

ASSEMBLY BILL

No. 2205

Introduced by Assembly Member Donnelly

February 20, 2014

An act to amend Section 3960 of, to add Section 4756 to, to repeal Sections 3032, 3960.4, and 3960.6 of, and to repeal and add Section 3960.2 of, the Fish and Game Code, relating to mammals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as introduced, Donnelly. Mammals: use of dogs to pursue bears and bobcats.

(1) Existing law, with specified exceptions, makes it unlawful to permit or allow a dog to pursue any bear, as defined, or bobcat at any time. Existing law authorizes the Department of Fish and Wildlife to capture a dog not under the reasonable control of its owner or handler that is pursuing any bear or bobcat in violation of this prohibition or to capture or dispatch a dog inflicting injury or immediately threatening to inflict injury on any bear or bobcat at any time.

This bill would eliminate this prohibition, the exceptions, and this authority of the department. This bill would instead require the Department of Fish and Wildlife to make a specified report to the Fish and Game Commission on the status of bear populations, management, and related issues every 3 years. The bill would require the first report to be submitted on or before December 15, 2015, and would require the department, not later than December 15 of each year the report is submitted, to notify, by certified mail, the board of supervisors of each county affected by bear interactions with the general public, of public safety impacts or concerns, bear depredation permit requests, and economic impacts due to bear damage to the extent of those incidences

or impacts, and of its recommendations to the commission. This bill would generally prohibit a person from using dogs to hunt, pursue, or molest bears, except when recommended to the Department of Fish and Wildlife by a vote of the board of supervisors of any affected county following a public hearing, as specified. The bill would require the commission to authorize the use of dogs under those circumstances. This bill would permit the use of one dog per hunter for the hunting of bears during open deer season, and the use of more than one dog per hunter during the open bear season except during the period when archery deer seasons or regular deer seasons are open. By imposing new duties on local public officials, the bill would impose a state-mandated local program.

(2) Existing law authorizes the Fish and Game Commission to establish a hound tag program, imposing certain requirements on the licensure and use of hounds, as defined, to pursue mammals. For these purposes, existing law defines a hound as a dog used to pursue mammals

This bill would repeal this authorization.

(3) Under existing law, except as excluded, violations of the Fish and Game Code are misdemeanors.

By changing the definition of a crime, this bill would impose a state-mandated local program.

(4) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 3032 of the Fish and Game Code is
- 2 repealed.
- 3 3032. ~~(a) As used in this section:~~
- 4 (1) ~~“Bear” and “pursue” have the same meanings as defined in~~
- 5 ~~Section 3960.~~

1 ~~(2) “Hound” means a dog used to pursue mammals.~~

2 ~~(b) The commission may establish a hound tag program.~~

3 ~~(c) If a hound tag program is established, the commission may~~
4 ~~require all of the following:~~

5 ~~(1) That each hound be issued a license tag bearing a unique~~
6 ~~identifying number that is to be worn at all times by the hound~~
7 ~~while pursuing mammals.~~

8 ~~(2) That all relevant local and state laws pertaining to dogs are~~
9 ~~being followed while the hound is being used to pursue mammals.~~

10 ~~(3) That each hound be microchipped with an implanted~~
11 ~~transponder that has a unique identification code.~~

12 ~~(4) That the owner maintain documentation showing that the~~
13 ~~hound is current on all required vaccinations and treatments for~~
14 ~~the prevention of rabies and any other disease specified by the~~
15 ~~department.~~

16 ~~(5) That the owner report, within 24 hours of its last sighting,~~
17 ~~any hound that is lost during hunting, pursuing, or tracking~~
18 ~~activities.~~

19 ~~(6) That the hound’s tag identification number be recorded on~~
20 ~~the hunting tag of any animal taken using the services of the hound.~~

21 ~~(d) If a hound tag program is established, the commission may~~
22 ~~adjust the amount of the fees for the hound tag as necessary, to~~
23 ~~fully recover, but not exceed, all reasonable administrative and~~
24 ~~implementation costs of the department and the commission~~
25 ~~relating to the program.~~

26 SEC. 2. Section 3960 of the Fish and Game Code is amended
27 to read:

28 3960.

