

AMENDED IN ASSEMBLY JUNE 25, 2013

AMENDED IN SENATE MAY 2, 2013

SENATE BILL

No. 392

Introduced by Senator Berryhill

February 20, 2013

An act to amend ~~Section 3080~~ Sections 1572, 3080, 3684, 3686, 3704.5, and 12000 of the Fish and Game Code, relating to fish and wildlife resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 392, as amended, Berryhill. Fish and Game Code: ~~possession limit~~ game birds and waterfowl.

Existing law establishes various programs and authorizes various projects related to wildlife-dependent recreational activities and the protection of wildlife, including the Shared Habitat Alliance for Recreational Enhancement program, projects to benefit upland game bird species, and waterfowl projects. The Shared Habitat Alliance for Recreational Enhancement program was established to encourage private landowners to voluntarily make their land available to the public for wildlife-dependent recreational activities, as specified. Funds in the Upland Game Bird Account, established within the Fish and Game Preservation Fund, are used for the purpose of acquiring land, completing projects and implementing programs to benefit upland game bird species, and expanding public hunting opportunities and related public outreach. Funds in the State Duck Stamp Account, established within the Fish and Game Preservation Fund, are used for projects or endowments with the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding and wintering

habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl-related research.

This bill would exempt these programs and projects and certain waterfowl projects from specified provisions governing public works projects.

Existing law authorizes the Department of Fish and Game, with the approval of the entity in control of the property affected by the project, to make grants to, or enter into contracts with, nonprofit organizations for projects funded by the Upland Game Bird Account and the State Duck Stamp Account.

This bill would eliminate the requirement that the department obtain the approval of the entity in control of the property affected by the project to make grants to, or enter into contracts with, nonprofit organizations for these projects.

Existing law makes it unlawful to take, among other animals, mammals and birds outside of established seasons or to exceed any bag limit or possession limit established in the Fish and Game Code or by regulations adopted by the Fish and Game Commission. However, existing law authorizes possession of a game bird or mammal during a period other than the open season if the person possesses a hunting license and tag or tags issued to that person for the current or immediate past license year or the person receives the game bird or mammal from that licensee and has specific documentation that the recipient is a donor intermediary, as defined.

This bill would require the commission, on or before January 1, 2015, to recommend legislation or adopt regulations to clarify when a possession limit is not violated by processing into food lawfully taken game birds and waterfowl.

Existing law makes a violation of these provisions a misdemeanor, except a violation of designated statutes or regulations is either an infraction or a misdemeanor.

This bill would make a violation of a specified regulation relating to the possession, transportation, and importation of game birds an infraction or a misdemeanor. The bill would also make various technical, nonsubstantive changes.

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

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

1 SECTION 1. Section 1572 of the Fish and Game Code is
2 amended to read:

3 1572. (a) There is hereby established the Shared Habitat
4 Alliance for Recreational Enhancement (SHARE) program. The
5 department, in partnership with nonprofit conservation groups and
6 other interested nongovernmental organizations that seek to
7 increase and enhance wildlife-dependent recreational opportunities,
8 shall work cooperatively to implement the program in order to
9 facilitate public access to private lands in a voluntary and
10 incentive-based manner.

11 (b) The department shall adopt regulations for the management
12 and control of wildlife-dependent recreational activities on land
13 that is subject to the program. The department shall report to the
14 commission annually on the status of the program and maintain
15 data on the types of wildlife-dependent recreational activities
16 preferred by landowners and participants in the program.

17 (c) (1) The SHARE Account is hereby established in the Fish
18 and Game Preservation Fund. Money deposited in the account
19 from the sources cited in this subdivision shall only be used for
20 the purposes set forth in this article.

21 (2) Consistent with existing law, the department may establish
22 and impose user fees, use existing hunting and fishing license
23 stamp or tag fees from the Fish and Game Preservation Fund, or
24 apply for grants, federal funds, or other contributions from other
25 sources to fund the program. General Fund moneys shall not be
26 used for the program.

27 (3) All funding generated pursuant to paragraph (2) from grants,
28 federal funds, or other sources, where the person or entity providing
29 the funds specifically designates in writing prior to the time of
30 transmittal of the funds to the department that the funds are
31 intended solely for the purposes of the program, and any user fees
32 assessed by the department specifically for the program, shall be
33 deposited in the SHARE Account in the Fish and Game
34 Preservation Fund. The moneys in the account, upon appropriation
35 by the Legislature, shall be available for expenditure by the
36 department solely for programs and projects to benefit the program
37 and for the direct costs and administrative overhead incurred solely
38 in carrying out the department's program activities. Funds may

1 also be used for wildlife conservation purposes on lands subject
2 to an agreement under the program. Administrative overhead shall
3 be limited to the reasonable costs associated with the direct
4 administration of the program. The department shall maintain
5 internal accountability necessary to ensure that all restrictions on
6 the expenditure of these funds are met.

