. Section 12012 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained in this section solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

REPTILES AND AMPHIBIANS

A handful of provisions in the code expressly apply to all types of vertebrates, with the exception of either reptiles *or* amphibians. As the Commission saw no policy reason to exclude just one of those categories of vertebrates from such a provision, the tentative recommendation generally proposes that *both* amphibians and reptiles be included in a provision that governs all other vertebrates.¹²

12. Tentative Recommendation, p. 4.

Comment of Department

The Department of Fish and Wildlife (hereafter, “the Department”) has previously expressed two general concerns about these revisions.¹³

First, it had indicated that it does not presume that every omission of a reference to a reptile or amphibian in the code was necessarily inadvertent, implying that the Commission’s general assumption might be incorrect in specific instances. Second, it had expressed concern that adding references to amphibians in provisions that already govern fish will exacerbate an existing redundancy in the code relating to the term “fish” (which as defined includes amphibians, mollusks, crustaceans, and invertebrates).

After consideration of this comment, the staff was directed to inquire of the Department as to whether it objects to any specific addition of the words “reptile” or “amphibian” in the proposed law.¹⁴

The Department has responded to that inquiry, indicating it does not.¹⁵

New Comment

Sonke Mastrup, the Executive Director of the Fish and Game Commission, has echoed the second expressed concern of the Department relating to these revisions.¹⁶

Like the Department, Mr. Sonke suggests, based on the existing definition of the term “fish” (which expressly includes amphibians), that adding a reference to amphibians in a code section that already references fish would be redundant, and could be a source of confusion.¹⁷

The Commission has discussed the existing problems with the definition of “fish” at some length, and decided against resolving those broader problems in this study.¹⁸

However, in light of the concern that has now been expressed by both the Department and the Fish and Game Commission, it might be helpful to add a disclaimer to the Commission Comments where a reference to amphibians

13. See Memorandum 2014-49, p. 10.

14. Minutes (Oct. 2014), p. 5.

15. Exhibit, p. 4.

16. See Memorandum 2014-49, p. 10.

17. Exhibit, p. 3.

18. See Memorandum 2014-49, p. 10.

would be added to a section that already references fish. The disclaimer could be similar to the Comment language discussed above:

The reference to amphibians in this section is superfluous. See Section 45 (“fish” includes amphibians). It is added solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to amphibians.

Should such language be added to the Comments of proposed Sections 240, 1000, 1003, 2000, and 13220?

TECHNICAL CORRECTIONS

The tentative recommendation also proposes a number of technical corrections to existing code sections. A few of the proposed revisions generated comment or objection from the public.¹⁹

At the October meeting, the Commission made decisions on two of the objections, but deferred decision on several others, pending staff follow-up.²⁰

Commission Decisions

Reward for Taking (Section 2003)

The tentative recommendation proposes to revise a portion of existing Section 2003 as follows:²¹

2003. (a)

(b) The department may issue a permit to any person authorizing that person to offer a prize or other inducement as a reward for the taking of any game fish.... The application for the permit shall be accompanied by a fee.... However, the department may waive the permit fee if the contest, tournament, or derby is for persons who are under the age of 16 years, or who are physically or mentally challenged, have a physical or mental disability, and the primary purpose of the contest, tournament, or derby is to introduce young those anglers to, or educate them about fishing.

.....

19. See Exhibit to Memorandum 2014-49.

20. See Memorandum 2014-49, pp. 11-14, 18-23; Minutes (Oct. 2014), p. 5.

21. Tentative Recommendation, pp. 27-28.

The Department has recommended against making this revision.²² It noted that the term “disability” is used elsewhere in the code to refer to a condition that must be supported by documentation, and suggested that the term “challenge[d]” may be understood as referring to a broader category of persons.²³

At the October meeting, the Commission decided against changing the proposed language.²⁴ The Commission further decided to revise the Commission Comment to indicate that the word “disability” is not being used in any defined sense.²⁵

That decision is implemented in the staff draft recommendation.²⁶

Civil Liability (Section 2014)

The tentative recommendation would revise Section 2014 as follows:²⁷

2014. (a) It is the policy of this state to conserve its natural resources and to prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or amphibia.

(b) The state may recover damages in a civil action against any person or local agency ~~which~~ that unlawfully or negligently takes or destroys any bird, mammal, fish, reptile, or amphibian protected by the laws of this state.

~~(b) (c)~~ The measure of damages is the amount ~~which~~ that will compensate for all the detriment proximately caused by the taking or destruction of the birds, mammals, fish, reptiles, or amphibia.

~~(e) (d)~~ An action to recover damages under this section shall be brought in the name of the people of the state, in a court of competent jurisdiction in the county in which the cause of action arose. The State Water Resources Control Board shall be notified of, and may join in, any action brought under this section when the activities alleged to have caused the destruction of any bird, mammal, fish, reptile, or amphibian may involve either the unlawful discharge of pollutants into the waters of the state or other violation of Division 7 (commencing with Section 13000) of the Water Code.

~~(d) This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the~~

22. See Memorandum 2014-49, p. 15.

23. *Id.*

24. Minutes (Oct. 2014), p. 5.

25. *Id.*

26. See attached staff draft Recommendation, p. 27.

27. Tentative Recommendation, pp. 30-31.

~~destruction of birds or mammals killed while damaging crops as provided by law.~~

~~(e) This section does not apply to any of the following:~~

~~(1) Persons or local agencies engaged in agricultural pest control.~~

~~(2) The destruction of fish in irrigation canals or works, or irrigation drainages.~~

~~(3) The lawful destruction of a bird or mammal killed while damaging crops.~~

....

At the October meeting, in response to comment from the Butte County District Attorney's office,²⁸ the Commission decided that Section 2014(d), which lists exceptions to the application of the provision, should be revised to make clear that the words "as provided by law" apply to each activity that is listed in the exception.²⁹

To implement that directive, the staff recommends that **proposed subdivision (e) restate existing subdivision (d), as follows:**

~~(d) This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops as provided by law.~~

~~(e) This section does not apply to any of the following:~~

~~(1) Persons or local agencies engaged in agricultural pest control, as provided by law.~~

~~(2) The destruction of fish in irrigation canals or works or irrigation drainages, as provided by law.~~

~~(3) The destruction of birds or mammals killed while damaging crops, as provided by law.~~

Deferred Decisions

Transportation of Animals (Section 1003)

The tentative recommendation would revise Section 1003 as follows:³⁰

1003. Mammals, birds, and ~~the nest~~ their nests and eggs thereof, fish and their eggs thereof, reptiles, amphibians, mollusks, crustaceans, or any other form of plant or animal life taken under the provisions of ~~such~~ a scientific or propagation permit issued

28. See Memorandum 2014-49, pp. 16-17.

29. Minutes (Oct. 2014), p. 5.

30. Tentative Recommendation, p. 21.

pursuant to Section 1002 may be shipped or transported anywhere within or without the state if prior written approval is obtained from the department and each ~~such~~ the shipment is accompanied by the name, address, and permit number of the person holding the scientific or propagation permit.

The Department has expressed concern about replacing the word “such” with “issued pursuant to Section 1002.”³¹ The Department in a follow-up comment does not dispute that this change would correctly continue the meaning of Section 1003.³² Its concern seems to be that this substitution would create a problematic inference regarding the Department’s authority under other sections governing scientific or propagation permits.³³ By stating expressly that Section 1003 only permits the transportation of animals pursuant to a Section 1002 permit, the revised law may lead readers to the incorrect conclusion that transportation of animals is *not* permitted when a scientific or propagation permit is issued under a section other than Section 1003.

The staff does not have sufficient familiarity with the permitting practice to know whether such confusion is likely to be created by the proposed revision. To avoid any possible misunderstanding, the Commission could add another disclaimer in its Comments, along these lines:

The amendment of this section is not intended to affect the meaning of any other provision that governs scientific or propagation permits, or transportation of animals taken pursuant to such permits.

Should such a change be made?

Hunter Education (Section 1053.5)

The tentative recommendation proposes to revise Section 1053.5 as follows:³⁴

1053.5. Applicants for hunting licenses ~~pursuant to subdivision (a) of Section 1053~~ shall first satisfactorily complete a hunter education equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter education training course, or show a previous year’s hunting license.

31. See Memorandum 2014-49, p. 12.

32. Exhibit, p. 4.

33. *Id.*

34. Tentative Recommendation, p. 22.

The Department had previously suggested that this revision need not be made.³⁵ **It has since withdrawn that objection.**³⁶

Prohibited Methods of Take (Section 3005)

The tentative recommendation proposes to revise Section 3005, a section that prohibits certain methods of taking a bird or mammal. Subdivision (c) of that section provides that certain evidence is prima facie evidence of a violation of the prohibition:

Proof of possession of any bird or mammal that does not show evidence of having been taken by means other than a net, pound, cage, trap, set line or wire, or poisonous substance, is prima facie evidence that the birds or mammals were taken in violation of this section.

The tentative recommendation would revise that subdivision to read as follows:

In the absence of evidence that a bird or mammal was taken by means other than a net, pound, cage, trap, set line or wire, or poisonous substance, proof of possession of a bird or mammal is prima facie evidence that the bird or mammal was taken with a net, pound, cage, trap, set line or wire, or poisonous substance.³⁷

The purpose of the proposed revision was to make the provision easier to understand, without changing its substance.

The Department is concerned that the revision would result in an “unfavorable substantive change to the evidentiary standard.”³⁸ After further consideration of that input, the staff agrees that the revision might cause a change in the substance of the rule.

The existing provision applies when these two facts are established:

- (1) Possession of an animal.
- (2) *The animal* does not show evidence that it was taken by a lawful method.

Under the proposed law, the second fact would be slightly different:

- (1) Possession of an animal.

35. See Memorandum 2014-49, p. 13.

36. Exhibit, p. 4.

37. Tentative Recommendation, pp. 39-41.

38. See Memorandum 2014-49, p. 21.

- (2) There is *no* evidence that the animal was taken by a lawful method.

Under existing law, the condition of the animal's body is the sole source of exculpatory evidence. Under the proposed revision, *any* type of evidence could be used to escape the prima facie rule. For example, witness testimony that the animal was taken by lawful means would be sufficient.

That may not be a bad result, from a policy perspective. But it would be a *different* result. **Given that the proposed revision of Section 3005 is intended to be purely technical, it may make sense to omit the revision from the proposed law.**

Hunting Dogs (Section 3008)

The tentative recommendation proposes to revise Section 3008 as follows:³⁹

~~3008. The physical control of a dog by its owner while the dog is engaged in hunting in an area where the owner is otherwise authorized to hunt, shall be as required by this code or regulations made pursuant thereto.~~

(a) It is unlawful for the owner of a dog engaged in hunting in an area where the owner is authorized to hunt to fail to exercise physical control of the dog, as required by this code or regulations adopted pursuant to this code.

(b) Dogs which are used for hunting which have been vaccinated for rabies in their county of residence in conformity with state law regulating vaccinations in rabies areas are not subject to rabies vaccination requirements of local ordinances outside their county of residence.

The Department opposes that revision, indicating that it is “arguably a substantive change to the statute that may create a higher standard than the Legislature intended with regard to physical control of a dog while hunting.”⁴⁰

The Department has since expanded on that position, explaining that the proposed revision “could be interpreted as stating that the law generally requires a hunter to exercise physical control of a dog while engaged in hunting, as opposed to only requiring physical control under some circumstances.”⁴¹ In other words, the revised provision could be read as imposing a new affirmative duty.

39. Tentative Recommendation, p. 42.

40. See Memorandum 2014-49, p. 22.

41. Exhibit, p. 4.

That concern may be easier to understand if the key language of the existing and revised versions of the provision is paraphrased as follows:

Existing rule: The physical control of hunting dogs shall be as required by law.

Proposed rule: It is unlawful to fail to exercise physical control of a hunting dog, as is required by law.

Viewed in those terms, the existing rule is almost a nullity. It simply requires that hunters do whatever the law requires. By contrast, the revised wording could be read as creating a new affirmative duty of physical control that does not depend on other legal authority. The staff does not believe that would be the best reading of the revised provision, because the revised language still refers to the code or regulations as the source of the duty. But it is possible that the language could be misunderstood, leading to confusion and the prosecution of conduct that is currently blameless.

The goal of making the language easier to understand would be undercut if the revised language were to create new sources of potential misunderstanding.

The staff has not come up with a way to reword the provision that would not open the door to the type of misunderstanding described above. The most prudent course may be to remove the revision of Section 3008 from the proposed law.

Should that be done?

Reduction Plant as Nuisance (Section 7707)

The tentative recommendation would revise Section 7707 to delete an obsolete reference to animal parts in the section.⁴² In addition, the tentative recommendation asked for input on how to correct some cross-references in Section 7707 to sections that have been repealed.⁴³

In response to the Staff Note, the Department has recommended deleting “entirely obsolete” cross-references.⁴⁴ Unfortunately, it is not clear which of the repealed cross-references are “entirely” obsolete. If a repealed section is simply dropped from the law, then a reference to that provision is truly obsolete and can be repealed without problem. However, if a provision was repealed so that its substance (or part of its substance) could be continued elsewhere, the reference

42. Tentative Recommendation, pp. 60-61.

43. Tentative Recommendation, p. 61.

44. See Memorandum 2014-49, p 23.

may not be wholly obsolete. In that case, the best course would be to instead revise the cross-reference, to point to the new section that continues the substance of the repealed section.

In response to further staff inquiry on this issue, the Department offers that it would improve the clarity of the code to delete references to repealed sections from Section 7707, but the Department would defer to the Legislature as to whether any substitute cross-references should be added.⁴⁵

There are five cross-references in Section 7707 to sections that have been repealed.⁴⁶ As to three of the sections, there is *some* indication that the cross-references to those sections are not obsolete. In each instance, the sections were repealed in bills that either added or amended Fish and Game Code sections that addressed generally similar subject matter.⁴⁷ However, determining whether those related provisions should be referenced in Section 7707 would require either clear evidence of legislative intent (which may not exist) or a sound conclusion as to policy relevance (which may be hard for non-experts to reach).

This work could be attempted, perhaps with some help from one or more members of the public familiar with the subject matter of these provisions. But the staff does not believe that it could be done in time for incorporation into the draft recommendation. It would probably need to be addressed at some future point in the study.

Although that would potentially mean leaving a statute with some broken cross-references in place for what might be years, it does not appear the existing defective references — three of which have been in place for over 35 years — have been causing either the Department or the general public any significant problems.

Alternatively, the Commission could follow the course the Department appears to be recommending, simply deleting the cross-references to repealed sections. If the Legislature wishes to substitute different references for those repealed sections, it could do so as implementing legislation proceeds.

While that sounds straightforward, it would involve one technical difficulty. Existing Section 7707 cross-refers to Sections “8153 to 8157, inclusive.” If the repealed sections were removed from that reference, it would instead refer only

45. Exhibit, p. 4.

46. Sections 8151, 8153, 8155, 8156, and 8157.

47. See 1973 Cal. Stat. ch. 638 (repealing Sections 8155 and 8156 and adding Section 8150.7); 1967 Cal. Stat. ch. 278 (repealing Section 8157 and amending Section 8150.5).

to “Section 8154.” That could be a problem, because it is not clear that the reference to Section 8154 is needed or even appropriate. That was less of a problem when Section 8154 was “hidden” in the middle of the specified range. It is not uncommon for cross-references to refer to blocks of statutory material that include some material that is not relevant. But revising the statute to specifically call out Section 8154 would suggest much more strongly that its inclusion in the scope of the cross-reference is intentional. That could cause confusion if, as the staff believes is possible, the inclusion of a cross-reference to Section 8154 doesn’t actually make sense.⁴⁸

That problem could be avoided by also deleting the reference to Section 8154. That is probably the correct result, but the matter has not yet been specifically raised for public review and comment. **The staff now invites comment on whether the reference to Section 8154 can be repealed without creating any problems.**

Relocation of Definition of “Wildlife”

Section 711.2 defines the term “wildlife” for purposes of the entire code. The Butte County District Attorney’s office has previously suggested that the definition be relocated so that it appears with the other generally applicable definitions.⁴⁹

In Memorandum 2014-49, the staff suggested that this relocation made sense from an organizational perspective, but doing so could have a substantive effect.⁵⁰ Under existing law, the definition of “wildlife” expressly applies only to the Fish and Game Code. If relocated as proposed, the definition would also apply to fish and game regulations.

The Department has indicated it is not opposed to moving the definition of “wildlife” as proposed.⁵¹

However, the Fish and Game Commission appears to have some reservations.⁵² Executive Director Mastrup sees wisdom in making the change,

48. The “Section 8154” that is presently in the Fish and Game Code is not the same section that Section 7707 cross-referred to, when both sections were enacted in 1957. 1957 Cal. Stat. ch. 456. That Section 8154, which directly related to the subject matter of Section 7707, was repealed in 1973. 1973 Cal. Stat. ch. 638. The “new” Section 8154, addressing subject matter that appears only tangentially related to the subject matter of Section 7707, was added to the Fish and Game Code some 16 years later. 1989 Cal. Stat. ch. 858.

49. See Memorandum 2014-49, p. 24.

50. *Id.*

51. Exhibit, p. 4.

“from an organizational perspective.”⁵³ However, he believes that relocation of the definition “could create some additional problems in how the rest of the code uses” the term.⁵⁴ Mr. Mastrup did not address whether relocation of the definition would affect the meaning of existing regulations. The staff has sent a follow-up inquiry to Mr. Mastrup regarding that issue, but has not yet received a response.

The staff will present any further comment on the matter as it is received. **If none is received, the Commission will need to decide whether to make the proposed change, notwithstanding the possibility that it might create unintended changes in a key term used throughout the fish and game regulations.**

Revisions Relating Directly to Fish and Game Commission Affairs

The staff has requested specific comment from the Fish and Game Commission on proposed changes to eight provisions that directly relate to the affairs of that Commission.⁵⁵ The Fish and Game Commission has been contacted and responded. It has no objections to any of those proposed revisions.⁵⁶

NEW ISSUE

Mr. Mastrup suggests that the Commission examine use of the word “game” as a modifier in the Fish and Game Code.⁵⁷ He offers as an example Section 2003, which refers to “a reward for the taking of any *game* birds, mammals, fish, reptiles, or amphibians.” In that provision, does the word “game” modify “birds” only, or does it also apply to mammals, fish, reptiles, and amphibians? This is a substantively important question because “game mammals” are a defined class that is different from all other mammals. Similar ambiguity exists in other provisions of the code.⁵⁸

The staff appreciates Mr. Mastrup raising this issue. Although it appears too substantive to be included in this technical recommendation, the staff could

52. Exhibit, p. 2.

53. *Id.*

54. *Id.*

55. See Memorandum 2014-49, pp. 24-25.

56. Exhibit, p. 1.

57. Exhibit, p. 3.

58. See, e.g., Sections 3002, 3080, 3086, 3212, 3213, 3216, 12002.1.

examine the matter more globally in a future memorandum relating to the Commission's proposed recodification of the Fish and Game Code.

Should the staff do so?

TECHNICAL CORRECTIONS

In reviewing the tentative recommendation, the staff spotted two provisions that contain language made obsolete by trial court unification. The attached draft recommendation contains revisions to correct those provisions, thus:

Fish & Game Code § 716.3 (amended). Definitions

...
(g) "Court" means a court of law, including magistrate's court and the justice of the peace court.
...

Fish & Game Code § 2014 (amended). Civil action to recover damages

...
(e) (d) An action to recover damages under this section shall be brought in the name of the people of the state, in a court of competent jurisdiction in the county in which the cause of action arose. The State Water Resources Control Board shall be notified of, and may join in, any action brought under this section when the activities alleged to have caused the destruction of any bird, mammal, fish, reptile, or amphibian may involve either the unlawful discharge of pollutants into the waters of the state or other violation of Division 7 (commencing with Section 13000) of the Water Code.
...

Does the Commission wish to include those technical changes in its recommendation?

APPROVAL OF RECOMMENDATION

Does the Commission approve the attached staff draft recommendation for publication and submission to the Legislature as a final recommendation, with or without changes?

Respectfully submitted,

Steve Cohen
Staff Counsel

EMAIL FROM STEVE COHEN (OCTOBER 21, 2014)

Mr. Mastrup,

....

As you likely already know, the Law Revision Commission is studying a recodification of the entire Fish and Game Code, with the goal of recommending to the Legislature the enactment of a new Fish and Wildlife Code. However, as this process is likely to take years to complete, the Law Revision Commission felt it could do some good in the interim by proposing some incremental technical corrections or minor substantive improvements to the *existing* code.

The first in what will likely be a series of Tentative Recommendations along those lines was distributed in June 2014, and made available to a great number of interested parties, including your Commission.

....

In the recommendation, the Commission has proposed largely technical revisions of several existing code sections, and solicited comment on those revisions from anyone who wishes to do so. We have received comment from the Department of Fish and Wildlife on most revisions included in the recommendation, but as to eight code sections, the Department indicated that the sections deal with Fish and Game Commission matters, and recommended that we “seek comment directly from the Fish and Game Commission prior to proceeding with the proposed changes.”

Those code sections are as follows:

210
240
300
301
307
312
326
14102

....

If it is at all possible, it would be most helpful if you or some other representative of the Fish and Game Commission could provide me with any comment your Commission may have on the proposed revisions to the sections listed above (and if you wish, to any other proposed revisions) by at least **October 28**, so I can at least briefly analyze the comments and present them to our Commission at our meeting. Any written submission, including an email, would certainly be fine.

**EMAIL FROM SONKE MASTRUP, FISH AND GAME COMMISSION
(OCTOBER 21, 2014)**

We are good with the proposed changes to the code sections referenced below. However, I noticed a few other sections that cause me concern. I will organize my thoughts and send them to you asap.

EMAIL FROM STEVE COHEN (OCTOBER 31, 2014)

Mr. Mastrup,

At the Law Revision Commission meeting yesterday, Harold Thomas from the Butte County D.A.'s office asked the Law Revision Commission to consider adding a proposed revision to our recommendation to the Legislature. The view of the Fish and Game Commission on this proposed revision would be welcomed.

The additional proposed revision would be to move Fish and Game Code Section 711.2(a) (which defines the term "wildlife" for purposes of the code) from its present location to Chapter 1 of Division 0.5 of the code, where most other generally applicable definitional provisions are located.

At first glance this relocation seems to make good sense, but we noted a possible complicating factor. At present, the definition of the term "wildlife" set forth in Section 711.2(a) applies throughout the code (at least per the plain meaning of the section). However, if moved to the suggested location, the definitional provision would then be subject to Fish and Game Code Section 2, which provides that "Unless the provisions or the context otherwise requires, the definitions in this chapter govern the construction of this code *and all regulations adopted under this code.*"

So, if this requested relocation of Section 711.2(a) was implemented, the definition of the term "wildlife" in Section 711.2(a) would from that point on likely be deemed to apply to all uses of the term "wildlife" in every California regulation adopted under the Fish and Game Code, absent a competing definition specifically applicable to the regulation, or some clear "context" that required otherwise. And at least in my review of the regulations, I found (with one very limited exception) no definition of the term "wildlife" applicable to the many uses of the term in the regulations.

Do you see this proposed relocation of Section 711.2(a) as a problem, either for the reason expressed above, or for any other reason?

Thanks very much for whatever thoughts you can offer on this issue.

**EMAIL FROM SONKE MASTRUP, FISH AND GAME COMMISSION
(NOVEMBER 3, 2014)**

Mr. Cohen,

Thanks for your inquiry. Please find attached some thoughts on the Law Revision study on the Fish and Game code that I promised earlier.

This most recent issue you share below adds to the concern expressed in the attached. As you clearly understand, the Fish and Game Code is a mess when it comes to definitions. I am very encouraged that you are thinking about this. In regards to your most recent question, I see wisdom in moving 711.2(a) to Chapter 1 of Division 0.5, if nothing else from an organizational perspective. However, it could create some additional problems in how the rest of the code uses these terms (in this case “wildlife”). Emblematic of this historical problem is the recent name change of the Department to “Fish and Wildlife.” Clearly redundant since the definition of wildlife includes fish, so what is that name trying to say? The general problem is very important and I think needs some focused attention. Do you have any suggestions on how we might tackle this relative to your efforts and process?

(Attachment)

*Comments on California Law Revision Commission Tentative Recommendations:
Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part
1)*

General issue:

A problem that has plagued the code is inconsistent use of words, definitions, and punctuation. I commend the effort by the California Law Revision Commission in this regard. However, the effort does not resolve all of the inconsistencies that cause confusion in interpretation. Below are two examples of inconsistencies that should be resolved.

Page 11, Line 29: definition of fish includes amphibians. Therefore, everywhere else in the code where suggested edits include adding amphibians where fish is already included is redundant and could be a source of confusion as to what fish are in the code. For example, see page 11, line 26. We should be consistent and if fish includes amphibians, then we should not separate them in the code elsewhere.

Page 13, Line 41: in this section we make clear that we are talking about game or fur-bearing mammals, not just all mammals. On page 14, line 3-4 we now use the sentence structure “...game fish, birds, mammals, amphibians, or reptiles as...” The question now is are we talking about game fish, birds both game and non-game, game or non-game mammals, and what about those game amphibians? This sentence creates confusion about whether or not we are talking about all mammals and amphibians or just game mammals and game amphibians. This problem exists in many sections of the code and is the source of a major ambiguity in code section 2003 (compare page 27, lines 31-34 and page 28, lines 11-12). Also see attached ISOR regarding this issue for Section 2003.

**EMAIL FROM ANGELA DONLAN, DEPARTMENT OF FISH AND
WILDLIFE (NOVEMBER 13, 2014)**

Steve,

Thank you for taking the time to discuss some of your questions. Confirming what we talked about:

Regarding Fish and Game Code section 1003, we agree that “such” likely refers to permits issued pursuant to section 1002, but we are concerned that referencing only section 1002 may create an inference that that Department cannot authorize transportation under other Fish and Game Code sections dealing with scientific or propagation permits. As you suggested, it may be helpful to include language in the comment section of the CLRC proposal to address the potential for that inference.

