

Memorandum 2013-32

**Fish and Game Law: Proposed Division 2, Part 4
(General Licensing Provisions)**

The Commission has provisionally decided to divide the proposed Fish and Wildlife Code along these lines:

- Division 1. General Provisions
- Division 2. Administration
- Division 3. Law Enforcement
- Division 4. Inter-Jurisdictional Compacts
- Division 5. Freshwater Fisheries
- Division 6. Marine Fisheries
- Division 7. Wildlife Management
- Division 8. Nongame and Endangered Species
- Division 9. Planning and Environmental Review
- Division 10. Miscellaneous Provisions

See Minutes (April 2013), p. 11.

Memorandum 2013-13 presented a draft of Parts 1-3 of Division 2. This memorandum presents Part 4 of Division 2: "General License Provisions."

In prior materials in this study, the staff has taken a fairly conservative approach in preparing draft language. For the most part, the language used was drawn verbatim from existing law. However, there are a number of provisions in the attached draft that have been significantly restated to improve their clarity. Where that has been done, "Staff Notes" that follow the restated provisions set out the existing language for comparison.

The attached draft also includes numerous Staff Notes that explain a drafting decision or solicit public comment on specific issues. Staff Notes are intended to be temporary and will not be included in any final recommendation.

Unless otherwise indicated, all statutory references in this memorandum are to the Fish and Game Code or to the "proposed" provisions of the attached draft.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

CONTENT

The provisions in proposed Part 4 address the issuance of licenses generally. Proposed Part 4 does not contain provisions that relate to specific licensing requirements.¹

The provisions in proposed Part 4 are mostly drawn from Article 2 (commencing with Section 1050) of Chapter 3 of Division 2 of the Fish and Game Code.

Some provisions of existing Article 2 were *not* included in proposed Part 4, because they do not address general licensing matters:

- Section 1054.2 (display of license while hunting or fishing).
- Section 1054.5 (general authority to collect fees).
- Section 1065 (promotion of nonprofit conservation organization on department's website).
- Section 1068 (grant to sea urchin diver organization).
- Section 1069 (agreement with Secretary of Food and Agriculture to collect assessment from fish or seafood marketing council or commission).

Finally, the attached draft includes one provision (Section 713) that is not located in Article 2.

ORGANIZATION

Proposed Part 4 is divided into two chapters.

Chapter 1 contains provisions governing the issuance of licenses generally. Those provisions address licensing authority, license issuance procedures and conditions, and license fees.

Chapter 2 contains provisions that authorize and regulate the use of third parties as "license agents." A license agent is a private person or entity (e.g., a sporting good store, sport fishing charter company, hunting guide, etc.) that is authorized to sell licenses directly to the public. The license agent receives a small "handling fee" on each transaction as compensation. The license agent provisions are discussed in more detail below.

1. See, e.g., Section 3007 ("Except as provided in this code or regulations adopted pursuant thereto, every person who takes any bird or mammal shall procure a license or entitlement therefor.")

LICENSE AGENTS

Existing law provides three general methods by which a license agent may operate: (1) consignment, (2) prepayment, or (3) use of the Automated License Data System (“ALDS”).

Under the consignment system, a license agent is issued licenses for sale to the public, without any prepayment of the cost of the license. The license agent is eventually responsible for remitting payment for any licenses that are sold.

Under the prepayment system, a license agent must pay the cost of licenses in advance, before being provided with the physical licenses for sale to the public.

The ALDS is an online license sale system. When a license is sold, the licensing agent keys the sale into the ALDS system. The license is then printed, on the license agent’s premises, and provided to the purchaser. Sales are recorded electronically. Payment is made by periodic electronic transfer from an account established by the license agent for that purpose.

Clarification

The license agent provisions are difficult to understand.

Many of the provisions have limited application, to specified modes of sale.²

Some of those provisions come in largely identical pairs, where most of the substance is duplicated. Careful comparison is required to determine the substantive differences.³

Other provisions are subject to specific exemptions for particular modes of sale.⁴

The staff has done its best to sort out the relationships between the provisions, and set them out in a coherent order, with articles to organize them by subject matter. **While the result appears to be correct, it would be very helpful to have public input on whether the proposed draft would make any problematic changes in the application or operation of existing law.**

2. See, e.g., Sections 1055(l) (not ALDS), 1055.1(h) (only ALDS), 1055.4 (not ALDS), 1055.5(a) (only consignment) & (e) (not ALDS), 1055.6(e) (only ALDS), 1060(b) (not ALDS), 1061(f) (only ALDS).

3. See Sections 1055 & 1055.1; 1055.5 & 1055.6.

4. See, e.g., Sections 1055(d) (prepaid licenses exempt from Sections 1055(a) & (d), 1056, 1057, 1059); 1055.1(c) (ALDS licenses exempt from Sections 1055(a) & (e), 1056, 1057, 1059). Other provisions seem to partially contradict those exemptions. See Section 1055.6(d) (ALDS licenses subject to Section 1059 under some circumstances), 1056(b) (ALDS license impliedly subject to Section 1056), 1059 (ALDS license impliedly subject to Section 1059).

Possible Elimination of Obsolete Language

The staff has spoken informally with personnel at the Department of Fish and Wildlife and has learned that the consignment and prepayment modes of sale are almost entirely obsolete. For the most part, only the ALDS system is still being used by license agents. (Reportedly, there is one narrow exception, where private land managers are being issued hunting permits on consignment. But even those sales are being processed through the ALDS system.)

If it is correct that ALDS is the only remaining mode of sale, there is a significant opportunity for statutory simplification. License agent provisions that do not apply to ALDS could be omitted, along with the language that limits various provisions to ALDS sales.

The staff requests input from the Department of Fish and Wildlife on whether there is any practical need to continue the non-ALDS provisions.

DEFINITION OF "LICENSE"

Many of the general licensing provisions use some variation of the phrase "license, permit, tag, reservation, or other entitlement." The attached draft would add a new definition:

2000. For the purposes of this part, "license" includes any license, permit, tag, reservation, or other entitlement authorized by this code.

Use of that definition significantly streamlines the language in a large number of general licensing provisions, making them easier to understand without affecting their substance.

The staff considered whether to generalize that definition, so that it would apply to the entire code, but decided against doing so. There are over 1,300 provisions in the Fish and Game code that use the term "license." It would not be practicable to determine the propriety of the definition in each of those provisions. Moreover, there is at least one provision that uses the term "license" in a slightly different sense.⁵

5. See Section 716.3(j).

CONCLUSION

The attached draft represents an initial attempt to reorganize the Fish and Game Code provisions that relate to licensing generally.

There may be other provisions that should be located with this material, but are scattered elsewhere in the code. Over the remainder of this study, if the staff finds any provision that should be located with the general licensing provisions, the staff will prepare a memorandum addressing the issue.

The staff invites public comment on any of matters discussed in this memorandum. Particular attention should be paid to questions posed in Staff Notes in the attached draft.

