

Third Supplement to Memorandum 2014-57

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

Memorandum 2014-57 presents a staff draft recommendation on *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 1)*.¹

To facilitate the possible introduction of implementing legislation in 2015, the staff requested that Legislative Counsel prepare a bill draft based on the text of the staff draft recommendation. If the Commission decides to make any changes to that text, the bill draft will be revised accordingly.

The Deputy Legislative Counsel working on the bill draft suggested a number of technical revisions to the Commission's language. The staff appreciates receiving those suggestions, many of which are presented below for possible incorporation into the Commission's recommendation. In general, it makes sense to accommodate Legislative Counsel's stylistic preferences, for greater consistency with California statutes as a whole. And when the timing permits and there are no concerns about the substance of proposed changes, it is generally a good idea to conform the recommendation's language to that used in the implementing bill.

This memorandum also presents some additional minor revisions proposed by the staff.

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

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

PROPOSED REVISIONS

Use of “Any”

One change repeatedly suggested by the Deputy Legislative Counsel was to replace the word “any” with “a” or “an,” where doing so would not result in any change in meaning. The proposed revisions presented below include many such changes.

The staff has not proposed such a change in the following circumstances:

- (1) Revision would be syntactically awkward (e.g., “any other provision”).
- (2) The word “any” is used to mean “every.”²
- (3) The word “any” is used to state a contingency (e.g., “perform any acts needed...”).³
- (4) The word “any” introduces a series of alternatives (e.g., “any of the following”).⁴
- (5) The word “any” is part of a common phrase used for emphasis (e.g., “at any time”).⁵

Text of Proposed Revisions

The staff recommends that the following technical revisions be added to the draft recommendation. To avoid confusion, the pertinent text of each revised code section is set out with the revisions previously proposed in the staff draft recommendation already incorporated.

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

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

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

2. In this instance, the staff has instead substituted the word “every.” See proposed revision to Fish and Game Code Section 307(c).

3. See, e.g., proposed revisions to Fish and Game Code Sections 400 and 401.

4. See, e.g., proposed revisions to Fish and Game Code Sections 2014 and 2015.

5. See, e.g., proposed revision to Fish and Game Code Section 3511.

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

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

57. “Nonresident” means ~~any~~ a person who is not a resident as defined in Section 70.

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

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

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

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

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

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

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

....

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

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

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

300. ~~Any~~ A regulation adopted pursuant to this code shall be filed with the Secretary of State, as required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

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

307. (a) Whenever after due investigation the commission finds that game fish, resident or migratory birds, game or fur-bearing mammals, amphibians, or reptiles have decreased in numbers in ~~any areas, districts, or portions thereof~~ an area, district, or portion of an area or district to the extent that a scarcity exists, the commission may reduce the daily bag limit and the possession limit on those game fish, birds, mammals, amphibians, or reptiles as are in danger of depletion, for a period of time that is specified, or until new legislation addressing the scarcity becomes effective.

(b) ~~Any~~ A regulation adopted pursuant to this section shall be filed with the Secretary of State, and filing shall be deemed a legal notice thereof.

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

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

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

312.

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

....

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

(e) ~~No~~ A person engaged in survival training taking ~~fish, amphibians, reptiles, birds, or mammals~~ a fish, amphibian, reptile, bird, or mammal pursuant to a permit issued under this section ~~may~~ shall not use ~~any~~ a firearm, bow and arrow, steel trap, explosive, chemical, poison, drug, net, or fish tackle, except that ~~hooks or , handlines or , and improvised poles and lines for the taking of~~ may be used to take fish.

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

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

326. ~~Prior to~~ Before adopting a regulation pursuant to Section 325, the commission at an open meeting shall publicly announce the contents of the proposed regulation, and fix a time and place for a hearing on the proposed regulation in each county that would be affected by the regulation. The time for the hearing shall be at least 21 days after the announcement, and the place shall be the county seat of each affected county.

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

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

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

....

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

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

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

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

400. The State of California hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, Seventy-fifth Congress), ~~and the~~ . The department, with the approval of the commission, shall perform any acts ~~as may be necessary to the conduct and establishment of~~ needed to conduct or establish cooperative wildlife-restoration projects, as defined in that act of Congress, in compliance with that act and rules and

regulations promulgated ~~thereunder~~; under that act, and ~~no~~ funds accruing to the State of California from license fees paid by hunters shall not be diverted for ~~any other purpose~~ a purpose other than the administration of the department and ~~for~~ the protection, propagation, preservation, and investigation of fish and ~~game~~ wildlife.

