

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1480

Introduced by Senator Corbett
(Principal coauthor: Assembly Member Hill)

February 24, 2012

An act to amend Sections 4004, 4005, ~~4006~~, 4007, and 4008 of, *and* to add Sections 4013 and 4014 to, ~~and to repeal and add Section 4006 of~~, the Fish and Game Code, relating to trapping.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Corbett. Trapping.

(1) Existing law prohibits certain activities related to trapping, as specified.

This bill would add to those prohibitions the killing of a trapped mammal through certain specified actions. This bill would prohibit solicitation of trapping business from the public in certain specified situations. This bill would also prohibit the trapping of bats. This bill would permit certain exceptions to the prohibition against bat trapping where the removal of bats will prevent property damage or protect human health and safety, as prescribed.

~~(1) Existing~~

Existing law, except as specified, requires every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the Fish and Game Commission, or who sells raw furs of those mammals, to have a trapping license from the Department of Fish and Game. Certain persons taking mammals injurious to growing crops or other property are exempted from the trapping license requirement, except those persons providing trapping services for profit are required to obtain a trapping license from the department.

This bill would establish 2 classes of trapping licenses. The bill would authorize a person who has complied with all applicable licensing and license renewal requirements to trap wildlife for recreation or fur to be issued a class I trapping license. The bill would authorize specified persons trapping wildlife for a profit be issued a class II trapping license. The bill would require the department to publish a list of class II trapping licensees on its Internet Web site. The bill would authorize the commission to suspend or revoke a trapping license at a regularly scheduled meeting of the commission on prescribed grounds.

The bill ~~would revise fees for trapping licenses, and~~ would establish the Trapping Enforcement Account in the Fish and ~~Wildlife~~ *Game* Preservation Fund. The bill would require fee revenues to be placed in the account, to be available, upon appropriation, for specified purposes relating to the enforcement of existing laws and regulations governing trapping.

The bill would require a class II trapping licensee to make a reasonable effort, as defined, ~~to prevent leaving orphaned dependent animal young to die within inaccessible areas of a structure such as a home or business, as a consequence of trapping and killing the mother.~~ *not to leave dependent young animals, that are orphaned as a consequence of the trapping and killing of their mother, to die within an area of a home or business that is inaccessible to the licensee.* The bill would further require class II trapping licensees to provide clients with a written contract, containing prescribed information, prior to setting traps.

(2) Existing law, except as expressly provided, makes any violation of the Fish and Game Code, or any rule, regulation, or order made or adopted under that code, a misdemeanor.

The bill would make it unlawful to kill any trapped mammal by listed methods or to solicit trapping services business from the public for reasons of health or safety pursuant to specified laws. By specifying these new Fish and Game Code violations, thereby defining new crimes, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4004 of the Fish and Game Code is
2 amended to read:

3 4004. It is unlawful to do any of the following:

4 (a) Use a trap with saw-toothed or spiked jaws.

5 (b) Use or sell leghold steel-jawed traps with a spread of 5 ½
6 inches or larger without offset jaws.

7 (c) Use steel-jawed traps larger than size 1 ½ or with a spread
8 larger than 4 ⅞ inches for taking muskrat.

9 (d) Set or maintain traps which do not bear a number or other
10 identifying mark registered to the department or, in the case of a
11 federal, state, county, or city agency, bear the name of that agency,
12 except that traps set pursuant to Section 4152 or 4180 shall bear
13 an identifying mark in a manner specified by the department. No
14 registration fee shall be charged pursuant to this subdivision.

15 (e) Fail to visit and remove all animals from traps at least once
16 daily. If the trapping is done pursuant to Section 4152 or 4180, the
17 inspection and removal shall be done by the person who sets the
18 trap or the owner of the land where the trap is set or an agent of
19 either.

20 (f) Use a steel leghold trap with a spread exceeding 7 ½ inches
21 or killer-type trap of the conibear type that is larger than 6 inches
22 by 6 inches, unless partially or wholly submerged in water.

23 (g) Set or maintain steel leghold traps within 30 feet of bait
24 placed in a manner or position so that it may be seen by any soaring
25 bird. As used in this subdivision, “bait” includes any bait composed
26 of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.

27 (h) Set or maintain steel leghold traps with a spread of 5 ½
28 inches or larger without a tension device.

29 (i) Kill any *trapped* mammal ~~trapped~~ in accordance with this
30 section by intentional drowning, ~~chest crushing~~ or thoracic
31 compression, *commonly known as chest crushing*, or injection with
32 any chemical not sold for the purpose of euthanizing animals.