Regarding Fish and Game Code section 1053.5, the Department withdraws its October 3, 2014 comment.

Regarding Fish and Game Code section 3005, we reiterate our previous comment that the CLRC proposed language represents a change in the evidence required to make a prima facie showing that birds or mammals were taken in violation of the section.

Regarding Fish and Game Code section 3008, we reiterate our previous comment that the CLRC proposed language could be interpreted as stating that the law generally requires a hunter to exercise physical control of a dog while engaged in hunting, as opposed to only requiring physical control under some circumstances. This would represent a substantive legal change, as existing law requires that “the physical control of a dog by its owner while the dog is engaged in hunting..., shall be as required by this code or regulation made pursuant thereto”, a standard that allows for the many instances in which a hunter is not required to exercise physical control of their dog.

Regarding Fish and Game Code section 7707, the Department agrees that it would improve the clarity of the code to delete references to sections that have been repealed, but we would defer to the legislature to determine whether other subsequently codified sections should replace those cross-references.

Regarding Fish and Game Code section 711.2, the Department is not opposed to moving the definition of “wildlife” currently in section 711.2, to Chapter 1 of Division 0.5 of the code.

Finally, we did not have any particular code section in mind when making our previous comment that “the Department does not presume that every omission of reptiles and/or amphibians from these sections was inadvertent on the part of the Legislature.”

Thank you again for including our office in the discussion of the proposed changes.

Angela

#R-100

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

RECOMMENDATION

**Fish and Game Law: Technical Revisions and Minor
Substantive Improvements (Part 1)**

December 2014

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
650-494-1335
<commission@clrc.ca.gov>

SUMMARY OF RECOMMENDATION

The Law Revision Commission is preparing draft legislation to recodify the Fish and Game Code, in order to improve its organization and clarity, remove obsolete or redundant material, and correct technical errors. Because that work will involve the reorganization of the entire code, the recodification legislation will not be ready for presentation to the Legislature until the study is completed.

However, some beneficial changes can be made more quickly. As the larger study proceeds, the Law Revision Commission will make note of technical corrections and minor substantive improvements that can be made to the existing code, without waiting for completion of the entire study. Such improvements will be periodically compiled into recommendations for submission to the Legislature. This recommendation is the first such proposal.

This recommendation was prepared pursuant to Resolution Chapter 63 of the Statutes of 2014.

FISH AND GAME LAW: TECHNICAL REVISIONS AND MINOR SUBSTANTIVE IMPROVEMENTS (PART 1)

1 BACKGROUND

2 In 2010, the Legislature directed the Natural Resources Agency to develop and
3 submit a “strategic vision” for the Fish and Game Commission and what is now
4 the Department of Fish and Wildlife.¹

5 Among other things, the Strategic Vision report recommended that the Law
6 Revision Commission review and recommend “clean-up” of the Fish and Game
7 Code, to “(1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate
8 unused and outdated code sections; (4) consolidate sections creating parallel
9 systems and processes; and (5) restructure codes to group similar statutes....”²

10 Based on a draft of the Strategic Vision report, Senator Fran Pavley and
11 Assembly Member Jared Huffman (then Chairs of the Senate Natural Resources
12 and Water Committee and the Assembly Water, Parks, and Wildlife Committee)
13 requested that the Law Revision Commission conduct a comprehensive review of
14 the Fish and Game Code, and recommend changes to the Legislature that would
15 “update, clarify, and improve” the code.³

16 Authority to conduct such a study was enacted by concurrent resolution in 2012:

17 [The] Legislature approves for study by the California Law Revision
18 Commission the new topic listed below:

19

20 Whether the Fish and Game Code and related statutory law should be revised to
21 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
22 unnecessary or obsolete provisions, standardize terminology, clarify program
23 authority and funding sources, and make other minor improvements, without
24 making any significant substantive change to the effect of the law[.]⁴

25 Pursuant to that authority, the Law Revision Commission is analyzing the entire
26 Fish and Game Code for the purpose of preparing recodification legislation that
27 would improve the code’s organization and clarity, remove obsolete or redundant
28 material, and correct technical errors. Because that work will involve the
29 reorganization of the entire code, the recodification legislation will not be ready
30 for presentation to the Legislature until the study is completed.

31 However, some beneficial changes can be made more quickly. As the larger
32 study proceeds, the Law Revision Commission will make note of technical

1. 2010 Cal. Stat. ch. 424 (AB 2376 (Huffman)).

2. *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies* (April 2012), p. A13, Law Revision Commission Staff Memorandum 2012-41, Exhibit p. 45.

3. Law Revision Commission Staff Memorandum 2012-5, Exhibit pp. 32-33.

4. 2012 Cal. Stat. res. ch. 108 (ACR 98 (Wagner)).

1 corrections and minor substantive improvements that can be made to the existing
2 code, without waiting for completion of the entire study. Such improvements will
3 be periodically compiled into recommendations for submission to the Legislature.
4 This tentative recommendation is the first such proposal.

5 The revisions proposed in this tentative recommendation are summarized below.

6 ANIMAL PARTS

7 The Fish and Game Code contains express definitions of the terms “bird,”⁵
8 “mammal,”⁶ and “fish” (which is defined to include amphibians).⁷ In each case,
9 the defined term does not just include a whole animal of the specified type. It also
10 expressly includes *parts* of those animals. This means that the numerous
11 provisions regulating the defined classes of animals also apply to parts of those
12 animals.

13 That treatment seems most relevant in provisions that regulate the possession or
14 transfer of specified types of animals. In such provisions, the possession or
15 transfer of a whole animal is treated in the same way as part of the animal. This
16 makes policy sense. The regulation of possession or transfer of animals would be
17 ineffective if it could be avoided simply by reducing an animal to parts.

18 There are three features of the existing code that undermine the general rule that
19 statutory references to animals should be construed to also refer to parts of those
20 animals. They are discussed below.

21 Superfluous References to “Parts”

22 Notwithstanding the definitions discussed above, there are a number of
23 provisions of the code that expressly state their application to parts of an animal.⁸
24 For example, Section 4150 provides (with emphasis added):

25 All mammals occurring naturally in California which are not game mammals,
26 fully protected mammals, or fur-bearing mammals, are nongame mammals.
27 Nongame mammals *or parts thereof* may not be taken or possessed except as
28 provided in this code or in accordance with regulations adopted by the
29 commission.

5. Fish & Game Code § 22.

6. Fish & Game Code § 54.

7. Fish & Game Code § 45.

8. A review of similar provisions discloses no apparent pattern suggesting when the additional “parts” reference is included in a provision, and when it is not. For example, compare Fish & Game Code § 2001(b) (possession of “fish, reptiles, or amphibians” unlawful, except during specified time period) with Section 2002 (possession of “bird, mammal, fish, reptile, or amphibian, *or parts thereof*” unlawful, if unlawfully taken) (emphasis added); Section 2348(a) (package in which birds, mammals, fish, reptiles, or amphibians, *or parts thereof* transported must meet certain requirements) (emphasis added) with Section 2349 (except as provided, no “bird, mammal, fish, reptile, or amphibian” may be shipped by parcel post).

1 That reference to parts of a nongame mammal is superfluous, because every
2 reference to a mammal includes parts of that mammal, pursuant to the governing
3 definition of “mammal.”

4 Such unnecessary references to “parts” could cause misunderstanding, by
5 creating an inference that provisions that do not expressly refer to parts do not
6 apply to parts.

7 **Omission of Reptiles**

8 There is no statutory definition of “reptile” in the code. Nor is there any other
9 provision expressly stating that a reference to a “reptile” includes a part of a
10 reptile.

11 That appears to be an inadvertent omission. The Law Revision Commission sees
12 no policy reason to regulate parts of reptiles differently than parts of all other types
13 of regulated animals.

14 **Class-Based Definitions**

15 The definitions discussed above define terms used in referring to broad classes
16 of animals: birds, fish, and mammals. Strictly construed, those definitions do not
17 apply to provisions that do not use the defined words. For example, while a quail
18 is a bird, the statutory definition of the word “bird” does not govern the meaning
19 of the word “quail.” This could create uncertainty as to whether a reference to a
20 quail includes a part of the quail.

21 That technical interpretation seems at odds with the general policy embodied in
22 the definitions of “bird,” “fish,” and “mammal.” It seems likely that the
23 Legislature intended any reference to a type of bird, fish, or mammal to include a
24 part of the referenced animal.

25 **Recommendation**

26 The Law Revision Commission recommends the enactment of a general rule of
27 construction, providing that a reference to an animal includes a reference to parts
28 of that animal.⁹ For the most part, individual provisions that contain language
29 expressly stating their application to parts of animals would be revised to delete
30 the unnecessary language.¹⁰ Those revisions would address all of the problems

9. See proposed Fish & Game Code § 80; *cf.* Fish & Game Code § 2.

10. The Law Revision Commission does not recommend deletion of any statutory reference to an animal part where it appears the animal part is intended to be a distinct subject of regulation. See, e.g., Fish & Game Code §§ 2401 (requiring identification of transported animal parts), 7704(c) (regulating shark parts), 12005 (regulating bear parts). The Law Revision Commission also does not recommend deletion of any statutory reference to a “part thereof” that may include a part of a plant within that reference (e.g., Fish & Game Code §§ 2080, 6700, 10667, 12159), or deletion of a reference in a provision that identifies specific parts of animals (e.g., Fish & Game Code §§ 3087, 3212, 4034, 4304). In each of these instances, the reference may have independent substantive meaning that would not be adequately preserved by substituting the overarching general principle proposed in this tentative recommendation.

In addition, the Commission does not recommend deletion of references to animal parts in selected

1 described above, by providing a single clear and comprehensive rule and removing
2 unnecessary language that could cause confusion.

3 REGULATION OF REPTILES AND AMPHIBIANS

4 Many provisions in the Fish and Game Code expressly apply to all vertebrates
5 (fish, mammals, birds, amphibians, and reptiles).¹¹

6 Other provisions of the code apply only to fish, mammals, and birds. They do
7 not apply to reptiles or amphibians.¹² There may be good policy reasons to exclude
8 reptiles and amphibians from those provisions. The Law Revision Commission
9 does not presume otherwise.

10 However, there are also provisions that expressly apply to all vertebrates except
11 either reptiles *or* amphibians.¹³ In most cases, these omissions appear to be
12 inadvertent. In general, the Law Revision Commission sees no policy rationale for
13 excluding reptiles or amphibians from a provision that otherwise applies to all
14 vertebrates.

15 For example, Section 240(a)(1) allows the Fish and Game Commission to
16 promulgate an emergency regulation “for the immediate conservation,
17 preservation, or protection of birds, mammals, reptiles, or fish.” Similarly, Section
18 10502(d) allows the Fish and Game Commission to make regulations “for the
19 protection of birds, mammals, fish, amphibia, and marine life within any refuge.”
20 Those provisions omit amphibians and reptiles, respectively. There is no obvious
21 reason why these broad protective provisions would exclude those types of
22 animals.

23 The Law Revision Commission generally recommends that provisions that
24 apply to all vertebrates, with the exception of either amphibians or reptiles, be
25 revised to apply to all vertebrates.¹⁴

26

provisions that form the basis for frequently used jury instructions in criminal prosecutions. See Fish & Game Code §§ 22, 45, 54, 2000, 2002, 7370, and 12012.

11. See, e.g., Fish & Game Code §§ 19, 62, 200, 308, 2000, 2014, 2353, 12162, 13001.

12. See, e.g., Fish & Game Code §§ 855, 1007, 1008, 1502, 1525, 3406, 3407, 4004, 5501, 12003.1.

13. See Fish & Game Code §§ 29, 307, 312, 2005(c), 2015, 10502, 10503, 10510, 10513, 10514, 10653, 12300 (omitting reptiles); Sections 240(a)(1), 1000, 1003, 2000, 13220 (omitting amphibians).

14. The Law Revision Commission does not recommend adding a reference to amphibians or reptiles in a provision where there appears to be a logical basis for non-inclusion. See, e.g., Fish & Game Code § 96 (referencing “all wild mammals, birds, reptiles, fish, and plants that normally occur in or are associated with salt water”). It is the Law Revision Commission’s understanding that, in general, amphibians are not found in salt water.

1

DOCUMENT TRANSLATION

2 Fish and Game Code Section 7 provides:

3 Whenever any statement or report is required to be made, it shall be made in the
4 English language.

5 The Law Revision Commission recommends that the provision be revised to
6 make clear that it does not prohibit the unofficial translation of statements and
7 reports into other languages. Such translations would be in addition to the original
8 English language document.

9 A similar statute in the Code of Civil Procedure requires written proceedings in
10 a justice court to be conducted in the English language, but expressly allows for
11 the unofficial translation of certain court documents into other languages.¹⁵

12

TECHNICAL CORRECTIONS

13 The Law Revision Commission also recommends revisions to correct technical
14 errors, including cross-reference errors, obsolete agency names, and grammatical
15 errors. Other revisions are recommended to restate confusing language, to make its
16 meaning clearer without changing its substance.

15. Code Civ. Proc. § 185.

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PROPOSED LEGISLATION

1 **Fish & Game Code § 7 (amended). Use of English in statements and reports**

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

3 7. Whenever any statement or report is required to be made, it shall be made in
4 the English language. Nothing in this section shall prohibit the department from
5 providing an unofficial translation of a statement or report in a language other than
6 English.

7 **Comment.** Section 7 is amended to make clear that the section does not preclude unofficial
8 translations.

9 See also Code. Civ. Proc. § 185; Gov't Code §§ 7290-7299.8 (Dymally-Alatorre Bilingual
10 Services Act).

11 **Fish & Game Code § 22 (amended). “Bird”**

12 SEC. ____ . Section 22 of the Fish and Game Code is amended to read:

13 22. “Bird” means any a wild bird or any part thereof of a wild bird.

14 **Comment.** Section 22 is amended to make nonsubstantive stylistic changes.

15 The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference
16 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
17 affect the meaning of any other provision of this code that includes or omits a reference to a
18 “part” of an animal.

19 **Fish & Game Code § 27 (amended). “Chumming”**

20 SEC. ____ . Section 27 of the Fish and Game Code is amended to read:

21 27. “Chumming” means the placing in the water of fish, ~~parts of fish,~~ or other
22 material upon which fish feed, for the purpose of attracting fish to a particular area
23 in order that they may be taken.

24 **Comment.** Section 27 is amended to delete a superfluous reference to a “part” of a fish. See
25 Section 80 (reference to animal generally includes part of animal).

26 **Fish & Game Code § 29 (amended). “Closed season”**

27 SEC. ____ . Section 29 of the Fish and Game Code is amended to read:

28 29. “Closed season” means that period of time during which the taking of birds,
29 mammals, fish, ~~or amphibia~~ amphibians, or reptiles is prohibited.

30 **Comment.** Section 29 is amended to add reptiles, and to make a nonsubstantive stylistic
31 change.

32 **Fish & Game Code § 45 (amended). “Fish”**

33 SEC. ____ . Section 45 of the Fish and Game Code is amended to read:

34 45. “Fish” means a wild fish, mollusks, crustaceans, invertebrates, or
35 amphibians, including any mollusk, crustacean, invertebrate, amphibian, or part,
36 spawn, or ova thereof of any of those animals.

37 **Comment.** Section 45 is amended to make nonsubstantive stylistic changes.

1 The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference
2 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
3 affect the meaning of any other provision of this code that includes or omits a reference to a
4 “part” of an animal.

5 **Fish & Game Code § 54 (amended). “Mammal”**

6 SEC. _____. Section 54 of the Fish and Game Code is amended to read:

7 54. “Mammal” means ~~any a~~ wild or feral mammal or ~~any part thereof~~ of a wild
8 or feral mammal, but not ~~any a~~ wild, feral, or undomesticated burro.

9 **Comment.** Section 54 is amended to make nonsubstantive stylistic changes.

10 The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference
11 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
12 affect the meaning of any other provision of this code that includes or omits a reference to a
13 “part” of an animal.

14 **Fish & Game Code § 57 (amended). “Nonresident”**

15 SEC. _____. Section 57 of the Fish and Game Code is amended to read:

16 57. “Nonresident” means any person who ~~has not resided continuously in the~~
17 ~~State of California for six months immediately prior to the date of his application~~
18 ~~for a license or permit~~ is not a resident as defined in Section 70.

19 **Comment.** Section 57 is amended to reconcile the definition of the term “nonresident” with the
20 definition of the term “resident” in Section 70.

21 **Fish & Game Code § 80 (added). Animal parts**

22 SEC. _____. Section 80 is added to the Fish and Game Code, to read:

23 80. Unless the provision or context otherwise requires, any provision of this
24 code that applies to a whole animal also applies to a part of the animal.

25 **Comment.** Section 80 generalizes an existing rule of construction. See Sections 22 (“bird”), 45
26 (“fish”), and 54 (“mammal”).

27 **Fish & Game Code § 210 (amended). Distribution of regulations**

28 SEC. _____. Section 210 of the Fish and Game Code is amended to read:

29 210. (a) The commission shall provide copies of the regulations added,
30 amended, or repealed pursuant to ~~subdivision (e) of Section 206,~~ subdivision (e) of
31 Section 207, ~~and subdivision (d) of Section 208~~ to each county clerk, each district
32 attorney, and each judge of the superior court in the state.

33 (b) The commission and the department may do anything that is deemed
34 necessary and proper to publicize and distribute regulations so that persons likely
35 to be affected will be informed of them. The failure of the commission to provide
36 any notice of its regulations, other than by filing them in accordance with Section
37 215, shall not impair the validity of the regulations.

38 (c) The department or the license agent may give a copy of the current
39 applicable published regulations to each person issued a license at the time the
40 license is issued.

41 (d) Notwithstanding any other provision of law, the commission and the
42 department may contract with private entities to print regulations and other

1 regulatory and public information. Printing contracts authorized by this
2 subdivision and for which no state funds are expended are not subject to Chapter 2
3 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract
4 Code, except for Article 2 (commencing with Section 10295) of Chapter 2.

5 **Comment.** Section 210 is amended to correct obsolete cross-references. See 2006 Cal. Stat.
6 ch. 667.

7 **Fish & Game Code § 240 (amended). Emergency regulation or order of repeal**

8 SEC. _____. Section 240 of the Fish and Game Code is amended to read:

9 240. (a) Notwithstanding any other ~~provisions~~ provision of this code, the
10 commission, when promulgating ~~regulations~~ a regulation pursuant to any authority
11 otherwise vested in it by this code, may, after at least one hearing, adopt an
12 emergency regulation or order of repeal pursuant to Section 11346.1 of the
13 Government Code if it makes either of the following findings:

14 (1) That the adoption of a regulation or order of repeal of a regulation is
15 necessary for the immediate conservation, preservation, or protection of birds,
16 mammals, reptiles, amphibians, or fish, including, but not limited to, any nests or
17 eggs thereof.

18 (2) That the adoption of a regulation or order of repeal of a regulation is
19 necessary for the immediate preservation of the public peace, health and safety, or
20 general welfare.

21 (b) Except as provided herein, any regulation or order of repeal adopted
22 pursuant to the provisions of this section shall be otherwise subject to review by
23 the Office of Administrative Law conducted pursuant to Article 6 (commencing
24 with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the
25 Government Code.

26 **Comment.** Section 240 is amended to add amphibians, and to make nonsubstantive stylistic
27 changes.

28 **Fish & Game Code § 300 (amended). Filing of regulations**

29 SEC. _____. Section 300 of the Fish and Game Code is amended to read:

30 300. Any regulation ~~issued under any subsequent provisions of~~ adopted pursuant
31 to this code shall be filed with the Secretary of State, as required by ~~Chapter 4~~
32 Chapter 3.5 (commencing with Section ~~11370~~ 11340), of Part 1, of Division 3, of
33 Title 2, of the Government Code.

34 **Comment.** Section 300 is amended to correct an erroneous cross-reference, and to make
35 nonsubstantive stylistic changes.

36 **Fish & Game Code § 301 (amended). Disposition of accidentally killed birds and mammals**

37 SEC. _____. Section 301 of the Fish and Game Code is amended to read:

38 301. The commission may ~~make such~~ adopt regulations as that it deems
39 necessary for the disposition of birds or mammals ~~and parts thereof which~~ that are
40 killed accidentally.

1 **Comment.** Section 301 is amended to delete a superfluous reference to animal parts. See
2 Section 80 (reference to animal generally includes part of animal).

3 Section 301 is also amended to make nonsubstantive stylistic changes.

4 **Fish & Game Code § 307 (amended). Reduced limits based on scarcity**

5 SEC. _____. Section 307 of the Fish and Game Code is amended to read:

6 307. (a) Whenever after due investigation the commission ~~shall find~~ finds that
7 game fish, resident or migratory birds, game or fur-bearing mammals, ~~or amphibia~~
8 amphibians, or reptiles have decreased in numbers in any areas, districts, or
9 portions thereof to ~~such an~~ the extent that a scarcity exists, the commission may
10 reduce the daily bag limit and the possession limit on ~~such those~~ game fish, birds,
11 mammals, ~~or amphibia~~ amphibians, or reptiles as are in danger of depletion, for
12 ~~such~~ a period of time as ~~may be~~ that is specified, or until ~~such time as~~ new
13 legislation ~~thereon enacted by the Legislature may become~~ addressing the scarcity
14 becomes effective.

15 (b) Any regulation ~~issued under the provisions of~~ adopted pursuant to this
16 section shall be filed with the Secretary of State, and ~~such~~ filing shall be deemed a
17 legal notice thereof.

18 (c) ~~Such~~ The regulation shall be published twice in at least one newspaper of
19 general circulation in any county affected by ~~such the~~ the order. The publications shall
20 be separated by a period of not less than one week and not more than two weeks.
21 ~~Such~~ The regulation shall be posted in ~~such any~~ any public places in each county as
22 that the director may direct.

23 **Comment.** Section 307 is amended to add reptiles, add subdivision designations, and make
24 nonsubstantive stylistic changes.

25 **Fish & Game Code § 312 (amended). Survival training course**

26 SEC. _____. Section 312 of the Fish and Game Code is amended to read:

27 312. (a) The commission may issue a permit authorizing any member of the
28 armed forces of the United States or any student or faculty member of an
29 elementary or secondary school in the public school system actually assigned to,
30 and participating in, an organized survival training course to take fish, ~~amphibia~~
31 amphibians, reptiles, birds, or mammals, except rare or endangered species,
32 notwithstanding any other law or regulation, pursuant to the terms and conditions
33 of ~~such~~ that permit. A permit involving training by the armed forces of the United
34 States shall be issued to the commanding officer of the unit having jurisdiction
35 over the conduct of the survival training course. A permit involving training by an
36 elementary or secondary school in the public school system shall be issued to the
37 governing board or superintendent of the district having jurisdiction over ~~such~~ that
38 school and the conduct of the survival training course. A permit shall be applicable
39 only to the area established for ~~such that~~ that survival training as designated by the
40 commission in the permit and for the species and numbers designated in the
41 permit.

1 (b) The commission may revise any conditions of a permit if it finds ~~such~~
2 revision is necessary to properly protect the fish, ~~amphibia~~ amphibians, reptiles,
3 birds, or mammals in the area.

4 (c) The term of ~~such~~ a permit shall be for not more than a calendar year.

5 (d) A report shall be submitted on the expiration of the permit period, or as
6 otherwise required by the commission, of all fish, ~~amphibia~~ amphibians, reptiles,
7 birds, or mammals taken during the period covered by the report in each permit
8 area. No new permit may be issued until ~~such~~ the report has been submitted and
9 any existing permit may be canceled if ~~such~~ a report is not submitted when
10 required by the commission.

11 (e) No person engaged in ~~such~~ survival training taking fish, ~~amphibia~~
12 amphibians, reptiles, birds, or mammals pursuant to ~~such~~ a permit issued under
13 this section may use any firearm, bow and arrow, steel trap, explosive, chemical,
14 poison, drug, net or fish tackle except hooks or handlines or improvised poles and
15 lines for the taking of fish.

16 **Comment.** Section 312 is amended to add reptiles.

17 The section is also amended to add subdivision designations, and make nonsubstantive stylistic
18 changes.

19 **Fish & Game Code § 326 (amended). Required hearing**

20 SEC. _____. Section 326 of the Fish and Game Code is amended to read:

21 ~~326. Prior to the making of such a regulation the commission at an open meeting~~
22 ~~shall publicly announce the contents of the proposed regulation and fix a time and~~
23 ~~place at which a hearing on the proposed order shall be held. The time shall be not~~
24 ~~less than 21 days from the day of the meeting and the place shall be the county~~
25 ~~seat of each of the counties affected. Prior to adopting a regulation pursuant to~~
26 Section 325, the commission at an open meeting shall publicly announce the
27 contents of the proposed regulation, and fix a time and place for a hearing on the
28 proposed regulation in each county that would be affected by the regulation. The
29 time for the hearing shall be at least 21 days after the announcement, and the place
30 shall be the county seat of each affected county.

31 **Comment.** Section 326 is amended to improve its clarity without making any substantive
32 change.

33 **Fish & Game Code § 330 (amended). Cooperative hunting areas**

34 SEC. _____. Section 330 of the Fish and Game Code is amended to read:

35 330. Cooperative hunting areas, as described in ~~Sections 1570 to 1572~~ Section
36 1575, may be established in connection with any area opened to hunting under the
37 ~~foregoing~~ provisions of this article.

38 **Comment.** Section 330 is amended to correct obsolete cross-references. See 2003 Cal. Stat. ch.
39 758; 2007 Cal. Stat. ch. 285.

