

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

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

June 2014

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission may consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN September 15, 2014.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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

SUMMARY OF TENTATIVE 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 tentative recommendation is the first such proposal.

This tentative recommendation was prepared pursuant to Resolution Chapter 108 of the Statutes of 2012.

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

BACKGROUND

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

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of the Fish and Game Code, to “(1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate unused and outdated code sections; (4) consolidate sections creating parallel systems and processes; and (5) restructure codes to group similar statutes....”²

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

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

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

....

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

Pursuant to that authority, the Law Revision Commission is analyzing the entire Fish and Game Code for the purpose of preparing recodification legislation that would improve the code’s 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

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

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

REGULATION OF REPTILES AND AMPHIBIANS

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

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

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

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

The Law Revision Commission generally recommends that references to amphibians or reptiles be added to provisions that otherwise apply to all vertebrates.¹⁴

substituting the overarching general principle proposed in this tentative recommendation. The Law Revision Commission welcomes public comment on that issue.

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.

DOCUMENT TRANSLATION

Fish and Game Code Section 7 provides:

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

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

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

TECHNICAL CORRECTIONS

The Law Revision Commission also recommends revisions to correct technical errors, including cross-reference errors, obsolete agency names, and grammatical errors. Other revisions are recommended to restate confusing language, to make its meaning clearer without changing its substance. A Note following the recommended revision of Fish and Game Code Section 7707 asks for specific public comment relating to the appropriate statutory treatment of obsolete or inapposite cross-references in the text of the section.

REQUEST FOR COMMENT

The Law Revision Commission requests public comment on all proposed revisions included in this tentative recommendation.

15. Code Civ. Proc. § 185.

PROPOSED LEGISLATION

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PROPOSED LEGISLATION

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 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.

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

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

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

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

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

Comment. Section 22 is amended to delete a superfluous reference to a “part” of a bird. See Section 80 (reference to animal generally includes part of animal).

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

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

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

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

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

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

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

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

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

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

45. “Fish” means wild fish, mollusks, crustaceans, invertebrates, or amphibians, including any ~~part~~, spawn, or ova thereof.

Comment. Section 45 is amended to delete a superfluous reference to a “part” of a fish. See Section 80 (reference to animal generally includes part of animal).

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

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

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

5 **Comment.** Section 54 is amended to delete a superfluous reference to a “part” of a mammal.
6 See Section 80 (reference to animal generally includes part of animal).

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

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

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

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

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

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

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

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

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

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

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

26 (b) The commission and the department may do anything that is deemed
27 necessary and proper to publicize and distribute regulations so that persons likely
28 to be affected will be informed of them. The failure of the commission to provide
29 any notice of its regulations, other than by filing them in accordance with Section
30 215, shall not impair the validity of the regulations.

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

34 (d) Notwithstanding any other provision of law, the commission and the
35 department may contract with private entities to print regulations and other
36 regulatory and public information. Printing contracts authorized by this
37 subdivision and for which no state funds are expended are not subject to Chapter 2
38 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract
39 Code, except for Article 2 (commencing with Section 10295) of Chapter 2.

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

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 ~~provisions~~ provision of this code, the commission, when promulgating ~~regulations~~ 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 nests or eggs thereof.

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

(b) Except as provided herein, any 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.

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

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

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

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

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

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

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

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

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

Section 301 is also amended to make nonsubstantive stylistic changes.

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 ~~shall find~~ finds that game fish, resident or migratory birds, game or fur-bearing mammals, ~~or~~ amphibia

1 amphibians, or reptiles have decreased in numbers in any areas, districts, or
2 portions thereof to ~~such an~~ the extent that a scarcity exists, the commission may
3 reduce the daily bag limit and the possession limit on ~~such those~~ game fish, birds,
4 mammals, ~~or amphibia~~ amphibians, or reptiles as are in danger of depletion, for
5 ~~such~~ a period of time as ~~may be~~ that is specified, or until ~~such time as~~ new
6 legislation ~~thereon enacted by the Legislature may become~~ addressing the scarcity
7 becomes effective.

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

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

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

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

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

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

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

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

39 (d) A report shall be submitted on the expiration of the permit period, or as
40 otherwise required by the commission, of all fish, ~~amphibia~~ amphibians, reptiles,
41 birds, or mammals taken during the period covered by the report in each permit
42 area. No new permit may be issued until ~~such the~~ report has been submitted and

1 any existing permit may be canceled if ~~such~~ a report is not submitted when
2 required by the commission.

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

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

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

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

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

13 ~~326. Prior to the making of such a regulation the commission at an open meeting~~
14 ~~shall publicly announce the contents of the proposed regulation and fix a time and~~
15 ~~place at which a hearing on the proposed order shall be held. The time shall be not~~
16 ~~less than 21 days from the day of the meeting and the place shall be the county~~
17 ~~seat of each of the counties affected. Prior to adopting a regulation pursuant to~~
18 Section 325, the commission at an open meeting shall publicly announce the
19 contents of the proposed regulation, and fix a time and place for a hearing on the
20 proposed regulation in each county that would be affected by the regulation. The
21 time for the hearing shall be at least 21 days after the announcement, and the place
22 shall be the county seat of each affected county.

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

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

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

27 330. Cooperative hunting areas, as described in ~~Sections 1570 to 1572~~ Section
28 1575, may be established in connection with any area opened to hunting under the
29 ~~foregoing~~ provisions of this article.

30 **Comment.** Section 330 is amended to correct obsolete cross-references. See 2003 Cal. Stat. ch.
31 758; 2007 Cal. Stat. ch. 285.

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

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

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

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

40 (1) The officer is providing, or attempting to provide, law enforcement services
41 within this state, within a distance of up to 50 statute miles of the contiguous

1 border of this state and the state employing the officer, or within waters offshore
2 of this state in the Exclusive Economic Zone.

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

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

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

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

19 (4) An agreement pursuant to Section 392 is in effect between the ~~Department of~~
20 ~~Fish and Game~~ department and the agency of the adjoining state employing the
21 officer, the officer acts in accordance with that agreement, and the agreement
22 specifies that the officer and employing agency of the adjoining state shall be
23 subject to the same civil immunities and liabilities as a peace officer and his or her
24 employing agency in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 SEC. ____ . Section 716.3 of the Fish and Game Code is amended to read:

11 716.3. For purposes of this chapter, the following terms have the following
12 meanings:

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

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

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

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

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

28 (f) “Conviction” means a conviction, including, but not limited to, any court
29 conviction for an offense related to sport fishing, hunting, or trapping, that is
30 prohibited by statute, ordinance, or administrative rule or regulation, that involves
31 the forfeiture of any bail, bond, or other security deposited to secure appearance
32 by a person charged with having committed any such offense, the payment of a
33 penalty assessment, a plea of nolo contendere, and the imposition of a deferred or
34 suspended sentence by the court.

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

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

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

40 (j) “License” means any license, permit, entitlement to use, or other public
41 document that conveys to the person to whom it is issued the privilege of sport

1 fishing, hunting, or trapping, that is regulated by statute, ordinance, or
2 administrative rule or regulation of a participating state.

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

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

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

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

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

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

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

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

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

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

35 **Comment.** Subdivision (k) of Section 716.3 is amended to correct an obsolete reference to the
36 Department of Fish and Game. See Section 37 (“department” means Department of Fish and
37 Wildlife).

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

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

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

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

(c) ~~Any~~ A person who is deputized for ~~this the~~ limited purpose pursuant to this section, stated in subdivision (a) may not enforce any other provision of this code, ~~and is not~~. 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.

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

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 of Fish and Game~~ department shall be 18 years. Any 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 warden or the health and safety of others.

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment. Section 1000 is amended to add amphibians.

The section is also amended to make nonsubstantive stylistic changes.

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

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

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 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.

Comment. Section 1003 is amended to add amphibians.

The section is also amended to make nonsubstantive stylistic changes.

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 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 ~~Game~~ Wildlife is authorized to operate, maintain and replace those facilities designated as fish and wildlife enhancement facilities and to assume all costs of

1 ~~such~~ that operation, maintenance and replacement, subject to appropriation of
2 funds by the Legislature.

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

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

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

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

8 1053.5. Applicants for hunting licenses ~~pursuant to subdivision (a) of Section~~
9 ~~1053~~ shall first satisfactorily complete a hunter education equivalency
10 examination and obtain a certificate of equivalency as provided by regulations
11 adopted by the commission, or show proof of completion of a hunter education
12 training course, or show a previous year's hunting license.

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

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

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

16 1055.3. The department may authorize any person, except a commissioner or an
17 officer or employee of the department, to issue, as an agent of the department,
18 annual wildlife area passes and native species stamps, and to sell promotional
19 materials and nature study aids pursuant to, and subject to the requirements of, this
20 article. Any agent thus authorized may add a handling charge pursuant to
21 ~~subdivision (b)~~ subdivisions (f), (g), and (h) of Section 1055 or subdivisions (d),
22 (e), and (f) of Section 1055.1 to the fee prescribed in Article 3 (commencing with
23 Section 1760) of Chapter 7.5 of Division 2 for each annual wildlife area pass or
24 native species stamp issued.

