An act to amend Section 2120 of, and to add Sections 2271.5 and Section 2351 to, the Fish and Game Code, and to amend Section 597.3 of the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST


(1) Existing law requires the Fish and Game Commission, in cooperation with the Department of Food and Agriculture, to adopt regulations governing both (A) the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals that will be or that have been imported into this state, and (B) the possession of all other wild animals. Existing law requires the regulations to be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the existence at large of these wild animals, and to provide for the welfare of wild animals and the safety of the public.

This bill would require the Department of Fish and Wildlife to immediately suspend any authorization to import a wild animal species into the state when the evidence suggests zoonotic transmission from this species, or a closely related species, could be responsible for a novel, readily transmissible human disease in order to protect the public.
health. The bill would prohibit the department from authorizing the importation of any individual animals of a wild animal species that could be responsible for zoonotic transmission of a readily transmissible human disease until a robust testing protocol is implemented to ensure that all individual animals subject to an authorization are not carriers. The bill would also authorize the department to take additional measures pursuant to its authority related to wild animal species necessary to protect the public health. The bill would require the department, as applicable, to revise the list of animals that may not be imported or transported into this state that the department is required to publish from time to time as changes arise.

(2) Existing law prohibits the importation of a live aquatic plant or animal into this state without the prior written approval of the Department of Fish and Wildlife pursuant to regulations adopted by the Fish and Game Commission, except as specified.

This bill would require the department to, on or before January 1, 2022, review the species imported into the state subject to a permit described above to ensure that all diseases and parasites these species may be infected with or carry that pose a risk of infection or disease to other species and humans are identified. The bill would require the department to consult with the department’s Science Institute in conducting the review, and would require the Science Institute to perform an independent review of the department’s findings, and provide recommendations based upon the science to the department for revising its import permitting requirements for different species as well as various parasites and diseases, as applicable. The bill would require the commission and department to, on or before January 1, 2024, update and revise the health certification requirements for the import permits for these species to include these diseases and parasites identified pursuant to the review, as applicable.

Existing law prohibits the importation, transportation, possession, or live release of listed wild animals, except under a revocable, nontransferable permit. Existing law permits the commission, by regulation, and in cooperation with the Department of Food and Agriculture, to add or delete wild animals from the listed wild animals that are in addition to those listed by statute.

This bill would authorize the Science Institute to recommend that the import of certain species be prohibited and that species be added to the listed wild animals due to the risks posed to the health and safety of humans or the state’s ecosystems and biodiversity. The bill would
require the commission to, on or before January 1, 2024, consider the species recommended by the Science Institute for inclusion in the list, and, if the commission determines that there is a reasonable likelihood the species identified present a risk to public health and safety, agricultural interests, native wildlife, or the state’s biodiversity, the bill would require the commission to add those species to the list, as applicable, and to update the published list of those species.

(3) Existing law prohibits the importation or possession of birds, mammals, fish, reptiles, or amphibians unless specified conditions are met, including, among other things, the animals were legally taken and legally possessed outside of this state and the Fish and Game Code and regulations adopted pursuant to that code do not expressly prohibit their possession in this state. Existing law provides that a violation of this code or any regulation adopted under this code is a crime.

Existing law makes it a misdemeanor to import into the state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body or other part or product of specified animals, including leopards, tigers, and elephants. A violation of this provision is punishable by a fine of not less than $1,000, not to exceed $5,000, or imprisonment in a county jail not to exceed 6 months, or by both that fine and imprisonment, for each violation.

This bill would enact the Iconic African Species Protection Act and would prohibit the possession of specified African species and any part, product, or the dead body or parts thereof, including, but not limited to, the African elephant or the black rhinoceros, by any individual, firm, corporation, association, or partnership within the State of California, except as specified for, among other things, use for educational or scientific purposes by a bona fide educational or scientific institution, as defined.

The bill would provide that any person who violates the provisions of the act is subject to a civil penalty of not less than $5,000 or more than $40,000 for each violation. The bill would require that the civil penalties imposed pursuant to the act be deposited in the Fish and Game Preservation Fund. By creating new crimes, the bill would impose a state-mandated local program.