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

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

401. The State of California hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950 (Public Law 681, Eighty-first Congress), ~~and the .~~ The department, with the approval of the commission, may perform any acts ~~as may be necessary to the conduct and establishment of~~ needed to conduct or establish cooperative fish restoration projects, as defined in that act of Congress, in compliance with that act and rules and regulations promulgated ~~thereunder~~; under that act, and ~~no~~ funds accruing to the State of California from license fees paid by fishermen shall not be diverted for ~~any other purpose~~ a purpose other than the administration of the department and ~~for~~ the protection, propagation, preservation, and investigation of fish and ~~game~~ wildlife.

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

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

853.

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

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

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

854. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of fish and game warden of the department shall be 18 years. ~~Any~~ An examination for the position of warden shall require a demonstration of the physical ability to effectively carry out the

duties and responsibilities of the position in a manner that would not inordinately endanger the health or safety of ~~any~~ a warden or ~~the health and safety of others~~ other person.

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

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

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

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

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

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

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

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

1061.

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

....

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

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

1227. Notwithstanding any other provision of law, the department may enter into one or more agreements with ~~any~~ a person, nonprofit organization, or other public or private entity, as

may be appropriate, to assist the department in its efforts to secure long-term private funding sources for purposes relating to conservation programs, projects, and activities by the department. The authority to enter into ~~agreements~~ an agreement under this section shall include, but not be limited to, the authority to secure donations, memberships, corporate and individual sponsorships, and marketing and licensing agreements.

Fish & Game Code § 1245 (amended). Research and investigation

SEC. ____. Section 1245 of the Fish and Game Code is amended to read:

1245. The department shall expend funds necessary for biological research and field investigation, and for the collection and diffusion of statistics and information, that pertain to the conservation, propagation, protection, and perpetuation of birds and their nests and eggs, and of mammals, reptiles, ~~and fish~~ , and amphibians.

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

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

1505.

(b) In the event of ~~any a conflict under~~ between an action of the department pursuant to this section with and the action of another department or agency of the state or ~~any other~~ another public agency, the action of the Department of Fish and Wildlife taken pursuant to this section shall prevail, except in the event of conflict with the following actions:

....

(c) The director shall disapprove ~~any a~~ stream alteration of ~~any~~ a prime salmon or steelhead spawning area on land of which ownership has not been legally determined, when in the director's opinion the alteration would prove deleterious to fishlife.

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

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

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

....

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

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

2001. (a) It is unlawful to take a mammal, bird, fish, reptile, or amphibian outside of an established ~~seasons~~ season or to exceed ~~any~~ a bag limit or possession limit established in this code or by a regulation adopted by the commission. Violation of ~~any~~ an established season, bag limit, or possession limit may be charged as a violation of this section or of the specific code section or regulation that establishes the season or limit.

(b) Unless otherwise provided, it is unlawful to possess a fish, reptile, or amphibian, except during the open season where the fish, reptile, or amphibian was taken or during the 10-day period immediately following that open season. ~~Any~~ A possession limit applicable during the open season applies during that 10-day period.

....

Fish & Game Code § 2003 (amended). Reward for taking

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

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

(b) The department may issue a permit to ~~any~~ a person authorizing that person to offer a prize or other inducement as a reward for the taking of ~~any~~ a game fish, as defined by the commission by regulation, if it finds that there would be no detriment to the resource. The permit is subject to regulations adopted by the commission. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. 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 have a physical or mental disability, and the primary purpose of the contest, tournament, or derby is to introduce those anglers to, or educate them about fishing. All permits for which the fee is waived pursuant to this subdivision shall comply with all other requirements set forth in this section.

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

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

Fish & Game Code § 2005 (amended). Lights

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

2005. (a) Except as otherwise authorized by this section, it is unlawful to use an artificial light to assist in the taking of ~~any~~ a game bird, game mammal, or game fish.

(b) It is unlawful for ~~any person, or~~ one or more persons, to throw or cast the rays of ~~any~~ a spotlight, headlight, or other artificial light on ~~any~~ a highway or in ~~any~~ a field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon ~~any~~ a game mammal, fur-bearing mammal, or nongame mammal, while having in his or her possession or under his or her control ~~any~~ a firearm or weapon with which that mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.

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

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

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

....

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

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

2010. (a) It is unlawful to use or possess a shotgun larger than 10-gauge, or to use or possess a shotgun capable of holding more than six cartridges at one time, to take ~~any~~ a mammal or bird.

....

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

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

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~~ amphibians.

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

(c) The measure of damages is the amount that will compensate for all the detriment proximately caused by the taking or destruction.

(d) An action to recover damages under this section shall be brought in the name of the people of the state, in a court 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~~ an action brought under this section when the activities alleged to have caused the destruction of ~~any~~ a 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.

(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.