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

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

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

28 1058. In case of an assignment for the benefit of creditors, receivership, or
29 bankruptcy, the state shall have a preferred claim against the license agent's
30 assignee, receiver, or trustee for all moneys owing the state for the issuing of
31 licenses, permits, reservations, tags, and other entitlements as provided in this
32 code and shall not be estopped from asserting that claim by reason of the
33 commingling of funds or otherwise.

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

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

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

37 1061. (a) The department may allow a person to purchase a license voucher as a
38 gift for a licensee when the licensee's complete and accurate personal information,

1 as defined in regulation, is not provided by the license buyer at the time of
2 purchase.

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

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

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

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

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

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

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

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

18 1227. Notwithstanding any other provision of law, the department may enter
19 into one or more agreements with any person, nonprofit organization, or other
20 public or private entity, as may be appropriate, to assist the department in its
21 efforts to secure long-term private funding sources for purposes relating to
22 conservation programs, projects, and activities by the department. The authority to
23 enter into agreements ~~for the purposes of~~ under this section shall include, but not
24 be limited to, ~~for the purposes of securing~~ the authority to secure donations,
25 memberships, corporate and individual sponsorships, and marketing and licensing
26 agreements.

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

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

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

31 1505. ~~(a) In addition to any other powers vested in the department, it~~ The
32 department may manage, control, and protect ~~such~~ the portions of the following
33 spawning areas ~~which~~ that occupy state-owned lands, to the extent necessary to
34 protect fishlife in these areas. :

35 ~~In the event of any conflict under this section with the action of another~~
36 ~~department or agency of the state or any other public agency, the action of the~~
37 ~~Department of Fish and Game taken pursuant to this section shall prevail except~~
38 ~~for: (a) action of the state or regional water quality control boards in establishing~~
39 ~~waste discharge requirements, (b) action as required for commerce and navigation,~~
40 ~~(c) action by public agencies reasonably necessary for bridge crossings, water~~
41 ~~conservation or utilization, or flood protection projects, including the construction,~~

1 ~~maintenance, and operation thereof. The exceptions in subdivision (c) shall not~~
2 ~~extend to the depositing of materials, other than necessary structural materials, in,~~
3 ~~or the removing of materials from the streambeds in the areas designated in this~~
4 ~~section, other than as necessary for the installation of structures. These areas are:~~

- 5 (1) The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.
- 6 (2) The Feather River between Oroville and the mouth of Honcut Creek.
- 7 (3) The Yuba River between Englebright Dam and a point approximately four
- 8 miles east of Marysville.
- 9 (4) The American River between Nimbus Dam and a point one mile downstream
- 10 from Arden Way.
- 11 (5) The Mokelumne River between Pardee Dam and Lockeford.
- 12 (6) The Stanislaus River between Goodwin Dam and Riverbank.
- 13 (7) The Tuolumne River between La Grange Dam and the Geer Road (J14)
- 14 Bridge.
- 15 (8) The Merced River between Crocker Huffman Dam and Cressey.
- 16 (9) The Trinity River between Lewiston Dam and the confluence of the North
- 17 Fork Trinity, near Helena.
- 18 (10) The Eel River, from Fort Seward to Lake Pillsbury.
- 19 (11) The South Fork Eel River.
- 20 (12) The Middle Fork Smith River, from its mouth to Knopti Creek.
- 21 (13) The South Fork Smith River, from its mouth to Harrington Creek.
- 22 (14) The Salmon River, from its mouth to Rush Creek on the South Fork
- 23 Salmon River, to Carter Meadow on the east fork of the South Fork Salmon River,
- 24 and to Finley Camp on the North Fork Salmon River.
- 25 (15) Battle Creek, from its mouth to Coleman Powerhouse.
- 26 (16) The Cosumnes River, from Meiss Road Bridge to Latrobe Road Bridge.
- 27 (17) The Van Duzen River, from Yager Creek to the falls 1½ miles above
- 28 Bloody Run Creek.
- 29 (18) The Mad River, from Blue Lake Bridge to Bug Creek.
- 30 (19) The Middle Fork Eel River.
- 31 (20) The Mattole River.
- 32 (21) The Noyo River.
- 33 (22) The Big River, Mendocino County.
- 34 (23) The Gualala River.
- 35 (24) The Garcia River, Mendocino County.

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

- 40 (1) An action of the state or regional water quality control boards in establishing
41 waste discharge requirements.
- 42 (2) An action required for commerce and navigation.

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

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

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

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

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

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

1930. The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

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

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

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

(b) The development of a state vegetation mapping standard by the department shall be done in consultation with interested stakeholders, including, but not

1 limited to, government agencies, nongovernmental conservation organizations,
2 landowners, agriculture, recreation, scientific entities, and industry. Components
3 of the standard shall include the following:

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

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

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

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

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

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

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

25 **Comment.** Section 1940 is amended to update an obsolete reference to the Department of Fish
26 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

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

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

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

30 2000. (a) It is unlawful to take any bird, mammal, fish, reptile, or amphibian
31 except as provided in this code or ~~regulations made pursuant thereto in a~~
32 regulation adopted pursuant to this code.

33 (b) Possession of a bird, mammal, fish, ~~or~~ reptile, or amphibian ~~or parts thereof~~
34 in or on the fields, forests, or waters of this state, or while returning therefrom with
35 fishing or hunting equipment, is prima facie evidence the possessor took the bird,
36 mammal, fish, ~~or~~ reptile, or amphibian ~~or parts thereof~~.

37 **Comment.** Subdivision (b) of Section 2000 is amended to add amphibians, and to delete
38 superfluous references to animal parts. See Section 80 (reference to animal generally includes
39 part of animal).

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

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 ~~mammals, birds, fish, reptiles, and amphibians~~ a mammal, bird, fish, reptile, or amphibian outside of established seasons or to exceed any bag limit or possession limit established in this code or by ~~regulations~~ a regulation adopted by the commission. Violation of any 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 fish, reptiles, or amphibians except during the open season where taken and for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.~~ 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 possession limit applicable during the open season applies during that 10-day period.

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

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

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

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

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

Comment. Section 2002 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 2003 (amended). Prize

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 prize or other inducement as a reward for the taking of any game ~~birds, mammals, fish, reptiles, or amphibians~~ bird, mammal, fish, reptile, or amphibian in an individual contest, tournament, or derby.

(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, 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 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. 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 person conducting what are generally known as frog-jumping contests, or fish contests conducted in waters of the Pacific Ocean.

(d) This section does not apply to any person conducting an individual contest, tournament, or derby for the taking of a game ~~birds and mammals~~ 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.

Comment. Section 2003 is amended to improve its clarity and make stylistic changes, without making any substantive change.

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 game ~~birds~~ bird, game ~~mammals~~ mammal, or game fish, except that this section shall not apply to sport fishing in ocean waters or other waters where night fishing is permitted if the lights are not used on or as part of the fishing tackle, commercial fishing, nor to the taking of mammals, the taking of which is governed by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.

(b) It is unlawful for any person, or one or more persons, to throw or cast the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon any game mammal, fur-bearing mammal, or nongame mammal, while having in his or her possession or under his or her control any 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 at any time any infrared or similar light used in connection with an electronic viewing device or any night vision equipment, optical devices, including, but not limited to, binoculars or scopes, that use light-amplifying circuits that are electrical or battery powered, to assist in the taking of birds, mammals, amphibians, or fish.~~

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

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

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

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

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

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

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

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

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

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

(2) Commercial fishing.

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

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

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

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

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

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

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

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

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

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

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 mammal or bird. ~~However, the commission may, after public hearing,~~

~~adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are further restrictive or that it determines may be needed to conform to federal law.~~

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

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

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

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

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~~.

(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)~~ (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~~.

~~(c) (d)~~ (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 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.

~~(e)~~ (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.

~~(f)~~ (g) Any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any 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.

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

Comment. Section 2014 is amended to add an inadvertently omitted word in subdivision (c), revise subdivision designations, add paragraph designations, and make nonsubstantive stylistic changes.

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

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

2015. ~~It~~ (a) Except as otherwise provided in this section, it is unlawful to possess any bird, mammal, fish, or amphibian, or reptile which that may not be legally sold, in any restaurant or other eating establishment unless the possession is by the person who lawfully took or otherwise legally possessed the bird, mammal, fish, or amphibian or is by a person preparing the bird, mammal, fish or amphibian for consumption by the person who lawfully took or possessed it, or such person and others, and the person who took or possessed it is present on the premises.

