

77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

Enrolled
Senate Bill 830

Sponsored by Senators GIROD, MONROE, BATES; Senators BOQUIST, BURDICK, Representative
KENNEMER

CHAPTER

AN ACT

Relating to fishing; creating new provisions; amending ORS 496.146, 506.045 and 509.230; repealing
ORS 509.216; appropriating money; limiting expenditures; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

FISHING GEAR

SECTION 1. ORS 509.216 is repealed.

SECTION 2. ORS 506.045 is amended to read:

506.045. There are excluded from the operation of ORS 506.129, 506.136, 507.030, 508.025, 508.285[,] and 509.025 (1), [and 509.216,] any Warm Springs, Umatilla, Yakima, Wasco, Tenino, Wyum and other Columbia River Indians affiliated with these tribes and entitled to enjoy fishing rights, who have not severed their tribal relations, in so far as it would conflict with any rights or privileges granted to such Indians under the terms of the treaties made by the United States with the Warm Springs Indians on June 25, 1855, and with the Umatilla and Yakima Indians on June 9, 1855.

SECTION 3. ORS 509.230 is amended to read:

509.230. (1) Subject to the conditions provided in this section[, ORS 509.216] and ORS chapter 513, it is unlawful to have in possession any food fish taken in the waters of the Pacific Ocean outside the territorial jurisdiction of this state by means of any fishing gear except as provided by law or rule of the State Fish and Wildlife Commission, for:

- (a) The purpose of commercially packing, canning or preserving the fish.
- (b) The manufacture of fish meal, fish oil or other fish products or by-products.
- (c) Sale as fresh fish for general consumption.
- (d) Bait.

(2) It is also unlawful to take any salmon for commercial purposes in any of the waters of the Pacific Ocean within the jurisdiction of this state or over which this state has concurrent jurisdiction by means of any fishing gear other than by "troll."

COLUMBIA RIVER FISH MANAGEMENT AND REFORM

SECTION 3a. (1) The Legislative Assembly finds that it is the policy of the State of Oregon that rules as a whole related to Columbia River fish management and reform that are adopted by the State Fish and Wildlife Commission:

- (a) Optimize overall economic benefits to this state;

(b) Enhance the economic viability of Oregon's recreational and commercial fisheries and the communities that rely on these fisheries;
(c) Contribute to native fish conservation and recovery;
(d) Promote orderly fishery management with the State of Washington; and
(e) Provide consistency with agreements made with Indian tribes pursuant to state or federal court orders.

(2) If economic, including commercial harvest, or conservation objectives related to Columbia River fish management and reform adopted by rule of the commission are not met, then by rule the commission must provide for adaptive management actions that are designed to efficiently achieve the respective economic, including commercial harvest, or conservation objectives, including but not limited to:

(a) Modifying or halting the schedule and degree of shifts in harvest and impact allocations specified in rules of the commission as necessary to attain harvest objectives through improved harvest levels in either off-channel or mainstem fisheries, within the context of naturally varying run sizes;

(b) Advancing additional fishery opportunities, seasons or selective fishing gear; or

(c) Improving hatchery fish production or the timing, size or location of hatchery fish releases.

(3) As part of the rules related to Columbia River fish management and reform, the commission shall establish a zone at the mouth of Youngs Bay in which recreational fishing, including recreational fishing taking place with guide boats, is prohibited in order to reduce the interception of hatchery fish returning to the off-channel commercial fishery in Youngs Bay. At least once every three years, the commission shall evaluate the impacts and effectiveness of this zone and make adjustments, including the removal of the prohibition described in this subsection, as necessary to meet the objectives described in subsection (1) of this section.

SECTION 3b. The State Fish and Wildlife Commission shall adopt rules establishing the zone at the mouth of Youngs Bay pursuant to section 3a (3) of this 2013 Act no later than February 1, 2014.

COLUMBIA RIVER FISHERIES TRANSITION SUPPORT

SECTION 4. (1) The State Department of Fish and Wildlife shall establish and implement a Columbia River fisheries transition program, using moneys in the Columbia River Fisheries Transition Fund established under section 5 of this 2013 Act, to provide grants to assist counties to implement county programs under which:

(a) Compensation is provided to individuals who hold vessel permits issued pursuant to ORS 508.775 to 508.796 and who provide documentation of economic harm resulting from restrictions related to Columbia River fish management and reform adopted by rule of the State Fish and Wildlife Commission; and

(b) Financial assistance is provided to individuals who hold vessel permits issued pursuant to ORS 508.775 to 508.796 and who demonstrate a history of recent landings under a permit issued pursuant to ORS 508.775 to 508.796, to help offset the cost to those individuals of fishing equipment required as a result of fishing gear changes caused by restrictions related to Columbia River fish management and reform adopted by rule of the commission.

(2) Subject to available funding in the Columbia River Fisheries Transition Fund, a county qualifies for a grant under the Columbia River fisheries transition program if the county:

(a) Establishes a county program to:

(A) Compensate individuals who hold vessel permits issued pursuant to ORS 508.775 to 508.796 and who provide documentation of economic harm resulting from restrictions related to Columbia River fish management and reform adopted by rule of the commission.

