



# California Legislature Authorizes Take of Fully Protected Species

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The California Legislature has sent to the Governor legislation authorizing the Department of Fish and Game to permit the incidental take of 36 fully protected species pursuant to a natural community conservation plan approved by the Department. (Senate Bill 618 (Wolk).) The legislation, in effect, gives fully protected species the same level of protection as is provided under the Natural Community Conservation Planning Act ("NCCP Act") for endangered and threatened species. (Cal. Fish & Game Code § 2835.) The legislation removes a significant regulatory barrier to the development of regional conservation plans under the NCCP Act. The NCCP Act, enacted in the 1990s, authorizes the incidental take of species "whose conservation and management" is provided for in a conservation plan approved by the Department of Fish and Game.

Existing state law prohibits the take of any of the 36 identified "fully protected species." The fully protected species laws were enacted prior to the California Endangered Species Act and the federal Endangered Species Act and were intended to prohibit hunting, catching, or harvesting of specific species. The fully protected species laws were interpreted, however, to also prohibit "take" of the species from land development, farming, ranching and other activities – even when the activities had received take permits under the state and federal endangered species laws.

The 36 fully protected species are found in many areas of California and include such species as the salt marsh harvest mouse (*Reithrodontomys raviventris*), brown pelican (*Pelecanus occidentalis*), California least tern (*Sterna albifrons browni*), California clapper rail (*Rallus longirostris levipes*), peregrine falcon (*Falco peregrinus anatum*), bighorn sheep (*Ovis canadensis*), blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*), and the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*). Several of the fully protected species are also protected by the federal and state endangered species laws.