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

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

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

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

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

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

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

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

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

9 2016. ~~It is unlawful to enter any lands under cultivation or enclosed by a fence,~~
10 ~~belonging to, or occupied by, another, or to enter any uncultivated or unenclosed~~
11 ~~lands, including lands temporarily inundated by waters flowing outside the~~
12 ~~established banks of a river, stream, slough, or other waterway, where signs~~
13 ~~forbidding trespass or hunting, or both, are displayed at intervals not less than~~
14 ~~three to the mile along all exterior boundaries and at all roads and trails entering~~
15 ~~those lands, for the purpose of discharging any firearm or taking or destroying any~~
16 ~~mammal or bird, including any waterfowl, on those lands without having first~~
17 ~~obtained written permission from the owner, or his or her agent, or the person in~~
18 ~~lawful possession of, those lands. Signs may be of any size and wording that will~~
19 ~~fairly advise persons about to enter the land that the use of the land is so restricted.~~

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

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

27 (b) There are signs of any size and wording forbidding trespass or hunting or
28 both displayed along all exterior boundaries and at all roads and trails entering the
29 land, including land temporarily inundated by water flowing outside the
30 established banks of a river, stream, slough, or other waterway, at intervals not
31 less than three to the mile, which fairly advise a person about to enter the land that
32 the use of the land is so restricted.

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

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

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

37 2069. (a) For purposes of this section, the following terms have the following
38 meanings:

39 (1) "Desert Renewable Energy Conservation Plan" means the completed
40 conservation plan in the Mojave and Colorado Desert regions adopted pursuant to
41 the Natural Community Conservation Planning Act (Chapter 10 (commencing

1 with Section 2800)), and covers the geographical area described in the Draft
2 Planning Agreement, as amended by, and among, the ~~Department of Fish and~~
3 ~~Game department~~, California Energy Commission, United States Bureau of Land
4 Management, and United States Fish and Wildlife Service for the Desert
5 Renewable Energy Conservation Plan.

6 (2) “Energy Commission” means the State Energy Resources Conservation and
7 Development Commission.

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

19 (1) Either the Energy Commission determines that the application for
20 certification is complete by December 31, 2011, or the lead agency for purposes of
21 the California Environmental Quality Act (Division 13 (commencing with Section
22 21000) of the Public Resources Code) has determined the project permit
23 application is complete or has issued a notice of preparation of an environmental
24 impact report by December 31, 2011.

25 (2) The developer or owner of the proposed powerplant or generation facility
26 has applied for, and would qualify for, funding under the federal American
27 Recovery and Reinvestment Act of 2009 (Public Law 111-5). For purposes of this
28 paragraph, “funding” means a loan guarantee made pursuant to Section 406 of the
29 act (42 U.S.C. Sec. 16516) or a grant for specified energy property in lieu of a tax
30 credit provided pursuant to Section 1603 of Division B of the act, which division
31 is titled the American Recovery and Reinvestment Tax Act of 2009.

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

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

41 (2) The mitigation action is included in an interim mitigation strategy for
42 projects that meet the requirement of subdivision (b). An interim mitigation
43 strategy pursuant to this paragraph shall be developed by the department, in

1 consultation with the Energy Commission and, to the extent practicable, the
2 United States Fish and Wildlife Service and the United States Bureau of Land
3 Management, and shall include all of the following:

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

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

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

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

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

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

25 (d) The interim mitigation strategy shall be based on best available science and
26 shall be reviewed by the Desert Renewable Energy Conservation Plan independent
27 science advisers. The department shall seek and consider comments from the
28 Desert Renewable Energy Conservation Plan independent science advisers in the
29 design and location of each mitigation action implemented pursuant to this section.
30 If the department elects to not incorporate comments of the independent science
31 advisers into mitigation actions, the department shall explain the reasons for that
32 decision in writing.

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

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

41 (2) With respect to the Energy Commission, in the case of an applicant seeking
42 certification for a solar thermal or geothermal powerplant pursuant to Chapter 6
43 (commencing with Section 25500) of Division 15 of the Public Resources Code,

1 or a lead agency, as defined in Section 21067 of the Public Resources Code, in the
2 case of an applicant seeking approval of a renewable energy powerplant not
3 subject to the Energy Commission's jurisdiction, the sole effect of a mitigation
4 action described in subdivision (c), and paid for through the deposit of fees as
5 described in Section 2099, is to relieve an applicant of the obligation to directly
6 take actions that are taken instead by the department or its contractor or designee
7 pursuant to subdivision (b) to meet the applicant's obligations with respect to
8 mitigating the powerplant's impacts to species and habitat. The mitigation action
9 and deposit of fees shall not relieve the applicant of any other obligation, or the
10 Energy Commission or the lead agency of any of its existing requirements of
11 Division 13 (commencing with Section 21000) of, or the requirements of Chapter
12 6 (commencing with Section 25500) of Division 15 of, the Public Resources Code
13 to analyze, avoid, minimize, or mitigate impacts to species and habitat, or make
14 the findings required by those statutes.

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

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

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

22 SEC. _____. Section 2119 of the Fish and Game Code is amended to read:

23 2119. The ~~Department of Fish and Game~~ department shall publish from time to
24 time as changes arise, a list of animals ~~which~~ that may not be imported or
25 transported into this ~~State~~ state.

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

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

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

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

31 2348. (a) ~~Any package in which birds, mammals, fish, reptiles, or amphibians,~~
32 ~~or parts thereof, are offered for transportation to, or are transported or received for~~
33 ~~transportation by, a common carrier or his or her agent shall bear the name and~~
34 ~~address of the shipper and of the consignee and an accurate description of the~~
35 ~~numbers and kinds of birds, mammals, fish, reptiles, or amphibians contained~~
36 ~~therein clearly and conspicuously marked on the outside thereof.~~

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

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

(2) The name and address of the consignee.

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

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

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

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

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 out of this ~~State~~ state any deer or game bird, ~~or parts thereof~~, except by the holder of a nonresident hunting license or under a written permit issued by the department.

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

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

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

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 may transport ~~at any time~~ the carcasses ~~or parts thereof~~ of dead domesticated game birds and mammals 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.

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

(a) ~~(1) Give the~~ The names of the person to whom the game breeder's license was issued, ~~of the person by whom such game was killed~~ the person that killed the game bird or mammal, ~~of the person to whom such game~~ the game bird or

mammal is consigned, and of the person by whom such game was tagged who tagged the game bird or mammal.

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

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

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

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

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

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

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

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

(c) The people of California have vested in the ~~Department of Fish and Game~~ department the principal responsibility for protecting, conserving, and perpetuating native fish, plants, and wildlife, including endangered species and game animals, for their aesthetic, ~~intrinsic~~ 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 in the ~~Department of Fish and Game~~ 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 are presently threatened with destruction, the purchase of land is often necessary.

(d) Accordingly, the purpose of this chapter is to provide the Wildlife Conservation Board and the ~~Department of Fish and Game~~ department the financial means to correct the most severe deficiencies in wildlife habitat and in

1 the statewide system of areas designated for the preservation of California's
2 natural diversity through a program of acquisition, enhancement, restoration, and
3 protection of areas that are most in need of proper conservation.

4 **Comment.** Section 2701 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 The section is also amended to correct a spelling error, and make a nonsubstantive stylistic
7 change.

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

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

10 2729. (a) For the purpose of administering this chapter, the Wildlife
11 Conservation Board and the ~~Department of Fish and Game~~ department shall
12 augment its existing staff, whenever possible, by contracting for those services
13 necessary for the administration of this chapter. Any contract shall, however, be
14 entered into only pursuant to Sections 19130 to 19132, inclusive, of the
15 Government Code and shall be only for the minimum period necessary for
16 completion of the particular project or projects for which the contract was entered
17 into.

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

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

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

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

28 3003. (a) It is unlawful for any person to shoot, shoot at, or kill any bird or
29 mammal with any gun or other device accessed via an Internet connection in this
30 state.

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

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

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

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

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

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

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

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

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

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

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

16 3004. (a) It is unlawful for any person, other than the owner, person in
17 possession of the premises, or a person having the express permission of the owner
18 or person in possession of the premises, ~~to hunt or to discharge while hunting, any~~
19 ~~firearm or other deadly weapon within 150 yards of any occupied dwelling house,~~
20 ~~residence, or other building or any barn or other outbuilding used in connection~~
21 ~~therewith~~ while within 150 yards of an occupied dwelling house, residence, or
22 other building, or within 150 yards of a barn or other outbuilding used in
23 connection with an occupied dwelling house, residence, or other building, to either
24 hunt or discharge a firearm or other deadly weapon while hunting. The 150-yard
25 area is a “safety zone.”

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

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

31 **Fish & Game Code § 3005 (amended). Employee deputized to check sport fishing licenses**

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

33 3005. (a) Except as otherwise provided in this code, it is unlawful to take a bird
34 or mammal with a net, pound, cage, trap, set line or wire, or poisonous substance,
35 or to possess a bird or mammal so taken, whether taken within or without this
36 state. It is unlawful to take birds or mammals with any net, pound, cage, trap, set
37 line or wire, or poisonous substance, or to possess birds or mammals so taken,
38 whether taken within or without this state, except as provided in this code or, when
39 relating to ongoing mining operations, in accordance with a mitigation plan
40 approved by the department.

