

## Memorandum 2018-50

**Fish and Game Law  
(Draft Tentative Recommendation)**

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In this study, the Commission<sup>1</sup> is developing a proposed recodification of the Fish and Game Code.

Initially, the Commission had intended to produce three tentative recommendations for this study, each presenting a different part of the proposed Fish and Wildlife Code. The first of those three proposals was released in April 2017.

The Commission considered public comment on that proposal in Memorandum 2018-22 and its First and Second Supplements. In response to that input, the Commission decided to make numerous changes to the proposed law.<sup>2</sup>

The Commission also reaffirmed an earlier decision that it would prepare and circulate a comprehensive tentative recommendation that contains the entire proposed Fish and Wildlife Code, rather than continuing to release partial proposals.<sup>3</sup>

The staff has implemented all of the Commission's specific decisions, but some work remains to be done to complete the comprehensive tentative recommendation. Specifically, the staff still needs to do the following:

- Complete all previously unresolved cross-reference updates, including cross-references in provisions located outside the Fish and Game Code.
- Incorporate changes to existing law that were made by 2018 legislation.
- Compile new disposition and derivation tables.
- Make adjustments to the narrative explanation.

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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](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

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

2. See Minutes (May 4, 2018), pp. 8-13.

3. *Id.* at 9.

- Proofread the document in its compiled form (which is expected to be nearly 1,300 pages long).

The staff hopes that all of that work can be completed by mid-November, for presentation at the Commission's December 2018 meeting.

**In advance of that meeting, the staff would like to receive guidance on how the draft should be distributed and what level of detail the Commission would like to use in deciding whether to release the draft for public comment.** These matters can be discussed orally at the October meeting.

One of the specific changes that the Commission decided to make was to aggregate all of the penalty provisions in the proposed code, so that they are collected in the "Law Enforcement" division near the front of the code. Implementing that decision involved a great deal of work, as all of the scattered penalty provisions needed to be located, moved to the new location, and renumbered, with the new numbering propagated out to relevant cross-references, Comments, notes, and table entries. Before starting that work, the staff contacted the Department of Fish and Wildlife to confirm that they still prefer aggregation of the penalty provisions. The Department's legal staff was able to informally provide that confirmation.

A table of contents and disposition table for the relocated penalty provisions is attached to this memorandum. **If the Commissioners or any interested person has concerns or suggestions about this approach, now would be the best time to discuss the matter.**

Respectfully submitted,

Brian Hebert  
Executive Director

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Table 2. Existing Provisions Collected in Part 4, Penalties for Specific Matters

PROVISIONS COLLECTED IN PART 4

The table below shows the relationship between each provision of the existing Fish and Game Code that would be recodified in Part 4 of Division 3 of the Proposed Fish and Wildlife Code and the proposed new section that would continue it.

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
500(a)-(c), (d), 1st sent.....	4504	3246 .....	4770
500(d), 2nd sent.....	4484(b)	3404(b).....	6052
711.4(f) (1st sent.) .....	6250	3680 .....	5332
1002(m) .....	4602	3801.6(a) (2nd sent.).....	5344(a)
1059(a) .....	4450	3801.6(c) .....	5344(b)
1574(a) .....	6054	4043 .....	4804
1615(a)-(c) .....	6352	4340 .....	5480
1615(d)-(e) .....	6354	4502.5(b).....	5522
1615(f).....	6356	4754 .....	5466
1745(h) .....	4452	4800(c).....	5402
2009(b)-(c) .....	4600	5650.1(a)-(c) .....	6320
2014 .....	4470	5650.1(d)-(g).....	6328
2022(e) .....	5300	5650.1(h).....	6326
2022(f), (i) .....	5308	5650.1(i) .....	6322
2022(g) .....	5302	5650.1(j) .....	6324
2022(h) .....	5304	5653(c), 3rd sent. ....	6500
2022(j) .....	5306	6455 part of (e) .....	5670
2118.4.....	5280	6656 .....	6000
2125(a), 1st sent. ....	5204(a)	7855 .....	4872
2125(a), 2nd sent. ....	5200	7857(b).....	4870
2125(b) .....	5204(b)	7924 .....	4930
2125(c) .....	5206	8025(a) (fishing reports) .....	5170
2128(b)-(c) .....	5282	8025(a) (landing fees).....	5150
2150(b) (revocation) .....	5202	8026 .....	5172(b)
2300(c) .....	5266	8032.5(c) .....	5100
2301(f).....	5860(a)-(b)	8246(a).....	4916(a)
2301(i).....	5860(c)	8246(b).....	4916(b)
2302(f), 1st-2nd sent. ....	5862	8246(c).....	4916(c)
2546.....	4590	8246(d).....	4916(e)
2580.....	4480	8246.2(a).....	4918
2581.....	4484(a)	8246.2(b).....	4916(d)
2583(a), 1st sent. ....	4488	8246.4 .....	4910
2583(a), 2nd-3rd sent. ....	4490	8246.6 (revocation).....	4912
2583(b) .....	4484(c)	8246.7 (revocation).....	4914
2584(b)-(h) .....	4492	8254.7, 1st-6th sent.....	5852
2585.....	4494	8276.5(b).....	5836
2586(b) .....	4484(b)	8279.1(e).....	5834(a)
2587(a) .....	4496	8279.1(f) .....	5834(b)
2587(b) .....	4498	8280.1(g)(1) .....	5838
2588.....	4500	8280.1(g)(2) .....	5832
2589.....	4502	8280.4(a) .....	5830
3004.5(g) .....	4714	8405.3(c).....	5870
3009.....	4750	8429, 2nd sent.....	5880
3218.....	5290	8460, 2nd para. ....	4880

