

Introduced by Senator McPherson
(Principal coauthor: Assembly Member Keeley)
(Coauthor: Assembly Member Brown)

February 12, 1997

An act to amend Sections 711, 4181, 4181.1, and 4651 of, and to add Section 4181.2 to, the Fish and Game Code, relating to game, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as introduced, McPherson. Depredation: wild pigs.

(1) Existing law designates those mammals that are game mammals, including wild pigs, for purposes of the Fish and Game Code and regulations adopted pursuant to that code. Existing law makes it unlawful for a person to take wild pigs, except those damaging or destroying property, unless the person has a hunting license and license tag, or to possess a wild pig that is not tagged.

This bill would exempt the possession of certain depredating wild pigs from that tagging requirement.

(2) Existing law provides that, except for mountain lions, the owner or tenant of land or property that is being damaged or destroyed by specified mammals, including wild pigs, may apply to the Department of Fish and Game for a permit to kill the animal. Existing law requires the department to provide the applicant for a depredation permit to take wild pigs with specified information on available options for wild pig control.

This bill would require the department to also furnish that information to persons reporting the taking of wild pigs that are found in the act of damaging or destroying property.

(3) Existing law authorizes the immediate taking of a bear or wild pig that is encountered in the act of inflicting injury to, molesting, or killing livestock if the taking is reported to the department no later than the next working day.

This bill would, additionally, authorize the immediate taking of a bear or a wild pig that is encountered in the act of pursuing or worrying livestock or damaging or destroying, or threatening to immediately damage or destroy, land or property, including, but not limited to, threatened or endangered native plants, wildlife, aquatic organisms, or specialized types of habitat, by the owner of the livestock, land, or property or the owner's agent or employee, or by an agent or employee of any federal, state, county, or city entity when acting in his or her official capacity. The bill would require the person taking a bear or wild pig under the bill to report the taking within 24 hours to the department and to make the carcass available to the department. The bill would authorize possession of the carcass of a wild pig taken under the bill unless otherwise directed by the department and to transfer the carcass without compensation.

(4) Because a violation of the bill would be a misdemeanor, the bill would impose a state-mandated local program by changing the definitions of crimes and creating new crimes.

(5) Existing law requires the department to prepare a plan for the management of wild pigs, including specified matters.

This bill would authorize the plan to include encouragement of hunting as a means to mitigate depredation and live trapping and relocation to areas suitable and accessible to hunting. The bill would also require the department to adopt specified guidelines relating to damage caused by wild pigs.

(6) 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.



(7) Existing law continuously appropriates the money in the Fish and Game Preservation Fund to the department to carry out the Fish and Game Code. Because this bill would change and impose new duties on the department, it would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 711 of the Fish and Game Code
2 is amended to read:

3 711. It is the intent of the Legislature to ensure
4 adequate funding from appropriate sources for the
5 department. To this end, the Legislature finds and
6 declares ~~that~~ *all of the following:*

7 (a) The costs of nongame fish and wildlife programs
8 and free hunting and fishing license programs shall be
9 provided annually in the Budget Act by appropriating
10 money from the General Fund and sources other than the
11 Fish and Game Preservation Fund to the department for
12 these purposes.

13 (b) The costs of commercial fishing programs shall be
14 provided out of revenues from commercial fishing taxes,
15 license fees, and other revenues, from reimbursements
16 and federal funds received for commercial fishing
17 programs, and other funds appropriated by the
18 Legislature for this purpose.

19 (c) The costs of hunting and sportfishing programs
20 shall be provided out of hunting and sportfishing
21 revenues and reimbursements and federal funds
22 received for hunting and sportfishing programs, and
23 other funds appropriated by the Legislature for this
24 purpose. These revenues, reimbursements, and federal
25 funds shall not be used to support commercial fishing
26 programs, free hunting and fishing license programs, ~~or~~
27 nongame fish and wildlife programs, *or for the purposes*
28 *of Section 4181 or 4181.1 relating to wild pigs.*

29 (d) The costs of managing lands managed by the
30 department and the costs of wildlife management



1 programs shall be supplemented out of revenues in the
2 Native Species Conservation and Enhancement Account
3 in the Fish and Game Preservation Fund.