40 The section is also amended to make a nonsubstantive stylistic change.

1 **Fish & Game Code § 393 (amended). Out-of-state law enforcement officers**

2 SEC. ____ . Section 393 of the Fish and Game Code is amended to read:

3 393. (a) Any regularly employed law enforcement officer of an Oregon, Nevada,
4 or Arizona state law enforcement agency, including, but not limited to, the Oregon
5 State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish
6 Department, is a peace officer in this state if all of the following conditions are
7 met:

8 (1) The officer is providing, or attempting to provide, law enforcement services
9 within this state, within a distance of up to 50 statute miles of the contiguous
10 border of this state and the state employing the officer, or within waters offshore
11 of this state in the Exclusive Economic Zone.

12 (2) The officer is providing, or attempting to provide, law enforcement services
13 pursuant to either of the following:

14 (A) In response to a request for services initiated by a member of the
15 department.

16 (B) In response to a reasonable belief that emergency law enforcement services
17 are necessary for the preservation of life, and a request for services by a member
18 of the ~~Department of Fish and Game~~ department is impractical to obtain under the
19 circumstances. In those situations, the officer shall obtain authorization as soon as
20 practical.

21 (3) The officer is providing, or attempting to provide, law enforcement services
22 for the purpose of assisting a member of the ~~Department of Fish and Game~~
23 department in response to misdemeanor or felony criminal activity, pursuant to the
24 authority of a peace officer as provided in subdivision (e) of Section 830.2 of the
25 Penal Code, or, in the event of emergency incidents or other similar public safety
26 problems, whether or not a member of the department is present at the scene of the
27 event.

28 (4) An agreement pursuant to Section 392 is in effect between the ~~Department of~~
29 ~~Fish and Game~~ department and the agency of the adjoining state employing the
30 officer, the officer acts in accordance with that agreement, and the agreement
31 specifies that the officer and employing agency of the adjoining state shall be
32 subject to the same civil immunities and liabilities as a peace officer and his or her
33 employing agency in this state.

34 (5) The officer receives no separate compensation from this state for providing
35 law enforcement services within this state.

36 (6) The adjoining state employing the officer confers similar rights and authority
37 upon a member of the department who renders assistance within that state.

38 (b) Notwithstanding any other provision of law, any person who is acting as a
39 peace officer in this state in the manner described in this section shall be deemed
40 to have met the requirements of Section 1031 of the Government Code and the
41 selection and training standards of the Commission on Peace Officer Standards
42 and Training if the officer has completed the basic training required for peace
43 officers in his or her state.

1 (c) A peace officer of an adjoining state shall not provide services within a
2 California jurisdiction during any period in which officers of the department are
3 involved in a labor dispute that results in a formal work slowdown or stoppage.

4 **Comment.** Section 393 is amended to update obsolete references to the Department of Fish
5 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

6 **Fish & Game Code § 400 (amended). Assent to Public Law 415, Seventy-Fifth Congress**

7 SEC. _____. Section 400 of the Fish and Game Code is amended to read:

8 400. The State of California hereby assents to the provisions of the act of
9 Congress entitled “An act to provide that the United States shall aid the states in
10 wildlife-restoration projects, and for other purposes,” approved September 2, 1937
11 (Public Law 415, Seventy-fifth Congress), and the department, with the approval
12 of the commission, shall perform ~~such~~ any acts as may be necessary to the conduct
13 and establishment of cooperative wildlife-restoration projects, as defined in ~~such~~
14 that act of Congress, in compliance with ~~such~~ that act and rules and regulations
15 promulgated thereunder; and no funds accruing to the State of California from
16 license fees paid by hunters shall be diverted for any other purpose than the
17 administration of the ~~Department of Fish and Game~~ department and for the
18 protection, propagation, preservation, and investigation of fish and game.

19 **Comment.** Section 400 is amended to correct an obsolete reference to the Department of Fish
20 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

21 The section is also amended to make nonsubstantive stylistic changes.

22 **Fish & Game Code § 401 (amended). Assent to Public Law 681, Eighty-First Congress**

23 SEC. _____. Section 401 of the Fish and Game Code is amended to read:

24 401. The State of California hereby assents to the provisions of the act of
25 Congress entitled “An act to provide that the United States shall aid the states in
26 fish restoration and management projects, and for other purposes,” approved
27 August 9, 1950 (Public Law 681, Eighty-first Congress), and the department, with
28 the approval of the commission, may perform ~~such~~ any acts as may be necessary
29 to the conduct and establishment of cooperative fish restoration projects, as
30 defined in ~~said~~ that act of Congress, in compliance with ~~said~~ that act and rules and
31 regulations promulgated thereunder; and no funds accruing to the State of
32 California from license fees paid by fishermen shall be diverted for any other
33 purpose than the administration of the ~~Department of Fish and Game~~ department
34 and for the protection, propagation, preservation, and investigation of fish and
35 game.

36 **Comment.** Section 401 is amended to correct an obsolete reference to the Department of Fish
37 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

38 The section is also amended to make nonsubstantive stylistic changes.

1 **Heading of Division 2 (commencing with Section 700) (amended). Department of Fish and**
2 **Wildlife**

3 SEC. _____. The heading of Division 2 (commencing with Section 700) of the
4 Fish and Game Code is amended to read:

5 Division 2. Department of Fish and ~~Game~~ Wildlife

6 **Comment.** The heading of Division 2 is amended to update an obsolete reference to the
7 Department of Fish and Game.

8 **Fish & Game Code § 706 (amended). Incorporation of general law on state agencies**

9 SEC. _____. Section 706 of the Fish and Game Code is amended to read:

10 706. The provisions of Chapter 2 (commencing at Section 11150), ~~of Part 1, of~~
11 ~~Division 3, of~~ Title 2 of the Government Code shall govern and apply to the
12 conduct of the department in every respect ~~the same as if such provisions were~~
13 ~~herein set forth at length, and wherever~~ . Whenever in that chapter the term “head
14 of the department” or similar designation occurs, for the purposes of this section it
15 shall mean the director.

16 **Comment.** Section 706 is amended to make stylistic changes and improve its clarity, without
17 making any substantive change.

18 **Fish & Game Code § 716.3 (amended). Definitions**

19 SEC. _____. Section 716.3 of the Fish and Game Code is amended to read:

20 716.3. For purposes of this chapter, the following terms have the following
21 meanings:

22 (a) “Board” means the board of compact administrators established pursuant to
23 Section 716.8.

24 (b) “Citation” means any summons, complaint, ticket, penalty assessment, or
25 other official document issued to a person by a wildlife officer or other peace
26 officer for a wildlife violation pertaining to sport fishing, hunting, or trapping,
27 which contains an order requiring the person to respond.

28 (c) “Collateral” means any cash or other security deposited to secure an
29 appearance for trial in connection with the issuance by a wildlife officer or other
30 peace officer of a citation for a wildlife violation.

31 (d) “Compact manual” is a manual used and adopted by the participating states
32 that prescribes the procedures to be followed in administering the wildlife violator
33 compact in participating states.

34 (e) “Compliance,” with respect to a citation, means the act of answering a
35 citation through an appearance in a court or tribunal, or through the payment of
36 fines, penalties, costs, and surcharges, if any.

37 (f) “Conviction” means a conviction, including, but not limited to, any court
38 conviction for an offense related to sport fishing, hunting, or trapping, that is
39 prohibited by statute, ordinance, or administrative rule or regulation, that involves
40 the forfeiture of any bail, bond, or other security deposited to secure appearance
41 by a person charged with having committed any such offense, the payment of a

1 penalty assessment, a plea of nolo contendere, and the imposition of a deferred or
2 suspended sentence by the court.

3 (g) “Court” means a court of law, including magistrate’s court ~~and the justice of~~
4 ~~the peace court.~~

5 (h) “Home state” means the state of primary residence of a person.

6 (i) “Issuing state” means the participating state that issues a wildlife citation to
7 the violator.

8 (j) “License” means any license, permit, entitlement to use, or other public
9 document that conveys to the person to whom it is issued the privilege of sport
10 fishing, hunting, or trapping, that is regulated by statute, ordinance, or
11 administrative rule or regulation of a participating state.

12 (k) “Licensing authority,” with reference to this state, means the ~~Department of~~
13 ~~Fish and Game~~ department, which is the state agency authorized by law to issue or
14 approve licenses or permits to sport fish, hunt, or trap.

15 (l) “Participating state” means any state that enacts legislation to become a
16 member of the wildlife compact.

17 (m) “Personal recognizance” means an agreement by a person made at the time
18 of issuance of the wildlife citation that the person will comply with the terms of
19 the citation.

20 (n) “State” means any state, territory, or possession of the United States, the
21 District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada,
22 and other countries.

23 (o) “Suspension” means any revocation, denial, or withdrawal of any or all
24 license privileges, including the privilege to apply for, purchase, or exercise the
25 benefits conferred by any license for sport fishing, hunting, or trapping.

26 (p) “Terms of the citation” means those conditions and options expressly stated
27 upon a citation.

28 (q) “Wildlife” means all species of animals including, but not limited to,
29 mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are
30 defined as “wildlife” and are protected or otherwise regulated by statute,
31 ordinance, or administrative rule or regulation in a participating state. The species
32 included in the definition of “wildlife” vary from state to state and the
33 determination of whether a species is “wildlife” for the purposes of this compact
34 shall be based on the law of the participating state.

35 (r) “Wildlife law” means any statute, regulation, ordinance, or administrative
36 rule or regulation developed and enacted for the management of wildlife resources
37 and the uses thereof.

38 (s) “Wildlife officer” means any individual authorized in this state to issue a
39 citation for a wildlife violation.

40 (t) “Wildlife violation” means the violation of a statute, ordinance, or
41 administrative rule or regulation developed and enacted for the management of
42 wildlife resources and the uses thereof pertaining to sport fishing, hunting, and
43 trapping and for which a prosecution is initiated.

1 **Comment.** Subdivision (g) of Section 716.3 is amended to reflect elimination of the justice
2 court. Cal. Const. art. VI, § 1.

3 Subdivision (k) is amended to correct an obsolete reference to the Department of Fish and
4 Game. See Section 37 (“department” means Department of Fish and Wildlife).

5 **Fish & Game Code § 853 (amended). Employee deputized to check sport fishing licenses**

6 SEC. _____. Section 853 of the Fish and Game Code is amended to read:

7 853. (a) The director may deputize any employee of the department to check
8 persons for licenses required under Section 7145 and to enforce any violation of
9 that section.

10 (b) Before a person is deputized pursuant to this section for the first time, the
11 person shall have satisfactorily completed a training course meeting the minimum
12 standards of, and comparable to, the training for “level III reserve” as set forth in
13 the regulations of the Commission on Peace Officer Standards and Training.

14 (c) ~~Any~~ A person who is deputized for ~~this the~~ limited purpose ~~pursuant to this~~
15 ~~section, stated in subdivision (a) may not enforce any other provision of this code,~~
16 ~~and is not. Being deputized under this section does not make a person a peace~~
17 ~~officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2~~
18 ~~of the Penal Code.~~

19 **Comment.** Section 853 is amended to add subdivision designations, make stylistic changes,
20 and otherwise improve its clarity, without making any substantive change.

21 **Fish & Game Code § 854 (amended). Minimum age of wildlife officer**

22 SEC. _____. Section 854 of the Fish and Game Code is amended to read:

23 854. Notwithstanding Section 18932 of the Government Code, the minimum age
24 limit for appointment to the position of fish and game warden of the ~~Department~~
25 ~~of Fish and Game~~ department shall be 18 years. Any examination for the position
26 of warden shall require a demonstration of the physical ability to effectively carry
27 out the duties and responsibilities of the position in a manner that would not
28 inordinately endanger the health or safety of any warden or the health and safety
29 of others.

30 **Comment.** Section 854 is amended to correct an obsolete reference to the Department of Fish
31 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

32 **Fish & Game Code § 857 (amended). Entry onto private land**

33 SEC. _____. Section 857 of the Fish and Game Code is amended to read:

34 857. (a) Notwithstanding any other provision of law, the status of a person as an
35 employee, agent, or licensee of the department does not confer upon that person a
36 special right or privilege to knowingly enter private land without ~~either~~ the consent
37 of the ~~owner or~~ owner, a search warrant, or an inspection warrant.

38 (b)~~(1)~~ Subdivision (a) does not apply to employees, agents, or licensees of the
39 department in the event of an emergency. For purposes of this section,
40 “emergency” means a sudden, unexpected occurrence, involving a clear and
41 imminent danger demanding immediate action to prevent or mitigate loss of, or
42 damage to, wildlife, wildlife resources, or wildlife habitat.

1 ~~(2)~~ (c) Subdivision (a) does not apply to a sworn peace officer authorized
2 pursuant to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for
3 law enforcement purposes, to other departmental personnel accompanying a sworn
4 peace officer. Subdivision (a) shall not be construed to define or alter any
5 authority conferred on those peace officers by any other law or court decision.

6 ~~(3)~~ (d) Subdivision (a) does not apply to, or interfere with, the authority of
7 employees or licensees to enter and inspect land in conformance with Section
8 4604 of the Public Resources Code.

9 (e) This section is not intended to expand or constrain the authority, if any, of
10 employees, agents, or licensees of the department to enter private land to conduct
11 inspections pursuant to Section 7702 of this code or Section 8670.5, 8670.7, or
12 8670.10 of the Government Code.

13 ~~(e)~~ (f) If the department conducts a survey or evaluation of private land that
14 results in the preparation of a document or report, the department shall, upon
15 request and without undue delay, provide either a copy of the report or a written
16 explanation of the department's legal authority for denying the request. The
17 department may charge a fee for each copy, not to exceed the direct costs of
18 duplication.

19 **Comment.** Section 857 is amended to correct a grammatical error in subdivision (a), revise
20 subdivision and paragraph designations, and make nonsubstantive stylistic changes.

21 **Fish & Game Code § 1000 (amended). Expenditure of funds**

22 SEC. _____. Section 1000 of the Fish and Game Code is amended to read:

23 1000. The department shall expend ~~such~~ funds ~~as may be~~ necessary for
24 biological research and field investigation and for the collection and diffusion of
25 ~~such~~ statistics and information ~~as shall~~ that pertain to the conservation,
26 propagation, protection, and perpetuation of birds and ~~the~~ their nests and eggs
27 ~~thereof~~, and of mammals, reptiles, amphibians, and fish.

28 **Comment.** Section 1000 is amended to add amphibians.

29 The section is also amended to make nonsubstantive stylistic changes.

30 **Fish & Game Code § 1003 (amended). Transportation pursuant to permit**

31 SEC. _____. Section 1003 of the Fish and Game Code is amended to read:

32 1003. Mammals, birds, and ~~the nest~~ their nests and eggs ~~thereof~~, fish and their
33 eggs ~~thereof~~, reptiles, amphibians, mollusks, crustaceans, or any other form of
34 plant or animal life taken under the provisions of ~~such~~ a scientific or propagation
35 permit issued pursuant to Section 1002 may be shipped or transported anywhere
36 within or without the state if prior written approval is obtained from the
37 department and ~~each such~~ the shipment is accompanied by the name, address, and
38 permit number of the person holding the scientific or propagation permit.

39 **Comment.** Section 1003 is amended to add amphibians.

40 The section is also amended to make nonsubstantive stylistic changes.

1 **Fish & Game Code § 1014 (amended). Administration of facilities**

2 SEC. _____. Section 1014 of the Fish and Game Code is amended to read:

3 1014. In the event the Department of Parks and Recreation contracts with the
4 federal government pursuant to Public Law 89-161 for the administration of
5 recreation development or fish and wildlife enhancement facilities, as authorized
6 by Section 5006.6 of the Public Resources Code, the Department of Fish and
7 ~~Game~~ Wildlife is authorized to operate, maintain and replace those facilities
8 designated as fish and wildlife enhancement facilities and to assume all costs of
9 ~~such~~ that operation, maintenance and replacement, subject to appropriation of
10 funds by the Legislature.

11 **Comment.** Section 1014 is amended to update an obsolete reference to the Department of Fish
12 and Game.

13 The section is also amended to make a nonsubstantive stylistic change.

14 **Fish & Game Code § 1053.5 (amended). Hunter education**

15 SEC. _____. Section 1053.5 of the Fish and Game Code is amended to read:

16 1053.5. Applicants for hunting licenses ~~pursuant to subdivision (a) of Section~~
17 ~~1053~~ shall first satisfactorily complete a hunter education equivalency
18 examination and obtain a certificate of equivalency as provided by regulations
19 adopted by the commission, or show proof of completion of a hunter education
20 training course, or show a previous year's hunting license.

21 **Comment.** Section 1053.5 is amended to correct an erroneous cross-reference.

22 **Fish & Game Code § 1055.3 (amended). Wildlife area passes and native species stamps**

23 SEC. _____. Section 1055.3 of the Fish and Game Code is amended to read:

24 1055.3. The department may authorize any person, except a commissioner or an
25 officer or employee of the department, to issue, as an agent of the department,
26 annual wildlife area passes and native species stamps, and to sell promotional
27 materials and nature study aids pursuant to, and subject to the requirements of, this
28 article. Any agent thus authorized may add a handling charge pursuant to
29 ~~subdivision (b)~~ subdivisions (f), (g), and (h) of Section 1055 or subdivisions (d),
30 (e), and (f) of Section 1055.1 to the fee prescribed in Article 3 (commencing with
31 Section 1760) of Chapter 7.5 of Division 2 for each annual wildlife area pass or
32 native species stamp issued.

33 **Comment.** Section 1055.3 is amended to correct an erroneous cross-reference.

34 **Fish & Game Code § 1058 (amended). Preferred claim**

35 SEC. _____. Section 1058 of the Fish and Game Code is amended to read:

36 1058. In case of an assignment for the benefit of creditors, receivership, or
37 bankruptcy, the state shall have a preferred claim against the license agent's
38 assignee, receiver, or trustee for all moneys owing the state for the issuing of
39 licenses, permits, reservations, tags, and other entitlements as provided in this
40 code and shall not be estopped from asserting that claim by reason of the
41 commingling of funds or otherwise.

1 **Comment.** Section 1058 is amended to add an inadvertently omitted word.

2 **Fish & Game Code § 1061 (amended). License voucher**

3 SEC. _____. Section 1061 of the Fish and Game Code is amended to read:

4 1061. (a) The department may allow a person to purchase a license voucher as a
5 gift for a licensee when the licensee's complete and accurate personal information,
6 as defined in regulation, is not provided by the license buyer at the time of
7 purchase.

8 (b) A license purchase voucher entitles the holder of the voucher to redeem it for
9 the specific license, permit, tag, or other privilege or entitlement, and license year
10 for which it was purchased.

11 (c) A license purchase voucher shall expire and be considered void if not
12 redeemed within the license year for which it was purchased.

13 (d) A license purchase voucher may be issued and redeemed by any person
14 authorized by the department to issue licenses.

15 (e) The license agent handling fee, as provided under ~~subdivision (b)~~
16 subdivisions (d), (e), and (f) of Section 1055.1, shall only apply to the sale of the
17 license purchase voucher.

18 (f) This section applies only to licenses, permits, reservations, tags, and other
19 entitlements issued through the Automated License Data System.

20 **Comment.** Subdivision (e) of Section 1061 is amended to correct an erroneous cross-reference.

21 **Fish & Game Code § 1227 (amended). Funding agreements**

22 SEC. _____. Section 1227 of the Fish and Game Code is amended to read:

23 1227. Notwithstanding any other provision of law, the department may enter
24 into one or more agreements with any person, nonprofit organization, or other
25 public or private entity, as may be appropriate, to assist the department in its
26 efforts to secure long-term private funding sources for purposes relating to
27 conservation programs, projects, and activities by the department. The authority to
28 enter into agreements ~~for the purposes of~~ under this section shall include, but not
29 be limited to, ~~for the purposes of securing the authority to secure~~ donations,
30 memberships, corporate and individual sponsorships, and marketing and licensing
31 agreements.

32 **Comment.** Section 1227 is amended to improve its clarity without making any substantive
33 change.

34 **Fish & Game Code § 1505 (amended). Management of spawning areas**

35 SEC. _____. Section 1505 of the Fish and Game Code is amended to read:

36 1505. (a) ~~In addition to any other powers vested in the department, it~~ The
37 department may manage, control, and protect ~~such~~ the portions of the following
38 spawning areas ~~which~~ that occupy state-owned lands, to the extent necessary to
39 protect fishlife in these areas. :

40 ~~In the event of any conflict under this section with the action of another~~
41 ~~department or agency of the state or any other public agency, the action of the~~

1 ~~Department of Fish and Game taken pursuant to this section shall prevail except~~
2 ~~for: (a) action of the state or regional water quality control boards in establishing~~
3 ~~waste discharge requirements, (b) action as required for commerce and navigation,~~
4 ~~(c) action by public agencies reasonably necessary for bridge crossings, water~~
5 ~~conservation or utilization, or flood protection projects, including the construction,~~
6 ~~maintenance, and operation thereof. The exceptions in subdivision (c) shall not~~
7 ~~extend to the depositing of materials, other than necessary structural materials, in,~~
8 ~~or the removing of materials from the streambeds in the areas designated in this~~
9 ~~section, other than as necessary for the installation of structures. These areas are:~~

10 (1) The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.

11 (2) The Feather River between Oroville and the mouth of Honcut Creek.

12 (3) The Yuba River between Englebright Dam and a point approximately four
13 miles east of Marysville.

14 (4) The American River between Nimbus Dam and a point one mile downstream
15 from Arden Way.

16 (5) The Mokelumne River between Pardee Dam and Lockeford.

17 (6) The Stanislaus River between Goodwin Dam and Riverbank.

18 (7) The Tuolumne River between La Grange Dam and the Geer Road (J14)
19 Bridge.

20 (8) The Merced River between Crocker Huffman Dam and Cressey.

21 (9) The Trinity River between Lewiston Dam and the confluence of the North
22 Fork Trinity, near Helena.

23 (10) The Eel River, from Fort Seward to Lake Pillsbury.

24 (11) The South Fork Eel River.

25 (12) The Middle Fork Smith River, from its mouth to Knopti Creek.

26 (13) The South Fork Smith River, from its mouth to Harrington Creek.

27 (14) The Salmon River, from its mouth to Rush Creek on the South Fork
28 Salmon River, to Carter Meadow on the east fork of the South Fork Salmon River,
29 and to Finley Camp on the North Fork Salmon River.

30 (15) Battle Creek, from its mouth to Coleman Powerhouse.

31 (16) The Cosumnes River, from Meiss Road Bridge to Latrobe Road Bridge.

32 (17) The Van Duzen River, from Yager Creek to the falls 1½ miles above
33 Bloody Run Creek.

34 (18) The Mad River, from Blue Lake Bridge to Bug Creek.

35 (19) The Middle Fork Eel River.

36 (20) The Mattole River.

37 (21) The Noyo River.

38 (22) The Big River, Mendocino County.

39 (23) The Gualala River.

40 (24) The Garcia River, Mendocino County.

41 (b) In the event of any conflict under this section with the action of another
42 department or agency of the state or any other public agency, the action of the

1 Department of Fish and Wildlife taken pursuant to this section shall prevail,
2 except in the event of conflict with the following actions:

3 (1) An action of the state or regional water quality control boards in establishing
4 waste discharge requirements.

5 (2) An action required for commerce and navigation.

6 (3) An action by a public agency that is reasonably necessary for bridge
7 crossings, water conservation or utilization, or flood protection projects, including
8 the construction, maintenance, and operation thereof. This paragraph shall not
9 apply to the depositing of materials, other than necessary structural materials, in,
10 or the removing of materials from the streambeds in the areas designated in this
11 section, other than as necessary for the installation of structures.

12 ~~(c) Until ownership of any land in these areas has been legally determined, the~~
13 The director shall disapprove any stream ~~alterations~~ alteration of any prime
14 salmon ~~and~~ or steelhead spawning ~~areas~~ area on land of which ownership has not
15 been legally determined, when in ~~his~~ the director's opinion ~~such alterations~~ the
16 alteration would prove deleterious to fishlife.

17 **Comment.** Section 1505 is amended to update an obsolete reference to the Department of Fish
18 and Game.

19 The section is also amended to improve its clarity, add subdivision designations, and make
20 stylistic changes, without making any substantive change.

21 **Fish & Game Code § 1930 (amended). Legislative declarations**

22 SEC. ____. Section 1930 of the Fish and Game Code is amended to read:

23 1930. The Legislature finds and declares that:

24 (a) Areas containing diverse ecological and geological characteristics are vital to
25 the continual health and well being of the state's natural resources and of its
26 citizens.

27 (b) Many habitats and ecosystems that constitute the state's natural diversity are
28 in danger of being lost.

29 (c) Connectivity between wildlife habitats is important to the long-term viability
30 of the state's biodiversity.

31 (d) Increasingly fragmented habitats threaten the state's wildlife species.

32 (e) There is insufficient incentive for private landowners to maintain and
33 perpetuate significant local natural areas in their natural state.

34 (f) Efforts to preserve natural areas have been fragmented between federal, state,
35 local, and private sectors.

36 (g) Analysis of the state's habitat connectivity benefits from the consideration of
37 all relevant data, including information from private and public landowners.

38 (h) ~~The Department of Fish and Game's~~ department's existing mapping
39 activities and products should be developed and sustained.

40 **Comment.** Section 1930 is amended to update an obsolete reference to the Department of Fish
41 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

1 **Fish & Game Code § 1940 (amended). Vegetation mapping standard**

2 SEC. _____. Section 1940 of the Fish and Game Code is amended to read:

3 1940. (a) ~~The Department of Fish and Game~~ department shall undertake the
4 development of a vegetation mapping standard for the state.