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

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

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

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

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

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

32 ~~(d) This section does not apply to the lawful taking of fur bearing mammals,~~
33 ~~nongame birds, nongame mammals, or mammals found to be injuring crops or~~
34 ~~property, to the taking of birds or mammals under depredation permits, to taking~~
35 ~~by employees of the department acting in an official capacity, or to taking in~~
36 ~~accordance with the conditions of a scientific or propagation permit by the holder~~
37 ~~of that permit.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 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 deer, elk, or bear kept in captivity may be killed only with the approval of the department, and ~~under such~~ pursuant to any regulations as that the commission may ~~prescribe~~ adopt. The carcass, ~~or any part thereof~~, of any ~~such mammal~~ deer, elk, or bear kept in captivity may not be sold, and shall be disposed of ~~in such manner~~ as directed by the department ~~may direct~~.

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

The section is also amended to make nonsubstantive stylistic changes.

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

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

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

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

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.

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

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) The department shall, upon application and payment of a fee, issue a reduced fee hunting license, that authorizes the licensee to take any bird or mammal as otherwise authorized pursuant to this code and regulations adopted pursuant thereto, to a disabled veteran, as defined in subdivision (b), or to a recovering service member, as defined in subdivision (c), who has not been convicted of any violation of this code. The base license fee for a reduced fee hunting license shall be four dollars (\$4) for the hunting license year beginning on~~

1 ~~July 1, 1995, and, for the following years, this license fee may be annually~~
2 ~~reviewed and adjusted in accordance with Section 713.~~

3 ~~(b) “Disabled veteran” means a person having a 50 percent or greater service-~~
4 ~~connected disability and an honorable discharge from military service. The person~~
5 ~~shall be eligible upon presentation of proof of an honorable discharge from~~
6 ~~military service and proof of the disability. Proof of the disability shall be by~~
7 ~~certification from the United States Department of Veterans Affairs or by~~
8 ~~presentation of a license issued pursuant to this section in the preceding license~~
9 ~~year.~~

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

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

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

25 (c) For the purposes of this section, the following terms have the following
26 meanings:

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

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

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

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

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

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

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

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

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 3087 and 4303, or any other provision of this code, or regulations adopted pursuant ~~thereto~~ to any provision of this code, it is unlawful to sell or purchase any species of bird or mammal ~~or part thereof~~ found in the wild in California.

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

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

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

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

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

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

1 ~~as provided by the department in hunter safety, principles of conservation, and~~
2 ~~sportsmanship.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 3052. ~~No fee shall be charged for the instructor's service, however, a fee to~~
40 ~~cover the cost of giving such instructions may be charged each person~~
41 ~~participating and receiving such instructions. A record of such expenses shall be~~

1 ~~kept for inspection by the department. Such expenses may include, but not be~~
2 ~~limited to, such items as range fees, ammunition and transportation of students.~~

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

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

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

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

12 3080. (a) For the purposes of this section, “donor intermediary” means a
13 recipient who receives ~~a game birds or mammals~~ bird or mammal from a donor to
14 give to a charitable organization or charitable entity. ~~A donor intermediary~~
15 ~~possessing game birds or mammals during a period other than the open season~~
16 ~~shall have the documentation described in paragraph (2) or (3) of subdivision (b).~~
17 ~~There is no required format for the documentation. Any written documentation~~
18 ~~containing the required information shall be deemed to comply with this section.~~

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

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

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

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

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

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

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

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

(c) The documentation required by subdivision (b) shall be made available to the department as described in Section 2012. ~~Charitable organizations or charitable entities~~ A charitable organization or charitable entity receiving and distributing ~~game birds or mammals~~ a game bird or mammal for a charitable or humane purposes, purpose shall maintain the documentation described in paragraph (2) or (3) of subdivision (b) for one year from the date of disposal.

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

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

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

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

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

(b) ~~A person, including, but not limited to, a renter or lessee, in possession or control of property on or with respect to which a fee for the privilege of taking birds or mammals is imposed or collected, or on or with respect to which a fee for any type of entry or use permit that includes the privilege of taking birds or mammals on the property is imposed or collected, is maintaining a commercial hunting club if birds or mammals are taken on the property, and shall procure a "commercial hunting club license" before birds or mammals are taken.~~

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

~~(1) The landowner, or the renter or lessee, of the property receives less than one hundred dollars (\$100) per entrant and receives less than a total of one thousand dollars (\$1,000) between July 1 and the following June 30 for permission, entry access, or use fees that include the privilege of hunting on the property in his or her possession or control. The department may adjust the threshold amounts established in this paragraph pursuant to Section 713.~~

~~(2) The property is used by a hunting club or program licensed under regulations adopted pursuant to this code.~~

~~(3) The property is used for an officially sanctioned field trial event pursuant to regulations adopted pursuant to this code.~~

~~(4) The property is used in conjunction with the Shared Habitat Alliance for Recreational Enhancement (SHARE) program under Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.~~

~~(5) A domesticated game bird hunting club licensed under Article 3 (commencing with Section 3270) operates on the property.~~

~~(6) A domesticated migratory game bird shooting area licensed under Article 4 (commencing with Section 3300) operates on the property.~~

~~(7) The property is used in conjunction with the private wildlife habitat enhancement and management program under Article 5 (commencing with Section 3400).~~

~~(8) The property is subject to a recorded state, federal, or nonprofit wildlife conservation or agricultural easement or any property enrolled in a habitat protection or enhancement program under this code, including, but not limited to, Article 7 (commencing with Section 3460).~~

(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 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 may be taken on the property.

(c) This article does not apply under any of the following circumstances:

(1) The fees described in paragraph (1) of subdivision (a) that are received by the owner, renter, or lessee of the property are less than one hundred dollars (\$100) per entrant and total less than one thousand dollars (\$1,000) between July 1 and the following June 30. Pursuant to Section 713, the department may adjust the threshold amounts established in this paragraph.

(2) The property is used in conjunction with the Shared Habitat Alliance for Recreational Enhancement (SHARE) program under Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.

(3) A domesticated game bird hunting club licensed under Article 3 (commencing with Section 3270) operates on the property.

(4) A domesticated migratory game bird shooting area licensed under Article 4 (commencing with Section 3300) operates on the property.

(5) The property is used by a hunting club or program licensed under regulations adopted pursuant to this code.

(6) The property is used in conjunction with the private wildlife habitat enhancement and management program under Article 5 (commencing with Section 3400).

(7) The property is used for an officially sanctioned field trial event pursuant to regulations adopted pursuant to this code.

(8) The property is subject to a recorded state, federal, or nonprofit wildlife conservation or agricultural easement or is enrolled in a habitat protection or enhancement program under this code, including, but not limited to, Article 7 (commencing with Section 3460).

~~(d) This article does not apply to a landowner who rents or leases his or her property to the commercial hunting club and is not involved in the operation of the club, if the club is licensed in accordance with this article. This chapter does not apply to an owner of property that is rented or leased to a commercial hunting club, if the owner is not involved in the operation of the club and the club is licensed in accordance with this chapter.~~

Comment. Section 3240.5 is amended to improve its clarity, without making any substantive change.

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 license to land owned or controlled by the licensee, other than that land specified in the original application, located in the same county as the original land, without any additional fee, if it finds the new land is suitable for the purposes of the license and such a transfer is not in conflict with the public interest. 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 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.~~

Comment. Section 3243.5 is amended to improve its clarity, without making any substantive change.

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

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

1 3504. Subject to the provisions of this code permitting the sale of domestically
2 raised game birds, it is unlawful to sell or purchase any game bird or nongame bird
3 ~~or part thereof.~~

4 **Comment.** Section 3504 is amended to delete a superfluous reference to animal parts. See
5 Section 80 (reference to animal generally includes part of animal).

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

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

8 3511. (a)(1) Except as provided in Section 2081.7 or 2835, a fully protected
9 ~~birds or parts thereof bird~~ may not be taken or possessed at any time. No provision
10 of this code or any other law shall be construed to authorize the issuance of
11 permits or licenses to take any fully protected bird, and no permits or licenses
12 heretofore issued shall have any force or effect for that purpose. However, the
13 department may authorize the taking of those species for necessary scientific
14 research, including efforts to recover fully protected, threatened, or endangered
15 species, and may authorize the live capture and relocation of those species
16 pursuant to a permit for the protection of livestock. Prior to authorizing the take of
17 any of those species, the department shall make an effort to notify all affected and
18 interested parties to solicit information and comments on the proposed
19 authorization. The notification shall be published in the California Regulatory
20 Notice Register and be made available to each person who has notified the
21 department, in writing, of his or her interest in fully protected species and who has
22 provided an e-mail address, if available, or postal address to the department.
23 Affected and interested parties shall have 30 days after notification is published in
24 the California Regulatory Notice Register to provide any relevant information and
25 comments on the proposed authorization.

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

29 (3) ~~Legally~~ A legally imported fully protected ~~birds or parts thereof bird~~ may be
30 possessed under a permit issued by the department.

31 (b) The following are fully protected birds:

32 (1) American peregrine falcon (*Falco peregrinus anatum*).

33 (2) Brown pelican.

34 (3) California black rail (*Laterallus jamaicensis coturniculus*).

35 (4) California clapper rail (*Rallus longirostris obsoletus*).

36 (5) California condor (*Gymnogyps californianus*).

37 (6) California least tern (*Sterna albifrons browni*).

38 (7) Golden eagle.

39 (8) Greater sandhill crane (*Grus canadensis tabida*).