29 ~~(a) As used in this section:~~

30 ~~(1) “Pursue” means pursue, run, or chase.~~

31 ~~(2) “Bear” means any black bear (Ursus americanus) found in~~
32 ~~the wild in this state.~~

33 ~~(b)~~

34 ~~(a) It is unlawful to permit or allow any dog to pursue any big~~
35 ~~game mammal during the closed season on that mammal, to pursue~~
36 ~~any fully protected, rare, or endangered mammal at any time, to~~
37 ~~pursue any bear or bobcat at any time, unless authorized pursuant~~
38 ~~to Section 3960.2, or to pursue any mammal in a game refuge or~~
39 ~~ecological reserve if hunting within that refuge or ecological~~
40 ~~reserve is unlawful.~~

1 ~~(e) (1) The department may take any of the following actions:~~

2 ~~(A) Capture~~

3 ~~(b) (1) Employees of the department may capture any dog not~~
 4 ~~under the reasonable control of its owner or handler, when that~~
 5 ~~uncontrolled dog is pursuing, in violation of this section, any big~~
 6 ~~game mammal, any bear mammal or bobcat, or any fully protected,~~
 7 ~~rare, or endangered mammal.~~

8 ~~(B) Capture~~

9 ~~(2) Employees of the department may capture or dispatch any~~
 10 ~~dog inflicting injury or immediately threatening to inflict injury~~
 11 ~~to any big game mammal during the closed season on that mammal,~~
 12 ~~and the department employee may capture or dispatch any dog~~
 13 ~~inflicting injury or immediately threatening to inflict injury on any~~
 14 ~~bear or bobcat at any time, or any fully protected, rare, or~~
 15 ~~endangered mammal at any time.~~

16 ~~(C) Capture~~

17 ~~(3) Employees of the department may capture or dispatch any~~
 18 ~~dog inflicting injury or immediately threatening to inflict injury~~
 19 ~~to any mammal in a game refuge or ecological reserve if hunting~~
 20 ~~within that refuge or ecological reserve is unlawful.~~

21 ~~(2)~~

22 ~~(c) No criminal or civil liability shall accrue to any department~~
 23 ~~employee as a result of enforcement of this section. For the purpose~~
 24 ~~of this section, “pursue” means pursue, run, or chase.~~

25 ~~(3) This section does not apply to the use of dogs to pursue bears~~
 26 ~~or bobcats by federal, state, or local law enforcement officers, or~~
 27 ~~their agents or employees, when carrying out official duties as~~
 28 ~~required by law.~~

29 ~~(4)~~

30 ~~(d) Owners of dogs with identification, that have been captured~~
 31 ~~or dispatched, shall be notified within 72 hours after capture or~~
 32 ~~dispatch.~~

33 SEC. 3. Section 3960.2 of the Fish and Game Code is repealed.

34 ~~3960.2. (a) As used in this section, the terms “bear” and~~
 35 ~~“pursue” have the same meanings as defined in Section 3960.~~

36 ~~(b) Notwithstanding Section 3960, not more than three dogs~~
 37 ~~may be used to pursue bears or bobcats pursuant to a depredation~~
 38 ~~permit issued by the department, if all of the following conditions~~
 39 ~~are met:~~

1 ~~(1) The applicant demonstrates, in writing, that nonlethal and~~
2 ~~avoidance measures were undertaken prior to requesting the~~
3 ~~depredation permit.~~

4 ~~(2) The applicant demonstrates, in writing, the specific need for~~
5 ~~the use of dogs in carrying out the depredation permit.~~

6 ~~(3) The depredation permit authorizing the use of dogs is valid~~
7 ~~for the take of one bear or one bobcat.~~