5 (b) The development of a state vegetation mapping standard by the department
6 shall be done in consultation with interested stakeholders, including, but not
7 limited to, government agencies, nongovernmental conservation organizations,
8 landowners, agriculture, recreation, scientific entities, and industry. Components
9 of the standard shall include the following:

10 (1) A published classification system for all natural and seminatural vegetation
11 communities present in California with sufficient detail to meet the analytical
12 needs of government and nongovernment entities. The classification shall be
13 consistent with national standards adopted by the Federal Geographic Data
14 Committee.

15 (2) Methods for field data collection, image interpretation, and digital map
16 production and attribution.

17 (3) Manuals, training materials, tools, and database structures for use by parties
18 interested in performing vegetation mapping according to the standard.

19 (4) Documented methods for performing postproject accuracy assessments to
20 quantify ~~that~~ the validity of the work. Private and public landowners shall be given
21 reasonable opportunity to review, and comment on the accuracy of, the data
22 collected on their lands.

23 (5) Mechanisms for integrating new map products that meet the standard into a
24 cohesive database with the intent of eventually completing statewide coverage.

25 (c) The department shall submit a report to the budget committee of each house
26 of the Legislature no later than January 10, 2008, providing its mapping standard
27 and advising how the department will ensure that its standard will be updated to
28 reflect changing technology and serve as the state's center of expertise on
29 vegetation mapping.

30 (d) The department may adopt regulations to implement this section.

31 **Comment.** Section 1940 is amended to update an obsolete reference to the Department of Fish
32 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

33 The section is also amended to correct a grammatical error.

34 **Fish & Game Code § 2000 (amended). Unauthorized take**

35 SEC. _____. Section 2000 of the Fish and Game Code is amended to read:

36 2000. (a) It is unlawful to take any bird, mammal, fish, reptile, or amphibian
37 except as provided in this code or ~~regulations made pursuant thereto~~ in a
38 regulation adopted pursuant to this code.

39 (b) Possession of a bird, mammal, fish, ~~or~~ reptile, amphibian, or parts thereof
40 part of any of those animals, in or on the fields, forests, or waters of this state, or
41 while returning therefrom with fishing or hunting equipment, is prima facie

1 evidence the possessor took the bird, mammal, fish, ~~or~~ reptile, amphibian, or ~~parts~~
2 ~~thereof~~ part of that animal.

3 **Comment.** Subdivision (b) of Section 2000 is amended to add amphibians.

4 Section 2000 is also amended to add subdivision designations and make nonsubstantive
5 stylistic changes.

6 The references to a “part” of an animal in this section are superfluous. See Section 80
7 (reference to animal generally includes part of animal). They are retained solely for clarity, and
8 are not intended to affect the meaning of any other provision of this code that includes or omits a
9 reference to a “part” of an animal.

10 **Fish & Game Code § 2001 (amended). Season and possession limits**

11 SEC. _____. Section 2001 of the Fish and Game Code is amended to read:

12 2001. (a) It is unlawful to take ~~mammals, birds, fish, reptiles, and amphibians~~ a
13 mammal, bird, fish, reptile, or amphibian outside of established seasons or to
14 exceed any bag limit or possession limit established in this code or by ~~regulations~~
15 a regulation adopted by the commission. Violation of any established season, bag
16 limit, or possession limit may be charged as a violation of this section or of the
17 specific code section or regulation that establishes the season or limit.

18 ~~(b) Unless otherwise provided, it is unlawful to possess fish, reptiles, or~~
19 ~~amphibians except during the open season where taken and for 10 days thereafter;~~
20 ~~and not more than the possession limit thereof may be possessed during the period~~
21 ~~after the close of the open season. Unless otherwise provided, it is unlawful to~~
22 possess a fish, reptile, or amphibian, except during the open season where the fish,
23 reptile, or amphibian was taken or during the 10-day period immediately following
24 that open season. Any possession limit applicable during the open season applies
25 during that 10-day period.

26 (c) Except as provided in Section 3080, it is unlawful to possess ~~game birds~~ a
27 game bird or mammal ~~mammal~~ except during the open season where taken.

28 **Comment.** Section 2001 is amended to improve its clarity and make stylistic changes, without
29 making any substantive change.

30 **Fish & Game Code § 2002 (amended). Unlawful possession**

31 SEC. _____. Section 2002 of the Fish and Game Code is amended to read:

32 2002. It is unlawful to possess ~~any~~ a bird, mammal, fish, reptile, ~~or~~ amphibian,
33 ~~or parts thereof~~ part of any of those animals, taken in violation of ~~any of the~~
34 ~~provisions~~ a provision of this code, ~~or of any~~ or regulation ~~made under it~~ adopted
35 pursuant to this code.

36 **Comment.** Section 2002 is amended to make nonsubstantive stylistic changes.

37 The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference
38 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
39 affect the meaning of any other provision of this code that includes or omits a reference to a
40 “part” of an animal.

41 **Fish & Game Code § 2003 (amended). Reward for Taking**

42 SEC. _____. Section 2003 of the Fish and Game Code is amended to read:

1 2003. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to
2 offer any prize or other inducement as a reward for the taking of any game ~~birds,~~
3 ~~mammals, fish, reptiles, or amphibians~~ bird, mammal, fish, reptile, or amphibian
4 in an individual contest, tournament, or derby.

5 (b) The department may issue a permit to any person authorizing that person to
6 offer a prize or other inducement as a reward for the taking of any game fish, as
7 defined by the commission by regulation, if it finds that there would be no
8 detriment to the resource. The permit is subject to regulations adopted by the
9 commission. The application for the permit shall be accompanied by a fee in the
10 amount determined by the department as necessary to cover the reasonable
11 administrative costs incurred by the department in issuing the permit. However,
12 the department may waive the permit fee if the contest, tournament, or derby is for
13 persons who are under the age of 16 years, or who are physically or mentally
14 ~~challenged, have a physical or mental disability, and~~ the primary purpose of the
15 contest, tournament, or derby is to introduce young those anglers to, or educate
16 them about fishing. All permits for which the fee is waived pursuant to this
17 subdivision shall comply with all other requirements set forth in this section.

18 (c) This section does not apply to any person conducting what are generally
19 known as frog-jumping contests, or fish contests conducted in waters of the
20 Pacific Ocean.

21 (d) This section does not apply to any person conducting an individual contest,
22 tournament, or derby for the taking of a game ~~birds and mammals~~ bird or
23 mammal, if the total value of all prizes or other inducements is less than five
24 hundred dollars (\$500) for the individual contest, tournament, or derby.

25 **Comment.** Section 2003 is amended to improve its clarity and make stylistic changes, without
26 making any substantive change. In subdivision (b), the word “disability” is not used in any
27 defined sense.

28 **Fish & Game Code § 2005 (amended). Lights**

29 SEC. ____ . Section 2005 of the Fish and Game Code is amended to read:

30 2005. (a) Except as otherwise authorized by this section, it is unlawful to use an
31 artificial light to assist in the taking of any game ~~birds~~ bird, game ~~mammals~~
32 mammal, or game fish, ~~except that this section shall not apply to sport fishing in~~
33 ~~ocean waters or other waters where night fishing is permitted if the lights are not~~
34 ~~used on or as part of the fishing tackle, commercial fishing, nor to the taking of~~
35 ~~mammals, the taking of which is governed by Article 2 (commencing with Section~~
36 ~~4180) of Chapter 3 of Part 3 of Division 4.~~

37 (b) It is unlawful for any person, or one or more persons, to throw or cast the
38 rays of any spotlight, headlight, or other artificial light on any highway or in any
39 field, woodland, or forest where game mammals, fur-bearing mammals, or
40 nongame mammals are commonly found, or upon any game mammal, fur-bearing
41 mammal, or nongame mammal, while having in his or her possession or under his

1 or her control any firearm or weapon with which that mammal could be killed,
2 even though the mammal is not killed, injured, shot at, or otherwise pursued.

3 ~~(c) It is unlawful to use or possess at any time any infrared or similar light used~~
4 ~~in connection with an electronic viewing device or any night vision equipment,~~
5 ~~optical devices, including, but not limited to, binoculars or scopes, that use light-~~
6 ~~amplifying circuits that are electrical or battery powered, to assist in the taking of~~
7 ~~birds, mammals, amphibians, or fish.~~

8 (c) It is unlawful to use or possess any night vision equipment to assist in the
9 taking of any bird, mammal, amphibian, reptile, or fish. For purposes of this
10 subdivision, “night vision equipment” includes but is not limited to the following:

11 (1) Any infrared or similar light, used in connection with an electronic viewing
12 device.

13 (2) Any optical device, including but not limited to binoculars or a scope, that
14 uses electrical or battery powered light amplifying circuits.

15 ~~(d) The provisions of this section do not apply to any of the following:~~

16 ~~(1) The use of a hand held flashlight no larger, nor emitting more light, than a~~
17 ~~two cell, three volt flashlight, provided that light is not affixed in any way to a~~
18 ~~weapon, or to the use of a lamp or lantern that does not cast a directional beam of~~
19 ~~light.~~

20 ~~(2) Headlights of a motor vehicle operated in a usual manner where there is no~~
21 ~~attempt or intent to locate a game mammal, fur bearing mammal, or nongame~~
22 ~~mammal.~~

23 ~~(3) To the owner, or his or her employee, of land devoted to the agricultural~~
24 ~~industry while on that land, or land controlled by such an owner and in connection~~
25 ~~with the agricultural industry.~~

26 ~~(4) To those other uses as the commission may authorize by regulation.~~

27 (d) This section does not apply to any of the following:

28 (1) Sport fishing in ocean waters, or other waters where night fishing is
29 permitted, if an artificial light is not used on or as part of the fishing tackle.

30 (2) Commercial fishing.

31 (3) The taking of mammals governed by Article 2 (commencing with Section
32 4180) of Chapter 3 of Part 3 of Division 4.

33 (4) The use of a hand-held flashlight that is no larger and emits no more light
34 than a two-cell, three-volt flashlight, and is not affixed to a weapon.

35 (5) The use of a lamp or lantern that does not cast a directional beam of light.

36 (6) Headlights of a motor vehicle that are operated in a usual manner and
37 without attempt or intent to locate a game mammal, fur-bearing mammal, or
38 nongame mammal.

39 (7) An owner of land devoted to the agricultural industry, or his or her
40 employee, while on that land.

41 (8) An owner of land devoted to the agricultural industry, or the owner’s
42 employee, while on land controlled by the owner in connection with the
43 agricultural industry.

1 (9) Other uses as the commission may authorize by regulation.

2 (e) A person shall not be arrested for violation of this section except by a peace
3 officer.

4 **Comment.** Subdivision (c) of Section 2005 is amended to add reptiles.

5 Section 2005 is further amended to improve its clarity and make stylistic changes, without
6 making any substantive change.

7 **Fish & Game Code § 2010 (amended). Prohibited shotguns**

8 SEC. _____. Section 2010 of the Fish and Game Code is amended to read:

9 2010. (a) It is unlawful to use or possess a shotgun larger than 10-gauge, or to
10 use or possess a shotgun capable of holding more than six cartridges at one time to
11 take any mammal or bird. ~~However, the commission may, after public hearing,~~
12 ~~adopt regulations relative to the ammunition capacity of shotguns for taking~~
13 ~~mammals or birds that are further restrictive or that it determines may be needed to~~
14 ~~conform to federal law.~~

15 ~~Shotguns that have~~ (b) A shotgun that has been modified with the insertion of a
16 plug ~~are~~ is deemed, for the purpose of this section, to have a cartridge capacity
17 equal to the number of cartridges that can be loaded into the weapon as modified.

18 (c) After a public hearing, the commission may adopt regulations relative to the
19 ammunition capacity of shotguns for taking mammals or birds that are more
20 restrictive than the limits provided in subdivision (a), or that it determines may be
21 needed to conform to federal law.

22 **Comment.** Section 2010 is amended to add subdivision designations and improve its clarity,
23 without making any substantive change.

24 **Fish & Game Code § 2013 (amended). Possession of animals taken out of state**

25 SEC. _____. Section 2013 of the Fish and Game Code is amended to read:

26 2013. Unless otherwise provided, the provisions of this code relating to the
27 possession of birds, mammals, fish, reptiles, ~~amphibia, or parts thereof~~ or
28 amphibians apply to birds, mammals, fish, reptiles, ~~amphibia, or parts thereof~~ or
29 amphibians taken either in or outside of this state.

30 **Comment.** Section 2013 is amended to delete superfluous references to animal parts. See
31 Section 80 (reference to animal generally includes part of animal).

32 The section is also amended to make nonsubstantive stylistic changes.

33 **Fish & Game Code § 2014 (amended). Civil action to recover damages**

34 SEC. _____. Section 2014 of the Fish and Game Code is amended to read:

35 2014. (a) It is the policy of this state to conserve its natural resources and to
36 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
37 amphibia.

38 (b) The state may recover damages in a civil action against any person or local
39 agency ~~which~~ that unlawfully or negligently takes or destroys any bird, mammal,
40 fish, reptile, or amphibian protected by the laws of this state.

1 ~~(b)~~ (c) The measure of damages is the amount ~~which~~ that will compensate for all
2 the detriment proximately caused by the taking or destruction ~~of the birds,~~
3 ~~mammals, fish, reptiles, or amphibia.~~

4 ~~(e)~~ (d) An action to recover damages under this section shall be brought in the
5 name of the people of the state, in a court ~~of competent jurisdiction~~ in the county
6 in which the cause of action arose. The State Water Resources Control Board shall
7 be notified of, and may join in, any action brought under this section when the
8 activities alleged to have caused the destruction of any bird, mammal, fish, reptile,
9 or amphibian may involve either the unlawful discharge of pollutants into the
10 waters of the state or other violation of Division 7 (commencing with Section
11 13000) of the Water Code.

12 ~~(d) This section does not apply to persons or local agencies engaged in~~
13 ~~agricultural pest control, to the destruction of fish in irrigation canals or works or~~
14 ~~irrigation drainages, or to the destruction of birds or mammals killed while~~
15 ~~damaging crops as provided by law.~~

16 (e) This section does not apply to any of the following:

17 (1) Persons or local agencies engaged in agricultural pest control, as provided by
18 law.

19 (2) The destruction of fish in irrigation canals or works or irrigation drainages,
20 as provided by law.

21 (3) The destruction of birds or mammals killed while damaging crops, as
22 provided by law.

23 ~~(e)~~ (f) No damages may be recovered against a local agency pursuant to this
24 section if civil penalties are assessed against the local agency for the same
25 detriment pursuant to Division 7 (commencing with Section 13000) of the Water
26 Code.

27 ~~(f)~~ (g) Any recovery or settlement of money damages, including, but not limited
28 to, civil penalties, arising out of any civil action filed and maintained by the
29 Attorney General in the enforcement of this section shall be deposited by the
30 department in the subaccounts of the Fish and Wildlife Pollution Account in the
31 Fish and Game Preservation Fund as specified in Section 13011.

32 ~~(g)~~ (h) For purposes of this section, “local agency” includes any city, county,
33 city and county, district, public authority, or other political subdivision.

34 **Comment.** Subdivision (c) of Section 2014 is amended to add an inadvertently omitted word.

35 Subdivision (d) is amended to reflect unification of the municipal and superior courts pursuant
36 to former Section 5(e) of Article VI of the California Constitution.

37 The section is also amended to revise subdivision designations, add paragraph designations,
38 and make nonsubstantive stylistic changes.

39 **Fish & Game Code § 2015 (amended). Possession in restaurant**

40 SEC. ____ . Section 2015 of the Fish and Game Code is amended to read:

41 2015. ~~It~~ (a) Except as otherwise provided in this section, it is unlawful to possess
42 any bird, mammal, fish, ~~or~~ amphibian, or reptile ~~which~~ that may not be legally
43 sold, in any restaurant or other eating establishment ~~unless the possession is by the~~

1 ~~person who lawfully took or otherwise legally possessed the bird, mammal, fish,~~
2 ~~or amphibian or is by a person preparing the bird, mammal, fish or amphibian for~~
3 ~~consumption by the person who lawfully took or possessed it, or such person and~~
4 ~~others, and the person who took or possessed it is present on the premises.~~

5 ~~This section does not apply to birds, mammals, fish or amphibia in a restaurant~~
6 ~~or other eating establishment which are tagged with a signed statement of the~~
7 ~~name and address of the person who took them, the date taken, and the total~~
8 ~~number and kind of birds, mammals, fish or amphibia.~~

9 (b) This section does not apply to any of the following:

10 (1) A person who lawfully took or otherwise legally possessed the bird,
11 mammal, fish, amphibian, or reptile.

12 (2) A person preparing the bird, mammal, fish, amphibian, or reptile for
13 consumption by the person who lawfully took or possessed it, or by that person
14 and others, if the person who took or possessed it is present on the premises.

15 (3) A bird, mammal, fish, amphibian, or reptile tagged with a signed statement
16 of the person who took the bird, mammal, fish, or amphibian, stating that person's
17 name and address, the date taken, and the total number and kind taken.

18 **Comment.** Section 2015 is amended to add reptiles.

19 The section is also amended to add subdivision and paragraph designations and otherwise
20 improve its clarity, without making any substantive change.

21 **Fish & Game Code § 2016 (amended). Unlawful entry onto land**

22 SEC. ____ . Section 2016 of the Fish and Game Code is amended to read:

23 ~~2016. It is unlawful to enter any lands under cultivation or enclosed by a fence,~~
24 ~~belonging to, or occupied by, another, or to enter any uncultivated or unenclosed~~
25 ~~lands, including lands temporarily inundated by waters flowing outside the~~
26 ~~established banks of a river, stream, slough, or other waterway, where signs~~
27 ~~forbidding trespass or hunting, or both, are displayed at intervals not less than~~
28 ~~three to the mile along all exterior boundaries and at all roads and trails entering~~
29 ~~those lands, for the purpose of discharging any firearm or taking or destroying any~~
30 ~~mammal or bird, including any waterfowl, on those lands without having first~~
31 ~~obtained written permission from the owner, or his or her agent, or the person in~~
32 ~~lawful possession of, those lands. Signs may be of any size and wording that will~~
33 ~~fairly advise persons about to enter the land that the use of the land is so restricted.~~

34 It is unlawful to enter any land for the purpose of discharging any firearm or
35 taking or destroying any mammal or bird, including any waterfowl, on that land,
36 without having first obtained written permission from the owner, the owner's
37 agent, or the person in lawful possession of that land, if any of the following is
38 true:

39 (a) The land belongs to or is occupied by another person and is either under
40 cultivation or enclosed by a fence.

41 (b) There are signs of any size and wording forbidding trespass or hunting or
42 both displayed along all exterior boundaries and at all roads and trails entering the

1 land, including land temporarily inundated by water flowing outside the
2 established banks of a river, stream, slough, or other waterway, at intervals not
3 less than three to the mile, which fairly advise a person about to enter the land that
4 the use of the land is so restricted.

5 **Comment.** Section 2016 is amended to add subdivision designations and otherwise improve its
6 clarity, without making any substantive change.

7 **Fish & Game Code § 2069 (amended). Mitigation actions**

8 SEC. ____ . Section 2069 of the Fish and Game Code is amended to read:

9 2069. (a) For purposes of this section, the following terms have the following
10 meanings:

11 (1) “Desert Renewable Energy Conservation Plan” means the completed
12 conservation plan in the Mojave and Colorado Desert regions adopted pursuant to
13 the Natural Community Conservation Planning Act (Chapter 10 (commencing
14 with Section 2800)), and covers the geographical area described in the Draft
15 Planning Agreement, as amended by, and among, the ~~Department of Fish and~~
16 ~~Game~~ department, California Energy Commission, United States Bureau of Land
17 Management, and United States Fish and Wildlife Service for the Desert
18 Renewable Energy Conservation Plan.

19 (2) “Energy Commission” means the State Energy Resources Conservation and
20 Development Commission.

21 (b) The department, in consultation with the Energy Commission and, to the
22 extent practicable, the United States Fish and Wildlife Service and the United
23 States Bureau of Land Management, may design and implement actions, including
24 the purchase of land and conservation easements, to protect, restore, or enhance
25 the habitat of plants and wildlife that can be used to fully mitigate the impacts of
26 the take of endangered species, threatened species, or candidate species, for
27 purposes of paragraph (2) of subdivision (b) of Section 2081 and Chapter 6
28 (commencing with Section 25500) of Division 15 of the Public Resources Code,
29 resulting from solar thermal, photovoltaic, wind, and geothermal powerplants in
30 the Desert Renewable Energy Conservation Plan planning area that meet either of
31 the following requirements:

32 (1) Either the Energy Commission determines that the application for
33 certification is complete by December 31, 2011, or the lead agency for purposes of
34 the California Environmental Quality Act (Division 13 (commencing with Section
35 21000) of the Public Resources Code) has determined the project permit
36 application is complete or has issued a notice of preparation of an environmental
37 impact report by December 31, 2011.

38 (2) The developer or owner of the proposed powerplant or generation facility
39 has applied for, and would qualify for, funding under the federal American
40 Recovery and Reinvestment Act of 2009 (Public Law 111-5). For purposes of this
41 paragraph, “funding” means a loan guarantee made pursuant to Section 406 of the
42 act (42 U.S.C. Sec. 16516) or a grant for specified energy property in lieu of a tax

1 credit provided pursuant to Section 1603 of Division B of the act, which division
2 is titled the American Recovery and Reinvestment Tax Act of 2009.

3 (c) A mitigation action may only be used for the mitigation purposes described
4 in subdivision (b) if it meets one of the following conditions:

5 (1) The department has implemented the mitigation action and determined that
6 the action has resulted in the protection, restoration, or enhancement of the habitat
7 of one or more species that are proposed to be covered by the Desert Renewable
8 Energy Conservation Plan, and that are located in the planning area, and, based
9 upon that determination, can be used, for purposes of paragraph (2) of subdivision
10 (b) of Section 2081, to fully mitigate for the impacts of the take of those species
11 from one or more projects that meet the requirement of subdivision (b).

12 (2) The mitigation action is included in an interim mitigation strategy for
13 projects that meet the requirement of subdivision (b). An interim mitigation
14 strategy pursuant to this paragraph shall be developed by the department, in
15 consultation with the Energy Commission and, to the extent practicable, the
16 United States Fish and Wildlife Service and the United States Bureau of Land
17 Management, and shall include all of the following:

18 (A) A description of specific mitigation areas and specific actions on public or
19 private land within the Desert Renewable Energy Conservation Plan planning area
20 that are to be implemented, including a focus on habitat preservation, while also
21 including enhancement or restoration actions that will do all of the following:

22 (i) Contribute to the conservation of each candidate species, threatened species,
23 or endangered species for which a permit is issued.

24 (ii) Adopt a regional planning perspective that provides a foundation for, or that
25 will complement, any conservation strategy to be developed for the Desert
26 Renewable Energy Conservation Plan.

27 (iii) Implement mitigation actions within a reasonable period of time relative to
28 the impact to the affected candidate species, threatened species, or endangered
29 species, including, where feasible, advance mitigation. For purposes of this clause,
30 “advance mitigation” means mitigation implemented before, and in anticipation
31 of, future impacts to natural resources.

32 (iv) Include a description of the species that would be benefited by each
33 mitigation action and how it would be benefited.

34 (B) A cost estimate for each action, whether on public or private land, using
35 total cost accounting, including, as applicable, land acquisition costs, conservation
36 easement costs, monitoring costs, transaction costs, restoration costs, the amount
37 of a perpetual endowment account for land management or easement stewardship
38 costs by the department or other management entity, and administrative costs.

39 (d) The interim mitigation strategy shall be based on best available science and
40 shall be reviewed by the Desert Renewable Energy Conservation Plan independent
41 science advisers. The department shall seek and consider comments from the
42 Desert Renewable Energy Conservation Plan independent science advisers in the
43 design and location of each mitigation action implemented pursuant to this section.

1 If the department elects to not incorporate comments of the independent science
2 advisers into mitigation actions, the department shall explain the reasons for that
3 decision in writing.

4 (e) The interim mitigation strategy shall be completed by the department no later
5 than 60 days following the operative date of the act adding this section.

6 (f)(1) This section does not modify the requirements of Section 2081, including
7 the requirement to avoid and minimize impacts, where feasible, or the
8 requirements of Division 13 (commencing with Section 21000) of, or Chapter 6
9 (commencing with Section 25500) of Division 15 of, the Public Resources Code,
10 or affect the existing authority of the department to authorize mitigation actions to
11 comply with this chapter.

12 (2) With respect to the Energy Commission, in the case of an applicant seeking
13 certification for a solar thermal or geothermal powerplant pursuant to Chapter 6
14 (commencing with Section 25500) of Division 15 of the Public Resources Code,
15 or a lead agency, as defined in Section 21067 of the Public Resources Code, in the
16 case of an applicant seeking approval of a renewable energy powerplant not
17 subject to the Energy Commission's jurisdiction, the sole effect of a mitigation
18 action described in subdivision (c), and paid for through the deposit of fees as
19 described in Section 2099, is to relieve an applicant of the obligation to directly
20 take actions that are taken instead by the department or its contractor or designee
21 pursuant to subdivision (b) to meet the applicant's obligations with respect to
22 mitigating the powerplant's impacts to species and habitat. The mitigation action
23 and deposit of fees shall not relieve the applicant of any other obligation, or the
24 Energy Commission or the lead agency of any of its existing requirements of
25 Division 13 (commencing with Section 21000) of, or the requirements of Chapter
26 6 (commencing with Section 25500) of Division 15 of, the Public Resources Code
27 to analyze, avoid, minimize, or mitigate impacts to species and habitat, or make
28 the findings required by those statutes.

29 (g) The mitigation actions implemented pursuant to this section shall be
30 incorporated into the Desert Renewable Energy Conservation Plan upon the
31 finalization of the plan, to the extent the mitigation actions are consistent with the
32 plan's conservation strategy.