In addition, the staff would appreciate comment on whether any of the provisions included in the attached draft present the kinds of problems with consistency, redundancy, or ambiguity as to program authority or funding sources that the Commission has been tasked with addressing. See 2012 Cal. Stat. res. ch. 108. Because the Commission is new to fish and game law, it is important that subject matter experts assist in identifying such problems as the Commission proceeds through the code.

Respectfully submitted,

Brian Hebert
Executive Director

FISH AND WILDLIFE CODE

Staff Note: This is a preliminary staff draft of a proposed reorganization of specified provisions of the Fish and Game Code.

Statutory cross-references that cannot yet be adjusted (because the referenced provisions have not yet been reorganized) are set out in boldface type, for later attention.

A draft of an official Commission “Comment” follows each proposed section. Such Comments will be included in any final recommendation. They serve to indicate the source of each section and to describe how it compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation. For guidance on the terminology used in Commission Comments, see the Comment following proposed Section 20 (attached to Memorandum 2013-12).

There is a “disposition table” at the end of this document. It summarizes, in tabular form, the disposition of every provision that has been included in this draft. If an existing provision would be repealed as unnecessary, the table indicates that provision as “omitted.”

Some provisions of this draft may be followed by a “Staff Note.” Staff Notes are intended to be temporary and will not be part of the Commission’s final recommendation. They serve to flag issues requiring special attention or treatment.

The Commission welcomes public comment on any issue relating to the content of this draft. The Commission is particularly interested in comments on any of the following matters:

- (1) Responses to any questions posed in “Staff Notes.”
 - (2) Any inconsistency, obsolescence, ambiguity, or problems relating to program authority and funding, whether *within* the provisions of this draft or *between* the provisions of this draft and other provisions of law.
 - (3) Provisions that should have been included in this draft but were not (or provisions included in this draft that should have been located elsewhere).
 - (4) Technical drafting errors.
- Comments should be directed to Brian Hebert at bhebert@clrc.ca.gov.

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DIVISION 2. ADMINISTRATION

PART 4. GENERAL LICENSE PROVISIONS

CHAPTER 1. LICENSES GENERALLY

Article 1. Form and Validity

§ 2000. “License” defined

2000. For the purposes of this part, “license” includes any license, permit, tag, reservation, or other entitlement authorized by this code.

Comment. Section 2000 is new. It is added for drafting convenience.

§ 2005. Form

2005. (a) Except as provided in subdivision (b), the commission shall determine the form of all of the following:

- (1) A license.
- (2) The method of carrying and displaying a license.
- (3) The application for a license.
- (4) Any contrivance to be used in connection with a license.

(b) For programs where the department has fee-setting authority, the department has the authority described in subdivision (a).

Comment. Section 2005 restates the substance of former Section 1050(b).

Staff Note. Proposed Section 2005 is intended to restate Section 1050(b) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“The commission shall determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses, and may require and prescribe the form of applications therefor and the form of any contrivance to be used in connection therewith, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority.”

The staff requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

§ 2010. Licenses uniquely numbered

2010. Licenses of each class shall be uniquely numbered. Every license shall contain its expiration date and the fee for which it is issued. If no fee is either required by this code or established by the commission pursuant to Section 2200, the license shall so indicate.

Comment. Section 2010 continues former Section 1051 without change, except as indicated below.

The following nonsubstantive change was made:

- 1 • A cross-reference to former Section 1050 was revised to refer to the provision that
2 continues that section.

3 **§ 2015. Validity**

4 2015. A license is not valid until it is filled out completely and accurately and
5 the fee authorized or identified in statute or regulation for the license is received
6 and paid to the department or its agent. It is the responsibility of the user to ensure
7 that the license is filled out completely and accurately.

8 **Comment.** Section 2015 continues former Section 1050.1 without change, except as indicated
9 below.

10 The following nonsubstantive change was made:

- 11 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

12 **§ 2020. Validity of stamp**

13 2020. Any stamp issued pursuant to this part is not valid unless affixed to the
14 appropriate license document.

15 **Comment.** Section 2020 continues former Section 1052.5 without change, except as indicated
16 below.

17 The following nonsubstantive change was made:

- 18 • A cross-reference to “this article” was revised to refer to “this part.”

19 **Article 2. Issuance**

20 **§ 2050. Issuance**

21 2050. All licenses shall be prepared and issued by the department.

22 **Comment.** Section 2050 continues former Section 1050(a) without change, except as indicated
23 below.

24 The following nonsubstantive change was made:

- 25 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

26 **§ 2055. Terms and conditions of issuance**

27 2055. (a) Except as provided in subdivision (b), the commission shall prescribe
28 the terms and conditions under which a license or application is issued.

29 (b) For programs where the department has fee-setting authority, the department
30 has the authority described in subdivision (a).

31 (c) The department shall issue a license or application in accordance with the
32 terms and conditions prescribed pursuant to this section and with the applicable
33 provisions of law.

34 **Comment.** Section 2055 restates the substance of Section 1050(c).

35 **☞ Staff Notes. (1)** Proposed Section 2055 is intended to restate Section 1050(c) to improve its
36 clarity, without changing its substantive effect. The existing provision reads as follows:

37 “Whenever this code provides for a permit, license, tag, reservation, application, or other
38 entitlement, the commission, in accordance with the provision, shall prescribe the terms and
39 conditions under which the permit, license, tag, reservation, application, or other entitlement shall

1 be issued, except for those programs where the department has fee-setting authority, in which
2 case the department shall retain that authority. The department shall issue the permit, license, tag,
3 reservation, application, or other entitlement in accordance therewith and with the applicable
4 provisions of law.”

5 **The staff requests public comment on whether the proposed restatement would cause any**
6 **substantive change in the meaning of the provision.**

7 (2) Proposed Section 2055(c) appears to be superfluous. See proposed Sections 2050 (duty of
8 department to issue license), 2055(a)-(b) (terms under which license can be issued). **Can**
9 **proposed Section 2055(c) be deleted?**

10 **§ 2060. Applicant information confidential**

11 2060. (a) Except as otherwise provided in this section, the names and addresses
12 contained in records submitted and retained by the department for the purpose of
13 obtaining recreational fishing and hunting licenses are confidential and are not
14 public records.

15 (b) Notwithstanding any other provision of law, the department may release the
16 confidential information described in subdivision (a) under the following
17 circumstances:

18 (1) To an agent or authorized family member of the person to whom the
19 information pertains.

20 (2) To an officer or employee of another governmental agency when necessary
21 for the performance of his or her official duties.

22 (3) In accordance with **Section 391**.

23 (4) Pursuant to a court order.

24 **Comment.** Section 2060 continues former Section 1050.6 without change.

25 **§ 2065. Proof of statements or facts**

26 2065. (a) The department may require the applicant for a license or other
27 privilege to show proof of the statements or facts required for the issuance of the
28 license or other privilege.

29 (b) For purposes of this section, “department” includes any department
30 employee, license agent, or any person performing the duties of a department
31 employee or license agent.