7 (d) The department may make grants to, or enter into agreements
8 with, nonprofit organizations, governmental entities, or any other
9 entities for the use of the funds described in subdivision (c) when
10 the department finds that the agreements are necessary for carrying
11 out the purposes of this article.

12 (e) ~~The~~ *Notwithstanding any other law, the program is not*
13 *subject to Part 2 (commencing with Section 10100) of Division 2*
14 *of the Public Contract Code, Chapter 1 (commencing with Section*
15 *1720) of Part 7 of Division 2 of the Labor Code, or Article 6*
16 *(commencing with Section 999) of Chapter 6 of Division 4 of the*
17 *Military and Veterans Code.*

18 (f) The department may reimburse a nonprofit organization, a
19 private landowner, or other entity for its costs related to the
20 implementation of the program.

21 **SECTION 1.**

22 *SEC. 2.* Section 3080 of the Fish and Game Code is amended
23 to read:

24 3080. (a) For the purposes of this section, “donor intermediary”
25 means a recipient who receives game birds or mammals from a
26 donor to give to a charitable organization or charitable entity. A
27 donor intermediary possessing game birds or mammals during a
28 period other than the open season shall have the documentation
29 described in paragraph (2) or (3) of subdivision (b). There is no
30 required format for the documentation. Any written documentation
31 containing the required information shall be deemed to comply
32 with this section.

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

36 (1) The person has in his or her possession a hunting license
37 and validated tag or tags for the species possessed, or copies of
38 the license and tag or tags. The license and tag or tags shall have
39 been issued to that person for the current or immediate past license
40 year.

1 (2) The person received the game bird or mammal from a person
2 described in paragraph (1), and the recipient has a photocopy of
3 the donor's hunting license and the applicable validated tag or tags
4 that has been signed and dated by the donor confirming the
5 donation. The photocopied license and tag or tags shall be from
6 the current or immediate past license year.

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

13 (c) The documentation required by subdivision (b) shall be made
14 available to the department as described in Section 2012. Charitable
15 organizations or charitable entities receiving and distributing game
16 birds or mammals for charitable or humane purposes, shall maintain
17 the documentation described in paragraph (2) or (3) of subdivision
18 (b) for one year from the date of disposal.

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

23 (e) On or before January 1, 2015, the commission shall
24 recommend legislation or adopt regulations to clarify when a
25 possession limit is not violated by processing into food lawfully
26 taken game birds and waterfowl.

27 *SEC. 3. Section 3684 of the Fish and Game Code is amended*
28 *to read:*

29 3684. (a) The Upland Game Bird Account is hereby established
30 within the Fish and Game Preservation Fund.

31 (b) All funds derived from the sale of upland game bird hunting
32 validations and upland game bird stamps shall be deposited in the
33 Upland Game Bird Account to permit separate accountability for
34 the receipt and expenditure of these funds.

35 (c) Funds deposited in the Upland Game Bird Account shall be
36 available for expenditure upon appropriation by the Legislature to
37 the department. These funds shall be expended solely for the
38 purpose of acquiring land, completing projects and implementing
39 programs to benefit upland game bird species, and expanding
40 public hunting opportunities and related public outreach, including,

1 but not limited to, enhancing upland game bird habitat. Any land
2 acquired with funds from the Upland Game Bird Account shall be
3 acquired in fee title or protected with a conservation easement and,
4 to the extent possible, be open or provide access to the public for
5 upland game bird hunting. The department may also use funds
6 from the Upland Game Bird Account to pay for administrative and
7 enforcement costs of the programs and activities described in this
8 section. The amount allocated from the account for administrative
9 costs shall be limited to the reasonable costs associated with
10 administration of the programs and activities described in this
11 section.

12 (d) The department may make grants to, reimburse, or enter
13 into contracts or other agreements as defined in subdivision (a) of
14 Section 1571 ~~with~~, *with* nonprofit organizations for the use of the
15 funds from the Upland Game Bird Account to carry out the
16 purposes of this section, including related habitat conservation
17 projects.

