

AMENDED IN SENATE MAY 4, 2021  
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**SENATE BILL**

**No. 376**

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**Introduced by Senator Stern**

February 10, 2021

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An act to amend Sections ~~2119~~, 2120, 2150, 2150.2, and 2271 of, and to add Sections 391.5 and 2273 to, the Fish and Game Code, and to amend Section 597.3 of the Penal Code, relating to wildlife.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as amended, Stern. Wildlife: prohibitions on possession, transportation, and importation of wild animals: live animal markets.

(1) Existing law authorizes the Department of Fish and Wildlife to exchange or release to any appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by the department under any provision of the Fish and Game Code or any regulation adopted pursuant to this code.

This bill would require the Director of Fish and Wildlife, or a designated representative, to coordinate with and cooperate on wildlife trafficking with authorized representatives of the States of Oregon, Washington, and any other state. The bill would provide that these efforts shall include, but are not limited to, notification of wildlife trafficking violations observed in this state, and any potential emerging zoonotic disease risk associated with wildlife.

~~(2) Existing law prohibits the importation, transportation, possession, or live release of listed wild animals, except under a revocable, nontransferable permit. Existing law permits the Fish and Game Commission, by regulation, and in cooperation with the Department of~~

Food and Agriculture, to add or delete wild animals from the listed wild animals that are in addition to those listed by statute. Existing law requires the Department of Fish and Wildlife to publish, from time to time as changes arise, a list of animals that may not be imported or transported into this state. Under existing law, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under this code, is a crime.

This bill would delete the requirement for the department to publish the list and would instead require the department, no later than December 31, 2022, to establish a list of wild animals that may not be possessed or transported within this state, or imported into this state. The bill would require the department to add and delete wild animals from this list in accordance with specified criteria. Because a violation of this provision would be a crime, the bill would impose a state-mandated local program.

(3)

(2) Existing law requires the Fish and Game Commission, in cooperation with the Department of Food and Agriculture, to adopt regulations governing both (A) the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals that will be or that have been imported into this state, and (B) the possession of all other wild animals. Existing law requires the regulations to be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the existence at large of these wild animals, and to provide for the welfare of wild animals and the safety of the public.

This bill would require the Department of Fish and Wildlife to immediately suspend any authorization to import a wild animal species into the state when the Director of Fish and Wildlife makes a written finding that the scientific evidence *using credible science* suggests zoonotic transmission from this species, or a closely related species within the same family, could be responsible for a novel, or not previously reported, readily transmissible human disease in order to protect the public health and safety, native wildlife, and agricultural interests of this state. The bill would prohibit the department from authorizing the importation of any individual animals of a wild animal species that could be responsible for zoonotic transmission of a readily transmissible human disease until a protocol for robust testing, effective treatment, or quarantine, as provided, is implemented to ensure that all individual animals subject to an authorization are not carriers.

(4)

(3) Existing law exempts any university, college, governmental research agency, or other bona fide scientific institution, as specified, engaging in scientific or public health research from any permit requirement for the importation, transportation, and sheltering of restricted live wild animals except for animals whose importation, transportation, or possession is determined by the Department of Fish and Wildlife, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety.

This bill would authorize the department to issue a restricted species permit for a live wild animal prohibited from importation or transportation into the state on a case-by-case basis to a university, college, governmental research agency, or other bona fide scientific institution conducting bona fide medical or scientific research, as determined by the department, that cannot otherwise be conducted without the live wild animal. The bill would require, for a live wild animal that could be responsible for zoonotic transmission of a readily transmissible human disease, as provided, the department to require the applicant to demonstrate biosafety equipment and protocols necessary to safely handle that live wild animal.

(5)

(4) Existing law requires the Department of Fish and Wildlife to establish fees for permits, permit applications, and facility inspections in amounts sufficient to cover the costs of administering, implementing, and enforcing provisions of law governing the importation, transportation, and sheltering of restricted live wild animals.

This bill would require the department, at least once every 5 years, to analyze and, as necessary, adjust those fees to meet the requirements of this provision.

(6)

(5) Existing law prohibits the importation of a live aquatic plant or animal into this state without the prior written approval of the Department of Fish and Wildlife pursuant to regulations adopted by the Fish and Game Commission, except as specified.

This bill would require the department to adjust the amount of the fees adopted by the commission for importation permits for a live aquatic plant or animal, as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to these permits.