33 (j) Solicit trapping ~~services~~ business from the public for reasons
34 of health or safety, *or any reason other than damage to crops or*
35 *property, under a Class II license*, pursuant to Section 4152, 4180,
36 or 4011.

37 (k) *Trap a bat, except as provided in this subdivision.*

1 (1) For the purposes of this subdivision, the following terms
2 have the following meanings:

3 (A) “Exclusion,” “exclude,” or “excluded” means a nonlethal
4 method of allowing a bat to leave an area but not to return to that
5 area.

6 (B) “Owner” means an owner of a structure that humans
7 occupy.

8 (C) “Protection of human health and safety” means preventing
9 direct human contact with bats within a structure.

10 (2) A net may be used in a nonlethal manner to prevent a bat
11 from causing property damage or for the protection of human
12 health and safety.

13 (3) An owner may exclude a bat if the owner does so for the
14 protection of human health and safety, in accordance with the
15 following procedures:

16 (A) The owner shall attempt to seal, screen, or otherwise close
17 any opening that allows bats to access the interior of the structure.

18 (B) If the action in subparagraph (A) is not feasible, the owner
19 shall contact the appropriate regional office of the department
20 and shall explain to the appropriate members of the department
21 the nature of the owner’s attempts to prevent the bats from entering
22 the owner’s structure.

23 (4) If an owner informs the department that a bat is entering
24 the interior of the structure, and that the owner is unable to close
25 the bat’s point of entry, the department shall provide an effective
26 remedy to the owner.

27 (A) The department may recommend the appropriate course of
28 action, and may request that the owner grant permission for a
29 department warden or biologist to enter the affected structure so
30 that the department may further assist the owner.

31 (B) The department may consider identifying the species of bat,
32 the protected status of the bat, the size of the bat colony, or other
33 factors necessary to protect both the health and safety of the
34 occupants of the structure, and the health and safety of the bats.

35 (C) The department shall not impose a requirement with respect
36 to removal or exclusion of bats that prevents a person from
37 protecting human health or safety.

38 (D) Unless otherwise authorized by the department, bats may
39 only be excluded outside of the periods during which nonflying
40 young are present or when bats are in torpor or hibernation, which

1 *is defined as a period in which the weekday temperature*
2 *consistently remains over 50 degrees Fahrenheit for seven*
3 *consecutive days.*

4 (5) *The department may authorize healthy adult bats to be*
5 *relocated to a warmer area of the state or temporarily confined*
6 *at a licensed wildlife rehabilitation center until the department*
7 *determines the temperature is warm enough for the bats to be*
8 *returned to the area where they were collected. The department*
9 *may facilitate the transport of adult protected bat species or their*
10 *young, if the young were orphaned due to exclusion. Any policies*
11 *adopted by the department wildlife rehabilitation coordinator*
12 *relating to temporary confinement of healthy bats shall carry the*
13 *same penalty as a violation of, and may be adopted into, Section*
14 *679 of Title 14 of the California Code of Regulations.*

15 (6) *This subdivision does not apply to a person acting pursuant*
16 *to a scientific collector's permit issued to that person.*

17 SEC. 2. Section 4005 of the Fish and Game Code is amended
18 to read:

19 4005. (a) Except as otherwise provided in this section, every
20 person, other than a fur dealer, who traps fur-bearing mammals or
21 nongame mammals, designated by the commission or who sells
22 raw furs of those mammals, shall procure a trapping license. "Raw
23 fur" means any fur, pelt, or skin that has not been tanned or cured,
24 except that salt-cured or sun-cured pelts are raw furs.

25 (b) The department shall develop standards that are necessary
26 to ensure the competence and proficiency of applicants for a
27 trapping license. A person shall not be issued a license until he or
28 she has passed a test of his or her knowledge and skill in this field.

29 (c) Persons trapping mammals in accordance with Section 4152
30 or 4180 are not required to procure a trapping license except when
31 providing trapping services for profit.

32 (d) (1) A person who has complied with all applicable licensing
33 and license renewal requirements to trap wildlife for recreation or
34 fur may be issued a class I trapping license.

35 (2) A person who has passed the *trapping license application*
36 *test established by the department pursuant to subdivision (b)-~~or~~*
37 *~~the test~~ for persons trapping wildlife for a profit in accordance*
38 *with Section 4152 or 4180 may be issued a class II trapping license.*
39 The department shall publish on the Internet Web site of the
40 department a list of class II licensees authorized to provide trapping

1 services to the public for a profit in accordance with Section 4152
2 or 4180, *and the registered business name under which the licensee*
3 *operates.*

4 (3) A license shall be renewed only for the category of license
5 that is currently possessed.