Table 2. Existing Provisions Collected in Part 4, Penalties for Specific Matters

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8552.5 .....	5692	12006(a)(1) .....	5730(a)
8576(e) .....	4964	12006(a)(2) .....	5850(a)
8581 .....	5104	12006(b) (lobster) .....	5850(b)-(d)
8582(b) (1st sent.) .....	5700	12006(b) (sturgeon) .....	5730(b)-(d)
8589.5 .....	5050	12006.6 .....	5804
8598.6 .....	5106	12007 (diseased aquatic org.) .....	5254
8601.5(b), 4th sent. ....	5000	12007 (diseased aquatic org.) .....	5262
8630, 2nd para .....	4986	12007 (fish planting) .....	5250
8631, 2nd para .....	4990	12007 (import aquatic org.) .....	5258
8632 .....	4980	12007 (import aquatic org.) .....	5264
8633 .....	4982	12007 (planting aquatic org.) .....	5252
8635 .....	4984	12007 (quarantined aquatic org.) .....	5256
10005 .....	5732	12007 (streambed alteration) .....	6350
10931(a) (2nd sent.) .....	5542	12007 (white bass) .....	5660
11036, part of 4th para. ....	6410	12008(a) .....	6202
12000(b)(11)-(12) .....	6100	12008(b) .....	5320
12000(b)(3) .....	5800(d)	12008(c) .....	5400
12000(b)(4)-(7) .....	4850	12008(d) (fully prot. amph.) .....	5900
12000(b)(8)-(10) .....	4702	12008(d) (fully prot. reptile) .....	5950
12001 .....	4754(d)	12008(e) .....	5600
12001.5 (bear parts) .....	5464	12008.1(a) .....	6204
12002(b)(1) .....	4450	12008.1(b) .....	6206
12002(b)(2) .....	4800	12008.5 .....	5490
12002(b)(3) (burro) .....	5540	12009 .....	5802
12002(b)(4) .....	6300	12010 .....	5350
12002(b)(5) .....	4950(a)	12011 .....	6302
12002(b)(6) .....	6102	12012 .....	4460
12002(b)(7) .....	4462(c)	12013(a)-(b), (d)-(g) .....	4708
12002(c) (bird nest & eggs) .....	5310	12013(c) (2d cl. of 1st sent.) .....	4464(a)
12002(c) (bird of prey) .....	5350	12013(g) .....	4464(b)
12002(c) (migratory nongame bird) .....	5342	12013.3(specified mammals) .....	5450
12002(c) (nongame bird) .....	5340	12013.3(wild turkey) .....	5330
12002.1 .....	4700	12013.5 .....	5460
12002.10 .....	5806	12017(a)(1) .....	4470(g)
12002.2 .....	4862	12023(a), (d)-(e) .....	5260
12002.2.1 .....	4860	12025(a) .....	6552
12002.3 .....	5108	12025(b) .....	6554
12002.4 .....	4934	12025(c) .....	6556(a)
12002.5 .....	6050	12025(d) .....	6556(b)
12002.6 .....	4900	12025(d) .....	6558
12002.7 .....	4932	12025(e)-(f) .....	6560
12002.8(a)-(c) .....	5808	12025(g) .....	6556(c)
12002.8(d)-(f) (anchovies) .....	5650	12025(h) .....	6550
12002.8(d)-(f) (halibut) .....	5680	12025.1(a) .....	6380
12002.8(d)-(f) (herring) .....	5690	12025.1(b), 1st part .....	6382
12002.8(d)-(f) (rock crab) .....	5820	12025.1(b), 2nd part .....	6384
12002.8(d)-(f) (sardines) .....	5720	12025.1(c), 1st part .....	6382
12003 .....	4950(b)	12025.1(c), 2nd part .....	6386
12003.1 .....	4462(a)-(b)	12025.1(d) .....	6388
12003.2 (fully prot. mammal) .....	5400	12025.1(e), 1st part .....	6390
12003.2 (marine mammal) .....	5520	12025.1(e), 2nd part .....	6392
12004 .....	4962	12025.1(f), 1st part .....	6390
12005 .....	5462	12025.1(f), 2nd part .....	6394
12005.5 (body-gripping trap) .....	4802	12025.1(g) .....	6396
12005.5 (sodium cyanide) .....	4712	12150 .....	4754(a)-(c)

*Table 2. Existing Provisions Collected in Part 4, Penalties for Specific Matters*

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12150.5.....	4756	12157 .....	4570
12150.6.....	4762	12157.5 .....	4572
12150.7.....	4764	12158 .....	4550
12150.8.....	4766	12159 .....	4510
12151.....	4758	12159.5 .....	6200
12151.5.....	4752	12160 .....	4514
12152.....	4760	12161 .....	4516
12153.....	4874	12162 .....	4512
12154.....	4552	12163 .....	4518
12155.....	4706	12164 .....	4710
12155.5.....	4556	12165 .....	4592
12156.....	4806	12166 .....	4554
12156.5.....	4594		