32 **Comment.** Section 2065 continues former Section 1054(b)-(c) without change, except as
33 indicated below.

34 The following nonsubstantive change was made:

- 35 • The defined term “license” was substituted for equivalent phrases throughout. See
36 Section 2000.

37 **§ 2070. Temporary document**

38 2070. Notwithstanding any other provision of this code, the department may
39 issue a temporary document that allows the holder of a license purchased through
40 the Internet to enjoy the privileges of the license for a period not to exceed 30
41 calendar days from the date of purchase.

1 **Comment.** Section 2070 continues former Section 1050.3 without change, except as indicated
2 below.

3 The following nonsubstantive change was made:

- 4 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

5 **§ 2075. Limitation on number of licenses issued to one person**

6 2075. A person shall not obtain more than one license of the same class, or more
7 than the number of tags authorized by statute or regulation for the same license
8 year, except under one of the following conditions:

9 (a) Nonresident hunting licenses issued pursuant to **paragraphs (4) and (5) of**
10 **subdivision (a) of Section 3031**, and short-term sport fishing licenses issued
11 pursuant to **paragraphs (3), (4), and (5) of subdivision (a) of Section 7149**, and
12 **paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05**.

13 (b) The loss or destruction of an unexpired license, except a stamp or
14 endorsement, provided that all of the following requirements are met:

15 (1) The applicant certifies the loss or destruction of the license by signed
16 affidavit.

17 (2) There is proof, as determined by the department, that the original license was
18 issued.

19 (3) The applicant pays a base fee of five dollars (\$5). The base fee shall be
20 adjusted annually pursuant to Section 2210, not to exceed the fee for the original
21 entitlement. The adjustment shall apply to the hunting license years commencing
22 on or after July 1, 1996, and the fishing license years commencing on or after
23 January 1, 1996.

24 (c) The loss or destruction of a stamp or endorsement imprinted on a base
25 license that was issued through the Automated License Data System, on payment
26 of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any
27 base license document. The base fee shall be adjusted annually pursuant to Section
28 2210, not to exceed the fee for the original entitlement. The base fee shall apply to
29 the 2011 license year.

30 **Comment.** Subdivision (a) of Section 2075 continues former Sections 1053(a)(1) and
31 1053.1(a)(1) without change, except as indicated below.

32 The following nonsubstantive change was made:

- 33 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

34 Subdivision (b) restates the substance of former Sections 1053(a)(2) and 1053.1(a)(2), except
35 as indicated below.

36 The following nonsubstantive change was made:

- 37 • A cross-reference to former Section 713 was revised to refer to the provision that
38 continues that section.

39 Subdivision (c) restates the substance of former Section 1053.1(a)(3) and (b), except as
40 indicated below.

41 The following nonsubstantive change was made:

- 42 • A cross-reference to former Section 713 was revised to refer to the provision that
43 continues that section.

1 **☞ Staff Notes.** (1) Section 1053 applies only to licenses that *are not* issued through ALDS.
2 Section 1053.1 applies only to licenses *that are* issued through ALDS. Proposed Section 2075(a)-
3 (b) includes material that is common to both of those sections.

4 (2) Proposed Section 2075(c) includes material that only applies to licenses that are issued
5 through ALDS. It states that limited application expressly.

6 (3) Proposed Section 2075(b)-(c) are intended to restate Section 1053.1(a)(2)-(3) to improve
7 the clarity of those provisions, without changing their substantive effect. The existing provisions
8 read as follows:

9 “(2) The loss or destruction of an unexpired license, tag, permit, reservation, or other
10 entitlement, except a stamp or endorsement, as certified by the applicant’s signed affidavit and
11 proof, as determined by the department, that the original license, tag, permit, reservation, or other
12 entitlement was issued, and payment of a base fee of five dollars (\$5). The base fee shall be
13 adjusted annually pursuant to **Section 713**, not to exceed the fee for the original entitlement, as
14 follows:

15 (A) The adjustment shall apply to the hunting license years commencing on or after July 1,
16 1996.

17 (B) The adjustment shall apply to the fishing license years commencing on or after January 1,
18 1996.

19 (3) The loss or destruction of a stamp or endorsement imprinted on a base license and payment
20 of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any base license
21 document, adjusted annually pursuant to **Section 713**, not to exceed the fee for the original
22 entitlement. The base fee in this paragraph shall apply to the 2011 license year.”

23 **The staff requests public comment on whether the proposed restatement would cause any**
24 **substantive change in the meaning of the provisions.**

25 **§ 2080. Hunter education**

26 2080. Applicants for hunting licenses shall first satisfactorily complete a hunter
27 education equivalency examination and obtain a certificate of equivalency as
28 provided by regulations adopted by the commission, or show proof of completion
29 of a hunter education training course, or show a previous year’s hunting license.

30 **Comment.** Section 2080 continues former Section 1053.5 without change, except as indicated
31 below.

32 The following nonsubstantive change was made:

- 33 • An erroneous cross-reference to Section 1053(a) was not continued.

34 **☞ Staff note:** By its terms, Section 1053.5 governs application for a hunting license “pursuant
35 to subdivision (a) of Section 1053.” That cross-reference appears to be erroneous. Section
36 1053(a) limits the number of licenses that a person may be issued in a year. It is not authority for
37 granting hunting licenses. **The staff invites public comment on whether the deletion of the**
38 **cross-reference would cause any substantive problems.**

39 **§ 2085. License voucher**

40 2085. (a) The department may allow a person to purchase a license voucher as a
41 gift for a licensee when the licensee’s complete and accurate personal information,
42 as defined in regulation, is not provided by the license buyer at the time of
43 purchase.

1 (b) A license purchase voucher entitles the holder of the voucher to redeem it for
2 the specific license, permit, tag, or other privilege or entitlement, and license year
3 for which it was purchased.

4 (c) A license purchase voucher shall expire and be considered void if not
5 redeemed within the license year for which it was purchased.

6 (d) A license purchase voucher may be issued and redeemed by any person
7 authorized by the department to issue licenses.

8 (e) The license agent handling fee, as provided under Section 2450, shall only
9 apply to the sale of the license purchase voucher.

10 (f) This section applies only to licenses, permits, reservations, tags, and other
11 entitlements issued through the Automated License Data System.

12 **Comment.** Section 2085 continues former Section 1061 without change, except as indicated
13 below.

14 The following nonsubstantive change was made:

- 15 • An erroneous cross-reference to former Section 1055.1(b) was corrected.

16 **Staff Note.** Section 1061(e) (proposed Section 2085(e)) refers to a handling fee authorized by
17 Section 1055.1(b). That reference appears to be erroneous. The handling fee is authorized in
18 Section 1055.1(d). The cross-reference has been adjusted accordingly.

19 **§ 2090. Issuance of commemorative licenses for fundraising purposes**

20 2090. (a) The department may issue collectible, commemorative licenses to any
21 person for purposes of promoting and supporting licensed hunting, fishing, and
22 resource conservation, subject to all of the following:

23 (1) A commemorative license may be designed and produced as the department
24 may determine and shall be clearly marked and identified as a commemorative
25 license, rendering it invalid for the take of any mammal, bird, fish, reptile, or
26 amphibian.