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

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

(h) For purposes of this section, "local agency" includes ~~any~~ a city, county, city and county, district, public authority, or other political subdivision.

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

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

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

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

....

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

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

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

2016. It is unlawful to enter ~~any~~ land for the purpose of discharging ~~any~~ a firearm or taking or destroying ~~any~~ a mammal or bird, including ~~any~~ waterfowl, on that land, without having first obtained written permission from the owner, the owner's agent, or the person in lawful possession of that land, if any of the following is true:

....

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

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

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

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

(2) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

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

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

2348. (a) The outside of ~~any~~ a package offered to or received by a common carrier or the carrier's agent for transportation, or transported by a common carrier or agent, that contains a bird, mammal, fish, reptile, or amphibian, shall clearly and conspicuously indicate the following:

....

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

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

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

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

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

2400. (a) ~~Common carriers~~ A common carrier may transport the ~~carcasses~~ carcass of a dead domesticated game ~~birds and mammals~~ bird or mammal tagged with a domesticated game breeder's tag as provided in Article 1 (commencing with Section 3200), of Chapter 2, of Part 1, of Division 4.

....

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

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

2701.

(c) The people of California have vested in the department the principal responsibility for protecting, conserving, and perpetuating native fish, plants, and wildlife, including endangered species and game animals, for their aesthetic, intrinsic, ecological, educational, and economic values. To help accomplish this goal, the people of California have further established a significant natural areas program and a natural diversity ~~data base~~ database in the department, which is charged with maintaining and perpetuating California's most significant natural areas for present and future generations. To ensure the perpetuation of areas containing uncommon elements of natural diversity and to ensure the continued abundance of habitat for more common species, especially examples of those ~~which~~ that are presently threatened with destruction, the purchase of land is often necessary.

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

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

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

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

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

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

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

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

(e) ~~Any~~ A bird or mammal that is possessed in violation of this section shall be subject to seizure by the department.

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

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

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

3004. (a) It is unlawful for ~~any~~ a person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, while within 150 yards of an occupied dwelling house, residence, or other building, or within 150 yards of a barn or other outbuilding used in connection with an occupied dwelling house, residence, or other building, to either hunt or discharge a firearm or other deadly weapon while hunting. The 150-yard area is a "safety zone."

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

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

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

3005.

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

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

~~(1)~~ ~~(2)~~ (2) The lawful taking of a mammal found to be injuring crops or property.

~~(2)~~ ~~(3)~~ (3) The taking of a bird or mammal under a depredation permit.

~~(3)~~ ~~(4)~~ (4) The taking of a bird or mammal by an employee of the department acting in an official capacity.

~~(4)~~ (5) The taking of a bird or mammal in accordance with the conditions of a scientific or propagation permit by the holder of that permit.

~~(5)~~ (6) The taking of a bird or mammal in accordance with an ongoing mining operation mitigation plan approved by the department pursuant to subdivision (d).

....

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

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

3006. Except as authorized under a domesticated game breeder's license, ~~any~~ a deer, elk, or bear kept in captivity may be killed only with the approval of the department, and pursuant to any ~~regulations~~ regulation that the commission may adopt. The carcass of ~~any~~ a deer, elk, or bear kept in captivity may not be sold, and shall be disposed of as directed by the department.

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

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

3007. Except as provided in this code or regulations adopted pursuant to this code, it is unlawful to take ~~any~~ a bird or mammal without a license or entitlement to do so.

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

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

3033. (a) Pursuant to this section, the department shall issue to ~~any~~ a disabled veteran or recovering service member who has not been convicted of ~~any~~ a violation of this code a reduced fee hunting license that authorizes the licensee to take ~~any~~ a bird or mammal as authorized by this code and regulations adopted pursuant to this code.

....

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

....

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

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

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

....

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

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

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

3051.

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

....

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

....

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

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

3240.5. (a) For purposes of this article, the following terms have the following meanings:

(1) "Commercial hunting club" means property with respect to which a fee is imposed or collected for either of the following:

(A) Taking or attempting to take birds or mammals on the property.

(B) ~~Any~~ A type of entry or use permit that includes permission to take birds or mammals on the property.

(2) "Property" means a number of contiguous legal parcels owned by one or more owners and held out for a common purpose.

(b) A person, including but not limited to an owner, renter, or lessee, who is in possession or control of a commercial hunting

club, shall procure a commercial hunting club license before ~~any birds or mammals~~ a bird or mammal may be taken on the property.

....

Fish & Game Code § 3243.5 (amended). Transfer of license

SEC. ____. Section 3243.5 of the Fish and Game Code is amended to read:

3243.5. The commission may transfer a commercial hunting club license to other land owned or controlled by the licensee, in the same county as the originally licensed land, without ~~any~~ an additional fee, if the commission finds the new land suitable for the purposes of the license and the transfer does not conflict with the public interest.