(7)

(6) Existing law prohibits a person who operates a live animal market from engaging in specified practices, including confining or displaying an animal in a manner that is likely to result in injury. Existing law defines a “live animal market” as a retail food market where frogs, turtles, and birds other than poultry are stored alive and sold to consumers for purposes of human consumption. Existing law imposes specified warnings and fines for a violation of these provisions.

This bill would prohibit a person who operates a live animal market from storing or selling an animal that is a known or likely invasive species or that is of a taxa known or likely to be responsible for zoonotic transmission of a disease, as determined by the Fish and Game Commission. The bill would require the commission to adopt regulations governing the storing and sale of animals for live animal markets. By creating a new crime, this bill would impose a state-mandated local program.

~~The bill instead would require a violation of these provisions to be an infraction with a specified fine and would extend the statute of limitations for the prosecution of a violation of these prohibitions relating to live animal markets from one to 3 years: a fine to be paid after a subsequent violation of the above provisions without exceptions, and would specify how the fine is apportioned.~~

(8)

(7) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Infectious diseases cause about one-quarter of human deaths.
- 4 Of these deaths, almost 60 percent are from zoonotic diseases and
- 5 over 70 percent of these zoonoses are from wildlife. Trade of
- 6 wildlife has led to novel zoonotic pathogens that threaten human
- 7 and animal health, food security and production, and biological

1 diversity with implications for economic stability. Experts,  
2 including from the World Health Organization, agree that future  
3 human pandemics will likely be caused by wildlife and be zoonotic  
4 in nature. In the last 40 years, the worst pandemics were all  
5 zoonotic or vector in origin, including the human  
6 immunodeficiency virus (HIV), severe acute respiratory syndrome  
7 (SARS), avian influenza, swine influenza, Ebola virus, and Zika  
8 virus. The three epidemic and pandemic level coronavirus  
9 outbreaks in the last two decades (SARS, Middle East Respiratory  
10 Syndrome (MERS), and COVID-19) were likely caused by  
11 transmission between two animal species followed by transmission  
12 to humans with cases initially spreading due to multiple species  
13 in close contact with each other and humans simultaneously.

14 (b) The COVID-19 pandemic has already resulted in the deaths  
15 of over 500,000 Americans and hundreds of thousands more  
16 worldwide with severe economic repercussions for the state, the  
17 country, and the world.

18 (c) Ensuring the state is prepared to rapidly respond to potential  
19 carrier species imports will provide additional protection to viral  
20 spread.

21 ~~(d) Wildlife are usually possessed in the state under the authority  
22 of a permit issued by the Department of Fish and Wildlife, among  
23 others. While that permit may include some form of health  
24 certification, it is unclear that the current processes in practice  
25 incorporate or identify all likely diseases that represent risks to  
26 humans and wildlife. Existing law provides that diseased wild  
27 animals may be destroyed, quarantined, or otherwise treated. The  
28 Veterinary Public Health Section of the State Department of Public  
29 Health also issues permits for certain species of wildlife imported  
30 into the state.~~

31 (e)

32 (d) The COVID-19 pandemic highlights the need to review  
33 existing practices to ensure that wildlife imported into ~~or possessed~~  
34 ~~in~~ the state do not present a risk of disease to humans or wildlife.  
35 Coordination and cooperation with other states, and, as appropriate,  
36 their wildlife and public health agencies, can also help to reduce  
37 this risk.

38 SEC. 2. Section 391.5 is added to the Fish and Game Code, to  
39 read:

1 391.5. The director, or a designated representative, shall  
2 coordinate with and cooperate on wildlife trafficking with  
3 authorized representatives of the States of Oregon, Washington,  
4 and any other state. These efforts shall include, but are not limited  
5 to, notification of wildlife trafficking violations observed in this  
6 state, and any potential emerging zoonotic disease risk associated  
7 with wildlife.

8 ~~SEC. 3.— Section 2119 of the Fish and Game Code is amended~~  
9 ~~to read:~~

10 ~~2119. (a) (1) The department shall establish a list, no later~~  
11 ~~than December 31, 2022, of wild animals that may not be possessed~~  
12 ~~or transported within this state, or imported into this state.~~

13 ~~(2) The department shall add a wild animal to this list if it~~  
14 ~~determines that prohibiting the possession, importation, or~~  
15 ~~transportation of the wild animal is necessary to protect public~~  
16 ~~health and safety, native wildlife, or agricultural interests of the~~  
17 ~~state.~~

18 ~~(3) The department shall remove a wild animal from this list if~~  
19 ~~it determines that prohibiting the possession, importation, or~~  
20 ~~transportation of the wild animal is not necessary to protect public~~  
21 ~~health and safety, native wildlife, or agricultural interests of the~~  
22 ~~state.~~

