

**Senate Bill No. 1221**

CHAPTER 595

An act to amend Section 3960 of, to add Sections 3032, 3960.2, 3960.4, and 3960.6 to, and to repeal Section 4756 of, the Fish and Game Code, relating to mammals.

[ Approved by Governor September 26, 2012. Filed Secretary of State September 26, 2012. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1221, Lieu. Mammals: use of dogs to pursue bears and bobcats.

Existing law makes it unlawful to permit or allow a dog to pursue any big game mammal, as defined, during the closed season, or any fully protected, rare, or endangered mammal at any time. Existing law authorizes employees of the Department of Fish and Game to capture any dog not under the reasonable control of its owner or handler, that is in violation of that provision, or that is inflicting, or immediately threatening to inflict, injury in violation of this provision. Existing law generally prohibits a person from using dogs to hunt, pursue, or molest bears,, but allows the use of one dog per hunter for the hunting of bears during open deer season, and the use of more than one dog per hunter during the open bear season except during the period when archery deer seasons or regular deer seasons are open. Under existing law, except as excluded, violations of the Fish and Game Code are misdemeanors.

This bill, except as specified, would generally make it unlawful to permit or allow a dog to pursue a bear, as defined, or bobcat at any time. The bill would exempt from that prohibition the use of dogs by federal, state, or local law enforcement officers, or their agents or employees, when carrying out official duties as required by law.

The bill would eliminate existing provisions allowing for the use of dogs to hunt bears, and would, instead, authorize the use of not more than 3 dogs to pursue bears or bobcats pursuant to a depredation permit issued by the department. The bill would authorize the department to authorize specified entities to use dogs to pursue bears or bobcats for the purpose of scientific research, under certain conditions. The bill would also authorize 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, if the dogs are maintained with, and remain in reasonable proximity to, the livestock or crops being guarded or protected. The bill would authorize the Fish and Game Commission to establish a hound tag program, imposing prescribed requirements on the licensure and use of hounds, as defined, to pursue mammals.

By changing the definition of a 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.

**Digest Key**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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**Bill Text**

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

**SECTION 1.**

Section 3032 is added to the Fish and Game Code, to read:

**3032.**

(a) As used in this section:

(1) "Bear" and "pursue" have the same meanings as defined in Section 3960.

(2) "Hound" means a dog used to pursue mammals.

(b) The commission may establish a hound tag program.

(c) If a hound tag program is established, the commission may require all of the following:

(1) That each hound be issued a license tag bearing a unique identifying number that is to be worn at all times by the hound while pursuing mammals.

(2) That all relevant local and state laws pertaining to dogs are being followed while the hound is being used to pursue mammals.

(3) That each hound be microchipped with an implanted transponder that has a unique identification code.

(4) That the owner maintain documentation showing that the hound is current on all required vaccinations and treatments for the prevention of rabies and any other disease specified by the department.

(5) That the owner report, within 24 hours of its last sighting, any hound that is lost during hunting, pursuing, or tracking activities.

(6) That the hound's tag identification number be recorded on the hunting tag of any animal taken using the services of the hound.

(d) If a hound tag program is established, the commission may adjust the amount of the fees for the hound tag as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to the program.

**SEC. 2.**

Section 3960 of the Fish and Game Code is amended to read:

**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.

**SEC. 3.**

Section 3960.2 is added to the Fish and Game Code, to read:

**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.

**SEC. 4.**

Section 3960.4 is added to the Fish and Game Code, to read:

**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).

**SEC. 5.**

Section 3960.6 is added to the Fish and Game Code, to read:

**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.

**SEC. 6.**

Section 4756 of the Fish and Game Code is repealed.

**SEC. 7.**

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.