Fish & Game Code § 3504 (amended). Sale or purchase of birds

SEC. ____. Section 3504 of the Fish and Game Code is amended to read:

3504. Subject to the provisions of this code permitting the sale of domestically raised game birds, it is unlawful to sell or purchase ~~any~~ a game bird or nongame bird.

Fish & Game Code § 3511 (amended). Fully protected birds

SEC. ____. Section 3511 of the Fish and Game Code is amended to read:

3511. (a)(1) Except as provided in Section 2081.7 or 2835, a fully protected bird may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of ~~permits or licenses~~ a permit or license to take ~~any~~ a fully protected bird, and no ~~permits or licenses~~ permit or license ~~heretofore~~ previously issued shall have ~~any~~ force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected bird for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of ~~those species~~ a fully protected bird pursuant to a permit for the protection of livestock. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected bird, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

....

Fish & Game Code § 4150 (amended). Taking or possessing nongame mammals

SEC. _____. Section 4150 of the Fish and Game Code is amended to read:

4150. ~~Any~~ A mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal, ~~is a nongame mammal.~~ A nongame mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

Fish & Game Code § 4155 (amended). Trap, sale, or export of bobcat

SEC. _____. Section 4155 of the Fish and Game Code is amended to read:

4155. (a) Beginning January 1, 2014, it shall be unlawful to trap ~~any~~ a bobcat, or attempt to do so, or to sell or export ~~any~~ a bobcat taken in the area surrounding Joshua Tree National Park, defined as follows: East and South of State Highway 62 from the intersection of Interstate 10 to the intersection of State Highway 177; West of State Highway 177 from the intersection of State Highway 62 to the intersection with Interstate 10; North of Interstate 10 from State Highway 177 to State Highway 62.

....

(c) The prohibition on the trapping of bobcats in the areas designated pursuant to subdivisions (a) and (b) shall not apply to the taking of ~~any~~ a bobcat by ~~employees~~ an employee of the department acting in an official capacity, to a taking in accordance with the conditions of a scientific, educational, or propagation permit pursuant to Section 1002 by the holder of that permit, or to the lawful taking of ~~bobcats~~ a bobcat found to be injuring crops or other property, ~~pursuant to Section 4152, or other provisions~~ another provision of this code, ~~or regulations~~ a regulation adopted pursuant to this code.

(d) Notwithstanding Section 2016 or any other ~~provisions~~ provision of this code, on and after January 1, 2014, it shall be unlawful to trap ~~any~~ a bobcat, or attempt to do so, on ~~any~~ private land not belonging to the trapper without the express written consent of the owner of that property. The placing or possession of ~~any~~ a trap or the possession of a bobcat on ~~any~~ land is prima facie evidence of a violation of this subdivision.

....

Staff Note. The staff has noted an aspect of Section 4155(d) relating to the “prima facie evidence” referenced in the provision that will be discussed in a future memorandum addressing recodification of this provision.

Fish & Game Code § 4700 (amended). Fully protected mammals

SEC. ____. Section 4700 of the Fish and Game Code is amended to read:

4700. (a)(1) Except as provided in Section 2081.7 or 2835, a fully protected mammal may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of ~~permits or licenses~~ a permit or license to take ~~any~~ a fully protected mammal, and no ~~permits or licenses heretofore~~ previously issued permit or license shall have ~~any~~ force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected mammal for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected mammal, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

....

Fish & Game Code § 4800 (amended). Mountain lions

SEC. ____. Section 4800 of the Fish and Game Code is amended to read:

4800. (a) The mountain lion (genus Puma) is a specially protected mammal under the laws of this state.

(b)(1) It is unlawful to take, injure, possess, transport, import, or sell ~~any~~ a mountain lion or a product thereof of a mountain lion, except as specifically provided in this chapter or in Chapter 2 (commencing with Section 2116) of Division 3.

(2) This chapter does not prohibit the sale or possession of ~~any~~ a mountain lion or ~~any~~ a product ~~thereof~~ of a mountain lion, when the owner can demonstrate that the mountain lion, or product

~~thereof~~ of a mountain lion, was in the person's possession on June 6, 1990.

(3) This chapter does not prohibit the possession of a mountain lion carcass or ~~any~~ a part or product of a mountain lion carcass, if all of the following requirements are met:

....
(c) ~~Any~~ A violation of this section is a misdemeanor punishable by imprisonment in the county jail for not more than one year, or a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment. An individual is not guilty of a violation of this section if it is demonstrated that, in taking or injuring a mountain lion, the individual was acting in self-defense or in defense of others.

