

FISH AND GAME CODE - FGC

DIVISION 4. BIRDS AND MAMMALS [3000 - 4904]

(Division 4 enacted by Stats. 1957, Ch. 456.)

PART 3. MAMMALS [3950 - 4904]

(Part 3 enacted by Stats. 1957, Ch. 456.)

CHAPTER 1. Game Mammals [3950 - 3961]

(Chapter 1 added by Stats. 1957, Ch. 1972.)

3950.

(a) Game mammals are: deer (genus *Odocoileus*), elk (genus *Cervus*), prong-horned antelope (genus *Antilocapra*), wild pigs, including feral pigs and European wild boars (genus *Sus*), black and brown or cinnamon bears (genus *Euarctos*), mountain lions (genus *Felis*), jackrabbits and varying hares (genus *Lepus*), cottontails, brush rabbits, pigmy rabbits (genus *Sylvilagus*), and tree squirrels (genus *Sciurus* and *Tamiasciurus*).

(b) Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) are game mammals only for the purposes of sport hunting described in subdivision (b) of Section 4902.

(Amended (as amended by Stats. 1991, Ch. 998, Sec. 1) by Stats. 1992, Ch. 1370, Sec. 8. Effective October 27, 1992.)

3950.1.

(a) Notwithstanding Section 3950 or any other provision of this code, the mountain lion (genus *Felis*) shall not be listed as, or considered to be, a game mammal by the department or the commission.

(b) Section 219 does not apply to this section. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes this section.

(Added June 5, 1990, by initiative Proposition 117, Sec. 3.)

3951.

The commission may authorize the taking of tule elk pursuant to Section 332. When relocating tule elk, the department shall relocate the elk in areas suitable to them in the state and shall cooperate to the maximum extent possible with federal and local agencies and private property owners in relocating tule elk in suitable areas under their jurisdiction or ownership. When property or environmental damage occurs, emphasis shall be placed on managing each tule

elk herd at a biologically sound level through the use of relocation, regulated hunting, or other appropriate methods, individually or in combination, as determined by the department in accordance with the statewide elk management plan developed pursuant to Section 3952, after consulting with local landowners. The number of tule elk in the Owens Valley shall not be permitted to increase beyond 490, or any greater number hereafter determined by the department to be the Owens Valley's holding capacity in accordance with game management principles.

(Amended by Stats. 2003, Ch. 291, Sec. 2. Effective January 1, 2004.)

3952.

The department shall develop a statewide elk management plan, consistent with the state's wildlife policy as set forth in Section 1801. The statewide elk management plan shall emphasize maintaining sufficient elk populations in perpetuity, while considering all of the following:

- (a) Characteristics and geographic range of each elk subspecies within the state, including Roosevelt elk, Rocky Mountain elk, and tule elk.
- (b) Habitat conditions and trends within the state.
- (c) Major factors affecting elk within the state, including, but not limited to, conflicts with other land uses.
- (d) Management activities necessary to achieve the goals of the plan and to alleviate property damage.
- (e) Identification of high priority areas for elk management.
- (f) Methods for determining population viability and the minimum population level needed to sustain local herds.
- (g) Description of the necessary contents for individual herd management plans prepared for high priority areas.

(Added by Stats. 2003, Ch. 291, Sec. 3. Effective January 1, 2004.)

3953.

(a) The Big Game Management Account is hereby established within the Fish and Game Preservation Fund.

(b) Except as provided in Section 709, all revenues from the sale of antelope, elk, deer, wild pig, bear, and sheep tags, including any fundraising tags, shall be deposited in the Big Game Management Account to permit separate accountability for the receipt and expenditure of these funds. Within 30 days of the date of the sale, the selling nonprofit organization shall send the department 95 percent of the total auction sale price of the tag, with an itemized receipt

showing the sale price and the 5-percent reduction retained by the nonprofit organization as a vendor's fee.

(c) Funds deposited in the Big Game Management Account shall be available for expenditure upon appropriation by the Legislature to the department. These funds shall be expended solely for the purposes set forth in this section and Sections 3951 and 3952, and Chapter 5 (commencing with Section 450) of Division 1, Chapter 7 (commencing with Section 4650), and Chapter 11 (commencing with Section 4900), including acquiring land, completing projects, and implementing programs to benefit antelope, elk, deer, wild pigs, bear, and sheep, and expanding public hunting opportunities and related public outreach. Any land acquired with funds from the Big Game Management Account shall be acquired in fee title or protected with a conservation easement and, to the extent possible, be open or provide access to the public for antelope, elk, deer, wild pig, bear, or sheep hunting. The department may also use funds from the Big Game Management Account to pay for administrative and enforcement costs of the programs and activities described in this section. The amount allocated from the account for administrative costs shall be limited to the reasonable costs associated with administration of the programs and activities described in this section.

(d) The department may make grants to, reimburse, or enter into contracts or other agreements, as defined in subdivision (a) of Section 1571, with nonprofit organizations for the use of the funds from the Big Game Management Account to carry out the purposes of this section, including related habitat conservation projects.

(e) An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of big game species and primarily represent the interests of persons licensed pursuant to Section 3031 shall review and provide comments to the department on all proposed projects funded from the Big Game Management Account to help ensure that the requirements of this section have been met. The department shall post budget information and a brief description on an Internet Web site for all projects funded from the Big Game Management Account.

(f) Big game projects authorized pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(g) The department shall maintain the internal accountability necessary to ensure compliance with the collection, deposit, and expenditure of funds specified in this section.

(Amended by Stats. 2014, Ch. 467, Sec. 3. Effective January 1, 2015.)

