

Assembly Bill No. 273

Passed the Assembly April 25, 2019

Chief Clerk of the Assembly

Passed the Senate August 12, 2019

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2019, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3003.1, 3039, 4004, 4005, 4007, 4008, 4009.5, 4150, and 12002 of, to add Section 4001 to, and to repeal Article 2 (commencing with Section 4030) of Chapter 2 of Part 3 of Division 4 of, the Fish and Game Code, relating to trapping.

LEGISLATIVE COUNSEL'S DIGEST

AB 273, Gonzalez. Fur-bearing and nongame mammals: recreational and commercial fur trapping: prohibition.

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 Wildlife. 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. 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.

This bill would prohibit the trapping of any fur-bearing mammal or nongame mammal for purposes of recreation or commerce in fur and would prohibit the sale of the raw fur of any fur-bearing mammal or nongame mammal otherwise lawfully taken pursuant to the Fish and Game Code or regulations adopted pursuant to that code. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program. The bill would also make other conforming changes.

Existing law requires a person engaging in, carrying on, or conducting wholly or in part the business of buying, selling, trading or dealing in raw furs of fur-bearing mammals or nongame mammals to procure a fur dealer license from the Department of Fish and Wildlife. Existing law requires a person who is employed by a licensed fur dealer to act on behalf of the fur dealer to procure a fur agent license from the department.

This bill would eliminate fur dealer and fur agent licenses.

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.

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

SECTION 1. This act shall be known, and may be cited, as the Wildlife Protection Act of 2019.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) It is the intent of the Legislature in adopting this act to ensure that native species of California mammals are not commercially exploited for their fur.

(2) Historically, fur trapping played a significant role in the extirpation of wolves and wolverines and the severe declines in sea otters, fishers, marten, beaver, and other fur-bearing species in California. Because individual trappers concentrate their operations in limited geographical areas, they can locally deplete populations of the species they target, impairing the ecological functioning of the area and diminishing opportunities for wildlife watching in these areas.

(3) Under existing law, both fur trappers and pest-control operators are required to procure a trapping license to lawfully trap certain fur-bearing and nongame mammals. Holders of a fur dealer license may also lawfully trap certain fur-bearing and nongame mammals.

(4) Under existing law, the raw furs of certain fur-bearing and nongame mammals may be sold by the holder of a trapping license or fur dealer license.

(5) Under existing law, the raw furs of any fur-bearing and nongame mammal taken by a pest-control operation or otherwise for depredation purposes pursuant to Sections 4152 and 4180 of the Fish and Game Code may not be sold.

(6) Nothing in this act is intended to alter existing law related to the hunting of fur-bearing and nongame mammals or to provisions of the Fish and Game Code related to the taking of fur-bearing and nongame mammals found injuring crops or

property pursuant to Sections 4152 and 4180 of the Fish and Game Code.

(7) Subdivision (c) of Section 4006 of the Fish and Game Code requires that the cost of a trapping license must be adjusted by the Fish and Game Commission to fully recover the administrative and implementation costs of the Department of Fish and Wildlife and commission related to the licenses.

(8) In 2017, a total of 133 trapping licenses were sold in California for purposes of recreation and commerce in fur. A total of four fur dealer licenses were also sold. The total revenue received by the Department of Fish and Wildlife for the sale of these trapping licenses was \$15,544 and for the sale of the fur dealer licenses was \$709.

(9) In 2017, a total of 68 trappers reported killing a total of 1,568 animals in California. Among the 10 species reported killed were grey fox, coyote, beaver, badger, and mink. Of the 1,568 animals killed, 1,241 were reported sold. Based on average pelt prices, the total income generated by all the pelts trappers reported sold is likely less than \$9,000.

(10) The revenue generated by the sale of trapping licenses would only cover a fraction of the costs of even a single warden. Proper management and enforcement of a fur trapping program would cost far more than the revenue generated by the Department of Fish and Wildlife, resulting in a de facto subsidy of commercial fur trapping. Similarly, the minimal revenue generated by the sale of the furs of the animals killed by trappers is dwarfed by the millions of dollars that nonconsumptive wildlife watching generates in California's economy.

(11) Prohibiting fur trapping would eliminate the needless taxpayer subsidized killing of California's native species for the international fur trade, while better protecting the role these species place in our ecosystems and economy.

(b) In light of these findings and declarations, it is the intent of the Legislature to prohibit commercial and recreational trapping of all fur-bearing and nongame mammals in California.

SEC. 3. Section 3003.1 of the Fish and Game Code is amended to read:

3003.1. (a) Notwithstanding Section 1001, 1002, 4002, 4004, 4007, 4008, 4009.5, 4152, 4180, or 4181:

(1) It is unlawful for any person to trap for the purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal with any body-gripping trap. A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps, conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver traps, and common rat and mouse traps shall not be considered body-gripping traps.