40 (9) Light-footed clapper rail (*Rallus longirostris levipes*).

41 (10) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).

42 (11) Trumpeter swan (*Cygnus buccinator*).

1 (12) White-tailed kite (*Elanus leucurus*).

2 (13) Yuma clapper rail (*Rallus longirostris yumanensis*).

3 **Comment.** Section 3511 is amended to delete superfluous references to animal parts. See
4 Section 80 (reference to animal generally includes part of animal).

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

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

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

8 4150. ~~All mammals~~ Any mammal occurring naturally in California ~~which that~~
9 ~~are is~~ not a game ~~mammals~~ mammal, fully protected ~~mammals~~ mammal, or fur-
10 bearing ~~mammals~~ mammal, ~~are is~~ a nongame ~~mammals~~ mammal. ~~Nongame~~
11 ~~mammals or parts thereof~~ A nongame mammal may not be taken or possessed
12 except as provided in this code or in accordance with regulations adopted by the
13 commission.

14 **Comment.** Section 4150 is amended to delete a superfluous reference to animal parts. See
15 Section 80 (reference to animal generally includes part of animal).

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

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

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

19 4155. (a) Beginning January 1, 2014, it shall be unlawful to trap any bobcat, or
20 attempt to do so, or to sell or export any bobcat ~~or part of any bobcat~~ taken in the
21 area surrounding Joshua Tree National Park, defined as follows: East and South of
22 State Highway 62 from the intersection of Interstate 10 to the intersection of State
23 Highway 177; West of State Highway 177 from the intersection of State Highway
24 62 to the intersection with Interstate 10; North of Interstate 10 from State Highway
25 177 to State Highway 62.

26 (b)(1) Through the commission's next regularly scheduled mammal hunting and
27 trapping rulemaking process occurring after January 1, 2014, the commission shall
28 amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries
29 of each national or state park and national monument or wildlife refuge in which
30 bobcat trapping is prohibited.

31 (2) Commencing January 1, 2016, the commission shall consider whether to
32 prohibit bobcat trapping within, and adjacent to, preserves, state conservancies,
33 and any additional public or private conservation areas identified to the
34 commission by the public as warranting protection. The commission, as necessary,
35 shall amend its regulations through its next subsequently scheduled mammal
36 hunting and trapping rulemaking process to prohibit bobcat trapping in any area
37 determined by the commission to warrant protection.

38 (3) The commission shall delineate the boundaries of an area in which bobcat
39 trapping is prohibited pursuant to paragraph (1) or (2) using readily identifiable
40 features, such as highways or other major roads, such as those delineated for
41 Joshua Tree National Park in subdivision (a).

1 (c) The prohibition on the trapping of bobcats in the areas designated pursuant to
2 subdivisions (a) and (b) shall not apply to the taking of any bobcat by employees
3 of the department acting in an official capacity, to a taking in accordance with the
4 conditions of a scientific, educational, or propagation permit pursuant to Section
5 1002 by the holder of that permit, or to the lawful taking of bobcats found to be
6 injuring crops or other property pursuant to Section 4152 or other provisions of
7 this code or regulations adopted pursuant to this code.

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

14 (e) Consistent with the requirements of subdivision (c) of Section 4006, the
15 commission shall set trapping license fees and associated fees, including, but not
16 limited to, shipping tags required pursuant to Section 479 of Chapter 6 of
17 Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for
18 the 2014–15 season, and any subsequent seasons in which bobcat trapping is
19 allowed, at the levels necessary to fully recover all reasonable administrative and
20 implementation costs of the department and the commission associated with the
21 trapping of bobcats in the state, including, but not limited to, enforcement costs.

22 (f) This section does not limit the ability of the department or the commission to
23 impose additional requirements, restrictions, or prohibitions related to the taking
24 of bobcats, including a complete prohibition on the trapping of bobcats pursuant to
25 this code.

26 **Comment.** Section 4155 is amended to delete superfluous references to animal parts. See
27 Section 80 (reference to animal generally includes part of animal).

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

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

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

1 the department. Affected and interested parties shall have 30 days after
2 notification is published in the California Regulatory Notice Register to provide
3 any relevant information and comments on the proposed authorization.

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

7 (3) ~~Legally~~ A legally imported fully protected ~~mammals or parts thereof~~
8 mammal may be possessed under a permit issued by the department.

9 (b) The following are fully protected mammals:

10 (1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

11 (2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies
12 *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

13 (3) Northern elephant seal (*Mirounga angustirostris*).

14 (4) Guadalupe fur seal (*Arctocephalus townsendi*).

15 (5) Ring-tailed cat (genus *Bassariscus*).

16 (6) Pacific right whale (*Eubalaena sieboldi*).

17 (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

18 (8) Southern sea otter (*Enhydra lutris nereis*).

19 (9) Wolverine (*Gulo luscus*).

20 **Comment.** Section 4700 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 make nonsubstantive stylistic changes.

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

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

25 4800. (a) The mountain lion (genus *Puma*) is a specially protected mammal
26 under the laws of this state.

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

30 (2) This chapter does not prohibit the sale or possession of any mountain lion or
31 any ~~part or~~ product thereof, when the owner can demonstrate that the mountain
32 lion, or ~~part or~~ product thereof, was in the person’s possession on June 6, 1990.

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

36 (A) The carcass or carcass part or product is prepared or being prepared for
37 display, exhibition, or storage, for a bona fide scientific or educational purpose, at
38 a nonprofit museum or government-owned facility generally open to the public or
39 at an educational institution, including a public or private postsecondary
40 institution.

41 (B) The mountain lion was taken in California consistent with the requirements
42 of this chapter and any other applicable law.

1 (C) The department has authorized the possession of the carcass or carcass part
2 or product for the purposes of this paragraph.

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

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

12 **Comment.** Section 4800 is amended to delete superfluous references to animal parts. See
13 Section 80 (reference to animal generally includes part of animal).

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

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

16 4810. (a) As used in this section:

17 (1) “Authorized research project” means a research project involving mountain
18 lions subject to a Scientific Collecting Permit issued in accordance with this
19 section.

20 (2) “Permitholder” means a person to whom the department has issued a
21 Scientific Collecting Permit in accordance with this section.

22 (3) “Scientific Collecting Permit” or “permit” means a permit issued pursuant to
23 Section 1002 for a research project involving mountain lions in accordance with
24 this section.

25 (b) The department may authorize qualified individuals, educational institutions,
26 governmental agencies, or nongovernmental organizations to conduct scientific
27 research involving mountain lions pursuant to a Scientific Collecting Permit as
28 provided in Section 1002.

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

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

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

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

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

41 (4) Prevent the permanent injury or killing of any 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, mountain lions or ~~parts and~~ products thereof, 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.

(2) The recording of the adverse effects of authorized research procedures on mountain lions and other wildlife.

(3) The qualifications of onsite personnel necessary for carrying out authorized research procedures. A permit applicant shall submit verifiable documentation demonstrating that at least one onsite staff person has at least one year of experience in proposed research methods that involve activities described in subdivision (c).

(4) Annual and final reports to the department.

(f) The department shall notify the public at least 30 days prior to the issuance of a permit, and, upon request, shall make available to the public copies of the permit and annual and final reports.

(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.

Comment. Section 4810 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

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 ~~any tortoise (Gopherus) or parts thereof~~, or to shoot any projectile at, a tortoise (Gopherus). This section does not apply to the taking of any tortoise when authorized by the department.

Comment. Section 5000 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

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 ~~such~~ terms and conditions as prescribed by the commission ~~may prescribe~~, authorizing the possession of any tortoise (Gopherus) or any ~~part or~~ product thereof by an educational or scientific 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 reptile or amphibian ~~reptiles and amphibians or parts thereof~~ 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

licenses to take any fully protected fish, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Prior to authorizing the take of any of those species, 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 ~~actions~~ action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) ~~Legally~~ A legally imported fully protected fish ~~or parts thereof~~ may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

(1) Colorado River squawfish (*Ptychocheilus lucius*).

(2) Thicktail chub (*Gila crassicauda*).

(3) Mohave chub (*Gila mohavensis*).

(4) Lost River sucker (*Catostomus luxatus*).

(5) Modoc sucker (*Catostomus microps*).

(6) Shortnose sucker (*Chasmistes brevirostris*).

(7) Humpback sucker (*Xyrauchen texanus*).

(8) Owens River pupfish (*Cyprinodon radiosus*).

(9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

(10) Rough sculpin (*Cottus asperimus*).

Comment. Section 5515 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 6440 (amended). Management of carp

SEC. _____. Section 6440 of the Fish and Game Code is amended to read:

6440. The Legislature finds and declares that triploid grass carp have the potential to control aquatic nuisance plants in non-public waters allowing for reduced chemical control but that the threat that grass carp pose to aquatic habitat may outweigh its benefits. It is the intent of this section to allow the ~~Department of Fish and Game~~ department to use its management authority to provide for the long-term health of the ecosystem in the state including the aquatic ecosystem, and in that context, manage grass carp either through control of movement, eradication 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).