(d) Section 219 does not apply to this chapter. Neither the commission nor the department shall adopt ~~any~~ a regulation that conflicts with or supersedes any of the provisions a provision of this chapter.

Fish & Game Code § 4810 (amended). Mountain lion research project

SEC. ____ . Section 4810 of the Fish and Game Code is amended to read:

4810.

(c) The department may authorize ~~permitholders~~ a permitholder to pursue, capture, temporarily possess, temporarily injure, mark, attach to or surgically implant a monitoring or recognition ~~devices~~ device in, provide veterinary care to, and transport, a mountain lion or ~~any~~ a product of a mountain lion.

(d) In addition to the requirements in Section 1002, an authorized research project shall be designed to do the following:

(1) Contribute to the knowledge of natural wildlife ecosystems.

(2) Minimize disruptions in the lives and movements of mountain lions and other wildlife, as well as impacts to mountain lion or other wildlife habitat, while maintaining the permitholder's research objectives.

(3) Directly or indirectly support the sustainability and survival of mountain lion populations and healthy ecosystems.

(4) Prevent the permanent injury or killing of ~~any~~ a mountain lion.

(e) An authorized research project shall be governed by the Scientific Collecting Permit. The permit shall include, at a minimum, proposed research methods and recordkeeping procedures that address the following:

(1) The capture of, anesthetization of, collection of diagnostic samples from, and transport of, a mountain lions lion or products thereof a product of a mountain lion, and the attaching to or surgically implanting monitoring or recognition devices or markings in, and providing veterinary care as required for the

health, safety, and humane treatment of, animals affected by the research project.

....

(g) The department shall handle ~~any~~ mortality or permanent injury to a mountain lion as a result of research authorized pursuant to this section in a manner consistent with the reporting and processing requirements imposed in Section 4807.

Fish & Game Code § 5000 (amended). Tortoises

SEC. ____. Section 5000 of the Fish and Game Code is amended to read:

5000. It is unlawful to sell, purchase, harm, take, possess, ~~or~~ transport, or shoot ~~any~~ a projectile at, a tortoise (Gopherus). This section does not apply to the taking of ~~any~~ a tortoise when authorized by the department.

Fish & Game Code § 5002 (amended). Permit allowing possession of tortoise

SEC. ____. Section 5002 of the Fish and Game Code is amended to read:

5002. The department may issue permits, subject to terms and conditions prescribed by the commission, authorizing the possession of ~~any~~ a tortoise (Gopherus) or ~~any~~ product thereof of a tortoise by an educational or scientific institution or a public zoological garden.

Fish & Game Code § 5050 (amended). Fully protected reptiles and amphibians

SEC. ____. Section 5050 of the Fish and Game Code is amended to read:

5050. (a)(1) Except as provided in this section, Section 2081.7, Section 2081.9, or Section 2835, a fully protected reptile or amphibian may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of permits or licenses to take ~~any~~ a fully protected reptile or amphibian, and no permits or licenses ~~heretofore~~ previously issued shall have ~~any~~ force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected reptile or amphibian for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected reptile or amphibian, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or

her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

....

Fish & Game Code § 5515 (amended). Fully protected fish

SEC. _____. Section 5515 of the Fish and Game Code is amended to read:

5515. (a)(1) Except as provided in this section, Section 2081.7, or Section 2835, a fully protected fish may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of permits or licenses to take ~~any~~ a fully protected fish, and no permits or licenses ~~heretofore~~ previously issued shall have ~~any~~ force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

....

Fish & Game Code § 7370 (amended). Sturgeon

SEC. _____. Section 7370 of the Fish and Game Code is amended to read:

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

....

Fish & Game Code § 7704 (amended). Waste or reduction of fish or sharks

SEC. ____. Section 7704 of the Fish and Game Code is amended to read:

7704. (a) It is unlawful to cause or permit ~~any~~ deterioration or waste of ~~any~~ a fish taken in the waters of this state, or brought into this state, or to take, receive or agree to receive more fish than can be used without deterioration, waste, or spoilage.

(b) Except as permitted by this code, it is unlawful to use ~~any~~ a fish, except fish offal, in a reduction plant or by a reduction process.

(c) Except as permitted by this code or by regulation of the commission, it is unlawful to sell, purchase, deliver for a commercial ~~purposes~~ purpose, or possess on ~~any~~ a commercial fishing vessel registered pursuant to Section 7881, ~~any~~ a shark fin or ~~shark~~ tail or ~~portion thereof~~ part of a shark fin or tail that has been removed from the carcass. However, a thresher shark tails and fins fin or tail that have ~~has~~ been removed from the carcass and whose original shape ~~remain~~ remains unaltered may be possessed on a registered commercial fishing vessel if the ~~corresponding carcass is in possession for each tail and fin~~ carcass corresponding to the fin or tail is also possessed.