23 ~~(b) The department may establish the list required by subdivision~~  
24 ~~(a) and any subsequent revision to the list as an emergency~~  
25 ~~regulation. An emergency regulation adopted pursuant to this~~  
26 ~~section shall be adopted by the department in accordance with~~  
27 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~  
28 ~~3 of Title 2 of the Government Code. The initial adoption of the~~  
29 ~~list, and any subsequent required addition of species under the~~  
30 ~~regulation, is an emergency and shall be considered by the Office~~  
31 ~~of Administrative Law as necessary for the immediate preservation~~  
32 ~~of the public peace, health and safety, and general welfare.~~  
33 ~~Notwithstanding Chapter 3.5 (commencing with Section 11340)~~  
34 ~~of Part 1 of Division 3 of Title 2 of the Government Code, an~~  
35 ~~emergency regulation adopted pursuant to this section by the~~  
36 ~~department shall stay in effect until revised by the department.~~

37 ~~SEC. 4.~~

38 ~~SEC. 3. Section 2120 of the Fish and Game Code is amended~~  
39 ~~to read:~~

1 2120. (a) The commission, in cooperation with the Department  
2 of Food and Agriculture, shall adopt regulations governing both  
3 (1) the entry, importation, possession, transportation, keeping,  
4 confinement, or release of any and all wild animals that will be or  
5 that have been imported into this state pursuant to this chapter,  
6 and (2) the possession of all other wild animals. The regulations  
7 shall be designed to prevent damage to the native wildlife or  
8 agricultural interests of this state resulting from the existence at  
9 large of these wild animals, and to provide for the welfare of wild  
10 animals and the health and safety of the public.

11 (b) The regulations shall also include criteria for all of the  
12 following:

13 (1) The receiving, processing, and issuing of a permit and  
14 conducting inspections.

15 (2) Contracting out inspection activities.

16 (3) Responding to public reports and complaints.

17 (4) The notification of the revocation, termination, or denial of  
18 permits, and related appeals.

19 (5) The method by which the department determines that the  
20 breeding of wild animals pursuant to a single event breeding permit  
21 for exhibitor or a breeding permit is necessary and will not result  
22 in unneeded or uncared for animals, and the means by which the  
23 criteria will be implemented and enforced.

24 (6) How a responding agency will respond to an escape of a  
25 wild animal. This shall include, but not be limited to, the  
26 establishment of guidelines for the safe recapture of the wild animal  
27 and procedures outlining when lethal force would be used to  
28 recapture the wild animal.

29 (c) (1) In order to protect public health and safety, native  
30 wildlife, or agricultural interests of this state, the department shall  
31 immediately suspend any existing authorization and not issue any  
32 new authorization to import a wild animal species into the state  
33 when the director makes a written finding that the scientific  
34 evidence *using credible science* suggests zoonotic transmission  
35 from this species, or a closely related species within the same  
36 family, could be responsible for a novel, or not previously reported,  
37 readily transmissible human disease.

38 (2) The department may take additional measures pursuant to  
39 its authority under this chapter related to wild animal species  
40 necessary to protect the public health, native wildlife, or

1 agricultural interests of this state from zoonotic transmission of a  
2 readily transmissible human disease.

3 (3) The department shall not authorize importation of any  
4 individual animals of a wild animal species that could be  
5 responsible for zoonotic transmission of a readily transmissible  
6 human disease or transmission of disease to animals until a protocol  
7 for robust testing, effective treatment, or quarantine, as appropriate  
8 and subject to the requirements of paragraph (5), is implemented  
9 to ensure that all individual animals subject to an authorization are  
10 not carriers.

11 (4) The department shall adopt and revise the list required  
12 pursuant to Section 2119, as applicable.

13 (5) In implementing this subdivision, the department shall  
14 consult with the State Department of Public Health, including its  
15 Veterinary Public Health Section, the department's Science  
16 Institute, as applicable, and other experts to ensure that the  
17 implementation is informed by the best available science.  
18 Additionally, the department shall coordinate with the State  
19 Department of Public Health, including its Veterinary Public Health  
20 Section, and other public entities with jurisdiction over wild  
21 animals to minimize duplication of regulatory effort and permitting.

22 (6) This subdivision shall not be interpreted to limit the authority  
23 of the department described in any other law with respect to wild  
24 animal species.