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 whole a sturgeon, or any part thereof, including, but not limited to, eggs or sturgeon eggs,~~ except as follows:

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

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

(3) ~~Sturgeon, or parts thereof, taken pursuant to a sport fishing license in accordance with~~ The possession, purchase, sale, or offer to buy or sell a sturgeon or sturgeon eggs is authorized by Section 7230.

(b) For purposes of this section, it is prima facie evidence that a sturgeon, ~~or parts thereof,~~ 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 delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

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 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 fish, ~~or part thereof,~~ 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 commercial purposes, or possess on any commercial fishing vessel registered pursuant to Section 7881 any shark fin or shark tail or portion thereof that has been removed from the carcass. However, thresher shark tails and fins that have been removed from the carcass and whose original shape remain unaltered may be possessed on a registered commercial fishing vessel if the corresponding carcass is in possession for each tail and fin.

Comment. Section 7704 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

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 reduction plant in which any fish ~~or any part thereof~~ is used in violation of the provisions of Sections 7700 to 7706, inclusive, 7708, 8151, 8153

1 to 8157, inclusive, and 8075 to 8080, inclusive, of this code, or in violation of any
2 regulation of the commission, is a nuisance.

3 (b) Whenever the existence of ~~such~~ a nuisance under subdivision (a) is shown to
4 the satisfaction of the superior court of the county in which the reduction plant is
5 situated, by complaint filed in the name of the people of the State of California,
6 the court may issue a temporary injunction to abate and prevent the continuance or
7 recurrence of ~~such~~ the nuisance. If the existence of a nuisance is established in
8 ~~such~~ that action, an order of abatement shall be entered as part of the judgment in
9 the case, ~~which order shall direct the closing~~ directing that, for 12 months, ~~of the~~
10 building or place where ~~such~~ the nuisance was maintained shall be closed, and,
11 ~~during such time, the building or place shall be and remain placed~~ in the custody
12 of the court.

13 **Comment.** Section 7707 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  **Note.** Subdivision (a) of Section 7707, which was enacted in 1957 and has not since been
17 amended, contains some cross-references to repealed sections (Sections 8151, 8153, and 8157),
18 and others to sections that do not clearly relate to the subject of the subdivision. **The**
19 **Commission solicits public comment on how the cross-references should be revised to**
20 **correctly reflect the intended meaning of Section 7077(a).**

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

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

23 7856. Notwithstanding any other provision of this division, except as provided
24 in subdivision (f) and except when prohibited by federal law, fish may be prepared
25 for human consumption aboard a commercial fishing vessel only under the
26 following conditions:

27 (a) The fish are taken under all existing commercial fishing laws and regulations
28 and, except as provided in subdivision (f), the fish is of a species and size that can
29 be lawfully taken under sportfishing regulations in the area where taken and are
30 taken incidental to normal commercial fishing operations.

31 (b) The fish is separated from other fish and stored with other foodstuff for
32 consumption by the crew and passengers aboard the vessel.

33 (c) The fish, ~~or parts thereof~~, shall not be bought, sold, offered for sale,
34 transferred to any other person, landed, brought ashore, or used for any purpose
35 except for consumption by the crew and passengers.

36 (d)(1) All fish shall be maintained in ~~such~~ a condition that the species can be
37 determined, and the size or weight can be determined if a size or weight limit
38 applies, until the fish is prepared for immediate consumption.

39 (2) If the fish is filleted, a patch of skin shall be retained on each fillet as
40 prescribed by the commission in the sportfishing regulations until the fish is
41 prepared for immediate consumption.

1 (3) Fillets from fish possessed under sportfishing regulations shall be of the
2 minimum length prescribed by commission regulations.

3 (e) No fish ~~which~~ that may be possessed under sportfishing regulations may be
4 possessed in excess of the sport bag limit for each crew member and passenger on
5 board the vessel.

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

19 **Comment.** Section 7856 is amended to delete a superfluous reference to animal parts. See
20 Section 80 (reference to animal generally includes part of animal).

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

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

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

24 7880. (a) Every person owning or operating any vessel used in connection with
25 fishing operations for profit who has been issued a commercial boat registration
26 pursuant to Section 7881 shall display, for the purpose of identification, a
27 ~~Department of Fish and Game~~ department registration number on the vessel in a
28 manner designated by the department.

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

34 (c) The registration number is not transferable, and it is a permanent fixture
35 upon the vessel for which it is originally issued.

36 **Comment.** Section 7880 is amended to update an obsolete reference to the Department of Fish
37 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

38 **Fish & Game Code § 8079.1 (amended). Emergency license to dispose of fish**

39 SEC. _____. Section 8079.1 of the Fish and Game Code is amended to read:

40 8079.1. Notwithstanding any other provision of this code or regulation ~~enacted~~
41 ~~pursuant thereto~~ adopted pursuant to this code, the ~~Director of the Department of~~

~~Fish and Game~~ director, or a representative appointed by ~~him~~ the director, may, without notice or a hearing, grant a license to a fish reduction ~~plants~~ plant to dispose of dead or dying fish. The license may be immediately issued by the director or ~~his~~ the director's representative whenever ~~such~~ that person determines, in ~~his~~ that person's discretion, that an emergency situation exists. The estimated tonnage to be reduced shall be specified as a limit in the license.

Comment. Section 8079.1 is amended to update an obsolete reference to the director of the Department of Fish and Game. See Section 39 ("director" means Director of Fish and Wildlife). The section is also amended to make nonsubstantive stylistic changes.

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 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 of Fish and Game~~ department registration number of the boat, in 14-inch black numerals on white background.

Comment. Section 8182 is amended to update an obsolete reference to the Department of Fish and Game. See Section 37 ("department" means Department of Fish and Wildlife).

Fish & Game Code § 8281 (amended). Crab

SEC. _____. Section 8281 of the Fish and Game Code is amended to read:

8281. Crab meat and frozen ~~whole crabs or parts thereof, which are~~ crab taken during the open season, may be possessed, transported, and sold at any time, subject to the regulations of the commission. The cost of inspection and marking, under the regulations of the commission, shall be paid by the owner or seller of ~~such crab meat, crabs, or parts thereof~~ the crab or crab meat.

Comment. Section 8281 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 8371 (amended). Striped bass and salmon

SEC. _____. Section 8371 of the Fish and Game Code is amended to read:

8371. Striped bass ~~or~~ and salmon, ~~or parts thereof~~, may be sold or offered for sale only under the following conditions:

(a) If the striped bass, ~~or parts thereof~~, is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass may be sold or purchased subject to regulations of the commission.

(b) If the striped bass, ~~or parts thereof~~, is taken legally in another state that permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass, ~~or parts thereof~~, may be possessed, sold, or purchased.

(c) If the salmon, ~~or parts thereof~~, is taken legally in another state that permits the sale of salmon, and is lawfully imported consistent with Section 2361, the salmon, ~~or parts thereof~~, may be possessed, sold, or purchased.

(d) If the salmon, ~~or parts thereof~~, is taken in accordance with Article 4 (commencing with Section 8210.2), the salmon, ~~or parts thereof~~, may be possessed, sold, or purchased.

Comment. Section 8371 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

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.

(b) Notwithstanding the provisions of subdivision (a) of this section, black marlin (*Makaira Indica*) may be imported into this state for the purpose of processing (manufacturing) a product commonly known as fish cakes for human consumption. All ~~such~~ black marlin (*Makaira Indica*) imported into this state must be in an identifiable condition and accompanied by a bill of lading, showing the name of the consignor, the consignee, and the weight or number of fish shipped. A copy of the bill of lading must be delivered to the nearest office of the ~~Department of Fish and Game~~ department either prior to or no later than two days after receipt of the fish. No ~~such~~ black marlin (*Makaira Indica*) imported into California may leave the premises of the original consignee unless written permission is received from the ~~Department of Fish and Game~~ department, or unless processed into the form of the product commonly known as fish cakes.

Comment. Section 8393 is amended to update obsolete references to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to make nonsubstantive stylistic changes.

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

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

8563. (a) Except as provided in subdivision (b), the permittee shall be aboard the vessel and shall be in possession of a valid drift gill net shark and swordfish permit when engaged in operations authorized by the permit.

(b) A permittee may have any person serve in ~~his or her~~ the permittee’s place on the permittee’s vessel and engage in fishing under ~~his or her~~ the permittee’s drift gill net shark and swordfish permit for not more than 15 calendar days in any one 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 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

1 the director's finding that the permittee will not be available to engage in the
2 activity due to serious illness, supported by medical evidence. An application for a
3 substitution of greater than 15 days shall be made to the ~~Department of Fish and~~
4 ~~Game, department's~~ Headquarters Office, in Sacramento, and shall contain ~~such~~
5 ~~any~~ information as the director ~~may require~~ requires. Any denial of the
6 substitution may be appealed to the commission.

7 **Comment.** Section 8563 is amended to update an obsolete reference to the Department of Fish
8 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

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

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

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

12 10500. Except under a permit or specific authorization, it is unlawful to do any
13 of the following:

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

15 (b) To use or have in possession in a game refuge, any firearm, BB device as
16 defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or any trap
17 or other contrivance designed to be, or capable of being, used to take birds or
18 mammals, or to discharge any firearm or BB device or to release any arrow or
19 crossbow bolt into any game refuge.