Fish & Game Code § 7707 (amended). Reduction plant as nuisance

SEC. ____. Section 7707 of the Fish and Game Code is amended to read:

7707. (a) ~~Any~~ A reduction plant in which ~~any~~ a fish is used in violation of Sections 7700 to 7706, inclusive, 7708, 8151, 8153 to 8157, inclusive, ~~and~~ or 8075 to 8080, inclusive, of this code, or in violation of ~~any~~ a regulation of the commission, is a nuisance.

....

Fish & Game Code § 7856 (amended). Fish on commercial fishing vessel

SEC. ____. Section 7856 of the Fish and Game Code is amended to read:

7856. Notwithstanding any other provision of this division, except as provided in subdivision (f) and except when prohibited by federal law, fish may be prepared for human consumption aboard a commercial fishing vessel only under the following conditions:

....

(c) The fish shall not be bought, sold, offered for sale, transferred to ~~any other~~ another person, landed, brought ashore, or

used for ~~any~~ a purpose ~~except for~~ other than consumption by the crew and passengers.

....

(e) ~~No~~ A fish that may be possessed under sportfishing regulations ~~may~~ shall not be possessed in excess of the sport bag limit for each crew member and passenger on board the vessel.

(f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip. Lobster, salmon, or abalone shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip for preparation for human consumption pursuant to this section unless that lobster, salmon, or abalone is taken and possessed in compliance with all applicable laws pertaining to commercial fishing methods of take, licenses, permits, and size limits. Sturgeon or striped bass shall not be possessed aboard a commercial fishing vessel. ~~No~~ A person shall not take or possess ~~any~~ a fish on a commercial fishing vessel under a sportfishing license while that vessel is engaged in a commercial fishing activity, including going to or from an area where fish are taken for commercial purposes.

Fish & Game Code § 7880 (amended). Display of registration number

SEC. ____ . Section 7880 of the Fish and Game Code is amended to read:

7880. (a) ~~Every~~ A person owning or operating ~~any~~ a vessel used in connection with fishing operations for profit who has been issued a commercial boat registration pursuant to Section 7881 shall display, for the purpose of identification, a department registration number on the vessel in a manner designated by the department.

(b) The method of displaying the registration number on the vessel shall be determined by the department after consultation with the ~~Department~~ Division of Boating and Waterways, taking into consideration the responsibilities and duties of the ~~Department~~ Division of Boating and Waterways as prescribed in the Harbors and Navigation Code.

....

Fish & Game Code § 8182 (amended). Display of registration number

SEC. ____ . Section 8182 of the Fish and Game Code is amended to read:

8182. The operator of ~~any~~ a boat engaged in taking anchovies in waters south of the line described in Section 8180 shall at all times while operating ~~such~~ the boat identify it by displaying on an

exposed part of the superstructure, amidships on each side and on top of the house visible from the air, the department registration number of the boat, in 14-inch black numerals on white background.

Fish & Game Code § 8393 (amended). Purchase or sale of marlin meat

SEC. ____ . Section 8393 of the Fish and Game Code is amended to read:

8393. (a) Except where subdivision (b) has been complied with, marlin meat, whether fresh, smoked, canned, or preserved by any means, shall not be bought or sold, or possessed or transported for the purpose of sale.

....

Fish & Game Code § 8563 (amended). Responsibilities of permittee

SEC. ____ . Section 8563 of the Fish and Game Code is amended to read:

8563.

(b) A permittee may have ~~any~~ a person serve in the permittee's place on the permittee's vessel and engage in fishing under the permittee's drift gill net shark and swordfish permit for not more than 15 ~~calendar~~ days in ~~any one~~ in a calendar year, except that a longer period may be allowed in the event of serious illness. A permittee shall notify the department's Long Beach office of a substitution of 15 days or less per calendar year, by certified letter or telegram at least 24 hours ~~prior to~~ before the commencement of the trip. Written authorization for a substitution of greater than 15 days shall be obtained from the director and shall be given only on the director's finding that the permittee will not be available to engage in the activity due to serious illness, supported by medical evidence. An application for a substitution of greater than 15 days shall be made to the department's ~~Headquarters—Office~~ headquarters office in Sacramento, and shall contain any information the director requires. ~~Any~~ A denial of the substitution may be appealed to the commission.

Fish & Game Code § 10500 (amended). Prohibited actions

SEC. ____ . Section 10500 of the Fish and Game Code is amended to read:

10500. Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess ~~any~~ a bird or mammal, ~~or part thereof~~, in ~~any~~ a game refuge.