3960.

(a) As used in this section:

(1) "Pursue" means pursue, run, or chase.

(2) "Bear" means any black bear (*Ursus americanus*) found in the wild in this state.

(b) It is unlawful to permit or allow any dog to pursue any big game mammal during the closed season on that mammal, to pursue any fully protected, rare, or endangered mammal at any time, to pursue any bear or bobcat at any time, or to pursue any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(c) (1) The department may take any of the following actions:

(A) Capture any dog not under the reasonable control of its owner or handler, when that uncontrolled dog is pursuing, in violation of this section, any big game mammal, any bear or bobcat, or any fully protected, rare, or endangered mammal.

(B) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any big game mammal during the closed season on that mammal, and the department may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury on any bear or bobcat at any time, or any fully protected, rare, or endangered mammal at any time.

(C) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(2) No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section.

(3) This section does not apply to the use of dogs to pursue bears or bobcats by federal, state, or local law enforcement officers, or their agents or employees, when carrying out official duties as required by law.

(4) Owners of dogs with identification, that have been captured or dispatched, shall be notified within 72 hours after capture or dispatch.

(Amended by Stats. 2012, Ch. 595, Sec. 2. Effective January 1, 2013.)

3960.2.

(a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, not more than three dogs may be used to pursue bears or bobcats pursuant to a depredation permit issued by the department, if all of the following conditions are met:

(1) The applicant demonstrates, in writing, that nonlethal and avoidance measures were undertaken prior to requesting the depredation permit.

- (2) The applicant demonstrates, in writing, the specific need for the use of dogs in carrying out the depredation permit.
 - (3) The depredation permit authorizing the use of dogs is valid for the take of one bear or one bobcat.
 - (4) The depredation permit authorizing the use of dogs is valid for a period not to exceed 20 consecutive days.
 - (5) The depredation permit specifies the name and address of any dog handler who will be utilized in the pursuit or taking.
 - (6) The dog handler has the depredation permit in his or her possession at all times during the pursuit or taking.
 - (7) The dog handler does not pursue a bear or bobcat more than one mile off the property on which the depredation activity occurred.
- (c) After any taking of a bear, the applicant is required to submit the skull to the department as described in the department's Black Bear Management Plan. No part of any bear taken pursuant to a depredation permit may be sold, purchased, or possessed for sale, as described in Section 4758.
 - (d) No holder of a depredation permit may solicit or receive compensation from any person in exchange for carrying out the terms of the permit. For these purposes, "compensation" means remuneration paid in money, property, or anything else of value.
 - (e) The holder of a depredation permit, within 30 days of its issuance, shall report to the department detailing the use of the permit and the results of any pursuits, including information about bear or bobcat pursued and whether the bear or bobcat was or was not harmed, but not killed.

(Added by Stats. 2012, Ch. 595, Sec. 3. Effective January 1, 2013.)

3960.4.

- (a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.
- (b) Notwithstanding Section 3960, the department may authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to use dogs to pursue bears or bobcats for the purpose of scientific research, provided that the research project is designed to do all of the following:
 - (1) Contribute to knowledge of natural wildlife ecosystems.
 - (2) Follow best practices and minimize disruptions in the lives and movements of bears, bobcats, and other wildlife, as well as impacts to the habitat while maintaining the applicant's objectives.
 - (3) Directly or indirectly support the sustainability and survival of bear or bobcat populations and healthy ecosystems.
 - (4) Not include the intentional injury or killing of any bear or bobcat.

(5) Not include the intentional relocation of any bear or bobcat other than to areas suitable to them in the state. Any relocation shall comply with the requirements of Section 4190.

(c) Any research project authorized pursuant to subdivision (b) shall be undertaken pursuant to a memorandum of understanding between the department and the authorized research entity that addresses all of the following:

(1) Trapping and anesthetizing of the animals pursued, collection of diagnostic samples, attaching or surgically implanting monitoring or recognition devices or markings, and providing veterinary care or euthanasia, as required, for the health, safety, and humane treatment of the animals.

(2) Qualifications of onsite field supervisors necessary for carrying out authorized research procedures.

(3) Immediate reporting of any incidental mortality or injury to a bear or bobcat as a result of authorized research activities. Reports of any incidental mortality or injury to a bear or bobcat shall be made available to the public upon request.

(4) Filing of annual and final progress reports of research involving pursuit by dogs. Annual and final progress reports shall be made available to the public upon request.

(d) The department shall provide notice to the public of any bear or bobcat research project authorized pursuant to subdivision (b) at least 30 days prior to its initiation, and, upon request, shall make available to the public copies of the memorandum of understanding between the department and the authorized research entity required pursuant to subdivision (c).

(Added by Stats. 2012, Ch. 595, Sec. 4. Effective January 1, 2013.)

3960.6.

(a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, the pursuit of bears or bobcats by dogs that are guarding or protecting livestock or crops on property owned, leased, or rented by the owner of the dogs, is not prohibited if the dogs are maintained with, and remain in reasonable proximity to, the livestock or crops being guarded or protected.

(Added by Stats. 2012, Ch. 595, Sec. 5. Effective January 1, 2013.)

3961.

Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or

immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or his or her employee, may seize or dispatch the dog if it is found on his or her land or premises without the permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has, previously threatened any of these species.

No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched pursuant to this article.

The owner of a dog shall be notified within 72 hours of the seizure or dispatching of that dog under this section if it had the identification tag or license tag which is required pursuant to Section 30951 of the Food and Agricultural Code.

(Added by Stats. 1981, Ch. 1072, Sec. 1.)