4 (e) The department shall conduct, or contract for, a
5 review, at least every five years, of its programs to ensure
6 consistency with this section.

7 (f) Hunting, sportfishing, and sport ocean fishing
8 license fees shall be adjusted annually to an amount equal
9 to that computed pursuant to Section 713. However, a
10 substantial increase in the aggregate of hunting and
11 sportfishing programs shall be reflected by appropriate
12 amendments to the sections of this code that establish the
13 base sport license fee levels. The inflationary index
14 provided in Section 713 may not be used to accommodate
15 a substantial increase in the aggregate of hunting and
16 sportfishing programs.

17 For purposes of this article, “substantial increase”
18 means an increase in excess of 5 percent of the Fish and
19 Game Preservation Fund portion of the department’s
20 current year support budget, excluding cost-of-living
21 increases provided for salaries, staff benefits, and
22 operating expenses.

23 SEC. 2. Section 4181 of the Fish and Game Code is
24 amended to read:

25 4181. (a) Except as provided in Section 4181.1, any
26 owner or tenant of land or property that is being damaged
27 or destroyed or is in danger of being damaged or
28 destroyed by elk, bear, beaver, wild pig, or gray squirrels,
29 may apply to the department for a permit to kill ~~any such~~
30 *the* mammals. The department, upon satisfactory
31 evidence of the damage or destruction, actual or
32 immediately threatened, shall issue a revocable permit
33 for the taking and disposition of the mammals under
34 regulations adopted by the commission. *The permit shall*
35 *include a statement of the penalties that may be imposed*
36 *for a violation of the permit conditions.* Mammals so
37 taken shall not be sold or shipped from the premises on
38 which they are taken except under instructions from the
39 department. No iron- or steel-jawed or any type of
40 metal-jawed trap shall be used to take any bear pursuant



1 to this section. No poison of any type may be used to take
2 any gray squirrel pursuant to this section. The
3 department shall designate the type of trap to be used to
4 insure the most humane method is used to trap gray
5 squirrels. The department may require trapped squirrels
6 to be released in parks or other nonagricultural areas. It
7 shall be unlawful for any person to violate the terms of any
8 permit issued under this section.

9 (b) The permit issued for taking bears pursuant to
10 subdivision (a) shall contain the following facts:

- 11 (1) Why the issuance of the permit was necessary.
- 12 (2) What efforts were made to solve the problem
13 without killing the bears.
- 14 (3) What corrective actions should be implemented to
15 prevent reoccurrence.

16 (c) With respect to wild pigs, ~~commencing July 1, 1992,~~
17 the department shall provide ~~the applicants~~ *an applicant*
18 for a depredation permit to take wild pigs ~~or a person who~~
19 *reports taking wild pigs pursuant to subdivision (b) of*
20 *Section 4181.1* with written information ~~which~~ *that* sets
21 forth available options for wild pig control, including, but
22 not limited to, depredation permits, ~~allowing periodic~~
23 ~~access to department maintained lists of~~ *licensed hunters*
24 *interested in wild pig hunting, and holding special hunts*
25 *authorized pursuant to Section 4188, and lists of nonprofit*
26 *organizations that are available to take possession of the*
27 *carcasses of depredating wild pigs.*

28 SEC. 3. Section 4181.1 of the Fish and Game Code is
29 amended to read:

30 4181.1. (a) Any bear ~~or wild pig~~ that is encountered
31 while in the act of inflicting injury to, molesting, *pursuing,*
32 *worrying,* or killing; *livestock or damaging or destroying,*
33 *or threatening to immediately damage or destroy, land or*
34 *other property, including, but not limited to, threatened*
35 *or endangered native plants, wildlife, aquatic organisms,*
36 *or specialized types of habitat,* may be taken immediately
37 by the owner of the livestock or the owner's agent or
38 employee ~~if the taking is reported no later than the next~~
39 ~~working day to the department and or by an agent or~~
40 *employee of any federal, state, county, or city entity when*



1 acting in his or her official capacity. The person taking the
2 bear shall report the taking within 24 hours to the
3 department and shall make the carcass ~~is made~~ available
4 to the department. A violation of this subdivision is
5 punishable pursuant to Section 12000.