8 ~~(4) The depredation permit authorizing the use of dogs is valid~~
9 ~~for a period not to exceed 20 consecutive days.~~

10 ~~(5) The depredation permit specifies the name and address of~~
11 ~~any dog handler who will be utilized in the pursuit or taking.~~

12 ~~(6) The dog handler has the depredation permit in his or her~~
13 ~~possession at all times during the pursuit or taking.~~

14 ~~(7) The dog handler does not pursue a bear or bobcat more than~~
15 ~~one mile off the property on which the depredation activity~~
16 ~~occurred.~~

17 ~~(e) After any taking of a bear, the applicant is required to submit~~
18 ~~the skull to the department as described in the department's Black~~
19 ~~Bear Management Plan. No part of any bear taken pursuant to a~~
20 ~~depredation permit may be sold, purchased, or possessed for sale,~~
21 ~~as described in Section 4758.~~

22 ~~(d) No holder of a depredation permit may solicit or receive~~
23 ~~compensation from any person in exchange for carrying out the~~
24 ~~terms of the permit. For these purposes, "compensation" means~~
25 ~~remuneration paid in money, property, or anything else of value.~~

26 ~~(e) The holder of a depredation permit, within 30 days of its~~
27 ~~issuance, shall report to the department detailing the use of the~~
28 ~~permit and the results of any pursuits, including information about~~
29 ~~bear or bobcat pursued and whether the bear or bobcat was or was~~
30 ~~not harmed, but not killed.~~

31 SEC. 4. Section 3960.2 is added to the Fish and Game Code,
32 to read:

33 3960.2. (a) On or before December 15, 2015, and on or before
34 December 15 of every third year thereafter, the department shall
35 report to the Fish and Game Commission on the status of bear
36 populations and management. The report shall include, but is not
37 limited to, department activities relating to bear management, the
38 general health of bear populations, information on the incidences
39 of bear interactions with the general public, public safety impacts
40 and concerns, bear depredation permit requests, an estimate of the

1 economic impact of damage done by bears, an estimate of the cost
2 to the department to address bear-related incidents during the
3 previous three years, and the amount of revenue derived from the
4 sale of bear tags during the three previous fiscal years. The report
5 shall also include recommendations to the commission regarding
6 the possible need to adjust annual bear harvest quotas or to take
7 steps necessary to increase or reduce take in order to address bear
8 management or population health concerns.

9 (b) Not later than December 15 of each year that a report is
10 submitted pursuant to subdivision (a), the department shall notify
11 the board of supervisors of each county affected by bear
12 interactions with the general public, by certified mail, of public
13 safety impacts or concerns, bear depredation permit requests, and
14 economic impacts due to bear damage to the extent of those
15 incidences or impacts, and of its recommendations to the
16 commission pursuant to subdivision (a).

17 (c) The board of supervisors of any county notified by the
18 department may do either of the following:

19 (1) Elect to hold a public hearing on the public safety,
20 depredation, or economic impacts of bears in their county and the
21 proposed recommendations of the department. The hearing shall
22 be held prior to February 1 of that year. The director of the
23 department or his or her representative shall attend the hearing.

24 (2) Elect, by resolution, not to hold a public hearing.

25 (d) The board of supervisors of any county notified by the
26 department which has held a public hearing may, not later than
27 March 1 of that year, by resolution, recommend to the department
28 that the use of dogs be authorized to pursue or take bears and
29 bobcats in that county to assist in meeting bear management
30 concerns. The recommendation shall be based upon the testimony
31 and information presented at the hearing or presented to the board
32 of supervisors at its meeting to consider the resolution.

33 (e) The department shall recommend to the commission, and
34 the commission shall authorize, the use of dogs to pursue or take
35 bears and bobcats during the open season for those species in each
36 county from which the department has received from the board of
37 supervisors a resolution recommending that the use of dogs be
38 authorized to pursue or take bears and bobcats in that county.

1 (f) The commission shall amend its regulations relating to the
2 use of dogs to pursue bears and bobcats as necessary to conform
3 with this section.