33 **Comment.** Section 2069 is amended to update an obsolete reference to the Department of Fish
34 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

35 **Fish & Game Code § 2119 (amended). List of prohibited animals**

36 SEC. ____. Section 2119 of the Fish and Game Code is amended to read:

37 2119. The ~~Department of Fish and Game~~ department shall publish from time to
38 time as changes arise, a list of animals ~~which~~ that may not be imported or
39 transported into this ~~State~~ state.

40 **Comment.** Section 2119 is amended to update an obsolete reference to the Department of Fish
41 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

42 The section is also amended to make nonsubstantive stylistic changes.

1 **Fish & Game Code § 2348 (amended). Packaging of transported animals**

2 SEC. _____. Section 2348 of the Fish and Game Code is amended to read:

3 2348. (a) ~~Any package in which birds, mammals, fish, reptiles, or amphibians,~~
4 ~~or parts thereof, are offered for transportation to, or are transported or received for~~
5 ~~transportation by, a common carrier or his or her agent shall bear the name and~~
6 ~~address of the shipper and of the consignee and an accurate description of the~~
7 ~~numbers and kinds of birds, mammals, fish, reptiles, or amphibians contained~~
8 ~~therein clearly and conspicuously marked on the outside thereof.~~

9 The outside of any package offered to or received by a common carrier or the
10 carrier's agent for transportation, or transported by a common carrier or agent, that
11 contains a bird, mammal, fish, reptile, or amphibian, shall clearly and
12 conspicuously indicate the following:

13 (1) The name and address of the shipper.

14 (2) The name and address of the consignee.

15 (3) The number and kind of birds, mammals, fish, reptiles, and amphibians
16 contained in the package.

17 (b) Licensed commercial fishermen and licensed commercial fish dealers are
18 subject to all of the provisions of this section, except that commercial shipments of
19 fish may be indicated by total net weight of each species instead of by numbers.

20 **Comment.** Section 2348 is amended to delete a superfluous reference to animal parts. See
21 Section 80 (reference to animal generally includes part of animal).

22 The section is also amended to add paragraph designations and otherwise improve its clarity,
23 without making any substantive change.

24 **Fish & Game Code § 2350 (amended). Export of deer or game bird**

25 SEC. _____. Section 2350 of the Fish and Game Code is amended to read:

26 2350. It is unlawful to transport or carry out of this ~~State~~ state any deer or game
27 ~~bird, or parts thereof,~~ except by the holder of a nonresident hunting license or
28 under a written permit issued by the department.

29 **Comment.** Section 2350 is amended to delete a superfluous reference to animal parts. See
30 Section 80 (reference to animal generally includes part of animal).

31 The section is also amended to make a nonsubstantive stylistic change.

32 **Fish & Game Code § 2363 (amended). Import of striped bass, sturgeon, or shad**

33 SEC. _____. Section 2363 of the Fish and Game Code is amended to read:

34 2363. Striped bass, sturgeon, or shad ~~or parts thereof~~ legally taken in another
35 ~~state, which~~ that permits the sale of that fish, may be imported into ~~the~~ this state
36 under regulations of the commission. Before the commission adopts any
37 regulation pursuant to this section, a public hearing shall be held in the San
38 Francisco or Sacramento area.

39 **Comment.** Section 2363 is amended to delete a superfluous reference to animal parts. See
40 Section 80 (reference to animal generally includes part of animal).

41 The section is also amended to make nonsubstantive stylistic changes.

1 **Fish & Game Code § 2400 (amended). Transportation of dead birds and mammals**

2 SEC. _____. Section 2400 of the Fish and Game Code is amended to read:

3 2400. (a) Common carriers may transport ~~at any time~~ the carcasses ~~or parts~~
4 ~~thereof~~ of dead domesticated game birds and mammals tagged with a
5 domesticated game breeder's tag as provided in Article 1 (commencing with
6 Section 3200), ~~of Chapter 2, of Part 1, of Division 4.~~

7 ~~In addition, a~~ (b) A tag or label shall be affixed to every package containing
8 ~~such carcass or part, which shall~~ a carcass transported pursuant to subdivision (a),
9 ~~which shall~~ state all of the following:

10 (a) ~~(1) Give the~~ The names of the person to whom the game breeder's license
11 was issued, ~~of the person by whom such game was killed~~ the person that killed the
12 game bird or mammal, ~~of the person to whom such game~~ the game bird or
13 mammal is consigned, and ~~of the person by whom such game was tagged~~ who
14 tagged the game bird or mammal.

15 (b) ~~Give the~~ (2) The number of carcasses or portions thereof contained in the
16 package.

17 (c) ~~State that~~ (3) That the game birds or mammals were killed and tagged in
18 accordance with the provisions of Article 1 (commencing with Section 3200), ~~of~~
19 ~~Chapter 2, of Part 1, of Division 4.~~

20 **Comment.** Section 2400 is amended to delete superfluous references to animal parts. See
21 Section 80 (reference to animal generally includes part of animal).

22 The section is also amended to revise subdivision designations, and make nonsubstantive
23 stylistic changes.

24 **Fish & Game Code § 2701 (amended). Statement of purpose**

25 SEC. _____. Section 2701 of the Fish and Game Code is amended to read:

26 2701. (a) The fundamental requirement for healthy, vigorous populations of fish
27 and wildlife is habitat. Without adequate habitat, efforts to conserve and manage
28 fish and wildlife resources will have limited success. Further, California contains
29 the greatest diversity of wildlife and plant species of virtually any state in the
30 nation. This rich natural heritage enables Californians to enjoy a great variety of
31 recreational, aesthetic, ecological, and other uses and benefits of these biological
32 resources. The public interest is served only by ensuring that these resources are
33 preserved, protected, and propagated for this and future generations.

34 (b) Many of California's wildlife, fish, and plant species and biological
35 communities are found nowhere else on earth. Without adequate protection and
36 management, rare native species and communities could easily become extinct. In
37 ~~such an~~ that event, the benefits they provide to the people of California, whether
38 presently realized or which remain to be discovered, will be lost forever, and
39 California will be significantly poorer as a result.

40 (c) The people of California have vested in the ~~Department of Fish and Game~~
41 department the principal responsibility for protecting, conserving, and
42 perpetuating native fish, plants, and wildlife, including endangered species and
43 game animals, for their aesthetic, ~~intrinsic~~ intrinsic, ecological, educational, and

1 economic values. To help accomplish this goal, the people of California have
2 further established a significant natural areas program and a natural diversity data
3 base in the ~~Department of Fish and Game~~ department, which is charged with
4 maintaining and perpetuating California's most significant natural areas for
5 present and future generations. To ensure the perpetuation of areas containing
6 uncommon elements of natural diversity and to ensure the continued abundance of
7 habitat for more common species, especially examples of those which are
8 presently threatened with destruction, the purchase of land is often necessary.

9 (d) Accordingly, the purpose of this chapter is to provide the Wildlife
10 Conservation Board and the ~~Department of Fish and Game~~ department the
11 financial means to correct the most severe deficiencies in wildlife habitat and in
12 the statewide system of areas designated for the preservation of California's
13 natural diversity through a program of acquisition, enhancement, restoration, and
14 protection of areas that are most in need of proper conservation.

15 **Comment.** Section 2701 is amended to update obsolete references to the Department of Fish
16 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

17 The section is also amended to correct a spelling error, and make a nonsubstantive stylistic
18 change.

19 **Fish & Game Code § 2729 (amended). Augmenting of staff**

20 SEC. _____. Section 2729 of the Fish and Game Code is amended to read:

21 2729. (a) For the purpose of administering this chapter, the Wildlife
22 Conservation Board and the ~~Department of Fish and Game~~ department shall
23 augment its existing staff, whenever possible, by contracting for those services
24 necessary for the administration of this chapter. Any contract shall, however, be
25 entered into only pursuant to Sections 19130 to 19132, inclusive, of the
26 Government Code and shall be only for the minimum period necessary for
27 completion of the particular project or projects for which the contract was entered
28 into.

29 (b) Due to the limited duration of the program authorized by this chapter, in the
30 event some services cannot be provided by contract, any personnel directly hired
31 by the Wildlife Conservation Board for the administration of this chapter shall be
32 hired, to the extent permitted by Article 2 (commencing with Section 19080) of
33 Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-
34 term appointments.

35 **Comment.** Section 2729 is amended to update an obsolete reference to the Department of Fish
36 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

37 **Fish & Game Code § 3003 (amended). Remote use of computer or other device**

38 SEC. _____. Section 3003 of the Fish and Game Code is amended to read:

39 3003. (a) It is unlawful for any person to shoot, shoot at, or kill any bird or
40 mammal with any gun or other device accessed via an Internet connection in this
41 state.

1 (b) It is ~~further~~ unlawful for any person, firm, corporation, partnership, limited
2 liability company, association, or other business entity to do either of the
3 following:

4 (1) Own or operate a shooting range, site, or gallery located in the state for
5 purposes of the online shooting or spearing of any bird or mammal.

6 (2) Create, maintain, or utilize an Internet Web site, or a service or business via
7 any other means, from any location within the state for purposes of the online
8 shooting or spearing of any bird or mammal ~~for the purposes of this section.~~

9 (c) It is unlawful to possess or confine any bird or mammal in furtherance of an
10 activity prohibited by this section.

11 (d) It is unlawful for any person in this state to import into, or export from, this
12 state any bird or mammal, ~~or any part thereof~~, that is killed by any device accessed
13 via an Internet connection.

14 (e) Any bird or mammal, ~~or any part thereof~~, that is possessed in violation of
15 this section shall be subject to seizure by the department.

16 (f) For the purposes of this section, “online shooting or spearing” means the use
17 of a computer or any other device, equipment, software, or technology, to
18 remotely control the aiming and discharge of any weapon, including, but not
19 limited to, any firearm, bow and arrow, spear, slingshot, harpoon, or any other
20 projectile device.

21 **Comment.** Section 3003 is amended to delete superfluous references to animal parts. See
22 Section 80 (reference to animal generally includes part of animal).

23 The section is also amended to make nonsubstantive stylistic changes.

24 **Fish & Game Code § 3004 (amended). Use of weapon near occupied building or public way**

25 SEC. ____ . Section 3004 of the Fish and Game Code is amended to read:

26 3004. (a) It is unlawful for any person, other than the owner, person in
27 possession of the premises, or a person having the express permission of the owner
28 or person in possession of the premises, ~~to hunt or to discharge while hunting, any~~
29 ~~firearm or other deadly weapon within 150 yards of any occupied dwelling house,~~
30 ~~residence, or other building or any barn or other outbuilding used in connection~~
31 ~~therewith~~ while within 150 yards of an occupied dwelling house, residence, or
32 other building, or within 150 yards of a barn or other outbuilding used in
33 connection with an occupied dwelling house, residence, or other building, to either
34 hunt or discharge a firearm or other deadly weapon while hunting. The 150-yard
35 area is a “safety zone.”

36 (b) It is unlawful for any person to intentionally discharge any firearm or release
37 any arrow or crossbow bolt over or across any public road or other established
38 way open to the public in an unsafe and reckless manner.

39 **Comment.** Subdivision (a) of Section 3004 is amended to improve its clarity, without making
40 any substantive change.

41 **Fish & Game Code § 3005 (amended). Prohibited methods of taking**

42 SEC. ____ . Section 3005 of the Fish and Game Code is amended to read:

1 3005. (a) Except as otherwise provided in this code, it is unlawful to take a bird
2 or mammal with a net, pound, cage, trap, set line or wire, or poisonous substance,
3 or to possess a bird or mammal so taken, whether taken within or without this
4 state. It is unlawful to take birds or mammals with any net, pound, cage, trap, set
5 line or wire, or poisonous substance, or to possess birds or mammals so taken,
6 whether taken within or without this state, except as provided in this code or, when
7 relating to ongoing mining operations, in accordance with a mitigation plan
8 approved by the department.

9 ~~(b)(1) Mitigation plans relating to mining operations approved by the~~
10 ~~department shall, among other criteria, require avoidance of take, where feasible,~~
11 ~~and include reasonable and practicable methods of mitigating the unavoidable take~~
12 ~~of birds and mammals. When approving mitigation plans, the department shall~~
13 ~~consider the use of the best available technology on a site specific basis.~~

14 ~~(2) Mitigation plans relating to mining operations approved by the department~~
15 ~~shall include provisions that address circumstances where mining operations~~
16 ~~contribute to bird deaths, including ponding of process solutions on heap leach~~
17 ~~pads and exposure of process solution channels, solution ponds, and tailing ponds.~~

18 ~~(3) The mine operator shall prepare a mitigation plan that shall be submitted to~~
19 ~~the department for approval. For ongoing mining operations, the mitigation plan~~
20 ~~shall result in an overall reduction in take of avian or mammal species. The~~
21 ~~department shall provide an opportunity for public review and comment on each~~
22 ~~mitigation plan during the department's approval process. The mitigation plan~~
23 ~~shall be prepared on a site specific basis and may provide for offsite mitigation~~
24 ~~measures designed to reduce avian mortality. The mine operator shall submit~~
25 ~~monthly monitoring reports on avian mortality to the department to aid in~~
26 ~~evaluating the effectiveness of onsite mitigation measures.~~

27 ~~(4) The department shall monitor and evaluate implementation of the mitigation~~
28 ~~plan by the mine operator and require modification of the plan or other remedial~~
29 ~~actions to be taken if the overall reduction in take of avian or mammal species~~
30 ~~required pursuant to paragraph (3) is not being achieved.~~

31 ~~(5) The mining operator shall reimburse the department for its direct costs to~~
32 ~~provide appropriate notice of the mitigation plan to affected local government~~
33 ~~entities and other affected parties. The mine operator shall provide the department~~
34 ~~a limited number of copies, as determined by the department, of the mitigation~~
35 ~~plan for public review.~~

36 ~~(c) Proof of possession of any bird or mammal that does not show evidence of~~
37 ~~having been taken by means other than a net, pound, cage, trap, set line or wire, or~~
38 ~~poisonous substance, is prima facie evidence that the birds or mammals were~~
39 ~~taken in violation of this section.~~

40 ~~(d) This section does not apply to the lawful taking of fur bearing mammals,~~
41 ~~nongame birds, nongame mammals, or mammals found to be injuring crops or~~
42 ~~property, to the taking of birds or mammals under depredation permits, to taking~~
43 ~~by employees of the department acting in an official capacity, or to taking in~~

1 ~~accordance with the conditions of a scientific or propagation permit by the holder~~
2 ~~of that permit.~~

3 (b) In the absence of evidence that a bird or mammal was taken by means other
4 than a net, pound, cage, trap, set line or wire, or poisonous substance, proof of
5 possession of a bird or mammal is prima facie evidence that the bird or mammal
6 was taken with a net, pound, cage, trap, set line or wire, or poisonous substance.

7 (c) This section does not apply to any of the following:

8 (1) The lawful taking of a fur-bearing mammal, nongame bird, or nongame
9 mammal.

10 (1) The lawful taking of a mammal found to be injuring crops or property.

11 (2) The taking of a bird or mammal under a depredation permit.

12 (3) The taking of a bird or mammal by an employee of the department acting in
13 an official capacity.

14 (4) The taking of a bird or mammal in accordance with the conditions of a
15 scientific or propagation permit by the holder of that permit.

16 (5) The taking of a bird or mammal in accordance with an ongoing mining
17 operation mitigation plan approved by the department pursuant to subdivision (d).

18 (d)(1) Mitigation plans relating to mining operations approved by the
19 department shall, among other criteria, require avoidance of take, where feasible,
20 and include reasonable and practicable methods of mitigating the unavoidable take
21 of birds and mammals. When approving mitigation plans, the department shall
22 consider the use of the best available technology on a site-specific basis.

23 (2) Mitigation plans relating to mining operations approved by the department
24 shall include provisions that address circumstances where mining operations
25 contribute to bird deaths, including ponding of process solutions on heap leach
26 pads and exposure of process solution channels, solution ponds, and tailing ponds.

27 (3) The mine operator shall prepare a mitigation plan that shall be submitted to
28 the department for approval. For ongoing mining operations, the mitigation plan
29 shall result in an overall reduction in take of bird or mammal species. The
30 department shall provide an opportunity for public review and comment on each
31 mitigation plan during the department's approval process. The mitigation plan
32 shall be prepared on a site-specific basis and may provide for offsite mitigation
33 measures designed to reduce bird mortality. The mine operator shall submit
34 monthly monitoring reports on bird mortality to the department to aid in
35 evaluating the effectiveness of onsite mitigation measures.

36 (4) The department shall monitor and evaluate implementation of the mitigation
37 plan by the mine operator and require modification of the plan or other remedial
38 actions to be taken if the overall reduction in take of bird or mammal species
39 required pursuant to paragraph (3) is not being achieved.

40 (5) The mine operator shall reimburse the department for its direct costs to
41 provide appropriate notice of the mitigation plan to affected local government
42 entities and other affected parties. The mine operator shall provide the department

1 a limited number of copies, as determined by the department, of the mitigation
2 plan for public review.

3 **Comment.** Section 3005 is amended to improve its clarity, without making any substantive
4 change.

5 **Fish & Game Code § 3006 (amended). Deer, elk, or bear**

6 SEC. _____. Section 3006 of the Fish and Game Code is amended to read:

7 3006. Except as authorized under a domesticated game breeder's license, any
8 deer, elk, or bear kept in captivity may be killed only with the approval of the
9 department, and ~~under such~~ pursuant to any regulations as ~~that~~ the commission
10 may ~~prescribe~~ adopt. The carcass, ~~or any part thereof,~~ of any ~~such mammal~~ deer,
11 elk, or bear kept in captivity may not be sold, and shall be disposed of ~~in such~~
12 ~~manner~~ as directed by the department ~~may direct~~.

13 **Comment.** Section 3006 is amended to delete a superfluous reference to animal parts. See
14 Section 80 (reference to animal generally includes part of animal).

15 The section is also amended to make nonsubstantive stylistic changes.

16 **Fish & Game Code § 3007 (amended). Required license or entitlement**

17 SEC. _____. Section 3007 of the Fish and Game Code is amended to read:

18 3007. ~~Except as provided in this code or regulations adopted pursuant thereto,~~
19 ~~every person who takes any bird or mammal shall procure a license or entitlement~~
20 ~~therefor.~~ Except as provided in this code or regulations adopted pursuant to this
21 code, it is unlawful to take any bird or mammal without a license or entitlement to
22 do so.

23 **Comment.** Section 3007 is amended to improve its clarity, without making any substantive
24 change.

25 **Fish & Game Code § 3008 (amended). Hunting dogs**

26 SEC. _____. Section 3008 of the Fish and Game Code is amended to read:

27 3008. ~~The physical control of a dog by its owner while the dog is engaged in~~
28 ~~hunting in an area where the owner is otherwise authorized to hunt, shall be as~~
29 ~~required by this code or regulations made pursuant thereto.~~

30 (a) It is unlawful for the owner of a dog engaged in hunting in an area where the
31 owner is authorized to hunt to fail to exercise physical control of the dog, as
32 required by this code or regulations adopted pursuant to this code.

33 (b) Dogs ~~which~~ that are used for hunting ~~which~~ that have been vaccinated for
34 rabies in their county of residence in conformity with state law regulating
35 vaccinations in rabies areas are not subject to rabies vaccination requirements of
36 local ordinances outside their county of residence.

37 **Comment.** Section 3008 is amended to improve its clarity, without making any substantive
38 change.

39 The section is also amended to make nonsubstantive stylistic changes.

40 **Fish & Game Code § 3033 (amended). Disabled veteran or recovering service member**

41 SEC. _____. Section 3033 of the Fish and Game Code is amended to read:

1 3033. ~~(a) The department shall, upon application and payment of a fee, issue a~~
2 ~~reduced fee hunting license, that authorizes the licensee to take any bird or~~
3 ~~mammal as otherwise authorized pursuant to this code and regulations adopted~~
4 ~~pursuant thereto, to a disabled veteran, as defined in subdivision (b), or to a~~
5 ~~recovering service member, as defined in subdivision (c), who has not been~~
6 ~~convicted of any violation of this code. The base license fee for a reduced fee~~
7 ~~hunting license shall be four dollars (\$4) for the hunting license year beginning on~~
8 ~~July 1, 1995, and, for the following years, this license fee may be annually~~
9 ~~reviewed and adjusted in accordance with Section 713.~~

10 ~~(b) “Disabled veteran” means a person having a 50 percent or greater service-~~
11 ~~connected disability and an honorable discharge from military service. The person~~
12 ~~shall be eligible upon presentation of proof of an honorable discharge from~~
13 ~~military service and proof of the disability. Proof of the disability shall be by~~
14 ~~certification from the United States Department of Veterans Affairs or by~~
15 ~~presentation of a license issued pursuant to this section in the preceding license~~
16 ~~year.~~

17 ~~(c) “Recovering service member” means a member of the military who meets~~
18 ~~the definition of “recovering service member” in Section 1602(7) of the federal~~
19 ~~National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).~~
20 ~~A person shall be eligible for a reduced fee hunting license pursuant to this~~
21 ~~subdivision upon the submission of a letter, online or in hardcopy, to the~~
22 ~~department from that person’s commanding officer or from a military medical~~
23 ~~doctor stating that the person is a recovering service member.~~

24 (a) Pursuant to this section, the department shall issue to any disabled veteran or
25 recovering service member who has not been convicted of any violation of this
26 code a reduced fee hunting license that authorizes the licensee to take any bird or
27 mammal as authorized by this code and regulations adopted pursuant to this code.

28 (b) The base license fee for a reduced fee hunting license shall be four dollars
29 (\$4) for the hunting license year beginning on July 1, 1995, and, for the following
30 years, this license fee may be annually reviewed and adjusted in accordance with
31 Section 713.

32 (c) For the purposes of this section, the following terms have the following
33 meanings:

34 (1) “Disabled veteran” means a person having a 50 percent or greater service-
35 connected disability and an honorable discharge from military service.

36 (2) “Recovering service member” means a member of the military who meets
37 the definition of “recovering service member” in Section 1602(7) of the federal
38 National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

39 (d) A person applying for a reduced fee hunting license shall submit to the
40 department adequate documentation for the department to determine whether the
41 person is, in fact, eligible for a reduced fee hunting license. The department shall
42 not issue a reduced fee hunting license to any person unless it is satisfied that the
43 person has provided adequate documentation of eligibility for that license.

1 (e) A disabled veteran must submit the following documentation:

2 (1) Proof of an honorable discharge from military service.

3 (2) Proof of the disability described in paragraph (1) of subdivision (c), either by
4 certification from the United States Department of Veterans Affairs or by
5 presentation of a license issued pursuant to this section in the preceding license
6 year.

7 (f) A recovering service member must submit a letter to the department stating
8 that the person is a recovering service member as defined in subdivision (d), from
9 either that person's commanding officer or a military medical doctor. The letter
10 may be submitted either in hard copy form or online.

11 **Comment.** Section 3033 is amended to improve its clarity, without making any substantive
12 change.

13 **Fish & Game Code § 3039 (amended). Purchase or sale of birds or mammals**

14 SEC. ____ . Section 3039 of the Fish and Game Code is amended to read:

15 3039. (a) Except as otherwise provided in this section and Sections 3087 and
16 4303, or any other provision of this code, or regulations adopted pursuant ~~thereto~~
17 to any provision of this code, it is unlawful to sell or purchase any species of bird
18 or mammal ~~or part thereof~~ found in the wild in California.

19 (b) Products or handicraft items made from furbearing mammals and nongame
20 mammals, ~~their carcass or parts thereof~~, lawfully taken under the authority of a
21 trapping license, may be purchased or sold at any time.

22 (c) Shed antlers, or antlers taken from domestically reared animals that have
23 been manufactured into products or handicraft items, or that have been cut into
24 blocks or units which are to be handcrafted or manufactured into those articles
25 may be purchased or sold at any time. However, complete antlers, whole heads
26 with antlers, antlers that are mounted for display, or antlers in velvet may not be
27 sold or purchased at any time, except as authorized by Section 3087.

28 (d) Notwithstanding Section 3504, inedible parts of domestically raised game
29 birds may be sold or purchased at any time.

30 (e) Any person who illegally takes any bird or mammal for profit or for personal
31 gain by engaging in any activity authorized by this section is subject to civil
32 liability pursuant to Section 2582.

33 **Comment.** Section 3039 is amended to delete superfluous references to animal parts. See
34 Section 80 (reference to animal generally includes part of animal).

35 The section is also amended to make nonsubstantive stylistic changes.

36 **Fish & Game Code § 3051 (amended). Hunter instruction**

37 SEC. ____ . Section 3051 of the Fish and Game Code is amended to read:

38 3051. (a) The department shall provide for a course of instruction in hunter
39 education, principles of conservation, and sportsmanship, and for this purpose may
40 cooperate with any reputable association or organization having as one of its
41 objectives the promotion of hunter safety, principles of conservation, and
42 sportsmanship.

1 (b) The department may designate as a hunter education instructor any person
2 found by it to be competent to give instruction in the courses required in this
3 article. ~~A person so appointed shall give that course of instruction, and, upon~~
4 ~~completion thereof, shall issue to the person instructed a certificate of completion~~
5 ~~as provided by the department in hunter safety, principles of conservation, and~~
6 ~~sportsmanship.~~

7 (c) A hunter education instructor shall issue a certificate of completion as
8 provided by the department to a person that completes a course of instruction in
9 hunter safety, principles of conservation, and sportsmanship.

10 ~~(e)~~ (d) The department shall prescribe a minimum level of skill and knowledge
11 to be required of all hunter education instructors, and may limit the number of
12 students per instructor in all required classes.

13 ~~(d)~~ (e) The department may revoke the certificate of any instructor when, in the
14 opinion of the department, it is in the best interest of the state to do so.

15 ~~(e)(1)~~ (f) In order to recruit and retain hunter education instructors, the
16 department shall offer special hunting opportunities to qualified hunter education
17 instructors by providing a limited number of existing tags and other hunting
18 opportunities. The department may provide these tags and hunting opportunities
19 through any of the following methods:

20 (A) The private lands management program described in Article 5 (commencing
21 with Section 3400) of Chapter 2.