27 (2) A commemorative license shall not confer any rights, privileges, or other
28 entitlements to any person purchasing or in possession of such a license.

29 (3) Section 2075, subdivision (a) of Section 2250, **Article 2 (commencing with**
30 **Section 3031) of Chapter 1 of Part 1 of Division 4, and Article 3 (commencing**
31 **with Section 7145) of Chapter 1 of Part 2 of Division 6** do not apply to the
32 purchase of a commemorative license. A commemorative license shall not qualify
33 as evidence required in **subdivision (a) of Section 3050.**

34 (b) All funds derived from the sale of commemorative licenses shall be
35 deposited in the Fish and Game Preservation Fund.

36 **Comment.** Section 2090 continues former Section 1050.8 without change, except as indicated
37 below.

38 The following nonsubstantive change was made:

- 39 • Cross-references to former Sections 1052 and 1053 were revised to refer to the
40 provisions that continue those sections.

1 (d) This section does not apply to fees set by the department pursuant to Section
2 2205.

3 **Comment.** Section 2200 restates the substance of former Section 1050(d), except as indicated
4 below.

5 The following nonsubstantive change was made:

- 6 • A cross-reference to former Section 713 was revised to refer to the provision that
7 continues that section.

8 **Staff Note.** Proposed Section 2100 is intended to restate Section 1050(d) to improve its
9 clarity, without changing its substantive effect. The existing provision reads as follows:

10 “Except for fees set by the department pursuant to subdivision (e), whenever this code does not
11 specify whether a fee is to be collected, or does not specify the amount of a fee to be collected, or
12 does not expressly prohibit the adjustment of statutorily imposed fees by the commission by
13 reference to this section for the issuance of any license, tag, permit, application, reservation, or
14 other entitlement, the commission may establish a fee or the amount thereof by regulation. The
15 commission may also provide for the change in the amount of the fee in accordance with Section
16 713. Fees established by the commission shall be in an amount sufficient to recover all reasonable
17 administrative and implementation costs of the department and commission relating to the
18 program with regard to which the fee is paid. The commission may establish a fee structure that
19 provides for the phasing in of new fees leading up to full cost recovery for the department and
20 commission, provided that full cost recovery is achieved within five years of the establishment of
21 the fee.”

22 **The staff requests public comment on whether the proposed restatement would cause any**
23 **substantive change in the meaning of the provision.**

24 **§ 2205. Department authority to set or change fees**

25 2205. (a) The department may, by regulation, establish fees and adjust
26 statutorily imposed fees for the filings, permits, determinations, or other
27 department actions described in **Sections 711.4, 1002, and 1609.**

28 (b) The department may change the amount of a fee in accordance with Section
29 2210.

30 (c) Fees established by the department shall be in an amount sufficient to
31 recover all reasonable administrative and implementation costs of the department
32 relating to the program with regard to which the fee is paid. The department may
33 establish a fee structure that provides for the phasing in of new fees leading up to
34 full cost recovery for the department, provided that full cost recovery is achieved
35 within five years of the establishment of the fee.

36 **Comment.** Section 2205 restates the substance of former Section 1050(e), except as indicated
37 below.

38 The following nonsubstantive change was made:

- 39 • A cross-reference to former Section 713 was revised to refer to the provision that
40 continues that section.

41 **Staff Notes. (1)** It is not clear that the fees authorized in proposed Section 2205(a) are
42 “license” fees. The programs referenced in that provision relate to department programs, not to
43 private licensed hunting and fishing. See Section 711.4 (planning and environmental review
44 activities), 1002 (scientific research and student permits), 1609 (lake or streambed alteration

1 agreement). **Should this provision be located elsewhere (with other general revenue**
2 **provisions)?**

3 (2) Proposed Section 2205 is intended to restate Section 1050(e) to improve its clarity, without
4 changing its substantive effect. The existing provision reads as follows:

5 “The department may establish fees and may adjust statutorily imposed fees by regulation for the
6 filings, permits, determinations, or other department actions described in Section 711.4, 1002, or
7 1609. The department also may provide for the change in the amount of the fee in accordance
8 with Section 713. Fees established by the department shall be in an amount sufficient to recover
9 all reasonable administrative and implementation costs of the department relating to the program
10 with regard to which the fee is paid. The department may establish a fee structure that provides
11 for the phasing in of new fees leading up to full cost recovery for the department, provided that
12 full cost recovery is achieved within five years of the establishment of the fee.”

13 **The staff requests public comment on whether the proposed restatement would cause any**
14 **substantive change in the meaning of the provision.**

15 **§ 2210. Annual increase or decrease**

16 2210. (a) The changes in the Implicit Price Deflator for State and Local
17 Government Purchases of Goods and Services, as published by the United States
18 Department of Commerce, shall be used as the index to determine an annual rate
19 of increase or decrease in the fees for licenses issued by the department.

20 (b)(1) The department shall determine the change in the Implicit Price Deflator
21 for State and Local Government Purchases of Goods and Services, as published by
22 the United States Department of Commerce, for the quarter ending March 31 of
23 the current year compared to the quarter ending March 31 of the previous year.
24 The relative amount of the change shall be multiplied by the current fee for each
25 license issued by the department.

26 (2) The product shall be rounded to the nearest twenty-five cents (\$0.25), and
27 the resulting amount shall be added to the fee for the current year. The resulting
28 amount shall be the fee for the license year beginning on or after January 1 of the
29 next succeeding calendar year for the license that is adjusted under this section.

30 (c) Notwithstanding any other provision of law, the department may recalculate
31 the current fees charged for each license issued by the department, to determine
32 that all appropriate indexing has been included in the current fees. This **section**
33 shall apply to all licenses that have not been increased each year since the base
34 year of the 1985–86 fiscal year.

35 (d) The commission, with respect to any license issued by the commission shall
36 comply with subdivisions (a) to (c), inclusive.

37 (e) The calculations provided for in this section shall be reported to the
38 Legislature with the Governor’s Budget Bill.

39 (f) The Legislature finds that all revenues generated by fees for licenses,
40 computed under this section and used for the purposes for which they were
41 imposed, are not subject to Article XIII B of the California Constitution.

42 (g) The department and the commission, at least every five years, shall analyze
43 all fees for licenses, stamps, permits, tags, and other entitlements issued by it to

1 ensure the appropriate fee amount is charged. Where appropriate, the department
2 shall recommend to the Legislature or the commission that fees established by the
3 commission or the Legislature be adjusted to ensure that those fees are
4 appropriate.

5 **Comment.** Section 2210 continues former Section 713 without change, except as indicated
6 below.

7 The following nonsubstantive change was made:

- 8 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

9 **§ 2215. Application fee**

10 2215 (a) Whenever this code provides for a license, the commission or
11 department, as applicable, may establish a nonrefundable application fee, not to
12 exceed the lesser of (1) seven dollars and fifty cents (\$7.50) or (2) an amount
13 sufficient to pay the department’s costs for issuing the license.