6 (e) No raw furs taken by persons providing trapping services
7 for profit may be sold.

8 (f) The license requirement imposed by this section does not
9 apply to any of the following:

10 (1) Officers or employees of federal, county, or city agencies
11 or the department, when acting in their official capacities, or
12 officers or employees of the Department of Food and Agriculture
13 when acting pursuant to the Food and Agricultural Code pertaining
14 to pests or pursuant to Article 6 (commencing with Section 6021)
15 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural
16 Code.

17 (2) Structural pest control operators licensed pursuant to Chapter
18 14 (commencing with Section 8500) of Division 3 of the Business
19 and Professions Code, when trapping rats, mice, voles, moles, or
20 gophers.

21 (3) Persons and businesses licensed or certified by the
22 Department of Pesticide Regulation pursuant to Chapter 4
23 (commencing with Section 11701) and Chapter 8 (commencing
24 with Section 12201) of Division 6 of, and Chapter 3.6,
25 (commencing with Section 14151) of Division 7 of, the Food and
26 Agricultural Code, when trapping rats, mice, voles, moles, or
27 gophers.

28 (g) Except for species that are listed pursuant to Chapter 1.5
29 (commencing with Section 2050) of Division 3 or Chapter 8
30 (commencing with Section 4700), nothing in this code or
31 regulations adopted pursuant thereto shall prevent or prohibit a
32 person from trapping any of the following animals:

33 (1) Gophers.

34 (2) House mice.

35 (3) Moles.

36 (4) Rats.

37 (5) Voles.

38 ~~(h) (1) The commission may suspend or revoke a license issued~~
39 ~~under this section at a regularly scheduled meeting of the~~

1 ~~commission, upon violation of the code or violation of an~~
2 ~~implementing regulation adopted pursuant to this article.~~

3 ~~(h) (1) Licenses issued in accordance with this section are~~
4 ~~subject to revocation pursuant to Section 12156.~~

5 ~~(2) The commission may also suspend or revoke a license issued~~
6 ~~under this section at a regularly scheduled meeting of the~~
7 ~~commission for publication of information about wildlife diseases~~
8 ~~that, in the determination of the commission, is false or misleading.~~
9 ~~The commission, in making that determination may consider, but~~
10 ~~shall not be limited to consideration of, information about wildlife~~
11 ~~diseases published by the federal Centers for Disease Control and~~
12 ~~Prevention and by the department on its Internet Web site.~~

13 ~~SEC. 3.— Section 4006 of the Fish and Game Code is repealed.~~

14 ~~SEC. 4.— Section 4006 is added to the Fish and Game Code, to~~
15 ~~read:~~

16 ~~4006.—(a) The department shall issue a trapping license as~~
17 ~~follows:~~

18 ~~(1) To any resident of this state over 16 years of age, upon~~
19 ~~payment of a fee determined by the commission and adjusted~~
20 ~~annually in accordance with Section 713.~~

21 ~~(2) To any resident of this state under 16 years of years, upon~~
22 ~~payment of a fee determined by the commission and adjusted~~
23 ~~annually in accordance with Section 713.~~

24 ~~(3) To any person not a resident of this state, upon payment of~~
25 ~~a fee determined by the commission and adjusted annually in~~
26 ~~accordance with Section 713. A license shall not be issued to a~~
27 ~~nonresident if the state in which he or she resides does not provide~~
28 ~~for issuance of a nonresident trapping license to California~~
29 ~~residents. Also, a nonresident issued a license under this paragraph~~
30 ~~may take only those species, and may take or possess only that~~
31 ~~quantity of a species that a resident of California may take or~~
32 ~~possess under a nonresident trapping license or permit in the state~~
33 ~~of residence of that nonresident.~~

34 ~~(b) (1) Fees set pursuant to subdivision (a) shall be recorded~~
35 ~~in the California Code of Regulations. Except for adjustments~~
36 ~~pursuant to Section 713, a fee shall not be adjusted except as~~
37 ~~directed by the commission in accordance with this section.~~

38 ~~(2) The commission shall adjust license fees imposed pursuant~~
39 ~~to this section in accordance with findings of the department~~

1 determined in a review process to ensure that license fees are set
2 in an amount sufficient to recover, but not exceed, program costs.