22 (B) The Shared Habitat Alliance for Recreational Enhancement (SHARE)
23 program described in Article 3 (commencing with Section 1570) of Chapter 5 of
24 Division 2.

25 (C) Entering into cooperative agreements with federal, state, and local agencies
26 that hold title to, or administer, lands or waters.

27 (D) Entering into cooperative agreements with landowners or tenants seeking
28 depredation permits for game mammals as described in Section 4188.

29 (E) Authorizing a maximum of 15 tags from the annual tag quota, as determined
30 by the department.

31 ~~(2)~~ (g) The department shall determine eligibility criteria for hunter education
32 instructors seeking the hunting opportunities offered pursuant to this subdivision
33 (f). ~~The department shall select hunter education instructors who meet these~~
34 ~~criteria for opportunities pursuant to this subdivision only by random drawing. The~~
35 department shall offer hunting opportunities to eligible hunter education
36 instructors only by random drawing.

37 (f) (h) The department may adopt regulations to implement this section.

38 **Comment.** Section 3051 is amended to improve its clarity, revise subdivision designations,
39 delete paragraph designations, and make other stylistic changes without making any substantive
40 change.

41 **Fish & Game Code § 3052 (amended). Fees and expenses**

42 SEC. ____ . Section 3052 of the Fish and Game Code is amended to read:

1 ~~3052. No fee shall be charged for the instructor's service, however, a fee to~~
2 ~~cover the cost of giving such instructions may be charged each person~~
3 ~~participating and receiving such instructions. A record of such expenses shall be~~
4 ~~kept for inspection by the department. Such expenses may include, but not be~~
5 ~~limited to, such items as range fees, ammunition and transportation of students.~~

6 A person receiving instruction from a hunter education instructor may not be
7 charged a fee for service provided by the instructor, but may be charged a fee to
8 cover costs incurred by the instructor in teaching the class. A record of incurred
9 costs shall be kept for inspection by the department. Costs may include, but are not
10 limited to, range fees, ammunition, and transportation of students.

11 **Comment.** Section 3052 is amended to improve its clarity, without making any substantive
12 change.

13 **Fish & Game Code § 3080 (amended). Possession in excess of possession limit**

14 SEC. ____ . Section 3080 of the Fish and Game Code is amended to read:

15 3080. (a) For the purposes of this section, “donor intermediary” means a
16 recipient who receives a game birds or mammals bird or mammal from a donor to
17 give to a charitable organization or charitable entity. ~~A donor intermediary~~
18 ~~possessing game birds or mammals during a period other than the open season~~
19 ~~shall have the documentation described in paragraph (2) or (3) of subdivision (b).~~
20 ~~There is no required format for the documentation. Any written documentation~~
21 ~~containing the required information shall be deemed to comply with this section.~~

22 ~~(b) The possession limit of any game bird or mammal may be possessed during~~
23 ~~a period other than the open season if one of the following conditions apply:~~

24 ~~(1) The person has in his or her possession a hunting license and validated tag or~~
25 ~~tags for the species possessed, or copies of the license and tag or tags. The license~~
26 ~~and tag or tags shall have been issued to that person for the current or immediate~~
27 ~~past license year.~~

28 ~~(2) The person received the game bird or mammal from a person described in~~
29 ~~paragraph (1), and the recipient has a photocopy of the donor's hunting license and~~
30 ~~the applicable validated tag or tags that has been signed and dated by the donor~~
31 ~~confirming the donation. The photocopied license and tag or tags shall be from the~~
32 ~~current or immediate past license year.~~

33 ~~(3) The person received the game bird or mammal from a person described in~~
34 ~~paragraph (1), and the recipient has a signed and dated document confirming the~~
35 ~~donation that includes the donor's name, address, hunting license number, and~~
36 ~~applicable tag numbers for the species possessed. The license and tag or tags shall~~
37 ~~be for the current or immediate past license year.~~

38 (b) A person may possess a game bird or mammal during a period other than the
39 open season for that game bird or mammal, up to the possession limit allowed for
40 that game bird or mammal during the open season, in any of the following
41 circumstances:

1 (1) The person possesses a hunting license and a validated tag or tags for the
2 species possessed, or copies of the license and tag or tags. The license and tag or
3 tags shall have been issued to that person for the current or immediate past license
4 year.

5 (2) The person is a donor intermediary who received the game bird or mammal
6 from a donor described in paragraph (1) who has a photocopy of the donor's
7 hunting license and the applicable validated tag or tags from the current or
8 immediate past license year, which has been signed and dated by the donor, and
9 confirms the donation.

10 (3) The person is a donor intermediary who received the game bird or mammal
11 from a donor described in paragraph (1) who has a signed and dated document that
12 includes the donor's name, address, hunting license number, and applicable tag
13 numbers for the species possessed, and confirms the donation. The license and tag
14 or tags shall be for the current or immediate past license year.

15 (c) The documentation required by subdivision (b) shall be made available to the
16 department as described in Section 2012. There is no required format for the
17 documentation. Any written documentation containing the required information
18 shall be deemed to comply with this section. ~~Charitable organizations or charitable~~
19 entities A charitable organization or charitable entity receiving and distributing
20 game birds or mammals a game bird or mammal for a charitable or humane
21 purposes, purpose shall maintain the documentation described in paragraph (2) or
22 (3) of subdivision (b) for one year from the date of disposal.

23 (d) This section does not authorize the possession of ~~game birds or carcasses or~~
24 parts of a game bird or ~~carcass~~ contrary to regulations ~~issued~~ adopted pursuant to
25 the federal Migratory Bird Treaty Act (16 U.S.C. Sec. 703 et seq.).

26 (e) On or before January 1, 2015, and subject to the requirements of subdivision
27 (d), the commission shall recommend legislation or adopt regulations to clarify
28 when a possession limit is not violated by processing into food lawfully taken
29 game birds or mammals.

30 **Comment.** Subdivision (d) of Section 3080 is amended to delete superfluous references to
31 animal parts. See Section 80 (reference to animal generally includes part of animal).

32 Section 3080 is also amended to improve its clarity and make stylistic changes, without making
33 any substantive change.

34 **Fish & Game Code § 3240.5 (amended). Commercial hunting club license**

35 SEC. ____ . Section 3240.5 of the Fish and Game Code is amended to read:

36 3240.5. ~~(a) As used in this article, "property" means a number of contiguous~~
37 ~~legal parcels held by an owner or a combination of owners and held out for a~~
38 ~~common purpose.~~

39 ~~(b) A person, including, but not limited to, a renter or lessee, in possession or~~
40 ~~control of property on or with respect to which a fee for the privilege of taking~~
41 ~~birds or mammals is imposed or collected, or on or with respect to which a fee for~~
42 ~~any type of entry or use permit that includes the privilege of taking birds or~~
43 ~~mammals on the property is imposed or collected, is maintaining a commercial~~

1 ~~hunting club if birds or mammals are taken on the property, and shall procure a~~
2 ~~“commercial hunting club license” before birds or mammals are taken.~~

3 ~~(c) This article does not apply if the property meets any of the following~~
4 ~~conditions:~~

5 ~~(1) The landowner, or the renter or lessee, of the property receives less than one~~
6 ~~hundred dollars (\$100) per entrant and receives less than a total of one thousand~~
7 ~~dollars (\$1,000) between July 1 and the following June 30 for permission, entry~~
8 ~~access, or use fees that include the privilege of hunting on the property in his or~~
9 ~~her possession or control. The department may adjust the threshold amounts~~
10 ~~established in this paragraph pursuant to Section 713.~~

11 ~~(2) The property is used by a hunting club or program licensed under regulations~~
12 ~~adopted pursuant to this code.~~

13 ~~(3) The property is used for an officially sanctioned field trial event pursuant to~~
14 ~~regulations adopted pursuant to this code.~~

15 ~~(4) The property is used in conjunction with the Shared Habitat Alliance for~~
16 ~~Recreational Enhancement (SHARE) program under Article 3 (commencing with~~
17 ~~Section 1570) of Chapter 5 of Division 2.~~

18 ~~(5) A domesticated game bird hunting club licensed under Article 3~~
19 ~~(commencing with Section 3270) operates on the property.~~

20 ~~(6) A domesticated migratory game bird shooting area licensed under Article 4~~
21 ~~(commencing with Section 3300) operates on the property.~~

22 ~~(7) The property is used in conjunction with the private wildlife habitat~~
23 ~~enhancement and management program under Article 5 (commencing with~~
24 ~~Section 3400).~~

25 ~~(8) The property is subject to a recorded state, federal, or nonprofit wildlife~~
26 ~~conservation or agricultural easement or any property enrolled in a habitat~~
27 ~~protection or enhancement program under this code, including, but not limited to,~~
28 ~~Article 7 (commencing with Section 3460).~~

29 ~~(a) For purposes of this article, the following terms have the following~~
30 ~~meanings:~~

31 ~~(1) “Commercial hunting club” means property with respect to which a fee is~~
32 ~~imposed or collected for either of the following:~~

33 ~~(A) Taking or attempting to take birds or mammals on the property.~~

34 ~~(B) Any type of entry or use permit that includes permission to take birds or~~
35 ~~mammals on the property.~~

36 ~~(2) “Property” means a number of contiguous legal parcels owned by one or~~
37 ~~more owners and held out for a common purpose.~~

38 ~~(b) A person, including but not limited to an owner, renter, or lessee, who is in~~
39 ~~possession or control of a commercial hunting club, shall procure a commercial~~
40 ~~hunting club license before any birds or mammals may be taken on the property.~~

41 ~~(c) This article does not apply under any of the following circumstances:~~

42 ~~(1) The fees described in paragraph (1) of subdivision (a) that are received by~~
43 ~~the owner, renter, or lessee of the property are less than one hundred dollars~~

1 (\$100) per entrant and total less than one thousand dollars (\$1,000) between July 1
2 and the following June 30. Pursuant to Section 713, the department may adjust the
3 threshold amounts established in this paragraph.

4 (2) The property is used in conjunction with the Shared Habitat Alliance for
5 Recreational Enhancement (SHARE) program under Article 3 (commencing with
6 Section 1570) of Chapter 5 of Division 2.

7 (3) A domesticated game bird hunting club licensed under Article 3
8 (commencing with Section 3270) operates on the property.

9 (4) A domesticated migratory game bird shooting area licensed under Article 4
10 (commencing with Section 3300) operates on the property.

11 (5) The property is used by a hunting club or program licensed under regulations
12 adopted pursuant to this code.

13 (6) The property is used in conjunction with the private wildlife habitat
14 enhancement and management program under Article 5 (commencing with
15 Section 3400).

16 (7) The property is used for an officially sanctioned field trial event pursuant to
17 regulations adopted pursuant to this code.

18 (8) The property is subject to a recorded state, federal, or nonprofit wildlife
19 conservation or agricultural easement or is enrolled in a habitat protection or
20 enhancement program under this code, including, but not limited to, Article 7
21 (commencing with Section 3460).

22 ~~(d) This article does not apply to a landowner who rents or leases his or her~~
23 ~~property to the commercial hunting club and is not involved in the operation of the~~
24 ~~club, if the club is licensed in accordance with this article. This chapter does not~~
25 ~~apply to an owner of property that is rented or leased to a commercial hunting~~
26 ~~club, if the owner is not involved in the operation of the club and the club is~~
27 ~~licensed in accordance with this chapter.~~

28 **Comment.** Section 3240.5 is amended to improve its clarity, without making any substantive
29 change.

30 **Fish & Game Code § 3243.5 (amended). Transfer of license**

31 SEC. ____ . Section 3243.5 of the Fish and Game Code is amended to read:

32 ~~3243.5. The commission may transfer a license to land owned or controlled by~~
33 ~~the licensee, other than that land specified in the original application, located in~~
34 ~~the same county as the original land, without any additional fee, if it finds the new~~
35 ~~land is suitable for the purposes of the license and such a transfer is not in conflict~~
36 ~~with the public interest. The commission may transfer a commercial hunting club~~
37 ~~license to other land owned or controlled by the licensee, in the same county as the~~
38 ~~originally licensed land, without any additional fee, if the commission finds the~~
39 ~~new land suitable for the purposes of the license and the transfer does not conflict~~
40 ~~with the public interest.~~

41 **Comment.** Section 3243.5 is amended to improve its clarity, without making any substantive
42 change.

1 **Fish & Game Code § 3504 (amended). Sale or purchase of birds**

2 SEC. _____. Section 3504 of the Fish and Game Code is amended to read:

3 3504. Subject to the provisions of this code permitting the sale of domestically
4 raised game birds, it is unlawful to sell or purchase any game bird or nongame bird
5 ~~or part thereof.~~

6 **Comment.** Section 3504 is amended to delete a superfluous reference to animal parts. See
7 Section 80 (reference to animal generally includes part of animal).

8 **Fish & Game Code § 3511 (amended). Fully protected birds**

9 SEC. _____. Section 3511 of the Fish and Game Code is amended to read:

10 3511. (a)(1) Except as provided in Section 2081.7 or 2835, a fully protected
11 ~~birds or parts thereof~~ bird may not be taken or possessed at any time. No provision
12 of this code or any other law shall be construed to authorize the issuance of
13 permits or licenses to take any fully protected bird, and no permits or licenses
14 heretofore issued shall have any force or effect for that purpose. However, the
15 department may authorize the taking of those species for necessary scientific
16 research, including efforts to recover fully protected, threatened, or endangered
17 species, and may authorize the live capture and relocation of those species
18 pursuant to a permit for the protection of livestock. Prior to authorizing the take of
19 any of those species, the department shall make an effort to notify all affected and
20 interested parties to solicit information and comments on the proposed
21 authorization. The notification shall be published in the California Regulatory
22 Notice Register and be made available to each person who has notified the
23 department, in writing, of his or her interest in fully protected species and who has
24 provided an e-mail address, if available, or postal address to the department.
25 Affected and interested parties shall have 30 days after notification is published in
26 the California Regulatory Notice Register to provide any relevant information and
27 comments on the proposed authorization.

28 (2) As used in this subdivision, “scientific research” does not include any
29 ~~actions~~ action taken as part of specified mitigation for a project, as defined in
30 Section 21065 of the Public Resources Code.

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

33 (b) The following are fully protected birds:

34 (1) American peregrine falcon (*Falco peregrinus anatum*).

35 (2) Brown pelican.

36 (3) California black rail (*Laterallus jamaicensis coturniculus*).

37 (4) California clapper rail (*Rallus longirostris obsoletus*).

38 (5) California condor (*Gymnogyps californianus*).

39 (6) California least tern (*Sterna albifrons browni*).

40 (7) Golden eagle.

41 (8) Greater sandhill crane (*Grus canadensis tabida*).

42 (9) Light-footed clapper rail (*Rallus longirostris levipes*).

1 (10) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).

2 (11) Trumpeter swan (*Cygnus buccinator*).

3 (12) White-tailed kite (*Elanus leucurus*).

4 (13) Yuma clapper rail (*Rallus longirostris yumanensis*).

5 **Comment.** Section 3511 is amended to delete superfluous references to animal parts. See
6 Section 80 (reference to animal generally includes part of animal).

7 The section is also amended to make nonsubstantive stylistic changes.

8 **Fish & Game Code § 4150 (amended). Taking or possessing nongame mammals**

9 SEC. _____. Section 4150 of the Fish and Game Code is amended to read:

10 4150. ~~All mammals~~ Any mammal occurring naturally in California ~~which that~~
11 ~~are is not a game mammals mammal~~, fully protected ~~mammals mammal~~, or fur-
12 bearing ~~mammals mammal~~, are is a nongame mammals mammal. ~~Nongame~~
13 ~~mammals or parts thereof~~ A nongame mammal may not be taken or possessed
14 except as provided in this code or in accordance with regulations adopted by the
15 commission.

16 **Comment.** Section 4150 is amended to delete a superfluous reference to animal parts. See
17 Section 80 (reference to animal generally includes part of animal).

18 The section is also amended to make nonsubstantive stylistic changes.

19 **Fish & Game Code § 4155 (amended). Trap, sale, or export of bobcat**

20 SEC. _____. Section 4155 of the Fish and Game Code is amended to read:

21 4155. (a) Beginning January 1, 2014, it shall be unlawful to trap any bobcat, or
22 attempt to do so, or to sell or export any bobcat ~~or part of any bobcat~~ taken in the
23 area surrounding Joshua Tree National Park, defined as follows: East and South of
24 State Highway 62 from the intersection of Interstate 10 to the intersection of State
25 Highway 177; West of State Highway 177 from the intersection of State Highway
26 62 to the intersection with Interstate 10; North of Interstate 10 from State Highway
27 177 to State Highway 62.

28 (b)(1) Through the commission's next regularly scheduled mammal hunting and
29 trapping rulemaking process occurring after January 1, 2014, the commission shall
30 amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries
31 of each national or state park and national monument or wildlife refuge in which
32 bobcat trapping is prohibited.

33 (2) Commencing January 1, 2016, the commission shall consider whether to
34 prohibit bobcat trapping within, and adjacent to, preserves, state conservancies,
35 and any additional public or private conservation areas identified to the
36 commission by the public as warranting protection. The commission, as necessary,
37 shall amend its regulations through its next subsequently scheduled mammal
38 hunting and trapping rulemaking process to prohibit bobcat trapping in any area
39 determined by the commission to warrant protection.

40 (3) The commission shall delineate the boundaries of an area in which bobcat
41 trapping is prohibited pursuant to paragraph (1) or (2) using readily identifiable

1 features, such as highways or other major roads, such as those delineated for
2 Joshua Tree National Park in subdivision (a).

3 (c) The prohibition on the trapping of bobcats in the areas designated pursuant to
4 subdivisions (a) and (b) shall not apply to the taking of any bobcat by employees
5 of the department acting in an official capacity, to a taking in accordance with the
6 conditions of a scientific, educational, or propagation permit pursuant to Section
7 1002 by the holder of that permit, or to the lawful taking of bobcats found to be
8 injuring crops or other property pursuant to Section 4152 or other provisions of
9 this code or regulations adopted pursuant to this code.

10 (d) Notwithstanding Section 2016 or any other provisions of this code, on and
11 after January 1, 2014, it shall be unlawful to trap any bobcat, or attempt to do so,
12 on any private land not belonging to the trapper without the express written
13 consent of the owner of that property. The placing or possession of any trap or the
14 possession of a bobcat ~~or part thereof~~ on any land is prima facie evidence of a
15 violation of this subdivision.

16 (e) Consistent with the requirements of subdivision (c) of Section 4006, the
17 commission shall set trapping license fees and associated fees, including, but not
18 limited to, shipping tags required pursuant to Section 479 of Chapter 6 of
19 Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for
20 the 2014–15 season, and any subsequent seasons in which bobcat trapping is
21 allowed, at the levels necessary to fully recover all reasonable administrative and
22 implementation costs of the department and the commission associated with the
23 trapping of bobcats in the state, including, but not limited to, enforcement costs.

24 (f) This section does not limit the ability of the department or the commission to
25 impose additional requirements, restrictions, or prohibitions related to the taking
26 of bobcats, including a complete prohibition on the trapping of bobcats pursuant to
27 this code.

28 **Comment.** Section 4155 is amended to delete superfluous references to animal parts. See
29 Section 80 (reference to animal generally includes part of animal).

30 **Fish & Game Code § 4700 (amended). Fully protected mammals**

31 SEC. _____. Section 4700 of the Fish and Game Code is amended to read:

32 4700. (a)(1) Except as provided in Section 2081.7 or 2835, a fully protected
33 ~~mammals or parts thereof~~ mammal may not be taken or possessed at any time. No
34 provision of this code or any other law shall be construed to authorize the issuance
35 of permits or licenses to take any fully protected mammal, and no permits or
36 licenses heretofore issued shall have any force or effect for that purpose. However,
37 the department may authorize the taking of those species for necessary scientific
38 research, including efforts to recover fully protected, threatened, or endangered
39 species. Prior to authorizing the take of any of those species, the department shall
40 make an effort to notify all affected and interested parties to solicit information
41 and comments on the proposed authorization. The notification shall be published
42 in the California Regulatory Notice Register and be made available to each person

1 who has notified the department, in writing, of his or her interest in fully protected
2 species and who has provided an e-mail address, if available, or postal address to
3 the department. Affected and interested parties shall have 30 days after
4 notification is published in the California Regulatory Notice Register to provide
5 any relevant information and comments on the proposed authorization.

6 (2) As used in this subdivision, “scientific research” does not include any
7 ~~actions~~ action taken as part of specified mitigation for a project, as defined in
8 Section 21065 of the Public Resources Code.

9 (3) ~~Legally~~ A legally imported fully protected ~~mammals or parts thereof~~
10 mammal may be possessed under a permit issued by the department.

11 (b) The following are fully protected mammals:

12 (1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

13 (2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies
14 *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

15 (3) Northern elephant seal (*Mirounga angustirostris*).

16 (4) Guadalupe fur seal (*Arctocephalus townsendi*).

17 (5) Ring-tailed cat (genus *Bassariscus*).

18 (6) Pacific right whale (*Eubalaena sieboldi*).

19 (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

20 (8) Southern sea otter (*Enhydra lutris nereis*).

21 (9) Wolverine (*Gulo luscus*).

22 **Comment.** Section 4700 is amended to delete superfluous references to animal parts. See
23 Section 80 (reference to animal generally includes part of animal).

24 The section is also amended to make nonsubstantive stylistic changes.

25 **Fish & Game Code § 4800 (amended). Mountain lions**

26 SEC. _____. Section 4800 of the Fish and Game Code is amended to read:

27 4800. (a) The mountain lion (genus *Puma*) is a specially protected mammal
28 under the laws of this state.

29 (b)(1) It is unlawful to take, injure, possess, transport, import, or sell any
30 mountain lion or ~~any part or~~ product thereof, except as specifically provided in this
31 chapter or in Chapter 2 (commencing with Section 2116) of Division 3.

32 (2) This chapter does not prohibit the sale or possession of any mountain lion or
33 any ~~part or~~ product thereof, when the owner can demonstrate that the mountain
34 lion, or ~~part or~~ product thereof, was in the person’s possession on June 6, 1990.

35 (3) This chapter does not prohibit the possession of a mountain lion carcass or
36 any part or product of a mountain lion carcass, if all of the following requirements
37 are met:

38 (A) The carcass or carcass part or product is prepared or being prepared for
39 display, exhibition, or storage, for a bona fide scientific or educational purpose, at
40 a nonprofit museum or government-owned facility generally open to the public or
41 at an educational institution, including a public or private postsecondary
42 institution.

1 (B) The mountain lion was taken in California consistent with the requirements
2 of this chapter and any other applicable law.

3 (C) The department has authorized the possession of the carcass or carcass part
4 or product for the purposes of this paragraph.

5 (c) Any violation of this section is a misdemeanor punishable by imprisonment
6 in the county jail for not more than one year, or a fine of not more than ten
7 thousand dollars (\$10,000), or by both that fine and imprisonment. An individual
8 is not guilty of a violation of this section if it is demonstrated that, in taking or
9 injuring a mountain lion, the individual was acting in self-defense or in defense of
10 others.

11 (d) Section 219 does not apply to this chapter. Neither the commission nor the
12 department shall adopt any regulation that conflicts with or supersedes any of the
13 provisions of this chapter.

14 **Comment.** Section 4800 is amended to delete superfluous references to animal parts. See
15 Section 80 (reference to animal generally includes part of animal).

16 **Fish & Game Code § 4810 (amended). Mountain lion research project**

17 SEC. _____. Section 4810 of the Fish and Game Code is amended to read:

18 4810. (a) As used in this section:

19 (1) “Authorized research project” means a research project involving mountain
20 lions subject to a Scientific Collecting Permit issued in accordance with this
21 section.

22 (2) “Permitholder” means a person to whom the department has issued a
23 Scientific Collecting Permit in accordance with this section.

24 (3) “Scientific Collecting Permit” or “permit” means a permit issued pursuant to
25 Section 1002 for a research project involving mountain lions in accordance with
26 this section.

27 (b) The department may authorize qualified individuals, educational institutions,
28 governmental agencies, or nongovernmental organizations to conduct scientific
29 research involving mountain lions pursuant to a Scientific Collecting Permit as
30 provided in Section 1002.

31 (c) The department may authorize permitholders to pursue, capture, temporarily
32 possess, temporarily injure, mark, attach to or surgically implant monitoring or
33 recognition devices in, provide veterinary care to, and transport, a mountain lion,
34 lion or any part or product of a mountain lion, ~~lions,~~

35 (d) In addition to the requirements in Section 1002, an authorized research
36 project shall be designed to do the following:

37 (1) Contribute to the knowledge of natural wildlife ecosystems.

38 (2) Minimize disruptions in the lives and movements of mountain lions and
39 other wildlife, as well as impacts to mountain lion or other wildlife habitat, while
40 maintaining the permitholder’s research objectives.

41 (3) Directly or indirectly support the sustainability and survival of mountain lion
42 populations and healthy ecosystems.

1 (4) Prevent the permanent injury or killing of any mountain lion.

2 (e) An authorized research project shall be governed by the Scientific Collecting
3 Permit. The permit shall include, at a minimum, proposed research methods and
4 recordkeeping procedures that address the following:

5 (1) The capture of, anesthetization of, collection of diagnostic samples from, and
6 transport of, mountain lions or ~~parts and~~ products thereof, and the attaching to or
7 surgically implanting monitoring or recognition devices or markings in, and
8 providing veterinary care as required for the health, safety, and humane treatment
9 of, animals affected by the research project.

10 (2) The recording of the adverse effects of authorized research procedures on
11 mountain lions and other wildlife.

12 (3) The qualifications of onsite personnel necessary for carrying out authorized
13 research procedures. A permit applicant shall submit verifiable documentation
14 demonstrating that at least one onsite staff person has at least one year of
15 experience in proposed research methods that involve activities described in
16 subdivision (c).