14 (b) The commission or department, as applicable, may adjust the application fee
15 in accordance with Section 2210.

16 **Comment.** Section 2215 restates the substance of former Section 1050(f), except as indicated
17 below.

18 The following nonsubstantive change was made:

- 19 • A cross-reference to former Section 713 was revised to refer to the provision that
20 continues that section.

21 **Staff Notes.** (1) Proposed Section 2215 is intended to restate Section 1050(f) to improve its
22 clarity, without changing its substantive effect. The existing provision reads as follows:

23 “Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the
24 commission or department, as applicable, may establish a nonrefundable application fee, not to
25 exceed seven dollars and fifty cents (\$7.50) sufficient to pay the department’s costs for issuing
26 the license, tag, permit, reservation, or other entitlement and may adjust the application fee in
27 accordance with Section 713.”

28 **The staff requests public comment on whether the proposed restatement would cause any
29 substantive change in the meaning of the provision.**

30 (2) Under the existing provision, it is not clear how the two limits on the fee amount operate.
31 Proposed Section 2110 would provide that the fee cannot exceed the *lesser* of the two specified
32 amounts. **The staff requests public comment on whether that is an appropriate resolution of
33 the ambiguity.**

34 **§ 2220. Credit card payment**

35 2220. The department may accept a credit card charge as a method of payment.
36 Any contract executed by the department with credit card issuers or draft
37 purchasers shall be consistent with Section 6159 of the Government Code.
38 Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3
39 of the Civil Code, the department may impose a surcharge in an amount to cover
40 the cost of providing the credit card service, including reimbursement for any fee
41 or discount charged by the credit card issuer.

42 **Comment.** Section 2220 continues former Section 1050.5 without change.

Article 4. Unlawful Acts

§ 2250. Unlawful acts

2250. It is unlawful for any person to do any of the following:

(a) Transfer any license.

(b) Use or possess any license that was not lawfully issued to the user or possessor thereof or that was obtained by fraud, deceit, or the use of a fake or counterfeit application form.

(c) Use or possess any fake or counterfeit license, permit application form, band, or seal, made or used for the purpose of evading any of the provisions of this code, or regulations adopted pursuant to this code.

(d) Predate, fail to date, or alter any date of any license.

(e) Postdate the date of application or the date of issuance of the license. This subdivision does not apply to the date that a license is valid.

(f) Alter, mutilate, deface, duplicate, or counterfeit any license, permit application form, band, or seal, or entries thereon, to evade the provisions of this code, or any regulations adopted pursuant to this code.

(g) Submit, or conspire to submit, any false, inaccurate, or otherwise misleading information on any application or other document offered or otherwise presented to the department for any purpose, including, but not limited to, obtaining a license or other privilege pursuant to this code or regulations adopted pursuant to this code. For purposes of this subdivision, “department” includes any department employee, license agent, or any person performing the duties of a department employee or license agent.

Comment. Subdivisions (a)-(f) of Section 2250 continue former Section 1052 without change, except as indicated below.


The following nonsubstantive changes were made:

- The defined term “license” was substituted for equivalent phrases throughout. See Section 2000.
- In subdivisions (c) and (f), the words “pursuant thereto” were replaced with “pursuant to this code.”

Subdivision (g) continues former Section 1054(a) and (c) without change, except as indicated below.

The following nonsubstantive changes were made:

- The defined term “license” was substituted for an equivalent phrase. See Section 2000.
- The words “pursuant thereto” were replaced with “pursuant to this code.”

 **Staff Note.** Proposed Section 2250(g) has very broad application and is not limited to licensing. The existing location of the provision, among the general licensing provisions, could obscure its broader effect. For that reason, the staff intends to duplicate the provision in the portion of the code addressing law enforcement generally.

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CHAPTER 2. LICENSE AGENTS

Article 1. Authorized License Agent

§ 2300. Application and approval generally

2300. (a) Any person, except a commissioner, officer, or employee of the department, may submit an application to the department to be a license agent to issue licenses.

(b) A person shall only be authorized to be a license agent to issue licenses, upon the written approval of the department.

Comment. Section 2300 continues former Section 1055(a)-(b) and 1055.1(a)-(b) without change, except as indicated below.

The following nonsubstantive changes were made:

- The defined term “license” was substituted for equivalent phrases throughout. See Section 2000.
- Minor stylistic revisions were made to reconcile nonsubstantive differences between the source provisions.

§ 2305. License agent for sale of lifetime licenses

2305. (a) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to **Sections 714, 3031.2, and 7149.2**. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code.

(b) An agent authorized to issue lifetime sport fishing licenses, lifetime hunting licenses, and lifetime sport fishing and hunting licenses under this subdivision is exempt from Section 2405.

(c) The license agent shall remit to the department the fees from the sale of lifetime licenses, as defined in **Sections 714, 3031.2, and 7149.2**.

Comment. Section 2305 continues former Section 1055(i) and 1055.1(g) without change, except as indicated below.

The following nonsubstantive changes were made:

- Subdivisions were added.
- Cross-references to former Sections 1055(f) & (h) and 1055.1(d)-(e) were revised to refer to the provisions that continue those sections.
- The term “lifetime sportsman’s license” was replaced with “lifetime sport fishing and hunting license.”

Staff Note. Sections 1055(i) and 1055.1(g) refer to a “lifetime sportsman’s license” issued under Section 714. Ideally, that term should be recast in gender-neutral language. One possible alternative term, “sportsperson,” seems unduly awkward to the staff. Instead, proposed Section 2305(b) would use the term “lifetime sport fishing and hunting license.” That term properly reflects the privilege granted by the license, and it would parallel the names of the other more limited lifetime licenses: “lifetime sport fishing license” and “lifetime hunting license.” See Section 714.

1 § 2310. Wildlife area passes and native species stamps.

2 2310. The department may authorize any person, except a commissioner or an
3 officer or employee of the department, to issue, as an agent of the department,
4 annual wildlife area passes and native species stamps, and to sell promotional
5 materials and nature study aids pursuant to, and subject to the requirements of, this
6 article. Any agent thus authorized may add a handling charge pursuant to Section
7 2450 to the fee prescribed in **Article 3 (commencing with Section 1760) of**
8 **Chapter 7.5 of Division 2** for each annual wildlife area pass or native species
9 stamp issued.

10 **Comment.** Section 2310 continues former Section 1055.3 without change, except as indicated
11 below.

12 The following nonsubstantive change was made:

- 13 • An erroneous cross-reference to former Section 1055(b) was corrected.

14 **Staff Notes.** (1) Section 1055.3 contains a reference to the handling fee authorized “pursuant
15 to subdivision (b) of Section 1055.” That reference appears to be erroneous. The handling fee is
16 authorized in Section 1055(f). Proposed Section 2310 would correct that error.