(2) It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005, of any fur-bearing mammal or nongame mammal that was trapped in this state, with a body-gripping trap as described in paragraph (1).

(3) It is unlawful for any person, including an employee of the federal, state, county, or municipal government, to use or authorize the use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, or protected mammal, or any dog or cat. The prohibition in this subdivision does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leghold trap is the only method available to protect human health or safety.

(4) For purposes of this section, fur-bearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997.

(b) Nothing in this section authorizes any person to trap for purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal by any other means.

SEC. 4. Section 3039 of the Fish and Game Code is amended to read:

3039. (a) Except as otherwise provided in this section, Section 3087, Section 4303, another provision of this code, or a regulation adopted pursuant to this code, it is unlawful to sell or purchase a bird or mammal found in the wild in California.

(b) Shed antlers, or antlers taken from domestically reared animals that have been manufactured into products or handicraft items, or that have been cut into blocks or units that are to be handcrafted or manufactured into those articles may be purchased

or sold at any time. However, complete antlers, whole heads with antlers, antlers that are mounted for display, or antlers in velvet may not be sold or purchased at any time, except as authorized by Section 3087.

(c) Notwithstanding Section 3504, inedible parts of domestically raised game birds may be sold or purchased at any time.

(d) A person who illegally takes a bird or mammal for profit or for personal gain by engaging in an activity authorized by this section is subject to civil liability pursuant to Section 2582.

SEC. 5. Section 4001 is added to the Fish and Game Code, to read:

4001. Notwithstanding any other provision of this code or regulations adopted pursuant to this code, it is unlawful for any person to trap any fur-bearing mammal for purposes of recreation or commerce in fur. The raw fur of a fur-bearing mammal otherwise lawfully taken pursuant to this code or regulations adopted pursuant to this code may not be sold.

SEC. 6. Section 4004 of the Fish and Game Code is amended to read:

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

(a) Use a steel-jawed leghold trap, or use any trap with saw-toothed or spiked jaws.

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

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

(d) Use a conibear trap that is larger than 6 inches by 6 inches, unless partially or wholly submerged in water. Unless prohibited by the department as a permit condition, a lawfully set conibear trap that is 10 inches by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5 of Title 14 of the California Code of Regulations.

(e) When any conibear trap is set on publicly owned land or land expressly open to public use, fail to post signs at every entrance and exit to the property indicating the presence of conibear traps and at least four additional signs posted within a radius of 50 feet of the trap, one in each cardinal direction, with lettering that is a minimum of three inches high stating: "Danger! Traps Set For Wildlife. Keep Out." Signs shall be maintained and checked daily.

(f) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set partially or wholly submerged in water for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.

SEC. 7. Section 4005 of the Fish and Game Code is amended to read:

4005. (a) Except as otherwise provided in this section, every person who traps fur-bearing mammals or nongame mammals, designated by the commission, shall procure a trapping license. Raw fur of fur-bearing and nongame mammals may not be sold. For purposes of this article, "raw fur" means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. A person shall not be issued a license until the person has passed a test of their knowledge and skill in this field.

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

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

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

(1) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021)

of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

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

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

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

- (1) Gophers.
- (2) House mice.
- (3) Moles.
- (4) Rats.
- (5) Voles.

SEC. 8. Section 4007 of the Fish and Game Code is amended to read:

4007. A trapping license authorizes the person to whom it is issued to take fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of the term, for the remainder of the term.

SEC. 9. Section 4008 of the Fish and Game Code is amended to read:

4008. No trapping license shall be issued to any applicant within one year following the expiration of any trapping license previously issued to such applicant unless the applicant has submitted to the department a sworn statement showing the number of each kind of fur-bearing mammals and nongame mammals taken under the previous license.

SEC. 10. Section 4009.5 of the Fish and Game Code is amended to read:

4009.5. The commission may adopt regulations as it determines to be necessary to regulate the taking of fur-bearing mammals or nongame mammals taken under a trapping license.

SEC. 11. Article 2 (commencing with Section 4030) of Chapter 2 of Part 3 of Division 4 of the Fish and Game Code is repealed.

SEC. 12. Section 4150 of the Fish and Game Code is amended to read:

4150. (a) A mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal is a nongame mammal. A nongame mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

(b) Notwithstanding any other provision of this code or regulations adopted pursuant to this code, it is unlawful for any person to trap any nongame mammal for purposes of recreation or commerce in fur. The raw fur of a nongame mammal otherwise lawfully taken pursuant to this code or regulations adopted pursuant to this code shall not be sold. For purposes of this subdivision, “raw fur” has the same meaning as defined in Section 4005.

SEC. 13. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000), imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars (\$2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment:

- (1) Section 1059.
- (2) Subdivision (b) of Section 4004.
- (3) Section 4600.
- (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- (5) A first violation of Section 8670.
- (6) Section 10500.

(7) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800

is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

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

Approved _____, 2019

Governor