3 ~~(e) The Trapping Enforcement Account is hereby established
4 within the Fish and Wildlife Preservation Fund. Revenues of
5 license fees imposed pursuant to this section shall be placed in the
6 Trapping Enforcement Account and moneys in the account shall
7 be available, upon appropriation by the Legislature, to fund the
8 enforcement of the provisions of this code relating to trapping and
9 of regulations adopted pursuant to those provisions.~~

10 *SEC. 3. Section 4006 of the Fish and Game Code is amended
11 to read:*

12 4006. A trapping license shall be issued as follows:

13 (a) To any resident of this state over the age of 16 years upon
14 payment of a base fee of forty-five dollars (\$45), as adjusted under
15 Section 713.

16 (b) To any resident of this state under the age of 16 years upon
17 payment of a base fee of fifteen dollars (\$15), as adjusted under
18 Section 713.

19 (c) To any person not a resident of this state upon payment of
20 a base fee of two hundred twenty-five dollars (\$225), as adjusted
21 under Section 713.

22 A license shall not be issued to a nonresident if the state in which
23 he or she resides does not provide for issuance of a nonresident
24 trapping license to California residents. Also, a nonresident issued
25 a license under this subdivision may take only those species, and
26 may take or possess only that quantity of a species which a resident
27 of California may take or possess under a nonresident trapping
28 license or permit in the state of residence of that nonresident.

29 ~~(d) The Trapping Enforcement Account is hereby established
30 within the Fish and Game Preservation Fund. Revenues of the
31 license fees imposed pursuant to this section shall be deposited in
32 the Trapping Enforcement Account and moneys in the account
33 shall be available, upon appropriation by the Legislature, to fund
34 the enforcement of the provisions of this code relating to trapping
35 and of regulations adopted pursuant to those provisions.~~

36 ~~SEC. 5.~~

37 *SEC. 4. Section 4007 of the Fish and Game Code is amended
38 to read:*

39 4007. A class I trapping license authorizes the person to whom
40 it is issued to take, during the open season, fur-bearing mammals

1 and nongame mammals for a term of one year from July 1st, or if
2 issued after the beginning of that term, for the remainder of the
3 term and to sell the raw fur of these mammals.

4 ~~SEC. 6.~~

5 *SEC. 5.* Section 4008 of the Fish and Game Code is amended
6 to read:

7 4008. A trapping license shall not be issued to any applicant
8 within one year following the expiration of any trapping license
9 previously issued to that applicant unless the applicant has
10 submitted to the department a sworn statement showing the number
11 of each kind of fur-bearing mammals and nongame mammals taken
12 under the previous license. A class I trapping licensee shall provide
13 the names and addresses of the persons to whom furs were shipped
14 or sold.

15 ~~SEC. 7.~~

16 *SEC. 6.* Section 4013 is added to the Fish and Game Code, to
17 read:

18 4013. (a) A class II trapping licensee shall make a reasonable
19 effort ~~to prevent leaving not to leave orphaned~~ dependent ~~animal~~
20 young *animals, that are orphaned as a consequence of the trapping*
21 *and killing of their mother, to die within an inaccessible areas area*
22 ~~of a structure such as a home or business; as a consequence of~~
23 ~~trapping and killing the mother. that is inaccessible to the licensee.~~
24 “Reasonable effort” is defined as ~~follows:~~ *taking any of the*
25 *following steps to ascertain whether dependent young animals are*
26 *present, including, but not limited to:*

27 (1) ~~Utilizing basic wildlife~~ *Using the natural history information*
28 *that is included in the class II trapping license application*
29 *examination.*

30 (2) Requesting information from the potential client that would
31 indicate whether dependent ~~animal~~ young *animals* are present,
32 such as infant vocalization and other sounds *and activity* commonly
33 associated with young being present.

34 (3) Conducting a visual inspection ~~or setting a one-way door~~
35 ~~with a holding trap attached to determine if a lactating female~~
36 ~~animal is present within the building if there is uncertainty as to~~
37 ~~whether young are present of the area where sounds or activity~~
38 *have been reported.*

1 (4) *Monitoring an entry point with a paper block or tracking*
 2 *powder to determine whether the entry is disturbed on a daily*
 3 *basis, indicating a mother returning to her young.*

4 (5) *Using a heat sensor or other technology.*

5 (6) *Affixing a one-way-door attached to a holding cage across*
 6 *an entry point of a structure to visually confirm whether the animal*
 7 *is a lactating female.*

8 (7) *Other methods of identifying whether young dependent*
 9 *animals are present.*

10 (b) *A lactating female animal shall not be killed, and traps shall*
 11 *not be set for a mother if young animal sounds have been reported*
 12 *or it is known or suspected that dependent animal young animals*
 13 *exist on the premises and the removal of young from within a*
 14 *structure or other area is not possible due to inaccessibility the fact*
 15 *that the area from which the licensee is trying to remove the*
 16 *animals is inaccessible to the licensee.*

17 (c) *If a licensee determines that young dependent animals are*
 18 *present, the licensee shall use lawful and humane methods to*
 19 *encourage the mother to relocate the young from the area from*
 20 *which the licensee is trying to remove the animals.*

21 ~~SEC. 8.~~

22 SEC. 7. Section 4014 is added to the Fish and Game Code, to
 23 read:

24 4014. (a) Class II trapping licensees that provide trapping
 25 services for profit pursuant to Section 4152 or 4180 shall provide
 26 each client with a written contract prior to setting traps.