17 (2) Although Section 1055.3 *is not* limited to non-ALDS sales, the referenced handling fee
18 provision *is* limited to non-ALDS sales. That creates an ambiguity as to whether wildlife area
19 passes and native species stamps may be sold through ALDS, and if so, whether the license agent
20 is entitled to a handling fee. The staff believes that the implied limitation is probably
21 unintentional. Proposed Section 2310 would not continue it. **Is that approach appropriate?**

22 § 2315. Limitation on delivery

23 2315. (a) Licenses may only be provided to authorized license agents that are in
24 compliance with all laws, regulations, and policies governing the sale and
25 reporting of licenses, permits, reservations, tags, and other entitlements.

26 (b) This section does not apply to licenses, permits, reservations, tags, or other
27 entitlements issued through the Automated License Data System.

28 **Comment.** Section 2315 continues former Section 1055(e) and (l) without change, except as
29 indicated below.

30 The following nonsubstantive change was made:

- 31 • The defined term “license” was substituted for equivalent phrases throughout. See
32 Section 2000.

33 **Staff Note.** Existing Section 1055(e) is expressly inapplicable to licenses issued through
34 ALDS. The staff does not see a policy justification for exempting ALDS license agents from the
35 limitation provided in Section 1055(e). **Should the provision be generalized so that it applies**
36 **to all license agents?**

37 Article 2. Consignment

38 § 2350. Consignment

39 2350. The department may consign licenses to authorized license agents.

40 **Comment.** Section 2350 continues former Section 1055(c) without change, except as indicated
41 below.

42 The following nonsubstantive change was made:

- 1 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

2 **§ 2355. Issuance**

3 2355. At any single business location, a license agent shall issue all items from a
4 single book before commencing to issue licenses of the same series from another
5 book.

6 **Comment.** Section 2355 continues former Section 1055(j) without change, except as indicated
7 below.

8 The following nonsubstantive change was made:

- 9 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

10 **§ 2360. Return of unissued licenses**

11 2360. (a) License agents shall return all unissued and expired licenses to the
12 department within 20 days following the last day of the license year.

13 (b) Any unissued and expired license that is not returned within 60 days
14 following the last day of the license year shall be billed to the license agent.
15 Licenses may be returned for credit after the 60 days. However, the license agent
16 shall pay interest and penalties on any sold licenses, as prescribed in subdivision
17 (b) of Section 2460.

18 (c) No credit may be allowed after six months following the last day of the
19 license year.

20 **Comment.** Section 2360 continues former Section 1055(k), without change, except as
21 indicated below.

22 The following nonsubstantive changes were made:

- 23 • Subdivisions were added.
24 • The defined term “license” was substituted for equivalent phrases throughout. See
25 Section 2000.
26 • Subdivision (b) was divided into two sentences.
27 • A cross-reference to former Section 1059 was revised to refer to the provision that
28 continues that section.
29 • Language limiting the provision to licenses sold on consignment was not continued.
30 The substance of that limiting language is continued in Section 2370.

31 **§ 2365. Remittance**

32 2365. (a) Except as provided in subdivision (b) or in Section 2455, each
33 authorized license agent shall remit to the department the fees prescribed in this
34 code or in regulations adopted pursuant to this code for all licenses issued in each
35 calendar month not later than 20 days following the last day of that calendar
36 month. The transmittal of the fees to the department shall be accompanied with an
37 accounting report on forms provided by the department of all licenses issued
38 during the preceding month.

39 (b) A license agent is not required to remit the fees for a book of licenses in any
40 month if, on the last day of the preceding month, all items in that single book
41 provided for issuance at a single business location are not issued or expired. If,
42 however, all items in that book are issued or expired, the license agent shall remit

1 the fees for that book and transmit the accounting report in accordance with the
2 requirements of this section.

3 (c) Except as provided in Section 2455, any fee remittance and accounting
4 report not transmitted to the department within 30 days following the last day of
5 each calendar month is delinquent, and fees due are subject to interest and
6 penalties prescribed in subdivision (b) of Section 2460. Interest and penalties shall
7 be computed beginning 21 days following the last day of the calendar month in
8 which the fees were collected.

9 **Comment.** Section 2365 continues former Section 1055.5(a), (b) & (d) without change, except
10 as indicated below.

11 The following nonsubstantive changes were made:

- 12 • The defined term “license” was substituted for equivalent phrases throughout. See
13 Section 2000.
- 14 • Cross-references to former Sections 1055.5(c) and 1059 were revised to refer to the
15 provisions that continue those sections.

16 **Staff Notes.** (1) Under Section 1055(d), a license agent who pre-pays for licenses is not
17 governed by Section 1055.5(a) or (d). By its own terms, Section 1055.5 does not apply to a
18 license agent who uses ALDS. See Section 1055.5(e). Consequently, it appears to be appropriate
19 to limit the application of Section 1055.5(a) and (d) to consignment sales, as is done in this draft.
20 See proposed Section 2370.

21 (2) There is nothing that expressly exempts prepayment sales from subdivision (b) of Section
22 1055.5. However, Section 1055.5(b) appears to provide an exception to Section 1055.5(a). Given
23 that prepayment sales are exempt from 1055.5(a), it would seem to follow that such sales are not
24 governed by 1055.5(b). That is the approach taken in this draft. See proposed Section 2370. **The**
25 **staff invites public comment on whether that is a correct approach.**

26 § 2370. Application of article

27 2370. This article applies only to licenses issued pursuant to Section 2350. This
28 article does not apply to licenses issued through the Automated License Data
29 System.

30 **Comment.** Section 2370 continues former Sections 1055(l) and 1055.5(e) without substantive
31 change.

32 Article 3. Prepayment

33 § 2400. Provision of licenses

34 2400. (a) The department may provide licenses to authorized license agents and
35 shall collect prior to delivery an amount equal to the fees for all licenses that are
36 provided.

37 (b) Any licenses provided pursuant to this section that remain unissued at the
38 end of the license year may be returned to the department for refund or credit, or a
39 combination thereof within six months of the item expiration date. No credit may
40 be allowed after six months following the last day of the license year.

1 **Comment.** Section 2400 continues former Section 1055(d) without change, except as indicated
2 below.

3 The following nonsubstantive changes were made:

- 4 • The defined term “license” was substituted for equivalent phrases throughout. See
5 Section 2000.
- 6 • Subdivisions were added.
- 7 • The language exempting license agents from former Sections 1055.5(a) & (d), 1056,
8 1057, and 1059 was not continued. The substantive effect of that exemption was
9 continued in Sections 2370, 2460(c), 2465(b), 2475.

10 **§ 2405. Issuance**

11 2405. At any single business location, a license agent shall issue all items from a
12 single book before commencing to issue licenses of the same series from another
13 book.

14 **Comment.** Section 2405 continues former Section 1055(j) without change, except as indicated
15 below.

16 The following nonsubstantive change was made:

- 17 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

18 **§ 2410. Application of article**

19 2410. This article does not apply to licenses issued through the Automated
20 License Data System.

21 **Comment.** Section 2410 continues former Sections 1055(l) without substantive change.