(4) Existing law prohibits a person who operates a live animal market from engaging in specified practices, including confining or displaying an animal in a manner that is likely to result in injury. Existing law
defines a “live animal market” as a retail food market where frogs, turtles, and birds other than poultry are stored alive and sold to consumers for purposes of human consumption.

This bill would prohibit a person who operates a live animal market from storing or selling an animal that is a known or likely invasive species or that is of a taxa known or likely to be responsible for zoonotic transmission of a disease.

By creating a new crime, this bill would impose a state-mandated local program.

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.


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

SECTION 1. The Legislature finds and declares all of the following:

(a) Infectious diseases cause about one-quarter of human deaths. Of these deaths, almost 60 percent are from zoonotic diseases and over 70 percent of these zoonoses are from wildlife. Trade of wildlife has led to novel zoonotic pathogens that threaten human and animal health, food security and production, and biological diversity with implications for economic stability. Experts, including from the World Health Organization, agree that future human pandemics will likely be caused by wildlife and be zoonotic in nature. In the last 40 years, the worst pandemics were all zoonotic or vector in origin, including the human immunodeficiency virus (HIV), severe acute respiratory syndrome (SARS), avian influenza, swine influenza, Ebola virus, and Zika virus. The three epidemic and pandemic level coronavirus outbreaks in the last two decades (SARS, Middle East Respiratory Syndrome (MERS), and COVID-19) were likely caused by transmission between two animal species followed by transmission to humans with cases initially spreading due to multiple species in close contact with each other and humans simultaneously.
Therefore, rapid response to potential carrier species imports and exports will provide additional protection to viral spread.

(b) There are existing policies and law to protect the state’s flora and fauna from nonnative and invasive species. Wildlife are usually imported into the state under the authority of a permit issued by the Department of Fish and Wildlife, among others. While that permit may include some form of health certification, it is unclear that the current processes in practice incorporate or identify all likely diseases that represent risks to humans and wildlife. The Veterinary Public Health Section of the State Department of Public Health also issues permits for certain species of wildlife imported into the state. The COVID-19 pandemic highlights the need to review existing practices to ensure that wildlife imported into the state do not present a risk of disease to humans or wildlife.

(c) Between 2007 and 2014, Savanna elephant populations declined by 30 percent, between 1993 and 2014, African lion populations are estimated to have declined by 43 percent, and since 1960 the Black rhino population has declined by 97.6 percent. In order to address these diminishing numbers, California must address our contribution toward their imperilment. The goals of these provisions are to reduce the demand for new trophies of certain wild animal species, and not to interfere with the possession or sale of existing jewelry or other small personal items containing parts of these species that are otherwise legal.

SEC. 2. Section 2120 of the Fish and Game Code is amended to read:

2120. (a) The commission, in cooperation with the Department of Food and Agriculture, shall adopt regulations governing both (1) the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals that will be or that have been imported into this state pursuant to this chapter, and (2) the possession of all other wild animals. The regulations shall be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the existence at large of these wild animals, and to provide for the welfare of wild animals and the health and safety of the public.

(b) The regulations shall also include criteria for all of the following:

(1) The receiving, processing, and issuing of a permit and conducting inspections.
2 contracts out inspection activities.
3 Responding to public reports and complaints.
4 The notification of the revocation, termination, or denial of
5 permits, and related appeals.
6 The method by which the department determines that the
7 breeding of wild animals pursuant to a single event breeding permit
8 for exhibitor or a breeding permit is necessary and will not result
9 in unneeded or uncared for animals, and the means by which the
10 criteria will be implemented and enforced.
11 How a responding agency will respond to an escape of a
12 wild animal. This shall include, but not be limited to, the
13 establishment of guidelines for the safe recapture of the wild animal
14 and procedures outlining when lethal force would be used to
15 recapture the wild animal.
16 (c) (1) The department shall immediately suspend any
17 authorization to import a wild animal species into the state when
18 the evidence suggests zoonotic transmission from this species, or
19 a closely related species, could be responsible for a novel, readily
20 transmissible human disease in order to protect the public health.
21 (2) The department may take additional measures pursuant to
22 its authority under this chapter related to wild animal species
23 necessary to protect the public health.
24 (3) The department shall not authorize importation of any
25 individual animals of a wild animal species that could be
26 responsible for zoonotic transmission of a readily transmissible
27 human disease until a robust testing protocol is implemented to
28 ensure that all individual animals subject to an authorization are
29 not carriers.
30 (4) The department shall revise the list required pursuant to
31 Section 2119, as applicable.
32 SEC. 3. Section 2271.5 is added to the Fish and Game Code; to read:
33 2271.5. (a) On or before January 1, 2022, the department shall
34 review the species imported into the state subject to a permit issued
35 pursuant to Section 2271 to ensure that all diseases and parasites
36 these species may be infected with or carry that pose a risk of
37 infection or disease to other species and humans are identified.
38 (b) The department shall consult with the Science Institute
39 established pursuant to Section 715 in conducting the review
40 described in subdivision (a). The Science Institute shall perform
an independent review of the department’s findings, and provide recommendations based upon the science to the department for revising its import permitting requirements for different species as well as to account for various parasites and diseases identified, as applicable. The Science Institute may recommend that the import of certain species be prohibited and that species be added to the list developed pursuant to Section 2118 due to the risks posed to the health and safety of humans or the state’s ecosystems and biodiversity.

(c) (1) On or before January 1, 2024, the commission and department shall update and revise the health certification requirements for the import permits issued pursuant to Section 2271 for the species to include the diseases and parasites identified pursuant to subdivisions (a) and (b), as applicable.

(2) (A) On or before January 1, 2024, the commission shall consider the species recommended by the Science Institute pursuant to subdivision (b) for inclusion in the list developed pursuant to Section 2118. If the commission determines that there is a reasonable likelihood the species identified present a risk to public health and safety, agricultural interests, native wildlife, or the state’s biodiversity, the commission shall add those species to the list developed pursuant to Section 2118, as applicable.

(B) If the commission pursuant to subparagraph (A) adds a species to the list developed pursuant to Section 2118, the commission shall update the published list of those species pursuant to Section 2119.

SEC. 4. Section 2351 is added to the Fish and Game Code, to read:

2351. (a) This section may be known, and may be cited, as the Iconic African Species Protection Act.

(b) For the purposes of this section, the following terms have the following meanings:

(1) “Iconic African species” means any species or subspecies of the following members of the animal kingdom: African elephant (Loxodonta africana and Loxodonta cyclotis), African lion (Panthera leo), leopard (Panthera pardus), black rhinoceros (Diceros bicornis), white rhinoceros (Ceratotherium simum), giraffe (Giraffa camelopardalis), Jentink’s duiker (Cephalophus jentinki), plains zebra (Equus quagga), mountain zebra (Equus zebra),
hippopotamus (Hippopotamus amphibius), pangolin (order Pholidota of the class Mammalia), baboon (family Cercopithecidae, order Primates of the class Mammalia), and hyena (family Hyaenidae, order Carnivora of the class Mammalia), this includes any part, product, or the dead body or parts thereof, excluding fossils, whether or not included in a manufactured product or in a food product of any species protected by this part.

(2) “Article” is synonymous with the term “iconic African species.”

(3) “Bona fide educational or scientific institution” means an institution that establishes through documentation either of the following:

(A) Educational or scientific tax exemption, from the federal Internal Revenue Service or the institution’s national, state, or local tax authority.

(B) Accreditation as an educational or scientific institution, from a qualified national, regional, state, or local authority for the institution’s location.

(c) Except as provided in subdivision (d), iconic African species shall not be possessed by any individual, firm, corporation, association, or partnership within the State of California.

(d) Unless such activity is otherwise prohibited by law, one or more of the following exceptions and defenses apply to the prohibition set forth in subdivision (c):

(1) The prohibition of subdivision (c) does not apply to an employee or agent of the federal, state, or local government undertaking a law enforcement activity pursuant to federal or state law, or a mandatory duty required by federal law.