(b) To use or have in possession in a game refuge, ~~any~~ a firearm, BB device as defined in Section 16250 of the Penal Code, crossbow,

bow and arrow, or ~~any~~ trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge ~~any~~ a firearm or BB device or to release ~~any~~ an arrow or crossbow bolt into ~~any~~ a game refuge.

(c) To take or possess ~~any species of a~~ fish or amphibian in ~~any~~ a fish refuge, or to use or have in possession in that refuge ~~any~~ a contrivance designed to be used for catching fish.

(d) To take or possess ~~any~~ a bird ~~in, or to~~ discharge ~~any~~ a firearm or BB device, or ~~to~~ release ~~any~~ an arrow or crossbow bolt, within or into, ~~any~~ a waterfowl refuge.

(e) To take or possess ~~any~~ a quail in a quail refuge.

(f) To take or possess ~~any~~ an invertebrate or specimen of marine plant life in a marine life refuge.

(g) To take or possess ~~any~~ a clam ~~in a clam refuge or to possess in a clam refuge~~ ~~any~~ or an instrument or apparatus capable of being used to dig clams in a clam refuge.

Fish & Game Code § 10502 (amended). Powers of Commission

SEC. ____. Section 10502 of the Fish and Game Code is amended to read:

10502. The commission may:

(a) Exercise control over all mammals and birds in ~~any~~ a game refuge, and exercise control over all fish in ~~any~~ a fish refuge.

(b) Authorize the department to issue, under restrictions it deems best, permits that authorize the person named therein to carry, use, and possess within ~~any~~ a refuge, firearms, traps or other contrivances for taking birds, mammals, fish, amphibians, or reptiles.

(c) Except as provided in Sections 10502.5, 10502.8, 10655, and 10657, authorize the department to issue permits that authorize the person named therein to take birds, mammals, fish, amphibians, or reptiles within ~~any~~ a refuge.

(d) Adopt ~~additional~~ regulations not in conflict with ~~any~~ other law for the protection of birds, mammals, fish, amphibians, reptiles, and marine life within ~~any~~ a refuge.

Fish & Game Code § 10503 (amended). Donations, grants, and acquisition

SEC. ____. Section 10503 of the Fish and Game Code is amended to read:

10503. For the purposes of propagating, feeding, and protecting birds, mammals, fish, amphibians, and reptiles the commission may do all of the following:

(a) Accept, on behalf of the state, donations of ~~any~~ an interest in ~~lands~~ land within ~~any~~ a refuge.

(b) Accept, on behalf of the state, from ~~any~~ a person owning and in possession of patented ~~lands~~ land, ~~except lands that are~~ other

than land covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right to preserve and protect all birds, mammals, fish, amphibians, and reptiles on the patented ~~lands~~ land.

....

Fish & Game Code § 10507 (amended). Open transport

SEC. ____ . Section 10507 of the Fish and Game Code is amended to read:

10507. It is lawful for ~~any~~ a person who has given the notice provided for in Section 10506 to transport ~~any~~ a bird or mammal through a game refuge, if lawfully taken outside the refuge, and if the bird or mammal is carried openly and during the time between one hour before sunrise and one hour after sunset.

Fish & Game Code § 10510 (amended). Effect of open season

SEC. ____ . Section 10510 of the Fish and Game Code is amended to read:

10510. No specification of an open season in ~~any~~ an area authorizes the taking of ~~any~~ a bird, mammal, fish, amphibian, or reptile from ~~any~~ a refuge within that area from which the taking is elsewhere ~~prohibited in~~ prohibited by another provision of this code.

Fish & Game Code § 10513 (amended). Navigable water

SEC. ____ . Section 10513 of the Fish and Game Code is amended to read:

10513. Nothing in this chapter shall be construed as prohibiting or preventing ~~any~~ a person from taking ~~any~~ a bird, mammal, fish, amphibian, or reptile from or on navigable water in ~~any~~ a state game refuge.

Fish & Game Code § 12002.9 (amended). Additional license suspension

SEC. ____ . Section 12002.9 of the Fish and Game Code is amended to read:

12002.9. In addition to any other penalty prescribed in this code, the license issued pursuant to Sections 8032 to 8036, inclusive, to ~~any~~ a person who is convicted of a violation of Section 7121, 7364, 7370, 8372, or 8373 shall be suspended for not less than seven days nor more than 30 days. Each day ~~any~~ a fish of the species designated in any of those sections is unlawfully possessed and each unlawful transaction involving the purchase or sale of ~~any~~ a fish of those species by a wholesale fish dealer is a separate violation.

