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AB-697 Protected species: authorized take: State Route 37 project. (2025-2026)

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Assembly Bill No. 697

CHAPTER 438

An act to amend Sections 3511 and 4700 of, and to add Section 2081.13 to, the Fish and Game Code, relating to protected species.

[Approved by Governor October 07, 2025. Filed with Secretary of State October 07, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 697, Wilson. Protected species: authorized take: State Route 37 project.

Existing law, the California Endangered Species Act, prohibits the taking of an endangered or threatened species, except in certain situations, including, if specified conditions are met, under a permit issued by the Department of Fish and Wildlife commonly known as an incidental take permit. Existing law also enumerates fully protected species and prohibits the take of fully protected species, except under limited circumstances.

This bill would permit the department to authorize, under the California Endangered Species Act, the incidental take of specified fully protected species resulting from impacts attributable to a specified project on State Route 37, if certain conditions are met, including, among others, the conditions required for the issuance of an incidental take permit.

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

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

SECTION 1. Section 2081.13 is added to the Fish and Game Code, to read:

2081.13. (a) Notwithstanding Sections 3511 and 4700, the department may authorize, under this chapter, the incidental take of the salt-marsh harvest mouse (*Reithrodontomys raviventris*), the California Ridgway's rail (*Rallus obsoletus obsoletus*), the California black rail (*Laterallus jamaicensis coturniculus*), and the white-tailed kite (*Elanus leucurus*) resulting from impacts attributable to the Sears Point to Mare Island Improvement Project on State Route 37 from east of Lakeville Highway near State Route 121 in the County of Sonoma to west of Sacramento Street in the County of Solano through the Counties of Sonoma, Napa, and Solano, if all of the following conditions are satisfied:

- (1) The requirements of subdivisions (b) and (c) of Section 2081 are satisfied as to the species for which take is authorized.
- (2) The department ensures that all further measures necessary to satisfy the conservation standard of subdivision (d) of Section 2805 are incorporated into each project and take is avoided to the maximum extent possible as to the species for which take is authorized.

(3) The take authorization provides for development and implementation of a monitoring program and an adaptive management plan, both of which shall be approved by the department, that satisfy the conservation standard of subdivision (d) of Section 2805 for monitoring the effectiveness of, and amending, as necessary, the measures to minimize and fully mitigate the impacts of the authorized take.

(4) The applicant pays a permit application fee consistent with Section 2081.2.

(b) A permit issued pursuant to subdivision (a) shall cover any incidental take of a species for which take is authorized that may occur in the course of implementing mitigation or conservation actions required in the permit.

(c) The permit conditions are subject to amendment when required by the monitoring program and adaptive management plan adopted pursuant to paragraph (3) of subdivision (a).

(d) This section shall not be construed to exempt the project described in subdivision (a) from any other law.

SEC. 2. Section 3511 of the Fish and Game Code is amended to read:

3511. (a) (1) Except as provided in this section or Section 2081.7, 2081.13, 2081.15, or 2835, a fully protected bird may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected bird, and no permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of a fully protected bird for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of a fully protected bird pursuant to a permit for the protection of livestock. Before authorizing the take of a fully protected bird, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of that person's interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected bird may be possessed under a permit issued by the department.

(b) The following are fully protected birds:

- (1) California black rail (*Laterallus jamaicensis coturniculus*).
- (2) California Ridgway's rail (*Rallus obsoletus obsoletus*).
- (3) California condor (*Gymnogyps californianus*).
- (4) California least tern (*Sterna albifrons browni*).
- (5) Golden eagle.
- (6) Greater sandhill crane (*Grus canadensis tabida*).
- (7) Light-footed clapper rail (*Rallus longirostris levipes*).
- (8) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).
- (9) Trumpeter swan (*Cygnus buccinator*).
- (10) White-tailed kite (*Elanus leucurus*).
- (11) Yuma clapper rail (*Rallus longirostris yumanensis*).

SEC. 3. Section 4700 of the Fish and Game Code is amended to read:

4700. (a) (1) Except as provided in this section or Section 2081.7, 2081.13, 2081.15, or 2835, a fully protected mammal may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected mammal, and no permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of a fully protected mammal for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected

mammal, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of that person's interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected mammal may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

(2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (*Mirounga angustirostris*).

(4) Guadalupe fur seal (*Arctocephalus townsendi*).

(5) Ring-tailed cat (genus *Bassariscus*).

(6) Pacific right whale (*Eubalaena sieboldi*).

(7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

(8) Southern sea otter (*Enhydra lutris nereis*).

(9) Wolverine (*Gulo luscus*).