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

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

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

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

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

30 **Comment.** Section 10500 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 a nonsubstantive stylistic change.

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

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

35 10502. The commission may:

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

38 (b) Authorize the department to issue, under ~~such~~ restrictions ~~as it may deem it~~
39 deems best, permits ~~which~~ that authorize the person named therein to carry, use,
40 and possess within any refuge, firearms, traps or other contrivances for taking
41 birds, mammals, fish, ~~or amphibia~~ amphibians, or reptiles.

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

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

Comment. Section 10502 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

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, ~~and amphibia~~ amphibians, and reptiles the commission may do all of the following:

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

(b) Accept, on behalf of the state, from any person owning and in possession of patented lands, except lands that are covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right to preserve and protect all birds, mammals, fish, ~~and amphibia~~ amphibians, and reptiles on the patented lands.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, ~~and amphibia~~ amphibians, and reptiles, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(d) Acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms or game refuges.

Comment. Section 10503 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

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

Comment. Section 10507 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

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

1 10510. No specification of an open season in any area authorizes the taking of
2 any bird, mammal, fish ~~or amphibian~~ amphibian, or reptile from any refuge within
3 that area from which the taking is elsewhere in this code prohibited.

4 **Comment.** Section 10510 is amended to add reptiles.

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

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

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

8 10513. Nothing in this chapter shall be construed as prohibiting or preventing
9 any person from taking ~~birds, mammals~~ any bird, mammal, fish, or amphibian
10 amphibian, or reptile from or on navigable water in any state game refuge.

11 **Comment.** Section 10513 is amended to add reptiles.

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

13 **Fish & Game Code § 10514 (amended). Department control and management**

14 SEC. _____. Section 10514 of the Fish and Game Code is amended to read:

15 10514. All state game refuges shall, for all purposes of protecting birds,
16 mammals, fish, ~~or amphibian~~ amphibians, or reptiles thereon, be under the control
17 and management of the department, and the officers and employees of the
18 department, all game wardens, and law enforcement officers may at all times enter
19 in and upon ~~such~~ state game refuges in the performance of their duties.

20 **Comment.** Section 10514 is amended to add reptiles.

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

22 **Fish & Game Code § 10653 (amended). San Francisco Game Refuge**

23 SEC. _____. Section 10653 of the Fish and Game Code is amended to read:

24 10653. In the San Francisco Game Refuge, birds, mammals, fish, ~~and amphibian~~
25 amphibians, and reptiles legally possessed may be carried openly by persons
26 traveling through the refuge on public roads, between one-half hour before sunrise
27 and one-half hour after sunset.

28 **Comment.** Section 10653 is amended to add reptiles.

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

30 **Fish & Game Code § 11020 (amended). Fish and Game District 12**

31 SEC. _____. Section 11020 of the Fish and Game Code is amended to read:

32 11020. The following constitutes Fish and Game District 12:

33 The waters and tidelands of San Francisco Bay to high-water mark not included
34 in Districts 11 and 13, the waters and tidelands to high-water mark of San Leandro
35 Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, ~~Raccoon~~
36 ~~Straits~~ Raccoon Strait, and San Pablo Bay, and the Carquinez ~~Straits~~ Strait to the
37 Carquinez Bridge, and all lands and waters included within the exterior boundaries
38 of these districts and excluding all tributary sloughs, creeks, bays, rivers, and
39 overflowed areas not specifically described herein.

1 **Comment.** Section 11020 is amended to reflect the official names of two waterways, and make
2 nonsubstantive stylistic changes.

3 **Fish & Game Code § 11032 (amended). Fish and Game District 21**

4 SEC. _____. Section 11032 of the Fish and Game Code is amended to read:

5 11032. The following constitutes Fish and Game District 21:

6 The waters and tidelands to high water mark of San Diego Bay lying inside of a
7 straight line drawn from the ~~southernly~~ southerly extremity of Point Loma to the
8 offshore end of the San Diego breakwater.

9 **Comment.** Section 11032 is amended to correct a typographical error.

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

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

12 12002.9. In addition to any other penalty prescribed in this code, the license
13 issued pursuant to Sections 8032 to 8036, inclusive, to any person who is
14 convicted of a violation of Section 7121, 7364, 7370, 8372, or 8373 shall be
15 suspended for not less than seven days nor more than 30 days. Each day any fish
16 of the species designated in any of those sections, ~~or any part thereof~~, is
17 unlawfully possessed and each unlawful transaction involving the purchase or sale
18 of any fish of those species, ~~or any part thereof~~, by a wholesale fish dealer is a
19 separate violation.

20 **Comment.** Section 12002.9 is amended to delete superfluous references to animal parts. See
21 Section 80 (reference to animal generally includes part of animal).

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

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

24 12012. (a) Any person who illegally takes, possesses, imports, exports, sells,
25 purchases, barter, trades, or exchanges any amphibian, bird, fish, mammal, or
26 reptile, ~~or part thereof~~, for profit or personal gain is guilty of a misdemeanor
27 punishable by a fine of not less than five thousand dollars (\$5,000), nor more than
28 forty thousand dollars (\$40,000), or imprisonment in the county jail for not more
29 than one year, or by both that fine and imprisonment.

30 (b) If a person is convicted of a second or subsequent violation of subdivision
31 (a), that person shall be punished by a fine of not less than ten thousand dollars
32 (\$10,000), nor more than fifty thousand dollars (\$50,000), or imprisonment in the
33 county jail for not more than one year, or by both that fine and imprisonment.

34 (c) If a second or subsequent violation of subdivision (a) also involves a
35 violation of Section 8685.5, 8685.6, 8685.7, or 8688 that is punishable by
36 subdivision (b) of Section 12004, the offense shall be punishable by a fine of not
37 more than fifty thousand dollars (\$50,000), or by imprisonment pursuant to
38 subdivision (b) of Section 12004, or by both that fine and imprisonment.

1 (d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense
2 punishable under this section shall be commenced within three years after
3 commission of the offense.

4 (e) This section does not apply to fish taken pursuant to a commercial fishing
5 license issued pursuant to Section 7852, or fish sold pursuant to a commercial fish
6 business license issued in accordance with Article 7 (commencing with Section
7 8030) of Chapter 1 of Part 3 of Division 6.

8 (f) This section does not supersede Section 12005 or 12009.

9 (g)(1) Moneys equivalent to 50 percent of the revenue deposited in the Fish and
10 Game Preservation Fund from fines and forfeitures collected pursuant to this
11 section shall be allocated for the support of the Special Operations Unit of the
12 department, and used for law enforcement purposes.

13 (2) Moneys equivalent to 50 percent of the revenue from any fine collected
14 pursuant to this section shall be paid to the county in which the offense was
15 committed, pursuant to Section 13003. The board of supervisors shall first use
16 revenues pursuant to this subdivision to reimburse the costs incurred by the district
17 attorney or city attorney in investigating and prosecuting the violation. Any excess
18 revenues may be expended in accordance with Section 13103.

19 **Comment.** Section 12012 is amended to delete a superfluous reference to animal parts. See
20 Section 80 (reference to animal generally includes part of animal).

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

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

23 12013.3. (a) Notwithstanding Section 12002, 12003.2, 12008, or 12008.5, the
24 punishment for any person who knowingly violated and has been convicted of the
25 following provisions where the violation involved a trophy deer, elk, antelope, or
26 bighorn sheep shall be a fine of not less than five thousand dollars (\$5,000), nor
27 more than forty thousand dollars (\$40,000), and where the violation involved a
28 wild turkey, a fine of not less than two thousand dollars (\$2,000), nor more than
29 five thousand dollars (\$5,000), or imprisonment in the county jail for not more
30 than one year, or both that fine and imprisonment:

31 (1) Section 2001, if the person took an animal outside the established season.

32 (2) Section 2005.

33 (3) Section 257.5 of Title 14 of the California Code of Regulations.

34 (4) Section 4304.

35 (5) Section 4330.

36 (6) Section 1054.2, if the person failed to procure the required license or tag
37 prior to taking a deer, elk, antelope, or bighorn sheep.

38 (b) The commission shall adopt regulations to implement this section, including
39 establishing a trophy designation and monetary value based on the size or related
40 characteristics of deer, elk, antelope, bighorn sheep, and wild turkeys ~~or parts~~
41 thereof.

(c) All revenue from fines imposed pursuant to this section for deer, elk, antelope, and bighorn sheep violations shall be deposited in the Big Game Management Account established in Section 3953 and shall be used for the big game management purposes described in that section.

(d) All revenue from fines imposed pursuant to this section for wild turkey violations shall be deposited in the Upland Game Bird Account established in Section 3684 and shall be used for the upland game bird conservation purposes described in that section.

(e) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 13003. The county board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 13103.

Comment. Subdivision (b) of Section 12013.3 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

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 person who, while hunting, kills or wounds or witnesses the killing or wounding of any 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 Game Wildlife, 1416 Ninth Street, Sacramento, California 95814, giving his providing the reporter's full name and address and all facts relating to the incident.