17 (4) Annual and final reports to the department.

18 (f) The department shall notify the public at least 30 days prior to the issuance of
19 a permit, and, upon request, shall make available to the public copies of the permit
20 and annual and final reports.

21 (g) The department shall handle any mortality or permanent injury to a mountain
22 lion as a result of research authorized pursuant to this section in a manner
23 consistent with the reporting and processing requirements imposed in Section
24 4807.

25 **Comment.** Section 4810 is amended to delete superfluous references to animal parts. See
26 Section 80 (reference to animal generally includes part of animal).

27 The section is also amended to make a nonsubstantive stylistic change.

28 **Fish & Game Code § 5000 (amended). Tortoises**

29 SEC. _____. Section 5000 of the Fish and Game Code is amended to read:

30 5000. It is unlawful to sell, purchase, harm, take, possess, ~~or~~ transport ~~any~~
31 ~~tortoise (Gopherus) or parts thereof~~, or to shoot any projectile at, a tortoise
32 (Gopherus). This section does not apply to the taking of any tortoise when
33 authorized by the department.

34 **Comment.** Section 5000 is amended to delete a superfluous reference to animal parts. See
35 Section 80 (reference to animal generally includes part of animal).

36 The section is also amended to make a nonsubstantive stylistic change.

37 **Fish & Game Code § 5002 (amended). Permit allowing possession of tortoise**

38 SEC. _____. Section 5002 of the Fish and Game Code is amended to read:

39 5002. The department may issue permits, subject to ~~such~~ terms and conditions as
40 prescribed by the commission ~~may prescribe~~, authorizing the possession of any
41 tortoise (Gopherus) or any ~~part or~~ product thereof by an educational or scientific
42 institution or a public zoological garden.

1 **Comment.** Section 5002 is amended to delete a superfluous reference to animal parts. See
2 Section 80 (reference to animal generally includes part of animal).

3 The section is also amended to make nonsubstantive stylistic changes.

4 **Fish & Game Code § 5050 (amended). Fully protected reptiles and amphibians**

5 SEC. _____. Section 5050 of the Fish and Game Code is amended to read:

6 5050. (a)(1) Except as provided in Section 2081.7, 2081.9, or 2835, a fully
7 protected ~~reptiles and amphibians or parts thereof~~ reptile or amphibian may not be
8 taken or possessed at any time. No provision of this code or any other law shall be
9 construed to authorize the issuance of permits or licenses to take any fully
10 protected reptile or amphibian, and no permits or licenses heretofore issued shall
11 have any force or effect for that purpose. However, the department may authorize
12 the taking of those species for necessary scientific research, including efforts to
13 recover fully protected, threatened, or endangered species. Prior to authorizing the
14 take of any of those species, the department shall make an effort to notify all
15 affected and interested parties to solicit information and comments on the
16 proposed authorization. The notification shall be published in the California
17 Regulatory Notice Register and be made available to each person who has notified
18 the department, in writing, of his or her interest in fully protected species and who
19 has provided an email address, if available, or postal address to the department.
20 Affected and interested parties shall have 30 days after notification is published in
21 the California Regulatory Notice Register to provide any relevant information and
22 comments on the proposed authorization.

23 (2) As used in this subdivision, “scientific research” does not include any
24 ~~actions~~ action taken as part of specified mitigation for a project, as defined in
25 Section 21065 of the Public Resources Code.

26 (3) ~~Legally~~ A legally imported fully protected ~~reptiles or amphibians or parts~~
27 ~~thereof~~ reptile or amphibian may be possessed under a permit issued by the
28 department.

29 (b) The following are fully protected reptiles and amphibians:

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

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

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

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

34 (5) Black toad (*Bufo boreas exsul*).

35 **Comment.** Section 5050 is amended to delete superfluous references to animal parts. See
36 Section 80 (reference to animal generally includes part of animal).

37 The section is also amended to make nonsubstantive stylistic changes.

38 **Fish & Game Code § 5515 (amended). Fully protected fish**

39 SEC. _____. Section 5515 of the Fish and Game Code is amended to read:

40 5515. (a)(1) Except as provided in Section 2081.7 or 2835, a fully protected fish
41 ~~or parts thereof~~ may not be taken or possessed at any time. No provision of this
42 code or any other law shall be construed to authorize the issuance of permits or

1 licenses to take any fully protected fish, and no permits or licenses heretofore
2 issued shall have any force or effect for that purpose. However, the department
3 may authorize the taking of those species for necessary scientific research,
4 including efforts to recover fully protected, threatened, or endangered species.
5 Prior to authorizing the take of any of those species, the department shall make an
6 effort to notify all affected and interested parties to solicit information and
7 comments on the proposed authorization. The notification shall be published in the
8 California Regulatory Notice Register and be made available to each person who
9 has notified the department, in writing, of his or her interest in fully protected
10 species and who has provided an e-mail address, if available, or postal address to
11 the department. Affected and interested parties shall have 30 days after
12 notification is published in the California Regulatory Notice Register to provide
13 any relevant information and comments on the proposed authorization.

14 (2) As used in this subdivision, “scientific research” does not include any
15 ~~actions~~ action taken as part of specified mitigation for a project, as defined in
16 Section 21065 of the Public Resources Code.

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

19 (b) The following are fully protected fish:

20 (1) Colorado River squawfish (*Ptychocheilus lucius*).

21 (2) Thicktail chub (*Gila crassicauda*).

22 (3) Mohave chub (*Gila mohavensis*).

23 (4) Lost River sucker (*Catostomus luxatus*).

24 (5) Modoc sucker (*Catostomus microps*).

25 (6) Shortnose sucker (*Chasmistes brevirostris*).

26 (7) Humpback sucker (*Xyrauchen texanus*).

27 (8) Owens River pupfish (*Cyprinoden radiosus*).

28 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

29 (10) Rough sculpin (*Cottus asperimus*).

30 **Comment.** Section 5515 is amended to delete superfluous references to animal parts. See
31 Section 80 (reference to animal generally includes part of animal).

32 The section is also amended to make nonsubstantive stylistic changes.

33 **Fish & Game Code § 6440 (amended). Management of carp**

34 SEC. _____. Section 6440 of the Fish and Game Code is amended to read:

35 6440. The Legislature finds and declares that triploid grass carp have the
36 potential to control aquatic nuisance plants in non-public waters allowing for
37 reduced chemical control but that the threat that grass carp pose to aquatic habitat
38 may outweigh its benefits. It is the intent of this section to allow the ~~Department of~~
39 ~~Fish and Game~~ department to use its management authority to provide for the
40 long-term health of the ecosystem in the state including the aquatic ecosystem, and
41 in that context, manage grass carp either through control of movement, eradication
42 of populations, acquisition of habitat and any other action that the department

1 finds will maintain the biological diversity and the long term, overall health of the
2 state’s environment. The department shall undertake the management of grass carp
3 in a manner that is consistent with provisions of this code and for the purposes of
4 this section the department shall define management as handling, controlling,
5 destroying, or moving species. The Legislature does not intend for this section to
6 provide a right for the use of triploid grass carp if the department finds that use of
7 the species poses an unacceptable risk to the state’s existing ecosystem.

8 **Comment.** Section 6440 is amended to update an obsolete reference to the Department of Fish
9 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

10 **Fish & Game Code § 6901 (amended). Legislative findings**

11 SEC. _____. Section 6901 of the Fish and Game Code is amended to read:

12 6901. The Legislature, for purposes of this chapter, finds as follows:

13 (a) According to the department, the natural production of salmon and steelhead
14 trout in California has declined to approximately 1,000,000 adult chinook or king
15 salmon, 100,000 coho or silver salmon, and 150,000 steelhead trout.

16 (b) The naturally spawning salmon and steelhead trout resources of the state
17 have declined dramatically within the past four decades, primarily as a result of
18 lost stream habitat on many streams in the state.

19 (c) Much of the loss of salmon and steelhead trout and anadromous fish in the
20 state has occurred in the central valley.

21 (d) Protection of, and an increase in, the naturally spawning salmon and
22 steelhead trout resources of the state would provide a valuable public resource to
23 the residents, a large statewide economic benefit, and would, in addition, provide
24 employment opportunities not otherwise available to the citizens of this state,
25 particularly in rural areas of present underemployment.

26 (e) Proper salmon and steelhead trout resource management requires
27 maintaining adequate levels of natural, as compared to hatchery, spawning and
28 rearing.

29 (f) Reliance upon hatchery production of salmon and steelhead trout in
30 California is at or near the maximum percentage that it should occupy in the mix
31 of natural and artificial hatchery production in the state. Hatchery production may
32 be an appropriate means of protecting and increasing salmon and steelhead in
33 specific situations; however, when both are feasible alternatives, preference shall
34 be given to natural production.

35 (g) The protection of, and increase in, the naturally spawning salmon and
36 steelhead trout of the state must be accomplished primarily through the
37 improvement of stream habitat.

38 (h) Funds provided by the Legislature since 1978 to further the protection and
39 increase of the fisheries of the state have been administered by the ~~Department of~~
40 ~~Fish and Game~~ department in a successful program of contracts with local
41 government and nonprofit agencies and private groups in ways that have attracted
42 substantial citizen effort.

1 (i) The department’s contract program has demonstrated that California has a
2 large and enthusiastic corps of citizens that are eager to further the restoration of
3 the stream and fishery resources of this state and that are willing to provide
4 significant amounts of time and labor to that purpose.

5 (j) There is need for a comprehensive salmon, steelhead trout, and anadromous
6 fisheries plan, program, and state government organization to guide the state’s
7 efforts to protect and increase the naturally spawning salmon, steelhead trout, and
8 anadromous fishery resources of the state.

9 **Comment.** Section 6901 is amended to update an obsolete reference to the Department of Fish
10 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

11 **Fish & Game Code § 7183 (amended). Issuance of Arizona and California licenses**

12 SEC. ____ . Section 7183 of the Fish and Game Code is amended to read:

13 7183. (a) The Arizona Game and Fish Commission shall handle California
14 sportfishing licenses and California special use stamps and issue them to Arizona
15 license dealers. Prior to August 31 of each year, that commission shall make an
16 audit report and send a remittance for those sales to the ~~California Department of~~
17 ~~Fish and Game~~ department.

18 (b) The ~~California Department of Fish and Game~~ department shall handle
19 Arizona special use stamps and issue them to California license dealers. Prior to
20 August 31 of each year, that department shall make an audit report and send a
21 remittance for those sales to the Arizona Game and Fish Commission.

22 (c) This section does not apply to licenses, permits, reservations, tags, or other
23 entitlements issued through the Automated License Data System.

24 **Comment.** Section 7183 is amended to update obsolete references to the Department of Fish
25 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

26 **Fish & Game Code § 7183.1 (amended). Issuance of Arizona and California ALDS licenses**

27 SEC. ____ . Section 7183.1 of the Fish and Game Code is amended to read:

28 7183.1. (a) The Arizona Game and Fish Commission shall handle California
29 sportfishing licenses and California special use validations and issue them through
30 Arizona license dealers. Prior to August 31 of each year, that commission shall
31 make an audit report and send a remittance for those issued to the ~~California~~
32 ~~Department of Fish and Game~~ department.

33 (b) The ~~California Department of Fish and Game~~ department shall handle
34 Arizona special use validations and issue them through California license dealers.
35 Prior to August 31 of each year that department shall make an audit report and
36 send a remittance for those issued to the Arizona Game and Fish Commission.

37 (c) This section applies only to licenses, permits, reservations, tags, and other
38 entitlements issued through the Automated License Data System.

39 **Comment.** Section 7183.1 is amended to update obsolete references to the Department of Fish
40 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

1 **Fish & Game Code § 7370 (amended). Sturgeon**

2 SEC. _____. Section 7370 of the Fish and Game Code is amended to read:

3 7370. (a) It is unlawful to take or possess for commercial purposes, buy or sell,
4 or to offer to buy or sell, any whole sturgeon, or any part thereof of a sturgeon,
5 including, but not limited to, its eggs, except as follows:

6 (1) A sturgeon, ~~or parts thereof~~ part of a sturgeon, or sturgeon eggs that is taken
7 or possessed by, and is the cultured progeny of, an aquaculturist who is registered
8 under Section 15101, may be bought or sold ~~or purchased~~ subject to regulations of
9 the commission.

10 (2) A sturgeon, ~~or parts thereof~~ part of a sturgeon, or sturgeon eggs that is taken
11 commercially in another state that permits the sale of ~~the fish~~ sturgeon, and
12 lawfully imported under Section 2363, may be possessed, bought, or sold, ~~or~~
13 ~~purchased~~.

14 (3) Sturgeon, ~~or parts thereof~~ part of a sturgeon, taken pursuant to a sport fishing
15 license, that is processed in accordance with Section 7230.

16 (b) For purposes of this section, it is prima facie evidence that a sturgeon, ~~or~~
17 ~~parts thereof~~ or part of a sturgeon, is possessed for commercial purposes, if the
18 possession of ~~sturgeon~~ is more than two times the sport bag limit.

19 **Comment.** Section 7370 is amended to make nonsubstantive stylistic changes.

20 The references to a “part” of an animal in this section are superfluous. See Section 80
21 (reference to animal generally includes part of animal). They are retained solely for clarity, and
22 are not intended to affect the meaning of any other provision of this code that includes or omits a
23 reference to a “part” of an animal.

24 **Fish & Game Code § 7704 (amended). Waste or reduction of fish or sharks**

25 SEC. _____. Section 7704 of the Fish and Game Code is amended to read:

26 7704. (a) It is unlawful to cause or permit any deterioration or waste of any fish
27 taken in the waters of this state, or brought into this state, or to take, receive or
28 agree to receive more fish than can be used without deterioration, waste, or
29 spoilage.

30 (b) Except as permitted by this code, it is unlawful to use any fish, ~~or part~~
31 ~~thereof~~, except fish offal, in a reduction plant or by a reduction process.

32 (c) Except as permitted by this code or by regulation of the commission, it is
33 unlawful to sell, purchase, deliver for commercial purposes, or possess on any
34 commercial fishing vessel registered pursuant to Section 7881 any shark fin or
35 shark tail or portion thereof that has been removed from the carcass. However,
36 thresher shark tails and fins that have been removed from the carcass and whose
37 original shape remain unaltered may be possessed on a registered commercial
38 fishing vessel if the corresponding carcass is in possession for each tail and fin.

39 **Comment.** Section 7704 is amended to delete a superfluous reference to animal parts. See
40 Section 80 (reference to animal generally includes part of animal).

41 **Fish & Game Code § 7707 (amended). Reduction plant as nuisance**

42 SEC. _____. Section 7707 of the Fish and Game Code is amended to read:

1 7707. (a) Any reduction plant in which any fish ~~or any part thereof~~ is used in
2 violation of ~~the provisions of~~ Sections 7700 to 7706, inclusive, 7708, 8151, 8153
3 to 8157, inclusive, ~~and or~~ 8075 to 8080, inclusive, of this code, or in violation of
4 any regulation of the commission, is a nuisance.

5 (b) Whenever the existence of ~~such~~ a nuisance under subdivision (a) is shown to
6 the satisfaction of the superior court of the county in which the reduction plant is
7 situated, by complaint filed in the name of the people of the State of California,
8 the court may issue a temporary injunction to abate and prevent the continuance or
9 recurrence of ~~such~~ the nuisance. If the existence of a nuisance is established in
10 ~~such~~ that action, an order of abatement shall be entered as part of the judgment in
11 the case, ~~which order shall direct the closing~~ directing that, for 12 months, ~~of the~~
12 building or place where ~~such~~ the nuisance was maintained shall be closed, and,
13 ~~during such time, the building or place shall be and remain~~ placed in the custody
14 of the court.

15 **Comment.** Section 7707 is amended to delete a superfluous reference to animal parts. See
16 Section 80 (reference to animal generally includes part of animal).

17 The section is also amended to make nonsubstantive stylistic changes.

18 **Fish & Game Code § 7856 (amended). Fish on commercial fishing vessel**

19 SEC. ____ . Section 7856 of the Fish and Game Code is amended to read:

20 7856. Notwithstanding any other provision of this division, except as provided
21 in subdivision (f) and except when prohibited by federal law, fish may be prepared
22 for human consumption aboard a commercial fishing vessel only under the
23 following conditions:

24 (a) The fish are taken under all existing commercial fishing laws and regulations
25 and, except as provided in subdivision (f), the fish is of a species and size that can
26 be lawfully taken under sportfishing regulations in the area where taken and are
27 taken incidental to normal commercial fishing operations.

28 (b) The fish is separated from other fish and stored with other foodstuff for
29 consumption by the crew and passengers aboard the vessel.

30 (c) The fish, ~~or parts thereof~~, shall not be bought, sold, offered for sale,
31 transferred to any other person, landed, brought ashore, or used for any purpose
32 except for consumption by the crew and passengers.

33 (d)(1) All fish shall be maintained in ~~such~~ a condition that the species can be
34 determined, and the size or weight can be determined if a size or weight limit
35 applies, until the fish is prepared for immediate consumption.

36 (2) If the fish is filleted, a patch of skin shall be retained on each fillet as
37 prescribed by the commission in the sportfishing regulations until the fish is
38 prepared for immediate consumption.

39 (3) Fillets from fish possessed under sportfishing regulations shall be of the
40 minimum length prescribed by commission regulations.

1 (e) No fish ~~which~~ that may be possessed under sportfishing regulations may be
2 possessed in excess of the sport bag limit for each crew member and passenger on
3 board the vessel.

4 (f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted
5 bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not
6 be possessed aboard a commercial fishing vessel while that vessel is on a
7 commercial fishing trip. Lobster, salmon, or abalone shall not be possessed aboard
8 a commercial fishing vessel while that vessel is on a commercial fishing trip for
9 preparation for human consumption pursuant to this section unless that lobster,
10 salmon, or abalone is taken and possessed in compliance with all applicable laws
11 pertaining to commercial fishing methods of take, licenses, permits, and size
12 limits. Sturgeon or striped bass shall not be possessed aboard a commercial fishing
13 vessel. No person shall take or possess any fish on a commercial fishing vessel
14 under a sportfishing license while that vessel is engaged in a commercial fishing
15 activity, including going to or from an area where fish are taken for commercial
16 purposes.

17 **Comment.** Section 7856 is amended to delete a superfluous reference to animal parts. See
18 Section 80 (reference to animal generally includes part of animal).

19 The section is also amended to make nonsubstantive stylistic changes.

20 **Fish & Game Code § 7880 (amended). Display of registration number**

21 SEC. _____. Section 7880 of the Fish and Game Code is amended to read:

22 7880. (a) Every person owning or operating any vessel used in connection with
23 fishing operations for profit who has been issued a commercial boat registration
24 pursuant to Section 7881 shall display, for the purpose of identification, a
25 ~~Department of Fish and Game~~ department registration number on the vessel in a
26 manner designated by the department.

27 (b) The method of displaying the registration number on the vessel shall be
28 determined by the department after consultation with the Department of Boating
29 and Waterways, taking into consideration the responsibilities and duties of the
30 Department of Boating and Waterways as prescribed in the Harbors and
31 Navigation Code.

32 (c) The registration number is not transferable, and it is a permanent fixture
33 upon the vessel for which it is originally issued.

34 **Comment.** Section 7880 is amended to update an obsolete reference to the Department of Fish
35 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

36 **Fish & Game Code § 8079.1 (amended). Emergency license to dispose of fish**

37 SEC. _____. Section 8079.1 of the Fish and Game Code is amended to read:

38 8079.1. Notwithstanding any other provision of this code or regulation ~~enacted~~
39 ~~pursuant thereto~~ adopted pursuant to this code, the ~~Director of the Department of~~
40 ~~Fish and Game~~ director, or a representative appointed by ~~him~~ the director, may,
41 without notice or a hearing, grant a license to a fish reduction ~~plants~~ plant
42 to dispose of dead or dying fish. The license may be immediately issued by the

1 director or ~~his~~ the director's representative whenever ~~such~~ that person determines,
2 in ~~his~~ that person's discretion, that an emergency situation exists. The estimated
3 tonnage to be reduced shall be specified as a limit in the license.

4 **Comment.** Section 8079.1 is amended to update an obsolete reference to the director of the
5 Department of Fish and Game. See Section 39 (“director” means Director of Fish and Wildlife).

6 The section is also amended to make nonsubstantive stylistic changes.

7 **Fish & Game Code § 8182 (amended). Display of registration number**

8 SEC. _____. Section 8182 of the Fish and Game Code is amended to read:

9 8182. The operator of any boat engaged in taking anchovies in waters south of
10 the line described in Section 8180 shall at all times while operating ~~such~~ the boat
11 identify it by displaying on an exposed part of the superstructure, amidships on
12 each side and on top of the house visible from the air, the ~~Department of Fish and~~
13 ~~Game~~ department registration number of the boat, in 14-inch black numerals on
14 white background.

15 **Comment.** Section 8182 is amended to update an obsolete reference to the Department of Fish
16 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

17 **Fish & Game Code § 8281 (amended). Crab**

18 SEC. _____. Section 8281 of the Fish and Game Code is amended to read:

19 8281. Crab meat and frozen ~~whole crabs or parts thereof, which are~~ crab taken
20 during the open season, may be possessed, transported, and sold at any time,
21 subject to the regulations of the commission. The cost of inspection and marking,
22 under the regulations of the commission, shall be paid by the owner or seller of
23 ~~such crab meat, crabs, or parts thereof~~ the crab or crab meat.

24 **Comment.** Section 8281 is amended to delete superfluous references to animal parts. See
25 Section 80 (reference to animal generally includes part of animal).

26 The section is also amended to make nonsubstantive stylistic changes.

27 **Fish & Game Code § 8371 (amended). Striped bass and salmon**

28 SEC. _____. Section 8371 of the Fish and Game Code is amended to read:

29 8371. Striped bass ~~or~~ and salmon, ~~or parts thereof,~~ may be sold or offered for
30 sale only under the following conditions:

31 (a) If the striped bass, ~~or parts thereof,~~ is taken or possessed by, and is the
32 cultured progeny of, an aquaculturist who is registered under Section 15101, that
33 striped bass may be sold or purchased subject to regulations of the commission.

34 (b) If the striped bass, ~~or parts thereof,~~ is taken legally in another state that
35 permits the sale of that fish and if the fish is lawfully imported under Section
36 2363, the striped bass, ~~or parts thereof,~~ may be possessed, sold, or purchased.

37 (c) If the salmon, ~~or parts thereof,~~ is taken legally in another state that permits
38 the sale of salmon, and is lawfully imported consistent with Section 2361, the
39 salmon, ~~or parts thereof,~~ may be possessed, sold, or purchased.

1 (d) If the salmon, ~~or parts thereof~~, is taken in accordance with Article 4
2 (commencing with Section 8210.2), the salmon, ~~or parts thereof~~, may be
3 possessed, sold, or purchased.

4 **Comment.** Section 8371 is amended to delete superfluous references to animal parts. See
5 Section 80 (reference to animal generally includes part of animal).

6 The section is also amended to make a nonsubstantive stylistic change.

7 **Fish & Game Code § 8393 (amended). Purchase or sale of marlin meat**

8 SEC. _____. Section 8393 of the Fish and Game Code is amended to read:

9 8393. (a) Except where subdivision (b) has been complied with, marlin meat,
10 whether fresh, smoked, canned, or preserved by any means, shall not be bought or
11 sold, or possessed or transported for the purpose of sale.

12 (b) Notwithstanding the provisions of subdivision (a) of this section, black
13 marlin (*Makaira Indica*) may be imported into this state for the purpose of
14 processing (manufacturing) a product commonly known as fish cakes for human
15 consumption. All ~~such~~ black marlin (*Makaira Indica*) imported into this state must
16 be in an identifiable condition and accompanied by a bill of lading, showing the
17 name of the consignor, the consignee, and the weight or number of fish shipped. A
18 copy of the bill of lading must be delivered to the nearest office of the ~~Department~~
19 ~~of Fish and Game~~ department either prior to or no later than two days after receipt
20 of the fish. No ~~such~~ black marlin (*Makaira Indica*) imported into California may
21 leave the premises of the original consignee unless written permission is received
22 from the ~~Department of Fish and Game~~ department, or unless processed into the
23 form of the product commonly known as fish cakes.

24 **Comment.** Section 8393 is amended to update obsolete references to the Department of Fish
25 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

26 The section is also amended to make nonsubstantive stylistic changes.

27 **Fish & Game Code § 8563 (amended). Responsibilities of permittee**

28 SEC. _____. Section 8563 of the Fish and Game Code is amended to read:

29 8563. (a) Except as provided in subdivision (b), the permittee shall be aboard the
30 vessel and shall be in possession of a valid drift gill net shark and swordfish
31 permit when engaged in operations authorized by the permit.

32 (b) A permittee may have any person serve in ~~his or her~~ the permittee’s place on
33 the permittee’s vessel and engage in fishing under ~~his or her~~ the permittee’s drift
34 gill net shark and swordfish permit for not more than 15 calendar days in any one
35 year, except that a longer period may be allowed in the event of serious illness. A
36 permittee shall notify the department’s Long Beach office of a substitution of 15
37 days or less per calendar year, by certified letter or telegram at least 24 hours prior
38 to the commencement of the trip. Written authorization for a substitution of
39 greater than 15 days shall be obtained from the director and shall be given only on
40 the director’s finding that the permittee will not be available to engage in the
41 activity due to serious illness, supported by medical evidence. An application for a
42 substitution of greater than 15 days shall be made to the ~~Department of Fish and~~

1 ~~Game~~, department's Headquarters Office, in Sacramento, and shall contain ~~such~~
2 ~~any~~ information as the director ~~may require~~ requires. Any denial of the
3 substitution may be appealed to the commission.