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

SEC. ____. Section 12012 of the Fish and Game Code is amended to read:

12012. (a) ~~Any~~ A person who illegally takes, possesses, imports, exports, sells, purchases, barter, trades, or exchanges, a bird, fish, mammal, reptile, amphibian, or part 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.

....

Fish & Game Code § 12013.3 (amended). Punishment for action involving specific animals

SEC. ____. Section 12013.3 of the Fish and Game Code is amended to read:

12013.3. (a) Notwithstanding Section 12002, 12003.2, 12008, or 12008.5, the punishment for ~~any~~ a person who knowingly violated and has been convicted of the following provisions where the violation involved a trophy deer, elk, antelope, or bighorn sheep shall be a fine of not less than five thousand dollars (\$5,000), nor more than forty thousand dollars (\$40,000), and where the violation involved a wild turkey, a fine of not less than two thousand dollars (\$2,000), nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:

....

Fish & Game Code § 12151.5 (amended). Report of hunting injury

SEC. ____. Section 12151.5 of the Fish and Game Code is amended to read:

12151.5. ~~Any~~ A person who, while hunting, kills or wounds or witnesses the killing or wounding of ~~any~~ a human being, or domestic animal belonging to another, shall, within 48 hours after the incident, forward a complete written report to the Department of Fish and Wildlife, 1416 Ninth Street, Sacramento, California 95814, providing the reporter's full name and address and all facts relating to the incident.

Fish & Game Code § 12155 (amended). Punishment for third and subsequent convictions

SEC. ____. Section 12155 of the Fish and Game Code is amended to read:

12155. (a) Upon the third conviction of ~~any~~ a person of a violation of ~~any~~ a provision of this code or regulation adopted pursuant to this code relating to the taking or possession of a bird

or mammal in ~~any~~ a five-year period, and upon ~~any~~ a conviction subsequent to the three convictions during a five-year period, that person shall be prohibited from taking ~~any~~ a bird or mammal in the state for three years from the date of the last conviction. The commission shall revoke ~~any~~ a hunting license of a person prohibited from taking a bird or mammal in this state for the period of prohibition.

(b) It shall be unlawful for ~~any~~ a person to obtain, or attempt to obtain, a hunting license during a period of prohibition.

Fish & Game Code § 12162 (amended). Sale or donation of seized take

SEC. ____. Section 12162 of the Fish and Game Code is amended to read:

12162. ~~Any~~ A bird, mammal, fish, reptile, or amphibian seized under circumstances in which it cannot be determined who took, possessed, sold, imported, or transported the bird, mammal, fish, reptile, or amphibian contrary to law may be sold or donated to a state, county, city, city and county, or ~~any~~ charitable institution.

Fish & Game Code § 12163 (amended). Purchase of seized take

SEC. ____. Section 12163 of the Fish and Game Code is amended to read:

12163. ~~Any~~ A person who purchases birds, mammals, fish, reptiles, or amphibians from the department pursuant to the preceding sections shall, upon delivery, pay to the department, for deposit in the Fish and Game Preservation Fund, the prevailing market price for legal birds, mammals, fish, reptiles, or amphibians in effect on the date of seizure.

Fish & Game Code § 12164 (amended). Confiscation and disposal of bird or mammal

SEC. ____. Section 12164 of the Fish and Game Code is amended to read:

12164. The court before whom ~~any~~ a person has been convicted of trespassing under Section 602 of the Penal Code shall, in addition to any other fine or forfeiture imposed, confiscate any bird or mammal taken while trespassing, and shall dispose of the bird or mammal to a charitable institution or cause it to be destroyed if unfit for human consumption.

Fish & Game Code § 12300 (amended). California Indians

SEC. ____. Section 12300 of the Fish and Game Code is amended to read:

12300. (a) Notwithstanding any other provision of law, the provisions of this code are not applicable to California Indians whose names are inscribed upon the tribal rolls, while on the

reservation of that tribe and under those circumstances in this ~~State~~ state where the code was not applicable to them immediately ~~prior~~ to ~~to~~ before the effective date of Public Law 280, Chapter 505, First Session, 1953, 83d Congress of the United States.

(b) No Indian described in subdivision (a) shall be prosecuted for the violation of ~~any~~ a provision of this code occurring in the places and under the circumstances described in subdivision (a). Nothing in this section, however, prohibits or restricts the prosecution of ~~any~~ an Indian for the violation of ~~any~~ a provision of this code prohibiting the sale of ~~any~~ a bird, mammal, fish, amphibian, or reptile.

Does the Commission approve the incorporation of these additional revisions in the draft recommendation?

Respectfully submitted,

Steve Cohen
Staff Counsel