18 (e) An advisory committee, as determined by the department,
19 that includes interested nonprofit organizations that have goals
20 and objectives directly related to the management and conservation
21 of game bird species and primarily represent the interests of persons
22 licensed pursuant to Section 3031 shall review and provide
23 comments to the department on all proposed projects funded from
24 the Upland Game Bird Account to help ensure that the requirements
25 of this section have been met. The department shall post budget
26 information and a brief description on its Internet Web site for all
27 projects funded from the Upland Game Bird Account.

28 (f) ~~Upland~~ *Notwithstanding any other law, upland* game bird
29 projects authorized pursuant to this section are not subject to Part
30 2 (commencing with Section 10100) of Division 2 of the Public
31 Contract ~~Code Code, Chapter 1 (commencing with Section 1720)~~
32 *of Part 7 of Division 2 of the Labor Code, or Article 6*
33 *(commencing with Section 999) of Chapter 6 of Division 4 of the*
34 *Military and Veterans Code.*

35 (g) The department shall maintain the internal accountability
36 necessary to ensure compliance with the collection, deposit, and
37 expenditure of funds specified in this section.

38 *SEC. 4. Section 3686 of the Fish and Game Code is amended*
39 *to read:*

1 3686. ~~Projects authorized pursuant to Section 3684 shall be~~
 2 ~~governed by Section 1501.5. With the approval of the entity in~~
 3 ~~control of property affected by a project, the~~ *The* department may
 4 make grants to, or enter into contracts *or other agreements* with,
 5 nonprofit organizations for the accomplishment of ~~those~~ projects
 6 *authorized pursuant to Section 3684*, or the department may
 7 reimburse the controlling entity for its costs of accomplishing the
 8 project.

9 *SEC. 5. Section 3704.5 of the Fish and Game Code is amended*
 10 *to read:*

11 ~~3704.5. Waterfowl~~

12 *3704.5. (a) Notwithstanding any other law, waterfowl*
 13 *authorized pursuant to Sections 3702 and 3460 are not subject to*
 14 *Part 2 (commencing with Section 10100) of Division 2 of the*
 15 *Public Contract Code, Chapter 1 (commencing with Section*
 16 *1720) of Part 7 of Division 2 of the Labor Code, or Article 6*
 17 *(commencing with Section 999) of Chapter 6 of Division 4 of the*
 18 *Military and Veterans Code.* ~~With the approval of the entity in~~
 19 ~~control of property affected by a project, the~~ *The* department may
 20 make grants to, or enter into contracts *or other agreements* with,
 21 nonprofit organizations for the accomplishment of those projects,
 22 or the department may reimburse the controlling entity for its costs
 23 of accomplishing the project.

24 ~~This section shall become operative on July 1, 1993.~~

25 *SEC. 6. Section 12000 of the Fish and Game Code is amended*
 26 *to read:*

27 12000. (a) Except as expressly provided otherwise in this code,
 28 any violation of this code, or of any rule, regulation, or order made
 29 or adopted under this code, is a misdemeanor.

30 (b) Notwithstanding subdivision (a), ~~any~~ *a* person who violates
 31 any of the following statutes or regulations is guilty of an infraction
 32 punishable by a fine of not less than one hundred dollars (\$100)
 33 and not to exceed one thousand dollars (\$1,000), or of a
 34 misdemeanor:

- 35 (1) Section 2009.
- 36 (2) Subdivision (a) of Section 6596.
- 37 (3) Section 7149.8.
- 38 ~~(4) Section 7360.~~
- 39 ~~(5)~~

- 1 (4) Sections 1.14, 1.17, ~~1.18~~; 1.62, 1.63, and 1.74 of Title 14 of
- 2 the California Code of Regulations.
- 3 ~~(6)~~
- 4 (5) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive,
- 5 of Title 14 of the California Code of Regulations.
- 6 ~~(7)~~
- 7 (6) Sections 27.56 to 30.10, inclusive, of Title 14 of the
- 8 California Code of Regulations.
- 9 ~~(8)~~
- 10 (7) Sections 40 to 43, inclusive, of Title 14 of the California
- 11 Code of Regulations.
- 12 (8) *Section 251.7 of Title 14 of the California Code of*
- 13 *Regulations.*
- 14 (9) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of
- 15 the California Code of Regulations.
- 16 (10) Sections 505, 507 to 510, inclusive, and 550 to 553,
- 17 inclusive, of Title 14 of the California Code of Regulations.
- 18 (11) ~~Sections~~ *Section 630 to 630.5, inclusive,* of Title 14 of the
- 19 California Code of Regulations.