

Notes re CA Fish and Game Code

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DIVISION 0.5. GENERAL PROVISIONS AND DEFINITIONS

- **CHAPTER 1 General Definitions [1. - 89.5]**

- **Section 22.** "Bird" means a wild bird or part of a wild bird. *(Amended by Stats. 2015, Ch. 154, Sec. 2. (AB 1527) Effective January 1, 2016.)*
- **Section 24.** Buy includes an offer to buy, purchase, barter, exchange, or trade. *(Amended by Stats. 1985, Ch. 1403, Sec. 1.)*
- **Section 54.** Mammal means a wild or feral mammal or part of a wild or feral animal, but not a wild, feral, or undomesticated burro. *(Amended by Stats. 2015, Ch. 154, Sec. 6. Effective January 1, 2016.)*
- **Section 67.** Person means any natural person or any partnership, corporation, limited liability company, trust, or other type of association. *(Amended by Stats. 1994, Ch. 1010, Sec. 121. Effective January 1, 1995.)*
- **Section 68.** "Purchase" means "buy" as defined in Section 24. *(Added by Stats. 1985, Ch. 1403, Sec. 2.)*
- **Section 75.** Sell includes offer or possess for sale, barter, exchange, or trade. *(Enacted by Stats. 1957, Ch. 456.)*
- **Section 79.** Shall is mandatory and may is permissive. *(Enacted by Stats. 1957, Ch. 456.)*
- **Section 80.** Unless the provision or context otherwise requires, a provision of this code that applies to a whole animal also applies to a part of the animal. *(Added by Stats. 2015, Ch. 154, Sec. 8. Effective January 1, 2016.)*
- **Section 86.** Take means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. *(Enacted by Stats. 1957, Ch. 456.)*
- **Section 89.5.** Wildlife means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability. *(Added by Stats. 2015, Ch. 154, Sec. 9. Effective January 1, 2016.)*

- **CHAPTER 2. Regulation of Take and Possession Generally; ARTICLE 1. Authority [200 - 219]**

- **Section 201.** Nothing in this article confers upon the commission any power to regulate any natural resources or commercial or other activity connected therewith, except as specifically provided. *(Enacted by Stats. 1957, Ch. 456.)*
- **Section 203.** Any regulation of the commission pursuant to this article relating to resident game birds, game mammals and fur-bearing mammals may apply to all or any areas, districts, or portions thereof, at the discretion of the commission, and may do any or all of the following as to any or all species or subspecies:
 - (a) Establish, extend, shorten, or abolish open seasons and closed seasons.
 - (b) Establish, change, or abolish bag limits and possession limits.
 - (c) Establish and change areas or territorial limits for their taking.
 - (d) Prescribe the manner and the means of taking.

- (e) Establish, change, or abolish restrictions based upon sex, maturity, or other physical distinctions.

(Amended by Stats. 1957, Ch. 1972.)

- [Section 1801 Policies and Objectives](#). (h) It is not intended that this policy shall provide any power to regulate natural resources or commercial or other activities connected therewith, except as specifically provided by the Legislature.

- **DIVISION 2 DEPARTMENT OF FISH AND WILDLIFE, Ch. 1, Art. 1**

- **Section 710.** Legislature finds and declares that the department has in the past not been adequately funded to meet its mandates. The principal causes have been the fixed nature of the department's revenues in contrast with the rising costs resulting from inflation, the increased burden on the department to carry out its public trust responsibilities, and additional responsibilities placed on the department by the Legislature. This lack of funding has prevented proper planning and manpower allocation. The lack of funding has required the department to restrict warden enforcement and to defer essential management of lands acquired for wildlife conservation. The lack of funding for fish and wildlife conservation activities other than sport and commercial fishing and hunting activities has resulted in inadequate wildlife and habitat conservation and wildlife protection programs. *(Amended by Stats. 2006, Ch. 667, Sec. 9. Effective January 1, 2007.)*

- **Section 710.5.**

- (a) The Legislature finds and declares that the department continues to be inadequately funded to meet its mandates. While revenues have been declining, the department's responsibilities have increased in order to protect public trust resources in the face of increasing population and resource management demands. The department's revenues have been limited due to a failure to maximize user fees and inadequate non-fee-related funding. The limited department revenues have resulted in the inability of the department to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the department for the people of the state.
- (b) The Legislature further finds and declares that the department has been largely supported by fees paid by those who utilize the resources held in trust by the department. It is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees. All fees collected by the department, including, but not limited to, recreational hunting and fishing licenses, landing fees, commercial licenses, permits and entitlements, and other fees for use of the resources regulated or managed by the department, are user fees. To the extent that these fees are appropriated through the Budget Act for the purposes for which they are collected to provide services to the people of the State of California, these user fees are not subject to Article XIII B of the California Constitution.

- (c) The Legislature further finds and declares that user fees are not sufficient to fund all of the department's mandates. To fulfill its mandates, the department must secure a significant increase in reliable funding, in addition to user fees.