25 ~~SEC. 5.~~

26 *SEC. 4.* Section 2150 of the Fish and Game Code is amended  
27 to read:

28 2150. (a) (1) The department, in cooperation with the  
29 Department of Food and Agriculture, may, upon application, issue  
30 a written permit to import into, possess, or transport within this  
31 state any wild animal enumerated in, or designated pursuant to,  
32 Section 671 of Title 14 of the California Code of Regulations,  
33 upon a determination that the animal is not detrimental or that no  
34 damage or detriment can be caused to agriculture, native wildlife,  
35 the public health or safety, or the welfare of the animal, as a result  
36 of the importation, transportation, or possession.

37 (2) A permit may be issued to any person only upon application  
38 and payment of a nonrefundable application fee in an amount  
39 determined by the department pursuant to Section 2150.2.  
40 Application forms shall be provided by the department and shall



1 be designed to ascertain the applicant’s ability to properly care for  
2 the wild animal or animals the applicant seeks to import, transport,  
3 or possess. Proper care includes providing adequate food, shelter,  
4 and veterinary care, and other requirements the commission may  
5 designate.

6 (b) The commission or the department shall deny a permit and  
7 the commission shall revoke a permit if it finds that a permittee  
8 or applicant has failed to meet, or is unable to meet, the  
9 requirements for importing, transporting, possessing, or confining  
10 any wild animal as established pursuant to Section 2120.

11 (c) A zoo is exempt from any permit requirement pursuant to  
12 this chapter except for animals whose importation, transportation,  
13 or possession is determined by the department, in cooperation with  
14 the Department of Food and Agriculture, to be detrimental or cause  
15 damage to agriculture, native wildlife, or the public health or safety.  
16 For purposes of this section, “zoo” means any organization that is  
17 accredited as meeting the standards and requirements of the  
18 American Zoo and Aquarium Association, now known as the  
19 Association of Zoos and Aquariums (AZA). Any California  
20 organization that is not accredited by the AZA may apply to the  
21 department for a waiver of specified permit requirements of this  
22 chapter. The department may grant or deny the request for a waiver  
23 for justified reasons. Foreign zoos outside this state are not subject  
24 to the permit requirements of this chapter beyond those specific  
25 permit requirements affecting California zoos or organizations  
26 with which they are collaborating. Any organization may appeal  
27 the determination of the department to the commission.

28 (d) An exhibitor licensed by the United States Department of  
29 Agriculture or a dealer who is so licensed who buys any animal  
30 specified in subdivision (c) from a zoo within the state, may sell  
31 or transfer it only to a private individual who has a permit issued  
32 pursuant to this section prior to the receipt of the animal or to a  
33 public or private organization that has a permit issued pursuant to  
34 this section prior to the receipt of the animal. The exhibitor or  
35 dealer who sells or transfers that animal shall pay a fee pursuant  
36 to Section 2150.2 to the department.

37 (e) (1) Any university, college, governmental research agency,  
38 or other bona fide scientific institution, as defined in regulations  
39 adopted by the commission, engaging in scientific or public health  
40 research is exempt from any permit requirement pursuant to this

1 chapter except for animals whose importation, transportation, or  
2 possession is determined by the department, in cooperation with  
3 the Department of Food and Agriculture, to be detrimental or cause  
4 damage to agriculture, native wildlife, or the public health or safety,  
5 or for which paragraph (1), (2), or (3) of subdivision (c) of Section  
6 2120 may apply.

7 (2) The department may issue a restricted species permit for a  
8 live wild animal prohibited pursuant to Section 2119 on a  
9 case-by-case basis to a university, college, governmental research  
10 agency, or other bona fide scientific institution conducting bona  
11 fide medical or scientific research, that cannot otherwise be  
12 conducted without the live wild animal. A restricted species permit  
13 shall be consistent with the terms and conditions of regulations  
14 adopted pursuant to Section 2119. For a live wild animal that could  
15 be responsible for zoonotic transmission of a readily transmissible  
16 human disease, as determined pursuant to paragraph (1), (2), or  
17 (3) of subdivision (c) of Section 2120, the department shall require  
18 the applicant to demonstrate biosafety equipment and protocols  
19 necessary to safely handle that live wild animal.

20 (f) Notwithstanding the provisions of this section, every zoo,  
21 university, college, governmental research agency, or other bona  
22 fide scientific institution shall comply with the requirements of  
23 subdivision (a) of Section 2193 for all animals the zoo, university,  
24 college, governmental research agency, or other bona fide scientific  
25 institution possesses that are enumerated in, or designated pursuant  
26 to, Section 671 of Title 14 of the California Code of Regulations.