(2) The article is possessed for wholly noncommercial purposes and the owner can demonstrate the article was in the person’s possession within this state before January 1, 2021. An owner may demonstrate possession of the article before January 1, 2021, by furnishing documentation that includes, but is not limited to, any of the following:

(A) A valid permit for the importation of sport-hunted trophies issued by the United States Fish and Wildlife Service before January 1, 2021.

(B) A bill of lading or other valid document regarding the transportation of the article issued before January 1, 2021.
(C) A valid appraisal of the article issued before January 1, 2021.

(D) Photographic or video evidence showing the article in the owner’s possession that possesses a date stamp indicating a date before January 1, 2021.

(3) The article was lawfully imported pursuant to a permit or exemption under the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.). Within 180 days of importation, any such article shall be removed from within the state and may not be subsequently possessed within the state unless possession of the article is expressly authorized by the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or its implementing regulations.

(4) The article is for use for educational or scientific purposes by a bona fide educational or scientific institution.

(5) In the case of ivory or rhinoceros horn, the article is possessed in conformance with the requirements of Section 2022.

(6) The article is distributed directly to a legal beneficiary of a trust or to a legal heir provided the article was possessed by the decedent before the enactment of this section.

(e) In addition to any other penalty provided by law, any person who violates this section is subject to a civil penalty of not less than five thousand dollars ($5,000) or more than forty thousand dollars ($40,000) for each violation.

(f) The Attorney General, or the city attorney of the city or county counsel of the county in which a violation of this section occurs, may bring a civil action to recover the civil penalty described in subdivision (e). The civil action shall be brought in the county in which the violation occurs and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 13003.

(g) For any judgment imposed by a court for a violation of this section resulting in a fine, the department may provide a reward of up to five hundred dollars ($500) to any person giving information that led to the judgment. This reward shall be paid from the Fish and Game Preservation Fund, upon appropriation by the Legislature. This reward shall not apply if the informant is a regular salaried law enforcement officer or an officer or agent of the department.

(h) Upon judgment for a violation of this section, any seized article shall be forfeited and, upon forfeiture, either maintained by
the department for educational or training purposes, donated by
the department to a bona fide educational or scientific institution,
or destroyed.
(i) This section does not preclude enforcement under Section
2022 of this code or Sections 653o, 653p, and 653r of the Penal
Code.
(j) The prohibition against possession of the species listed in
paragraph (1) of subdivision (b) is severable. A finding of the
invalidity of the prohibition against a species shall not affect the
validity of the prohibition against other species.
SEC. 5.
SEC. 4. Section 597.3 of the Penal Code is amended to read:
597.3. (a) Every person who operates a live animal market
shall do all of the following:
(1) Provide that no animal will be dismembered, flayed, cut
open, or have its skin, scales, feathers, or shell removed while the
animal is still alive.
(2) Provide that no live animals will be confined, held, or
displayed in a manner that results, or is likely to result, in injury,
starvation, dehydration, or suffocation.
(3) Provide that no animal be a known or likely invasive species
or of a taxa known or likely to be responsible for zoonotic
transmission of a disease.
(b) As used in this section:
(1) “Animal” means frogs, turtles, and birds sold for the purpose
of human consumption, with the exception of poultry.
(2) “Live animal market” means a retail food market where, in
the regular course of business, animals are stored alive and sold
to consumers for the purpose of human consumption.
(c) Any person who fails to comply with any requirement of
subdivision (a) shall, for the first violation, be given a written
warning in a written language that is understood by the person
receiving the warning. A second or subsequent violation of
subdivision (a) shall be an infraction, punishable by a fine of not
less than two hundred fifty dollars ($250), nor more than one
thousand dollars ($1,000). However, a fine paid for a second
violation of subdivision (a) shall be deferred for six months if a
course is available that is administered by a state or local agency
on state law and local ordinances relating to live animal markets.
If the defendant successfully completes that course within six
months of entry of judgment, the fine shall be waived. The state
or local agency may charge the participant a fee to take the course,
not to exceed one hundred dollars ($100).

SEC. 5. No reimbursement is required by this act pursuant to
Section 6 of Article XIX 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 XIX B of the California
Constitution.