(Amended by Stats. 2017, Ch. 26, Sec. 2. (SB 92) Effective June 27, 2017.)

○ **Section 710.7**

- (a) The Legislature finds and declares all of the following:
 - (1) The department continues to face serious funding instability due to revenue declines from traditional user fees and taxes and the addition of new and expanded program responsibilities.
 - (2) Historically, the recreational and commercial fishing industry has funded much of the department's marine fisheries activities.
 - (3) As the state's population grows and development changes historic land uses, fish and wildlife continue to be depleted, necessitating a significant portion of the department's activities to be directed toward protecting fish and wildlife for the benefit of the people of the state.
- (b) It is the intent of the Legislature to extend the current user-based funding system by allocating a portion of the marine resource protection costs to those who use and benefit from recreational and commercial use of the marine resources.
- (c) It is the Legislature's intent that, notwithstanding Section 711, the department shall cooperate with the Legislature, recreational users, conservation organizations, the commercial fishing industry, and other interested parties to identify and propose new alternative sources of revenue to fund the department's necessary marine conservation, restoration, and resources management, and protection responsibilities.
- (d) It is further the intent of the Legislature to identify new funding sources and to secure those sources to adequately fund the department's activities directed at protecting and managing wildlife for the people of the state.

(Amended by Stats. 2006, Ch. 667, Sec. 11. Effective January 1, 2007.)

- **DIVISION 4 - BIRDS AND MAMMALS, PART 1 – CH.1, ART. 2 Hunting Licenses. Section 3039(b)** Products or handicraft items made from furbearing mammals and nongame mammals lawfully taken under the authority of a trapping license may be purchased or sold at any time. *(Amended by Stats. 2015, Ch. 154, Sec. 64. (AB 1527) Effective January 1, 2016.)*
- **DIVISION 4 - BIRDS AND MAMMALS, PART 3 – MAMMALS, Ch.2 Fur bearing Mammals, Art. 1 Trapping Provisions**
 - **Section 4000.** The following are fur-bearing mammals: pine marten, fisher, mink, river otter, gray fox, red fox, kit fox, raccoon, beaver, badger, and muskrat. *(Amended by Stats. 2007, Ch. 285, Sec. 73. Effective January 1, 2008.)*
 - **Section 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) Use a body-gripping trap, as defined in subdivision (a) of Section 3003.1, for the purpose of recreation or commerce in fur.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) 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.
 - (g) 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. *(Amended by Stats. 2013, Ch. 155, Sec. 1. (AB 789) Effective January 1, 2014.)*
- **Section 4005.**
- (a) Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license. "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. No person shall be issued a license until he or she has passed a test of his or her 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.

(Amended by Stats. 2007, Ch. 285, Sec. 75. Effective January 1, 2008.)

- **Section 4009.5** The commission may adopt such regulations as it determines to be necessary to regulate the taking and sale of fur-bearing mammals or nongame mammals taken under a trapping license. *(Added by Stats. 1974, Ch. 939.)*
- **Section 4010.** The provisions of this chapter do not apply to, or prohibit the propagation of, fur-bearing mammals which are confined in accordance with the regulations of the commission. *(Enacted by Stats. 1957, Ch. 456.)*
- **Section 4012.** It is unlawful to take any red fox for profitmaking purposes. *(Amended by Stats. 2007, Ch. 285, Sec. 76. Effective January 1, 2008.)*

- **ARTICLE 2 FUR DEALERS**

- **Section 4030.** Every 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 is a fur dealer and shall procure a fur dealer license. No fur dealer license shall be required of a licensed trapper selling raw furs which he has lawfully taken, or a domesticated game breeder selling raw furs of animals which he has raised. *(Added by Stats. 1979, Ch. 701.)*
- **Section 4031.** A revocable fur dealer license shall be issued to any person upon payment of a base fee of seventy dollars (\$70), as adjusted under Section 713. *(Amended by Stats. 1986, Ch. 1368, Sec. 17.)*
- **Section 4032.** Any person who is employed by a licensed fur dealer to engage in the business of buying, selling, trading, or dealing in raw furs only on behalf of the fur dealer and not on his own behalf is a fur agent and shall procure a fur agent license. *(Added by Stats. 1979, Ch. 701.)*
- **Section 4033.** A revocable fur agent license shall be issued to any person who is employed by a licensed fur dealer upon payment of a base fee of thirty-five dollars (\$35), as adjusted under Section 713. *(Amended by Stats. 1986, Ch. 1368, Sec. 18.)*
- **Section 4034.** A fur dealer license authorizes the person to whom it is issued to buy, sell, barter, exchange, or possess raw furs or parts thereof of fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of such term, for the remainder thereof. *(Added by Stats. 1979, Ch. 701.)*
- **Section 4036.** It shall be unlawful for any fur dealer to purchase the raw fur of any fur-bearing mammal or nongame mammal from any person who does not hold a valid trapping license, fur dealer license, or fur agent license. *(Added by Stats. 1979, Ch. 701.)*
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