22 **Article 4. Automated License Data System**

23 **§ 2425. Provision of licenses**

24 2425. (a) The department may provide licenses to authorized license agents and
25 shall collect, prior to delivery, an amount equal to the fees for all licenses, permits,
26 reservations, tags and other entitlements provided.

27 (b) Any licenses provided pursuant to this subdivision that remain unissued at
28 the end of the license year may be returned to the department for refund or credit,
29 or a combination thereof, within six months of the item expiration date. No credit
30 may be allowed after six months following the last day of the license year.

31 **Comment.** Section 2425 continues former Section 1055.1(c) without change, except as
32 indicated below.

33 The following nonsubstantive changes were made:

- 34 • The defined term “license” was substituted for equivalent phrases throughout. See
35 Section 2000.
- 36 • Subdivisions were added.
- 37 • The language exempting license agents from former Sections 1055.5(a) & (e), 1056,
38 1057, and 1059 was not continued. The substantive effect of that exemption was
39 continued in Sections 2370, 2460(c), 2465(b), 2475.

40 **Staff Note. (1)** Section 1055.1(c) was modeled after language in Section 1055(d), which
41 describes license agents who prepay the Department of Fish and Wildlife for physical licenses
42 and then sell them to the public. As a result of that origin, the language does not do a very good

1 job of describing the ALDS system. **The staff invites public comment on whether proposed**
2 **Section 2425(a) could be restated for greater accuracy.**

3 (2) The staff's understanding is that ALDS is a print-on-demand system. Licenses are only
4 printed when they have been purchased. Consequently, it is not clear that proposed Section
5 2425(b) has any meaningful application. The inclusion of that provision in Section 1055.1(c) may
6 have been inadvertent. **The staff requests public comment on whether the provision should be**
7 **deleted as unnecessary.**

8 (3) Similarly, existing Section 1055.1(c) provides express exemptions an ALDS license agent
9 who pays for licenses "prior to delivery." The staff's understanding is that ALDS sales are never
10 pre-paid. Instead, charges for ALDS license sales are logged and electronic transfers are made
11 periodically, after the fact. **The staff requests public comment on whether the exemptions in**
12 **Section 1055.1(c) apply to ALDS sales.**

13 **§ 2430. Remittance**

14 2430. (a) Except as provided in subdivision (b), each license agent authorized
15 pursuant to Section 2425 shall remit to the department the fees prescribed in this
16 code or in regulations adopted pursuant to this code for all licenses by electronic
17 means, such as electronic fund transfer. In order to facilitate the prompt remittance
18 of revenues, the department is authorized to withdraw funds from the bank
19 account of the license agent, including adjustments, by electronic transfer. License
20 agents shall ensure that the total fees required for all licenses necessary to perform
21 the electronic transfer are available on the date specified by the license agent
22 contract.

23 (b) A license agent shall report to the department on or before the end of the
24 next business day of the department any losses of fees received from the issuing of
25 licenses.

26 (c) Except as provided in subdivision (b), any fees not transmitted or made
27 available to the department within seven days following the due date as specified
28 by the department are delinquent, and delinquent fees are subject to interest and
29 penalties prescribed in subdivision (b) of Section 2460. Interest and penalties shall
30 be computed beginning one day following the due date as specified by the
31 department.

32 **Comment.** Section 2430 continues former Section 1055.6(a), (b) & (d) without change, except
33 as indicated below.

34 The following nonsubstantive changes were made:

- 35 • The defined term "license" was substituted for equivalent phrases throughout. See
36 Section 2000.
- 37 • Cross-references to former Sections 1055.1 and 1059 were revised to refer to the
38 provisions that continue those sections.

39 **§ 2435. Application of article**

40 2435. This article applies only to licenses issued through the Automated License
41 Data System.

42 **Comment.** Section 2435 continues former Sections 1055.1(h) without substantive change.

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Article 5. General Financial Provisions

§ 2450. Handling charge

2450. (a) Authorized license agents shall add a handling charge to the fees prescribed in this code or in regulations adopted pursuant to this code for licenses issued by the license agent in an amount that is five percent of the face value of the item rounded to the nearest five cents (\$0.05).

(b) The handling charge added pursuant to subdivision (a) shall be incorporated into the total amount collected for issuing any license, but the handling charge shall not be included when determining license fees in accordance with Section 2210. License agents may issue any license for any amount up to 10 percent less than the fee prescribed in this code or in regulations adopted pursuant to this code. The license agent shall remit to the department the full amount of the fees as prescribed in this code or in regulations adopted pursuant to this code for all licenses issued.

(c) The handling charge in subdivision (a) is the license agent’s only compensation for services. The license agent shall not be entitled to any other additional fee or charge for issuing licenses authorized pursuant to this part.

Comment. Section 2450 continues the substance of former Sections 1055(f)-(h) and 1055.1(d)-(f) without change, except as indicated below.

The following nonsubstantive changes were made:

- The defined term “license” was substituted for equivalent phrases throughout. See Section 2000.
- Minor stylistic revisions were made to reconcile nonsubstantive differences between the source provisions.
- Cross-references to former Section 1055(f) were revised to refer to the provision that continues that subdivision.
- A cross-reference to former Section 713 was revised to refer to the provision that continues that section.
- A reference to “this chapter” was replaced with a reference to “this part.”

Staff Note. Sections 1055(h) and 1055.1(f) refer to the issuance of licenses “pursuant to this chapter.” That reference appears to be overbroad. The licensing provisions are included in a single article, rather than the entire chapter in which that article is located. Proposed Section 2450(c) would adjust the reference to refer only to “this part.”

§ 2455. Colorado River special use stamp or validation

2455. A license agent may retain not more than fifteen cents (\$0.15) of the fee received for each Colorado River special use stamp or validation issued pursuant to **Section 7180.1**, as compensation for services. The license agent shall remit to the department the fees prescribed by **Section 7180.1**, less any amounts retained under this subdivision, for all Colorado River special use validations issued. The license agent shall remit the net fees as prescribed in Section 2365 or 2430.

Comment. Section 2455 continues the substance of former Sections 1055.5(c) and 1055.6(c) without change, except as indicated below.

The following nonsubstantive change was made:

- 1 • Cross-references to former Sections 1055.5(a) and 1055.6(a) were revised to refer to
2 the provisions that continue those sections.

3 **§ 2460. Failure to account**

4 2460. (a) The failure or refusal of any license agent to account for licenses or
5 any fees received from their issuance as required by Section 2365 or 2430 or upon
6 demand by an authorized representative of the department is a misdemeanor.

7 (b) In addition to subdivision (a), any license agent who fails to remit fees to the
8 department on or before the date required by Section 2365 or 2430 shall pay
9 interest and penalties prescribed for sales and use taxes and, except as otherwise
10 provided in this code, the department shall collect amounts owing under the
11 procedures prescribed for sales and use taxes provided in Chapter 5 (commencing
12 with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of
13 Division 2 of the Revenue and Taxation Code, insofar as they may be applicable,
14 and for those purposes, “board” means the department.