4 **Comment.** Section 8563 is amended to update an obsolete reference to the Department of Fish
5 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

6 The section is also amended to make nonsubstantive stylistic changes.

7 **Fish & Game Code § 10500 (amended). Prohibited actions**

8 SEC. _____. Section 10500 of the Fish and Game Code is amended to read:

9 10500. Except under a permit or specific authorization, it is unlawful to do any
10 of the following:

11 (a) To take or possess any bird or mammal, ~~or part thereof~~, in any game refuge.

12 (b) To use or have in possession in a game refuge, any firearm, BB device as
13 defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or any trap
14 or other contrivance designed to be, or capable of being, used to take birds or
15 mammals, or to discharge any firearm or BB device or to release any arrow or
16 crossbow bolt into any game refuge.

17 (c) To take or possess any species of fish or amphibian, ~~or part thereof~~, in any
18 fish refuge, or to use or have in possession in that refuge any contrivance designed
19 to be used for catching fish.

20 (d) To take or possess any bird in, or to discharge any firearm or BB device, or
21 to release any arrow or crossbow bolt within or into, any waterfowl refuge.

22 (e) To take or possess any quail in a quail refuge.

23 (f) To take or possess any invertebrate or specimen of marine plant life in a
24 marine life refuge.

25 (g) To take or possess any clam in a clam refuge or to possess in ~~such~~ a clam
26 refuge any instrument or apparatus capable of being used to dig clams.

27 **Comment.** Section 10500 is amended to delete superfluous references to animal parts. See
28 Section 80 (reference to animal generally includes part of animal).

29 The section is also amended to make a nonsubstantive stylistic change.

30 **Fish & Game Code § 10502 (amended). Powers of Commission**

31 SEC. _____. Section 10502 of the Fish and Game Code is amended to read:

32 10502. The commission may:

33 (a) Exercise control over all mammals and birds in any game refuge, and
34 exercise control over all fish in any fish refuge.

35 (b) Authorize the department to issue, under ~~such~~ restrictions ~~as it may deem it~~
36 deems best, permits ~~which~~ that authorize the person named therein to carry, use,
37 and possess within any refuge, firearms, traps or other contrivances for taking
38 birds, mammals, fish, ~~or amphibia~~ amphibians, or reptiles.

39 (c) Except as provided in Sections 10502.5, 10502.8, 10655, and 10657,
40 authorize the department to issue permits ~~which shall~~ that authorize the person
41 named therein to take birds, mammals, fish, ~~and amphibia~~ amphibians, or reptiles
42 within any refuge.

1 (d) ~~Make~~ Adopt additional regulations not in conflict with any law for the
2 protection of birds, mammals, fish, ~~amphibia~~ amphibians, reptiles, and marine life
3 within any refuge.

4 **Comment.** Section 10502 is amended to add reptiles.

5 The section is also amended to make nonsubstantive stylistic changes.

6 **Fish & Game Code § 10503 (amended). Donations, grants, and acquisition**

7 SEC. _____. Section 10503 of the Fish and Game Code is amended to read:

8 10503. For the purposes of propagating, feeding, and protecting birds,
9 mammals, fish, ~~and amphibia~~ amphibians, and reptiles the commission may do all
10 of the following:

11 (a) Accept, on behalf of the state, donations of any interest in lands within any
12 refuge.

13 (b) Accept, on behalf of the state, from any person owning and in possession of
14 patented lands, except lands that are covered and uncovered by the ordinary daily
15 tide of the Pacific Ocean, the right to preserve and protect all birds, mammals,
16 fish, ~~and amphibia~~ amphibians, and reptiles on the patented lands.

17 (c) Accept, on behalf of the state, donations of birds, mammals, fish, ~~and~~
18 ~~amphibia~~ amphibians, and reptiles, and of money given or appropriated. Those
19 donations shall be used for the purposes for which they are accepted, and, as
20 nearly as may be, for any purpose indicated by the donor.

21 (d) Acquire, by purchase, lease, rental, or otherwise, and occupy, develop,
22 maintain, use, and administer land, or land and nonmarine water, or land and
23 nonmarine water rights, suitable for state game farms or game refuges.

24 **Comment.** Section 10503 is amended to add reptiles.

25 The section is also amended to make nonsubstantive stylistic changes.

26 **Fish & Game Code § 10507 (amended). Open transport**

27 SEC. _____. Section 10507 of the Fish and Game Code is amended to read:

28 10507. It is lawful for any person who has given the notice provided for in
29 Section 10506 to transport any bird or mammal, ~~or part thereof~~, through a game
30 refuge, if lawfully taken outside the refuge, and if the bird or mammal ~~or part~~
31 ~~thereof~~ is carried openly and during the time between one hour before sunrise and
32 one hour after sunset.

33 **Comment.** Section 10507 is amended to delete superfluous references to animal parts. See
34 Section 80 (reference to animal generally includes part of animal).

35 **Fish & Game Code § 10510 (amended). Effect of open season**

36 SEC. _____. Section 10510 of the Fish and Game Code is amended to read:

37 10510. No specification of an open season in any area authorizes the taking of
38 any bird, mammal, fish ~~or amphibia~~ amphibian, or reptile from any refuge within
39 that area from which the taking is elsewhere in this code prohibited.

40 **Comment.** Section 10510 is amended to add reptiles.

41 The section is also amended to make a nonsubstantive stylistic change.

1 **Fish & Game Code § 10513 (amended). Navigable water**

2 SEC. _____. Section 10513 of the Fish and Game Code is amended to read:

3 10513. Nothing in this chapter shall be construed as prohibiting or preventing
4 any person from taking ~~birds, mammals~~ any bird, mammal, fish, ~~or amphibia~~
5 amphibian, or reptile from or on navigable water in any state game refuge.

6 **Comment.** Section 10513 is amended to add reptiles.

7 The section is also amended to make nonsubstantive stylistic changes.

8 **Fish & Game Code § 10514 (amended). Department control and management**

9 SEC. _____. Section 10514 of the Fish and Game Code is amended to read:

10 10514. All state game refuges shall, for all purposes of protecting birds,
11 mammals, fish, ~~or amphibia~~ amphibians, or reptiles thereon, be under the control
12 and management of the department, and the officers and employees of the
13 department, all game wardens, and law enforcement officers may at all times enter
14 in and upon ~~such~~ state game refuges in the performance of their duties.

15 **Comment.** Section 10514 is amended to add reptiles.

16 The section is also amended to make nonsubstantive stylistic changes.

17 **Fish & Game Code § 10653 (amended). San Francisco Game Refuge**

18 SEC. _____. Section 10653 of the Fish and Game Code is amended to read:

19 10653. In the San Francisco Game Refuge, birds, mammals, fish, ~~and amphibia~~
20 amphibians, and reptiles legally possessed may be carried openly by persons
21 traveling through the refuge on public roads, between one-half hour before sunrise
22 and one-half hour after sunset.

23 **Comment.** Section 10653 is amended to add reptiles.

24 The section is also amended to make a nonsubstantive stylistic change.

25 **Fish & Game Code § 11020 (amended). Fish and Game District 12**

26 SEC. _____. Section 11020 of the Fish and Game Code is amended to read:

27 11020. The following constitutes Fish and Game District 12:

28 The waters and tidelands of San Francisco Bay to high-water mark not included
29 in Districts 11 and 13, the waters and tidelands to high-water mark of San Leandro
30 Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, ~~Raccoon~~
31 ~~Straits~~ Raccoon Strait, ~~and~~ San Pablo Bay, ~~and~~ the Carquinez ~~Straits~~ Strait to the
32 Carquinez Bridge, and all lands and waters included within the exterior boundaries
33 of these districts and excluding all tributary sloughs, creeks, bays, rivers, and
34 overflowed areas not specifically described herein.

35 **Comment.** Section 11020 is amended to reflect the official names of two waterways, and make
36 nonsubstantive stylistic changes.

37 **Fish & Game Code § 11032 (amended). Fish and Game District 21**

38 SEC. _____. Section 11032 of the Fish and Game Code is amended to read:

39 11032. The following constitutes Fish and Game District 21:

1 The waters and tidelands to high water mark of San Diego Bay lying inside of a
2 straight line drawn from the ~~southernly~~ southerly extremity of Point Loma to the
3 offshore end of the San Diego breakwater.

4 **Comment.** Section 11032 is amended to correct a typographical error.

5 **Fish & Game Code § 12002.9 (amended). Additional license suspension**

6 SEC. _____. Section 12002.9 of the Fish and Game Code is amended to read:

7 12002.9. In addition to any other penalty prescribed in this code, the license
8 issued pursuant to Sections 8032 to 8036, inclusive, to any person who is
9 convicted of a violation of Section 7121, 7364, 7370, 8372, or 8373 shall be
10 suspended for not less than seven days nor more than 30 days. Each day any fish
11 of the species designated in any of those sections, ~~or any part thereof~~, is
12 unlawfully possessed and each unlawful transaction involving the purchase or sale
13 of any fish of those species, ~~or any part thereof~~, by a wholesale fish dealer is a
14 separate violation.

15 **Comment.** Section 12002.9 is amended to delete superfluous references to animal parts. See
16 Section 80 (reference to animal generally includes part of animal).

17 **Fish & Game Code § 12012 (amended). Punishment for illegal action**

18 SEC. _____. Section 12012 of the Fish and Game Code is amended to read:

19 12012. (a) Any person who illegally takes, possesses, imports, exports, sells,
20 purchases, barter, trades, or exchanges ~~any amphibian, a bird, fish, mammal, or~~
21 reptile, amphibian, or part thereof of any of those animals, for profit or personal
22 gain, is guilty of a misdemeanor punishable by a fine of not less than five thousand
23 dollars (\$5,000), nor more than forty thousand dollars (\$40,000), or imprisonment
24 in the county jail for not more than one year, or by both that fine and
25 imprisonment.

26 (b) If a person is convicted of a second or subsequent violation of subdivision
27 (a), that person shall be punished by a fine of not less than ten thousand dollars
28 (\$10,000), nor more than fifty thousand dollars (\$50,000), or imprisonment in the
29 county jail for not more than one year, or by both that fine and imprisonment.

30 (c) If a second or subsequent violation of subdivision (a) also involves a
31 violation of Section 8685.5, 8685.6, 8685.7, or 8688 that is punishable by
32 subdivision (b) of Section 12004, the offense shall be punishable by a fine of not
33 more than fifty thousand dollars (\$50,000), or by imprisonment pursuant to
34 subdivision (b) of Section 12004, or by both that fine and imprisonment.

35 (d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense
36 punishable under this section shall be commenced within three years after
37 commission of the offense.

38 (e) This section does not apply to fish taken pursuant to a commercial fishing
39 license issued pursuant to Section 7852, or fish sold pursuant to a commercial fish
40 business license issued in accordance with Article 7 (commencing with Section
41 8030) of Chapter 1 of Part 3 of Division 6.

1 (f) This section does not supersede Section 12005 or 12009.

2 (g)(1) Moneys equivalent to 50 percent of the revenue deposited in the Fish and
3 Game Preservation Fund from fines and forfeitures collected pursuant to this
4 section shall be allocated for the support of the Special Operations Unit of the
5 department, and used for law enforcement purposes.

6 (2) Moneys equivalent to 50 percent of the revenue from any fine collected
7 pursuant to this section shall be paid to the county in which the offense was
8 committed, pursuant to Section 13003. The board of supervisors shall first use
9 revenues pursuant to this subdivision to reimburse the costs incurred by the district
10 attorney or city attorney in investigating and prosecuting the violation. Any excess
11 revenues may be expended in accordance with Section 13103.

12 **Comment.** Section 12012 is amended to make nonsubstantive stylistic changes.

13 The reference to a “part” of an animal is superfluous. See Section 80 (reference to animal
14 generally includes part of animal). It is retained in this section solely for clarity, and is not
15 intended to affect the meaning of any other provision of this code that includes or omits a
16 reference to a “part” of an animal.

17 **Fish & Game Code § 12013.3 (amended). Punishment for action involving specific animals**

18 SEC. _____. Section 12013.3 of the Fish and Game Code is amended to read:

19 12013.3. (a) Notwithstanding Section 12002, 12003.2, 12008, or 12008.5, the
20 punishment for any person who knowingly violated and has been convicted of the
21 following provisions where the violation involved a trophy deer, elk, antelope, or
22 bighorn sheep shall be a fine of not less than five thousand dollars (\$5,000), nor
23 more than forty thousand dollars (\$40,000), and where the violation involved a
24 wild turkey, a fine of not less than two thousand dollars (\$2,000), nor more than
25 five thousand dollars (\$5,000), or imprisonment in the county jail for not more
26 than one year, or both that fine and imprisonment:

27 (1) Section 2001, if the person took an animal outside the established season.

28 (2) Section 2005.

29 (3) Section 257.5 of Title 14 of the California Code of Regulations.

30 (4) Section 4304.

31 (5) Section 4330.

32 (6) Section 1054.2, if the person failed to procure the required license or tag
33 prior to taking a deer, elk, antelope, or bighorn sheep.

34 (b) The commission shall adopt regulations to implement this section, including
35 establishing a trophy designation and monetary value based on the size or related
36 characteristics of deer, elk, antelope, bighorn sheep, and wild turkeys ~~or parts~~
37 ~~thereof~~.

38 (c) All revenue from fines imposed pursuant to this section for deer, elk,
39 antelope, and bighorn sheep violations shall be deposited in the Big Game
40 Management Account established in Section 3953 and shall be used for the big
41 game management purposes described in that section.

42 (d) All revenue from fines imposed pursuant to this section for wild turkey
43 violations shall be deposited in the Upland Game Bird Account established in

1 Section 3684 and shall be used for the upland game bird conservation purposes
2 described in that section.

3 (e) Moneys equivalent to 50 percent of the revenue from any fine collected
4 pursuant to this section shall be paid to the county in which the offense was
5 committed, pursuant to Section 13003. The county board of supervisors shall first
6 use revenues pursuant to this subdivision to reimburse the costs incurred by the
7 district attorney or city attorney in investigating and prosecuting the violation. Any
8 excess revenues may be expended in accordance with Section 13103.

9 **Comment.** Subdivision (b) of Section 12013.3 is amended to delete a superfluous reference to
10 animal parts. See Section 80 (reference to animal generally includes part of animal).

11 **Fish & Game Code § 12151.5 (amended). Report of hunting injury**

12 SEC. _____. Section 12151.5 of the Fish and Game Code is amended to read:

13 12151.5. Any person who, while hunting, kills or wounds or witnesses the
14 killing or wounding of any human being, or domestic animal belonging to another,
15 shall, within 48 hours after the incident, forward a complete written report to the
16 Department of Fish and ~~Game~~ Wildlife, 1416 Ninth Street, Sacramento, California
17 95814, ~~giving his~~ providing the reporter's full name and address and all facts
18 relating to the incident.

19 **Comment.** Section 12151.5 is amended to update an obsolete reference to the Department of
20 Fish and Game.

21 The section is also amended to make nonsubstantive stylistic changes.

22 **Fish & Game Code § 12155 (amended). Punishment for third and subsequent convictions**

23 SEC. _____. Section 12155 of the Fish and Game Code is amended to read:

24 12155. (a) Upon the third conviction of any person of a violation of any
25 provision of this code or regulation adopted pursuant ~~thereto to this code~~ relating
26 to the taking or possession of ~~birds or mammals, or parts thereof,~~ a bird or
27 mammal in any five-year period, and upon any conviction subsequent to the three
28 convictions during a five-year period, that person shall be prohibited from taking
29 any ~~birds or mammals~~ bird or mammal in the state for three years from the date of
30 the last conviction. The commission shall revoke ~~the~~ any hunting license of ~~the~~
31 ~~person who is a person~~ prohibited from taking ~~birds or mammals~~ a bird or
32 mammal in this state, ~~if he or she has one,~~ for the period of prohibition.

33 (b) It shall be unlawful for any person to obtain, or attempt to obtain, a hunting
34 license during a period of prohibition.

35 **Comment.** Section 12155 is amended to delete a superfluous reference to animal parts. See
36 Section 80 (reference to animal generally includes part of animal).

37 The section is also amended to add subdivision designations and make nonsubstantive stylistic
38 changes.

39 **Fish & Game Code § 12162 (amended). Sale or donation of seized take**

40 SEC. _____. Section 12162 of the Fish and Game Code is amended to read:

41 12162. Any ~~seizure of any birds, mammals, fish, reptiles, or amphibia or parts~~
42 ~~thereof made~~ bird, mammal, fish, reptile, or amphibian seized under circumstances

1 ~~wherein~~ in which it cannot be determined who took, possessed, sold, imported, or
2 transported ~~them~~ the bird, mammal, fish, reptile, or amphibian contrary to law may
3 be sold or donated to a state, county, city, city and county, or any charitable
4 institution.

5 **Comment.** Section 12162 is amended to delete a superfluous reference to animal parts. See
6 Section 80 (reference to animal generally includes part of animal).

7 The section is also amended to make nonsubstantive stylistic changes.

8 **Fish & Game Code § 12163 (amended). Purchase of seized take**

9 SEC. ____ . Section 12163 of the Fish and Game Code is amended to read:

10 12163. Any person who purchases birds, mammals, fish, reptiles, or ~~amphibia,~~
11 amphibians ~~or parts thereof~~, from the department pursuant to the preceding
12 sections shall, upon delivery ~~to him~~, pay to the department, for deposit in the Fish
13 and Game Preservation Fund, the prevailing market price for legal birds,
14 mammals, fish, reptiles, or ~~amphibia~~ amphibians in effect on the date of seizure.

15 **Comment.** Section 12163 is amended to delete a superfluous reference to animal parts. See
16 Section 80 (reference to animal generally includes part of animal).

17 The section is also amended to make nonsubstantive stylistic changes.

18 **Fish & Game Code § 12164 (amended). Confiscation and disposal of bird or mammal**

19 SEC. ____ . Section 12164 of the Fish and Game Code is amended to read:

20 12164. The court before whom any person has been convicted of trespassing
21 under Section 602 of the Penal Code shall, in addition to any other fine or
22 forfeiture imposed, confiscate any bird or mammal ~~or parts thereof~~ taken while
23 trespassing, and shall dispose of the bird or mammal ~~or parts thereof~~ to a
24 charitable institution or cause it to be destroyed if unfit for human consumption.

25 **Comment.** Section 12164 is amended to delete superfluous references to animal parts. See
26 Section 80 (reference to animal generally includes part of animal).

27 **Fish & Game Code § 12300 (amended). California Indians**

28 SEC. ____ . Section 12300 of the Fish and Game Code is amended to read:

29 12300. ~~Irrespective of~~ (a) Notwithstanding any other provision of law, the
30 provisions of this code are not applicable to California Indians whose names are
31 inscribed upon the tribal rolls, while on the reservation of ~~such that~~ that tribe and under
32 those circumstances in this State where the code was not applicable to them
33 immediately prior to the effective date of Public Law 280, Chapter 505, First
34 Session, 1953, 83d Congress of the United States.

35 (b) No such Indian described in subdivision (a) shall be prosecuted for the
36 violation of any provision of this code occurring in the places and under the
37 circumstances ~~hereinabove referred to~~ described in subdivision (a). Nothing in this
38 section, however, prohibits or restricts the prosecution of any Indian for the
39 violation of any provision of this code prohibiting the sale of any bird, mammal,
40 fish, ~~or amphibia~~ amphibian, or reptile.

41 **Comment.** Subdivision (b) of Section 12300 is amended to add reptiles.

1 The section is also amended to add subdivision designations and make nonsubstantive stylistic
2 changes.

3 **Fish & Game Code § 13200 (amended). Accounting method**

4 SEC. _____. Section 13200 of the Fish and Game Code is amended to read:

5 13200. The department shall account for revenues and expenditures of the
6 money in the Fish and Game Preservation ~~Account~~ Fund in a manner consistent
7 with the laws and applicable policies governing state departments generally for
8 each activity or program in which the department is engaged.

9 **Comment.** Section 13200 is amended to conform an incorrect reference to the “Fish and Game
10 Preservation Account” to refer to the “Fish and Game Preservation Fund.”

11 **Fish & Game Code § 13220 (amended). Fish and Game Preservation Fund**

12 SEC. _____. Section 13220 of the Fish and Game Code is amended to read:

13 13220. Except as provided in Section 13230, the money in the Fish and Game
14 Preservation Fund, commencing with the 2005–06 fiscal year, is available for
15 expenditure, upon appropriation by the Legislature, for all of the following
16 purposes:

17 (a) To the department for payment of refunds of sums determined by it to have
18 been erroneously deposited in the fund, including, but not limited to, money
19 received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures,
20 or services.

21 (b) To the department for expenditure in accordance with law for the payment of
22 all necessary expenses incurred in carrying out this code and any other laws for the
23 protection and preservation of birds, mammals, reptiles, amphibians, and fish.

24 (c) To the commission for expenditure in accordance with law for the payment
25 of the compensation and expenses of the commissioners and employees of the
26 commission.

27 **Comment.** Subdivision (b) of Section 13220 is amended to add amphibians.

28 **Fish & Game Code § 14102 (amended). Compensation**

29 SEC. _____. Section 14102 of the Fish and Game Code is amended to read:

30 14102. Each commissioner who is not also a state officer shall receive ~~ten one~~
31 hundred dollars ~~(\$10) (\$100)~~ for each day of ~~actual service performed in carrying~~
32 ~~out his performing~~ official duties pursuant to the ~~directions~~ direction of the
33 commission, and each commissioner shall receive ~~his~~ actual and necessary travel
34 expenses incurred in ~~the performance of his performing~~ official duties ~~in~~ on behalf
35 of the commission.

36 **Comment.** Section 14102 is amended to correct a reference to an obsolete per diem allowance.
37 See Gov’t Code § 11564.5.

38 The section is also amended to make nonsubstantive stylistic changes.

39 **Fish & Game Code § 16500 (amended). Findings**

40 SEC. _____. Section 16500 of the Fish and Game Code is amended to read:

41 16500. The Legislature finds:

1 (a) Jurisdiction over the protection and development of natural resources,
2 especially the fish resource, is of great importance to both the State of California
3 and California Indian tribes.

4 (b) To California Indian tribes, control over their minerals, lands, water,
5 wildlife, and other resources within Indian country is crucial to their economic
6 self-sufficiency and the preservation of their heritage. On the other hand, the State
7 of California is concerned about protecting and developing its resources;
8 protecting, restoring, and developing its commercial and recreational salmon
9 fisheries; ensuring public access to its waterways; and protecting the environment
10 within its borders.

11 (c) More than any other issue confronting the State of California and California
12 Indian tribes, the regulation of natural resources, especially fish, transcends
13 political boundaries.

14 (d) In many cases, the State of California and California Indian tribes have
15 differed in their respective views of the nature and extent of state versus tribal
16 jurisdiction in areas where Indians have historically fished. Despite these frequent
17 and often bitter disputes, both the state and the tribes seek, as their mutual goal,
18 the protection and preservation of the fish resource. This division is an attempt to
19 provide a legal mechanism, other than protracted and expensive litigation over
20 unresolved legal issues, for achieving that mutual goal on the Klamath River.

21 (e) ~~That the Department of Fish and Game~~ The department has exercised
22 jurisdiction over the Klamath River from the mouth of the river through the Yurok
23 Reservation and the Hoopa Valley Reservation, but ~~that~~ the Bureau of Indian
24 Affairs and the Indian tribes thereon have also asserted jurisdiction over that river.
25 The river itself lies within a disputed area and proper management of the resource
26 presents, therefore, unique and difficult problems in the exercise of fishing
27 practices by all ~~users~~ user groups.

28 (f) Although commercial fishing may not be a traditional practice of the tribes
29 existing along the Klamath River within the boundaries of the land of the Yurok
30 Reservation and the Hoopa Valley Reservation, nevertheless, the ~~Department of~~
31 ~~Fish and Game~~ department has historically supported the concept of tribal fishing,
32 including a tribal commercial fishing industry where the industry is consistent
33 with the need to preserve the species, sound management, and where ~~such~~ that
34 usage would not adversely effect other user groups, including sportfishing and the
35 ocean commercial fishery.

36 (g) ~~That a~~ A commercial fishery existed on the Klamath River in the late 19th
37 century and early 20th century, in which the Indian tribes existing along the river
38 participated, but ~~that the~~ commercial fishing was abolished in 1933 with the
39 passage of the predecessor to Section 8434, and, further, that salmon resources
40 have declined historically due to past water developmental policies and timber
41 harvesting practices. With a reduced number of fish available, special laws are
42 needed to protect those resources and allocate them fairly among the various user
43 groups.

1 (h) This division is not only enacted to provide the legal mechanism described
2 above, but is also intended to encourage cooperative agreements to allow
3 protection of the resource among all of the user groups. In so doing, the
4 Legislature recognizes the unique status of the Klamath River and the fishing
5 therein.

6 **Comment.** Section 16500 is amended to update obsolete references to the Department of Fish
7 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

8 The section is also amended to make nonsubstantive stylistic changes.

9 **Fish & Game Code § 16520 (amended). “Klamath Fishery Management Council”**

10 SEC. _____. Section 16520 of the Fish and Game Code is amended to read:

11 16520. “Klamath Fishery Management Council” means that council created
12 pursuant to Section 46055 of Title 16 of the United States Code ~~which~~ that is
13 composed of one representative each from the department, the Pacific Fishery
14 Management Council, National Marine Fisheries Service, Department of the
15 Interior, Oregon Department of Fish and Wildlife, ~~California Department of Fish~~
16 ~~and Game~~, the Hoopa Valley Business Council, non-Hoopa Indians, the California
17 commercial salmon fishing industry, the Oregon commercial salmon fishing
18 industry, the Klamath River in-river sportfishing community, and the California
19 offshore recreational fishing industry.

20 **Comment.** Section 16520 is amended to update an obsolete reference to the Department of
21 Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

22 The section is also amended to make nonsubstantive stylistic changes.