6 (b) Notwithstanding Section 4652, any wild pig that is
7 encountered while in the act of inflicting injury to,
8 molesting, pursuing, worrying, or killing livestock or
9 damaging or destroying, or threatening to immediately
10 damage or destroy, land or other property, including, but
11 not limited to, threatened or endangered native plants,
12 wildlife, aquatic organisms, or specialized types of
13 habitat, may be taken immediately by the owner of the
14 livestock, land, or property or the owner's agent or
15 employee or by an agent or employee of any federal,
16 state, county, or city entity when acting in his or her
17 official capacity. The person taking the wild pig shall
18 report the taking within 24 hours to the department and
19 shall make the carcass available to the department. Unless
20 otherwise directed by the department and
21 notwithstanding Section 4657, the person taking a wild
22 pig pursuant to this subdivision, or to whom the carcass
23 of a wild pig taken pursuant to this subdivision is
24 transferred pursuant to subdivision (c), may possess the
25 carcass of the wild pig. A violation of this subdivision is
26 punishable pursuant to Section 12000.

27 (c) The department shall make a record of ~~any reports~~
28 each report made pursuant to subdivision (a) or (b) and
29 may, ~~by~~ have an employee of the department, investigate
30 the taking or cause the taking to be investigated. The
31 person taking a wild pig shall provide information as
32 deemed necessary by the department. Upon completion
33 of the investigation, the investigator may, upon a finding
34 that the requirements of this section have been met with
35 respect to the particular bear or wild pig taken under
36 subdivision (a) or (b), as applicable, issue a ~~permit~~
37 written statement to the person confirming that the
38 requirements of this section have been met ~~and may~~
39 include in the permit an authorization for the person to
40 retain and make use of the carcass. The person who took



1 *the animal shall make every reasonable effort to ensure*
2 *utilization of the carcass, including transfer of the carcass*
3 *to another person without compensation.*

4 ~~(e)~~

5 (d) Notwithstanding Section 4763, any part of any bear
6 lawfully possessed pursuant to this section is subject to
7 Section 4758.

8 ~~(d)~~

9 (e) Nothing in this section prohibits federal, state, or
10 county trappers from killing or trapping bears when the
11 bears are killing or molesting livestock, but no iron- or
12 steel-jawed or any type of metal-jawed trap shall be used
13 to take ~~any such~~ *the* bear, and no person, including
14 employees of the state, federal, or county government
15 shall take bear with iron- or steel-jawed or any type of
16 metal-jawed traps.

17 SEC. 4. Section 4181.2 is added to the Fish and Game
18 Code, to read:

19 4181.2. For the purposes of this article relating to
20 damage caused by wild pigs, “damage” means loss or
21 harm resulting from injury to person or property. The
22 department shall develop statewide guidelines to aid in
23 determining the damage caused by wild pigs. The
24 guidelines shall consider various uses of the land
25 impacted by pigs.

26 SEC. 5. Section 4651 of the Fish and Game Code is
27 amended to read:

28 4651. (a) The department shall prepare a plan for the
29 management of wild pigs. Under the plan, the status and
30 trend of wild pig populations shall be determined and
31 management units shall be designated within the state.
32 The plan may establish pig management zones to address
33 regional needs and opportunities. In preparing the plan,
34 the department shall consider available, existing
35 information and literature relative to wild pigs.

36 (b) The plan may include all of the following:

37 (1) The distribution and abundance of wild pigs, as
38 ~~defined~~ *described* in Section 3950.

39 (2) A survey of range conditions.



1 (3) Recommendations for investigations and
2 utilization of wild pigs.

3 (4) *Encouraging mitigation of depredation pursuant*
4 *to this chapter.*

5 (5) *Live trapping and relocation of wild pigs to areas*
6 *suitable and accessible to mitigation of depredation*
7 *pursuant to this chapter.*

8 SEC. 6. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution because the only costs that may be incurred
11 by a local agency or school district will be incurred
12 because this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition
16 of a crime within the meaning of Section 6 of Article
17 XIII B of the California Constitution.

18 Notwithstanding Section 17580 of the Government
19 Code, unless otherwise specified, the provisions of this act
20 shall become operative on the same date that the act
21 takes effect pursuant to the California Constitution.