15 (c) This section does not apply to a license agent who issues licenses under
16 Section 2400.

17 **Comment.** Subdivisions (a) and (b) of Section 2460 continue former Section 1059 without
18 change, except as indicated below.

19 The following nonsubstantive change was made:

- 20 • Cross-references to former Sections 1055.5 and 1055.6 were revised to refer to the
21 provisions that continue those sections.

22 Subdivision (c) continues part of the substance of former Section 1055(d).

23 **§ 2465. Separate accounting required**

24 2465. (a) All license money shall be accounted for separately from other funds
25 of a license agent, and shall at all times belong to the state.

26 (b) This section does not apply to a license agent who issues licenses under
27 Section 2400.

28 **Comment.** Subdivision (a) of Section 2465 continues former Section 1057 without change.

29 Subdivision (b) continues part of the substance of former Section 1055(d).

30 **§ 2470. Returned check**

31
32 2470. Any person authorized pursuant to Section 2300 who submits a check or
33 money order for payment of licenses that is returned unpaid by the bank or
34 financial institution it was drawn upon shall be required to pay a fee of thirty
35 dollars (\$30), plus any penalty and interest charges, as defined in Section 2460.

36 **Comment.** Section 2470 continues former Section 1055.4 without change, except as indicated
37 below.

38 The following nonsubstantive changes were made:

- 39 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.
40 • Cross-references to former Sections 1055(a) and 1590 were revised to refer to the
41 provisions that continue those sections.

1 **§ 2475. Bond**

2 2475. (a) Authorized license agents who receive licenses, permits, reservations,
3 tags, and other entitlements pursuant to Section 2350 may be required to execute,
4 in favor of the department, a bond, payable to the department, in a sum determined
5 by the department. The bond shall secure the accurate accounting and payment to
6 the department of the funds collected and the performance of the duties imposed
7 upon the license agent by this article.

8 (b) Any license agent who fails to transmit the fees or accounting reports
9 required by Section 2365 or 2430 not later than 60 days following the due date as
10 specified by the department may be required to provide a bond pursuant to
11 subdivision (a) in order to continue as a license agent.

12 **Comment.** Section 2475 continues former Section 1056 without change, except as indicated
13 below.

14 The following nonsubstantive change was made:

- 15 • Cross-references to former Sections 1055(c), 1055.5, and 1055.6 were revised to refer
16 to the provisions that continue those sections.


17 **§ 2480. Preferred claim**

18 2480. In case of an assignment for the benefit of creditors, receivership, or
19 bankruptcy, the state shall have a preferred claim against the license agent's
20 assignee, receiver, or trustee for all moneys owing the state for the issuing of
21 licenses as provided in this code and shall not be estopped from asserting that
22 claim by reason of the commingling of funds or otherwise.

23 **Comment.** Section 2480 continues former Section 1058 without change, except as indicated
24 below.

25 The following nonsubstantive changes were made:

- 26 • The defined term "license" was substituted for an equivalent phrase. See Section 2000.
- 27 • The phrase "license assignee" was changed to "license agent's assignee."

28  **Staff Note.** Existing Section 1058 refers to a "claim against a license assignee, receiver, or
29 trustee." That reference appears to be erroneous. In context, the staff believes that the intention
30 was to refer to the "license *agent's* assignee, receiver, or trustee." Proposed Section 2480 follows
31 that approach.

32 **§ 2485. Lost or destroyed licenses**

33 2485. (a) The department may accept from any authorized license agent an
34 affidavit for settlement on its account in lieu of licenses that have been lost or
35 destroyed if the license agent meets the following criteria:

36 (1) Reports any losses of licenses to the department on or before the end of the
37 next business day of the department.

38 (2) Submits the following items to the department not more than 20 days
39 following the last day of the calendar month in which the items were lost or
40 destroyed:

- 41 (A) An accounting report listing all licenses that were lost or destroyed.


1 (B) A signed and notarized affidavit that shows the value and type of the
2 licenses, their serial numbers, and the causes of loss or destruction.

3 (b) This section does not apply to licenses that are issued through the Automated
4 License Data System.

5 **Comment.** Section 2485 continues former Section 1060 without change, except as indicated
6 below.

7 The following nonsubstantive change was made:

- 8 • The defined term “license” was substituted for an equivalent phrase. See Section 2000.

9  **Staff Note.** It is not clear why Section 1060 does not apply to ALDS sales. While it is less
10 likely that a license printed on demand will be lost, it seems possible that the printing process
11 could destroy a license. If so, does the license agent have no recourse? **Should proposed Section**
12 **2485(b) be deleted?**

13 **§ 2490. Report to Department of Finance**

14 2490. The department shall transmit monthly to the Department of Finance, for
15 review, a summary report of the fee remittances and accounting reports received
16 under Section 2365 and a delinquency report containing the name and address of
17 any person who failed or refused to fully comply with Section 2365. The summary
18 fee remittance and accounting report and the delinquency report shall be
19 transmitted to the Department of Finance not later than 45 days following the last
20 day of the calendar month for which the fee remittances and accounting reports
21 were due under Section 2365.

22 **Comment.** Section 2490 continues former Section 1070 without change, except as indicated
23 below.

24 The following nonsubstantive change was made:

- 25 • Cross-references to former Sections 1055.5 were revised to refer to the provision that
26 continues that section.

DISPOSITION OF FORMER LAW

The table below shows the relationship between each provision of the existing Fish and Game Code and the corresponding provision of the proposed law (if any).

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
713	2210	1055(e), (l)	2315
1050(a)	2050	1055(f)-(h)	2450
1050(b)	2005	1055(i)	2305
1050(c)	2055	1055(j)	2355
1050(d)	2200	1055(j)	2405
1050(e)	2205	1055(k)	2360
1050(f)	2215	1055(l)	2370
1050.1	2015	1055(l)	2410
1050.3	2070	1055.1(a)-(b)	2300
1050.5	2220	1055.1(c)	2425
1050.6	2060	1055.1(d)-(f)	2450
1050.8	2090	1055.1(g)	2305
1051	2010	1055.1(h)	2435
1052	2250(a)-(f)	1055.3	2310
1052.5	2020	1055.4	2470
1053(a)(1)	2075(a)	1055.5(a), (b), (d)	2365
1053(a)(2)	2075(b)	1055.5(c)	2455
1053.1(a)(1)	2075(a)	1055.5 (e)	2370
1053.1(a)(2)	2075(b)	1055.6(a), (b), (d)	2430
1053.1(a)(3), (b)	2075(c)	1055.6(c)	2455
1053.5	2080	1056	2475
1054(a), (c)	2250(g)	1057	2465(a)
1054(b), (c)	2065	1058	2480
1054.8	2095	1059	2460(a), (b)
1055(a)-(b)	2300	1060	2485
1055(c)	2350	1061	2085
1055(d)	2400	1070	2490
1055(d)	2460(c)		
1055(d)	2465(b)		