

AMENDED IN SENATE APRIL 16, 1997

AMENDED IN SENATE MARCH 31, 1997

AMENDED IN SENATE MARCH 17, 1997

SENATE BILL

No. 329

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 amended, McPherson. Depredation: wild pigs.

(1) Existing law includes a legislative declaration that revenues, reimbursements, and federal funds received for hunting and sport fishing programs shall not be used to support commercial fishing, free hunting and fishing, or nongame fishing and wildlife programs.

This bill would make a legislative declaration that those funds shall not be used for depredation control of wild pigs, as specified.

(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 a person who reports the taking of wild pigs that are found in the act of damaging or destroying property and would require that information to include lists of nonprofit organizations available to take possession of depredating wild pig carcasses.

(3) 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.

(4) 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 delete the application of that provision to wild pigs. The bill would, instead, with respect to wild pigs, authorize the immediate taking of a wild pig that is encountered while 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 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. The bill would also define "damage" for certain other provisions of law relating to damage caused by



depredating wild pigs, and would require the department to develop statewide guidelines for determining the damage caused by wild pigs.

(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 mitigation of depredation and live trapping and relocation of wild pigs to areas suitable and accessible to mitigation of depredation *with the consent of the landowner*.

(6) Because a violation of the bill or regulations adopted pursuant to the bill would be a misdemeanor under existing law, the bill would impose a state-mandated local program.

(7) 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.

(8) Existing law continuously appropriates the money in the Fish and Game Preservation Fund, among other things, to pay specified refunds and to pay all necessary expenses incurred in carrying out the Fish and Game Code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish.

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 all of the following:

7 (a) The costs of nongame fish and wildlife programs
8 and free hunting and fishing license programs shall be



1 provided annually in the Budget Act by appropriating
2 money from the General Fund and sources other than the
3 Fish and Game Preservation Fund to the department for
4 these purposes.

5 (b) The costs of commercial fishing programs shall be
6 provided out of revenues from commercial fishing taxes,
7 license fees, and other revenues, from reimbursements
8 and federal funds received for commercial fishing
9 programs, and other funds appropriated by the
10 Legislature for this purpose.

11 (c) The costs of hunting and sport fishing programs
12 shall be provided out of hunting and sport fishing
13 revenues and reimbursements and federal funds
14 received for hunting and sport fishing programs, and
15 other funds appropriated by the Legislature for this
16 purpose. These revenues, reimbursements, and federal
17 funds shall not be used to support commercial fishing
18 programs, free hunting and fishing license programs,
19 nongame fish and wildlife programs, or for the purposes
20 of Section 4181 or 4181.1 relating to wild pigs.

21 (d) The costs of managing lands managed by the
22 department and the costs of wildlife management
23 programs shall be supplemented out of revenues in the
24 Native Species Conservation and Enhancement Account
25 in the Fish and Game Preservation Fund.

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

29 (f) Hunting, sport fishing, and sport ocean fishing
30 license fees shall be adjusted annually to an amount equal
31 to that computed pursuant to Section 713. However, a
32 substantial increase in the aggregate of hunting and sport
33 fishing programs shall be reflected by appropriate
34 amendments to the sections of this code that establish the
35 base sport license fee levels. The inflationary index
36 provided in Section 713 may not be used to accommodate
37 a substantial increase in the aggregate of hunting and
38 sport fishing programs.

39 For purposes of this article, “substantial increase”
40 means an increase in excess of 5 percent of the Fish and



1 Game Preservation Fund portion of the department's
2 current year support budget, excluding cost-of-living
3 increases provided for salaries, staff benefits, and
4 operating expenses.

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

7 4181. (a) Except as provided in Section 4181.1, any
8 owner or tenant of land or property that is being damaged
9 or destroyed or is in danger of being damaged or
10 destroyed by elk, bear, beaver, wild pig, or gray squirrels,
11 may apply to the department for a permit to kill the
12 mammals. The department, upon satisfactory evidence of
13 the damage or destruction, actual or immediately
14 threatened, shall issue a revocable permit for the taking
15 and disposition of the mammals under regulations
16 adopted by the commission. The permit shall include a
17 statement of the penalties that may be imposed for a
18 violation of the permit conditions. Mammals so taken
19 shall not be sold or shipped from the premises on which
20 they are taken except under instructions from the
21 department. No iron- or steel-jawed or any type of
22 metal-jawed trap shall be used to take any bear pursuant
23 to this section. No poison of any type may be used to take
24 any gray squirrel pursuant to this section. The
25 department shall designate the type of trap to be used to
26 insure the most humane method is used to trap gray
27 squirrels. The department may require trapped squirrels
28 to be released in parks or other nonagricultural areas. It
29 shall be unlawful for any person to violate the terms of any
30 permit issued under this section.

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

33 (1) Why the issuance of the permit was necessary.

34 (2) What efforts were made to solve the problem
35 without killing the bears.

36 (3) What corrective actions should be implemented to
37 prevent reoccurrence.