27 ~~SEC. 6.~~

28 *SEC. 5.* Section 2150.2 of the Fish and Game Code is amended  
29 to read:

30 2150.2. The department shall establish fees for permits, permit  
31 applications, and facility inspections in amounts sufficient to cover  
32 the costs of administering, implementing, and enforcing this  
33 chapter, and shall, consistent with the requirements of Section 713,  
34 at least once every five years, analyze and, as necessary, adjust  
35 these fees to meet the requirements of this section.

36 ~~SEC. 7.~~

37 *SEC. 6.* Section 2271 of the Fish and Game Code is amended  
38 to read:

39 2271. (a) A live aquatic plant or animal shall not be imported  
40 into this state without the prior written approval of the department

1 pursuant to regulations adopted by the commission. A written  
2 application for the importation, submitted in conformance with  
3 the procedural requirements established by the commission, is  
4 deemed approved where it has not been denied within 60 days.

5 (b) This section does not apply to the following plants or animals  
6 unless the plants or animals are or may be placed in waters of the  
7 state:

8 (1) Mollusks.

9 (2) Crustaceans.

10 (3) Ornamental marine or freshwater plants and animals that  
11 are not used for human consumption or bait purposes and are  
12 maintained in closed systems for personal, pet industry, or hobby  
13 purposes.

14 (c) This section does not apply to any live aquatic plant or  
15 animal imported by a registered aquaculturist.

16 (d) The department shall adjust the amount of the fees adopted  
17 by the commission pursuant to Section 1050 for importation  
18 permits issued pursuant to this section, as necessary, to fully  
19 recover, but not exceed, all reasonable administrative and  
20 implementation costs of the department and the commission  
21 relating to these permits.

22 ~~SEC. 8.~~

23 *SEC. 7.* Section 2273 is added to the Fish and Game Code, to  
24 read:

25 2273. (a) **The commission shall adopt regulations governing**  
26 **the storing and sale of animals for live animal markets**, as defined  
27 in Section 597.3 of the Penal Code.

28 (b) The regulations shall also identify a list of prohibited animals  
29 known or likely to be an invasive species or of a taxa known or  
30 likely to be responsible for zoonotic transmission of a disease.

31 ~~SEC. 9.~~

32 *SEC. 8.* **Section 597.3 of the Penal Code is amended to read:**

33 597.3. (a) Every person who operates a live animal market  
34 shall do all of the following:

35 (1) Provide that no animal will be dismembered, flayed, cut  
36 open, or have its skin, scales, feathers, or shell removed while the  
37 animal is still alive.

38 (2) Provide that no live animals will be confined, held, or  
39 displayed in a manner that results, or is likely to result, in injury,  
40 starvation, dehydration, or suffocation.

1 (3) Provide that no animal be a known or likely invasive species  
2 or of a taxa known or likely to be responsible for zoonotic  
3 transmission of a disease, as determined by the Fish and Game  
4 Commission pursuant to Section 2273 of the Fish and Game Code.

5 (b) As used in this section:

6 (1) “Animal” means frogs, turtles, and birds sold for the purpose  
7 of human consumption, with the exception of poultry.

8 (2) “Live animal market” means a retail food market where, in  
9 the regular course of business, animals are stored alive and sold  
10 to consumers for the purpose of human consumption.

11 (3) “Poultry” has the same meaning as defined in Section 24657  
12 of the Food and Agricultural Code.

13 (c) ~~Any person who fails to comply with any requirement of~~  
14 ~~subdivision (a) shall, for the first violation, be given a written~~  
15 ~~warning in a written language that is understood by the person~~  
16 ~~receiving the warning. A second or subsequent violation of~~  
17 ~~subdivision (a) shall be an infraction, punishable by a fine of not~~  
18 ~~less than two hundred fifty dollars (\$250), nor more than one~~  
19 ~~thousand dollars (\$1,000).~~

20 (d) (1) Moneys collected from a fine imposed pursuant to this  
21 section shall be apportioned pursuant to Section 13003 of the Fish  
22 and Game Code.

23 (2) Moneys equivalent to 50 percent of the revenue deposited  
24 in the Fish and Game Preservation Fund from fines collected  
25 pursuant to this section shall be allocated for the support of the  
26 Special Operations Unit of the Department of Fish and Wildlife  
27 and used for law enforcement purposes.

28 (e) ~~Notwithstanding Section 802, prosecution of an offense~~  
29 ~~punishable under this section shall be commenced within three~~  
30 ~~years after commission of the offense.~~

31 ~~SEC. 10.~~

32 *SEC. 9.* No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

O