27 (b) The written contract shall contain the following information
 28 and disclosures and shall be printed in at least 12-point typeface
 29 beginning on and continuing from the upper half of the first page
 30 of the contract:

31
 32 California law requires consumers to be provided with the
 33 following information and disclosures prior to traps being set,
 34 when hiring wildlife trapping services.

- 35 ● Name and current contact information of the person setting
- 36 a trap.
- 37 ● The current year’s trapping license number of the individual
- 38 setting a trap, *and the business name under which the services are*
- 39 *provided.*

- 1 • “It is only lawful to trap wildlife for a profit in California
2 if damage to crops or property has occurred. Animals posing a risk
3 to human health or safety may only be taken by specified
4 government officials (Sections 4011, 4152, and 4180 of the Fish
5 and Game Code).”
- 6 • “This is a description of the property damage as confirmed
7 by the licensed trapper through visual inspection:
8 _____.”
- 9 • “This is the target animal or species responsible for the
10 damage:
11 _____.”
- 12 • “All furbearing and nongame mammals that are legal to
13 trap must be immediately killed or released. Unless released,
14 trapped animals shall be killed by shooting where local ordinances,
15 landowners, and safety permit ~~(T-14 CCR SS 465.5(g)(1))~~.”
16 *(Section 465.5(g)(1) of Title 14 of the California Code of*
17 *Regulations).*”
- 18 • “Nontarget animals are defined as those animals that
19 become accidentally trapped, but are not responsible for the
20 documented property damage. These animals must be immediately
21 released.”
- 22 • “Traps must be inspected and all animals removed at least
23 once each day by the licensed trapper, the person hiring the trapper,
24 or an agent thereof, pursuant to Sections 4152 and 4180 of the Fish
25 and Game Code.”
- 26 • “This is the name and telephone number of the person
27 charged with checking the traps each day:
28 _____.”
- 29 • “A reasonable effort must be made to prevent orphaning
30 dependent animal young. It is prohibited to set traps for an animal
31 when young are inaccessible or to kill a lactating female animal
32 if young are inaccessible *within a structure such as a home or*
33 *business as a consequence of trapping and killing the mother*
34 *(Section 4013 of the Fish and Game Code). A reasonable effort*
35 *includes, but is not limited to (a) requesting information about*
36 *sounds and activity that would indicate young animals are present,*
37 *(b) inspecting the area where sounds or activity is occurring, and*
38 *(c) monitoring an access point for evidence of a mother returning*
39 *daily to her young (Section 4013 of the Fish and Game Code).”*

1 • “The following methods of dispatching trapped ~~land~~
2 mammals are prohibited: drowning, chest crushing, or injection
3 with any chemical not sold for the purpose of animal euthanasia:
4 (*Section 4004 of the Fish and Game Code*).”

5 • An identifying tag issued by the Department of Fish and
6 Game is required to be affixed to every trap that is set (*Section*
7 *465.5(g)(1) of Title 14 of the California Code of Regulations*).

8 • ~~Wildlife that pose a risk to human health or safety may be~~
9 ~~taken only by specified government officials pursuant to Section~~
10 ~~4152, 4180, or 4011 of the Fish and Game Code. A person shall~~
11 ~~not trap a bat. Bats may be excluded, as defined in Section 4004(k)~~
12 ~~of the Fish and Game Code, during certain time periods, as~~
13 ~~specified in Section 4004(k) of the Fish and Game Code. Where~~
14 ~~necessary to protect human health or safety, the department may~~
15 ~~exclude bats, as specified in Section 4004(k) of the Fish and Game~~
16 ~~Code.~~

17 • Address and signature of client:
18 _____.

19 • Signature of licensed trapper who will be placing traps:
20 _____.

21 • The following is a true and accurate list of each animal (by
22 species) ~~removed from trapped at this address, and~~ the date each
23 animal was removed, *and the final disposition of the removed*
24 *animal.*

25 Species Trapped: _____
26 Date: _____
27 *Final disposition:* _____

28

29 ~~SEC. 9.~~

30 SEC. 8. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

O