38 (c) With respect to wild pigs, the department shall
39 provide an applicant for a depredation permit to take
40 wild pigs or a person who reports taking wild pigs



1 pursuant to subdivision (b) of Section 4181.1 with written
2 information that sets forth available options for wild pig
3 control, including, but not limited to, depredation
4 permits, department maintained lists of licensed hunters
5 interested in wild pig hunting, holding special hunts
6 authorized pursuant to Section 4188, and lists of nonprofit
7 organizations that are available to take possession of the
8 carcasses of depredating wild pigs.

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

11 4181.1. (a) Any bear that is encountered while in the
12 act of inflicting injury to, molesting, or killing, livestock
13 may be taken immediately by the owner of the livestock
14 or the owner's employee if the taking is reported no later
15 than the next working day to the department and the
16 carcass is made available to the department.

17 (b) Notwithstanding Section 4652, any wild pig that is
18 encountered while in the act of inflicting injury to,
19 molesting, pursuing, worrying, or killing livestock or
20 damaging or destroying, or threatening to immediately
21 damage or destroy, land or other property, including, but
22 not limited to, threatened or endangered native plants,
23 wildlife, aquatic organisms, or specialized types of
24 habitat, may be taken immediately by the owner of the
25 livestock, land, or property or the owner's agent or
26 employee, or by an agent or employee of any federal,
27 state, county, or city entity when acting in his or her
28 official capacity. The person taking the wild pig shall
29 report the taking within 24 hours to the department and
30 shall make the carcass available to the department. Unless
31 otherwise directed by the department and
32 notwithstanding Section 4657, the person taking a wild
33 pig pursuant to this subdivision, or to whom the carcass
34 of a wild pig taken pursuant to this subdivision is
35 transferred pursuant to subdivision (c), may possess the
36 carcass of the wild pig. A violation of this subdivision is
37 punishable pursuant to Section 12000. It is the intent of
38 the Legislature that nothing in this subdivision shall be
39 interpreted to authorize a person to take wild pigs
40 pursuant to this subdivision in violation of *a state statute*



1 *or regulation or* a local zoning or other ordinance that is
2 adopted pursuant to other provisions of law and that
3 restricts the discharge of firearms.

4 (c) The department shall make a record of each report
5 made pursuant to subdivision (a) or (b) and may have an
6 employee of the department investigate the taking or
7 cause the taking to be investigated. The person taking a
8 wild pig shall provide information as deemed necessary
9 by the department. Upon completion of the
10 investigation, the investigator may, upon a finding that
11 the requirements of this section have been met with
12 respect to the particular bear or wild pig taken under
13 subdivision (a) or (b), issue a written statement to the
14 person confirming that the requirements of this section
15 have been met. The person who took the animal shall
16 make every reasonable effort to ensure utilization of the
17 carcass, including transfer of the carcass to another
18 person without compensation.

19 (d) Notwithstanding Section 4763, any part of any bear
20 lawfully possessed pursuant to this section is subject to
21 Section 4758.

22 (e) Nothing in this section prohibits federal, state, or
23 county trappers from killing or trapping bears when the
24 bears are killing or molesting livestock, but no iron- or
25 steel-jawed or any type of metal-jawed trap shall be used
26 to take the bear, and no person, including employees of
27 the state, federal, or county government, shall take bear
28 with iron- or steel-jawed or any type of metal-jawed traps.

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

31 4181.2. For the purposes of this article relating to
32 damage caused by wild pigs, “damage” means loss or
33 harm resulting from injury to person or property. The
34 department shall develop statewide guidelines to aid in
35 determining the damage caused by wild pigs. The
36 guidelines shall consider various uses of the land
37 impacted by pigs.

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



1 4651. (a) The department shall prepare a plan for the
2 management of wild pigs. Under the plan, the status and
3 trend of wild pig populations shall be determined and
4 management units shall be designated within the state.
5 The plan may establish pig management zones to address
6 regional needs and opportunities. In preparing the plan,
7 the department shall consider available, existing
8 information and literature relative to wild pigs.

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

10 (1) The distribution and abundance of wild pigs, as
11 described in Section 3950.

12 (2) A survey of range conditions.

13 (3) Recommendations for investigations and
14 utilization of wild pigs.

15 (4) Encouraging mitigation of depredation pursuant
16 to this chapter.

17 (5) Live trapping and relocation of wild pigs to areas
18 suitable and accessible to mitigation of depredation, *with*
19 *the consent of the landowner*, pursuant to this chapter.

20 SEC. 6. No reimbursement is required by this act
21 pursuant to Section 6 of Article XIII B of the California
22 Constitution because the only costs that may be incurred
23 by a local agency or school district will be incurred
24 because this act creates a new crime or infraction,
25 eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition
28 of a crime within the meaning of Section 6 of Article
29 XIII B of the California Constitution.

30 Notwithstanding Section 17580 of the Government
31 Code, unless otherwise specified, the provisions of this act
32 shall become operative on the same date that the act
33 takes effect pursuant to the California Constitution.