4 SEC. 5. Section 3960.4 of the Fish and Game Code is repealed.

5 ~~3960.4. (a) As used in this section, the terms “bear” and
6 “pursue” have the same meanings as defined in Section 3960.~~

7 ~~(b) Notwithstanding Section 3960, the department may authorize
8 qualified individuals, educational institutions, governmental
9 agencies, or nongovernmental organizations to use dogs to pursue
10 bears or bobcats for the purpose of scientific research, provided
11 that the research project is designed to do all of the following:~~

12 ~~(1) Contribute to knowledge of natural wildlife ecosystems.~~

13 ~~(2) Follow best practices and minimize disruptions in the lives
14 and movements of bears, bobcats, and other wildlife, as well as
15 impacts to the habitat while maintaining the applicant’s objectives.~~

16 ~~(3) Directly or indirectly support the sustainability and survival
17 of bear or bobcat populations and healthy ecosystems.~~

18 ~~(4) Not include the intentional injury or killing of any bear or
19 bobcat.~~

20 ~~(5) Not include the intentional relocation of any bear or bobcat
21 other than to areas suitable to them in the state. Any relocation
22 shall comply with the requirements of Section 4190.~~

23 ~~(c) Any research project authorized pursuant to subdivision (b)
24 shall be undertaken pursuant to a memorandum of understanding
25 between the department and the authorized research entity that
26 addresses all of the following:~~

27 ~~(1) Trapping and anesthetizing of the animals pursued, collection
28 of diagnostic samples, attaching or surgically implanting
29 monitoring or recognition devices or markings, and providing
30 veterinary care or euthanasia, as required, for the health, safety,
31 and humane treatment of the animals.~~

32 ~~(2) Qualifications of onsite field supervisors necessary for
33 carrying out authorized research procedures.~~

34 ~~(3) Immediate reporting of any incidental mortality or injury to
35 a bear or bobcat as a result of authorized research activities. Reports
36 of any incidental mortality or injury to a bear or bobcat shall be
37 made available to the public upon request.~~

38 ~~(4) Filing of annual and final progress reports of research
39 involving pursuit by dogs. Annual and final progress reports shall
40 be made available to the public upon request.~~

1 ~~(d) The department shall provide notice to the public of any~~
 2 ~~bear or bobcat research project authorized pursuant to subdivision~~
 3 ~~(b) at least 30 days prior to its initiation, and, upon request, shall~~
 4 ~~make available to the public copies of the memorandum of~~
 5 ~~understanding between the department and the authorized research~~
 6 ~~entity required pursuant to subdivision (c).~~

7 SEC. 6. Section 3960.6 of the Fish and Game Code is repealed.
 8 ~~3960.6. (a) As used in this section, the terms “bear” and~~
 9 ~~“pursue” have the same meanings as defined in Section 3960.~~

10 ~~(b) Notwithstanding Section 3960, the pursuit of bears or bobcats~~
 11 ~~by dogs that are guarding or protecting livestock or crops on~~
 12 ~~property owned, leased, or rented by the owner of the dogs, is not~~
 13 ~~prohibited if the dogs are maintained with, and remain in~~
 14 ~~reasonable proximity to, the livestock or crops being guarded or~~
 15 ~~protected.~~

16 SEC. 7. Section 4756 is added to the Fish and Game Code, to
 17 read:

18 4756. Except as provided in this section it is unlawful to use
 19 dogs to hunt, pursue, or molest bears. The use of one dog per hunter
 20 is permitted for the hunting of bears during the time that the season
 21 is open for the taking of deer in the area of the state affected. The
 22 use of more than one dog per hunter is permitted in the hunting of
 23 bears during the open season on bears in the area of the state
 24 affected except during the period when archery deer seasons or
 25 regular deer seasons are open.

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

35 However, if the Commission on State Mandates determines that
 36 this act contains other costs mandated by the state, reimbursement
 37 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O