Comment. Section 12151.5 is amended to update an obsolete reference to the Department of Fish and Game.

The section is also amended to make nonsubstantive stylistic changes.

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 person of a violation of any provision of this code or regulation adopted pursuant ~~thereto~~ to this code relating to the taking or possession of ~~birds or mammals, or parts thereof~~, a bird or mammal in any five-year period, and upon any conviction subsequent to the three convictions during a five-year period, that person shall be prohibited from taking any ~~birds or mammals~~ bird or mammal in the state for three years from the date of the last conviction. The commission shall revoke ~~the~~ any hunting license of ~~the person who is a person~~ prohibited from taking ~~birds or mammals~~ a bird or mammal in this state, ~~if he or she has one~~, for the period of prohibition.

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

Comment. Section 12155 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

1 The section is also amended to add subdivision designations and make nonsubstantive stylistic
2 changes.

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

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

5 12162. Any ~~seizure of any birds, mammals, fish, reptiles, or amphibia or parts~~
6 ~~thereof made~~ bird, mammal, fish, reptile, or amphibian seized under circumstances
7 ~~wherein in which~~ it cannot be determined who took, possessed, sold, imported, or
8 transported ~~them~~ the bird, mammal, fish, reptile, or amphibian contrary to law may
9 be sold or donated to a state, county, city, city and county, or any charitable
10 institution.

11 **Comment.** Section 12162 is amended to delete a superfluous reference to animal parts. See
12 Section 80 (reference to animal generally includes part of animal).

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

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

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

16 12163. Any person who purchases birds, mammals, fish, reptiles, or ~~amphibia,~~
17 ~~amphibians or parts thereof,~~ from the department pursuant to the preceding
18 sections shall, upon delivery ~~to him,~~ pay to the department, for deposit in the Fish
19 and Game Preservation Fund, the prevailing market price for legal birds,
20 mammals, fish, reptiles, or ~~amphibia~~ amphibians in effect on the date of seizure.

21 **Comment.** Section 12163 is amended to delete a superfluous reference 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 § 12164 (amended). Confiscation and disposal of bird or mammal**

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

26 12164. The court before whom any person has been convicted of trespassing
27 under Section 602 of the Penal Code shall, in addition to any other fine or
28 forfeiture imposed, confiscate any bird or mammal ~~or parts thereof~~ taken while
29 trespassing, and shall dispose of the bird or mammal ~~or parts thereof~~ to a
30 charitable institution or cause it to be destroyed if unfit for human consumption.

31 **Comment.** Section 12164 is amended to delete superfluous references to animal parts. See
32 Section 80 (reference to animal generally includes part of animal).

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

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

35 12300. ~~Irrespective of (a) Notwithstanding~~ any other provision of law, the
36 provisions of this code are not applicable to California Indians whose names are
37 inscribed upon the tribal rolls, while on the reservation of ~~such that~~ that tribe and under
38 those circumstances in this State where the code was not applicable to them
39 immediately prior to the effective date of Public Law 280, Chapter 505, First
40 Session, 1953, 83d Congress of the United States.

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

Comment. Subdivision (b) of Section 12300 is amended to add reptiles.

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

Fish & Game Code § 13200 (amended). Accounting method

SEC. _____. Section 13200 of the Fish and Game Code is amended to read:

13200. The department shall account for revenues and expenditures of the money in the Fish and Game Preservation ~~Account~~ Fund in a manner consistent with the laws and applicable policies governing state departments generally for each activity or program in which the department is engaged.

Comment. Section 13200 is amended to conform an incorrect reference to the “Fish and Game Preservation Account” to refer to the “Fish and Game Preservation Fund.”

Fish & Game Code § 13220 (amended). Fish and Game Preservation Fund

SEC. _____. Section 13220 of the Fish and Game Code is amended to read:

13220. Except as provided in Section 13230, the money in the Fish and Game Preservation Fund, commencing with the 2005–06 fiscal year, is available for expenditure, upon appropriation by the Legislature, for all of the following purposes:

(a) To the department for payment of refunds of sums determined by it to have been erroneously deposited in the fund, including, but not limited to, money received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures, or services.

(b) To the department for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.

(c) To the commission for expenditure in accordance with law for the payment of the compensation and expenses of the commissioners and employees of the commission.

Comment. Subdivision (b) of Section 13220 is amended to add amphibians.

Fish & Game Code § 14102 (amended). Compensation

SEC. _____. Section 14102 of the Fish and Game Code is amended to read:

14102. Each commissioner who is not also a state officer shall receive ~~ten one~~ hundred dollars ~~(\$10)~~ (\$100) for each day of ~~actual service performed in carrying out his performing~~ official duties pursuant to the ~~directions~~ direction of the commission, and each commissioner shall receive ~~his~~ actual and necessary travel

1 expenses incurred in ~~the performance of his~~ performing official duties ~~in~~ on behalf
2 of the commission.

3 **Comment.** Section 14102 is amended to correct a reference to an obsolete per diem allowance.
4 See Gov't Code § 11564.5.

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

6 **Fish & Game Code § 16500 (amended). Findings**

7 SEC. _____. Section 16500 of the Fish and Game Code is amended to read:
8 16500. The Legislature finds:

9 (a) Jurisdiction over the protection and development of natural resources,
10 especially the fish resource, is of great importance to both the State of California
11 and California Indian tribes.

12 (b) To California Indian tribes, control over their minerals, lands, water,
13 wildlife, and other resources within Indian country is crucial to their economic
14 self-sufficiency and the preservation of their heritage. On the other hand, the State
15 of California is concerned about protecting and developing its resources;
16 protecting, restoring, and developing its commercial and recreational salmon
17 fisheries; ensuring public access to its waterways; and protecting the environment
18 within its borders.

19 (c) More than any other issue confronting the State of California and California
20 Indian tribes, the regulation of natural resources, especially fish, transcends
21 political boundaries.

22 (d) In many cases, the State of California and California Indian tribes have
23 differed in their respective views of the nature and extent of state versus tribal
24 jurisdiction in areas where Indians have historically fished. Despite these frequent
25 and often bitter disputes, both the state and the tribes seek, as their mutual goal,
26 the protection and preservation of the fish resource. This division is an attempt to
27 provide a legal mechanism, other than protracted and expensive litigation over
28 unresolved legal issues, for achieving that mutual goal on the Klamath River.

29 ~~(e) That the Department of Fish and Game~~ The department has exercised
30 jurisdiction over the Klamath River from the mouth of the river through the Yurok
31 Reservation and the Hoopa Valley Reservation, but ~~that~~ the Bureau of Indian
32 Affairs and the Indian tribes thereon have also asserted jurisdiction over that river.
33 The river itself lies within a disputed area and proper management of the resource
34 presents, therefore, unique and difficult problems in the exercise of fishing
35 practices by all ~~users~~ user groups.

36 (f) Although commercial fishing may not be a traditional practice of the tribes
37 existing along the Klamath River within the boundaries of the land of the Yurok
38 Reservation and the Hoopa Valley Reservation, nevertheless, the ~~Department of~~
39 ~~Fish and Game~~ department has historically supported the concept of tribal fishing,
40 including a tribal commercial fishing industry where the industry is consistent
41 with the need to preserve the species, sound management, and where ~~such~~ that

1 usage would not adversely effect other user groups, including sportfishing and the
2 ocean commercial fishery.

3 (g) ~~That a~~ A commercial fishery existed on the Klamath River in the late 19th
4 century and early 20th century, in which the Indian tribes existing along the river
5 participated, but ~~that the~~ commercial fishing was abolished in 1933 with the
6 passage of the predecessor to Section 8434, and, further, that salmon resources
7 have declined historically due to past water developmental policies and timber
8 harvesting practices. With a reduced number of fish available, special laws are
9 needed to protect those resources and allocate them fairly among the various user
10 groups.

11 (h) This division is not only enacted to provide the legal mechanism described
12 above, but is also intended to encourage cooperative agreements to allow
13 protection of the resource among all of the user groups. In so doing, the
14 Legislature recognizes the unique status of the Klamath River and the fishing
15 therein.

16 **Comment.** Section 16500 is amended to update obsolete references to the Department of Fish
17 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

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

19 **Fish & Game Code § 16520 (amended). “Klamath Fishery Management Council”**

20 SEC. ____ . Section 16520 of the Fish and Game Code is amended to read:

21 16520. “Klamath Fishery Management Council” means that council created
22 pursuant to Section 46055 of Title 16 of the United States Code ~~which~~ that is
23 composed of one representative each from the department, the Pacific Fishery
24 Management Council, National Marine Fisheries Service, Department of the
25 Interior, Oregon Department of Fish and Wildlife, ~~California Department of Fish~~
26 ~~and Game~~, the Hoopa Valley Business Council, non-Hoopa Indians, the California
27 commercial salmon fishing industry, the Oregon commercial salmon fishing
28 industry, the Klamath River in-river sportfishing community, and the California
29 offshore recreational fishing industry.

30 **Comment.** Section 16520 is amended to update an obsolete reference to the Department of
31 Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

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