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AB-44 Fur products: prohibition. (2019-2020)

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Date Published: 10/14/2019 09:00 PM

Assembly Bill No. 44

CHAPTER 764

An act to amend, repeal, and add Section 3039 of, and to add Section 2023 to, the Fish and Game Code, relating to fur products.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 44, Friedman. Fur products: prohibition.

Existing federal law requires that fur products be labeled with the names of any animals used, the manufacturer, the country of origin, and other specified information.

Existing state law makes it unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of specified species of animals.

Existing state 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 procure a trapping license from the Department of Fish and Wildlife. Existing law provides that products or handicraft items made from fur-bearing mammals and nongame mammals lawfully taken under the authority of a trapping license may be purchased or sold at any time. Existing law authorizes the commission to adopt regulations regarding the taking and sale of mammals taken under a trapping license. Under existing law, the provisions governing trapping in the Fish and Game Code do not apply to, or prohibit the propagation of, fur-bearing mammals that are confined in accordance with regulations of the commission. Existing law generally makes violations of provisions relating to fish and wildlife a crime.

This bill would make it unlawful to sell, offer for sale, display for sale, trade, or otherwise distribute for monetary or nonmonetary consideration a fur product, as defined, in the state. The bill would also make it unlawful to manufacture a fur product in the state for sale. The bill would exempt from these prohibitions used fur products, as defined, fur products used for specified purposes, and any activity expressly authorized by federal law. The bill would require a person that sells or trades any fur product exempt from this prohibition to maintain records of each sale or trade of an exempt fur product for at least one year, except as provided. The bill would provide that a person who violates these prohibitions may be subject to specified civil penalties. The bill would, in lieu of seeking criminal prosecution, authorize the department, the Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of one of these prohibitions occurs to bring a civil action to recover the civil penalty. The bill would require the civil penalty to be deposited in the Fish and Game Preservation Fund and to be used exclusively for specified purposes, including for the enforcement of these provisions. The bill would also authorize the recovery of the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness' fees, which would be required to be credited to the same operating funds as that from which the expenditures for those purposes were derived. The bill would provide that these provisions are severable.

The bill would make a conforming change.

The bill would make these provisions operative on January 1, 2023.

This bill would incorporate additional changes to Section 3039 of the Fish and Game Code proposed by AB 273 to be operative only if this bill and AB 273 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2023 is added to the Fish and Game Code, to read:

2023. (a) For purposes of this section, the following definitions apply:

(1) "Fur" means any animal skin or part thereof with hair, fleece, or fur fibers attached thereto, either in its raw or processed state.

(2) (A) "Fur product" means any article of clothing or covering for any part of the body, or any fashion accessory, including, but not limited to, handbags, shoes, slippers, hats, earmuffs, scarves, shawls, gloves, jewelry, keychains, toys or trinkets, and home accessories and decor, that is made in whole or in part of fur.

(B) "Fur product" does not include any of the following:

(i) A dog or cat fur product, as defined in Section 1308 of Title 19 of the United States Code, as that section read on January 1, 2020.

(ii) An animal skin or part thereof that is to be converted into leather, which in processing will have the hair, fleece, or fur fiber completely removed.

(iii) Cowhide with hair attached thereto.

(iv) Deerskin, sheepskin, or goatskin with hair attached thereto.

(v) The pelt or skin of an animal that is preserved through taxidermy.

(vi) A product made pursuant to Section 3087 or 4303.

(3) "Taxidermy" means the practice of preparing, stuffing, and mounting the skin, in lifelike form, of any fish, reptile, amphibian, bird, or mammal.

(4) "Ultimate consumer" means a person who buys for their own use, or for the use of another, but not for resale or trade.

(5) "Used fur product" means fur in any form that has been worn or used by an ultimate consumer.

(b) (1) It is unlawful to sell, offer for sale, display for sale, trade, or otherwise distribute for monetary or nonmonetary consideration a fur product in the state.

(2) It is unlawful to manufacture a fur product in the state for sale.

(c) The prohibitions set forth in subdivision (b) do not apply to any of the following:

(1) A used fur product.

(2) A fur product used for religious purposes.

(3) A fur product used for traditional tribal, cultural, or spiritual purposes by a member of a federally recognized Native American tribe or a nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission.

(4) Any activity expressly authorized by federal law.

(d) A person who sells or trades any used fur product or fur product described in subdivision (c) shall maintain a record of each sale or trade of one of those exempt fur products for at least one year. A person who reports the receipt or purchase of a used fur product or fur product described in subdivision (c) pursuant to Section 21628 of the Business and Professions Code shall be deemed to satisfy this subdivision. A violation of this subdivision is not subject to a criminal or civil penalty.

(e) (1) A person who violates subdivision (b) may be subject to the following civil penalties:

(A) For the first violation and for a violation that does not meet the requirements of subparagraph (B) or (C), a civil penalty of up to five hundred dollars (\$500).

(B) For a violation that occurred within one year of a previous violation, a civil penalty of up to seven hundred fifty dollars (\$750).

(C) For a violation that occurred within one year of a second or subsequent violation, a civil penalty of up to one thousand dollars (\$1,000).

(2) Each fur product that constitutes a violation of subdivision (b) shall be treated as a separate violation in a civil action brought pursuant to this section.

(f) (1) In lieu of seeking prosecution of a violation of subdivision (b) as a misdemeanor, the department, the Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of subdivision (b) occurs, may bring a civil action to recover the civil penalty 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 13001 and used exclusively for the purposes described in Section 1771 and for the enforcement of this section.

(2) In an action brought under this section, in addition to the penalty specified in subdivision (e), the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness' fees may also be recovered and those amounts shall be credited to the same operating funds as those from which the expenditures for those purposes were derived.

(g) This section shall become operative on January 1, 2023.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. 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) 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.

(c) 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.

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

(e) 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.

(f) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 2.5. 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.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 3. Section 3039 is added to the Fish and Game Code, to read:

3039. (a) Except as otherwise provided in this section, Section 2023, 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.

(e) This section shall become operative on January 1, 2023.

SEC. 3.5. Section 3039 is added to the Fish and Game Code, to read:

3039. (a) Except as otherwise provided in this section, Section 2023, 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.

(e) This section shall become operative on January 1, 2023.

SEC. 4. Sections 2.5 and 3.5 of this bill incorporate amendments to Section 3039 of the Fish and Game Code proposed by both this bill and Assembly Bill 273. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 3039 of the Fish and Game Code, and (3) this bill is enacted after Assembly Bill 273, in which case Sections 2 and 3 of this bill shall not become operative.