(B) Provide financial assistance to individuals who hold vessel permits issued pursuant to ORS 508.775 to 508.796 and who demonstrate a history of recent landings under a permit issued pursuant to ORS 508.775 to 508.796, to help offset the cost to those individuals of fishing equipment required as a result of fishing gear changes caused by restrictions related to Columbia River fish management and reform adopted by rule of the commission.

(b) Establishes a county advisory committee to oversee the county program, consisting of at least one member who is a county commissioner, two members who hold vessel permits issued pursuant to ORS 508.775 to 508.796 or who have expertise related to commercial fisheries and two members who are not employed in the commercial fishing industry and who represent the public interest in the equitable administration of public funds.

(c) Allows all individuals who hold vessel permits issued pursuant to ORS 508.775 to 508.796 to participate in the county program.

(3) As used in this section, "economic harm" means the reduction, unrelated to environmental and market variability or personal circumstances, in the annual income of an individual who holds a vessel permit issued pursuant to ORS 508.775 to 508.796 from fishing under the permit that is due to Columbia River fish management and reform adopted by rule of the commission.

SECTION 5. (1) The Columbia River Fisheries Transition Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Columbia River Fisheries Transition Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Fish and Wildlife Commission to carry out the provisions of section 4 of this 2013 Act.

(2) The commission may accept grants, donations, contributions or gifts from any source for deposit in the Columbia River Fisheries Transition Fund.

(3) The Columbia River Fisheries Transition Fund shall consist of:

(a) Moneys accepted by the commission pursuant to subsection (2) of this section.

(b) General Fund moneys appropriated to the Columbia River Fisheries Transition Fund by the Legislative Assembly.

SECTION 6. (1) Sections 4 and 5 of this 2013 Act are repealed on January 2, 2019.

(2) The Columbia River Fisheries Transition Fund established under section 5 of this 2013 Act is abolished January 2, 2019.

(3) Any unexpended moneys remaining in the Columbia River Fisheries Transition Fund on January 2, 2019, shall be transferred to the Columbia River Fisheries Enhancement Fund established under section 7 of this 2013 Act.

FISHERY ENHANCEMENT ON THE COLUMBIA RIVER

SECTION 7. (1) The Columbia River Fisheries Enhancement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Columbia River Fisheries Enhancement Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Fish and Wildlife Commission to implement measures that enhance fisheries, optimize the economic benefits of fisheries and advance native fish conservation related to Columbia River fish management and reform adopted by rule of the commission.

(2) The commission may accept grants, donations, contributions or gifts from any source for deposit in the Columbia River Fisheries Enhancement Fund.

(3) The Columbia River Fisheries Enhancement Fund shall consist of:

(a) Moneys accepted by the commission pursuant to subsection (2) of this section.

(b) Fees collected by the commission under ORS 496.146 (23).

SECTION 8. (1) Section 7 of this 2013 Act is repealed on January 2, 2022.

(2) The Columbia River Fisheries Enhancement Fund established under section 7 of this 2013 Act is abolished January 2, 2022.

(3) Any unexpended moneys remaining in the Columbia River Fisheries Enhancement Fund on January 2, 2022, shall be transferred to the State Wildlife Fund.

SECTION 9. ORS 496.146 is amended to read:

496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

(1) May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.

(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means husband, wife, father, mother, brothers, sisters, sons, daughters, stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.

(5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management.

(6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle.

(7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes.

(8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas.

(9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.

(10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission, unless such fees or user charges are otherwise prescribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$100.

(11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects.

(12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the federal government.

(13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

(14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250.

(15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.

(16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.

(17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident pioneer hunting license pursuant to ORS 497.102.

(18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.

(19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting trips for terminally ill children.

(20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.

(21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.

(22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

(23) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon recreational fishing endorsements with a fee not to exceed \$9.75 per annual license and \$1 per day per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in the Columbia Basin and is in addition to and not in lieu of angling licenses and tags required under the wildlife laws. Amounts collected as fees under this subsection must be deposited in the Columbia River Fisheries Enhancement Fund established under section 7 of this 2013 Act.

SECTION 10. ORS 496.146, as amended by section 9 of this 2013 Act, is amended to read:

496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

(1) May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.

(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means husband, wife, father, mother, brothers, sisters, sons, daughters, stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.

(5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management.

(6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle.

(7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes.

(8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas.

(9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.

(10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission, unless such fees or user charges are otherwise prescribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$100.

(11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects.

(12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the federal government.

(13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

(14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250.

(15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.

(16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.

(17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident pioneer hunting license pursuant to ORS 497.102.

(18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.

(19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting trips for terminally ill children.

(20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.

(21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.

(22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

[(23) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon recreational fishing endorsements with a fee not to exceed \$9.75 per annual license and \$1 per day per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in the Columbia Basin and is in addition to and not in lieu of angling licenses and tags required under the wildlife laws. Amounts collected as fees under this subsection must be deposited in the Columbia River Fisheries Enhancement Fund established under section 7 of this 2013 Act.]

SECTION 11. The amendments to ORS 496.146 by section 10 of this 2013 Act become operative on January 2, 2022.

APPROPRIATION AND EXPENDITURE LIMITATION

SECTION 12. There is appropriated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2013, out of the General Fund, the amount of \$2,000,000 for purposes of carrying out the provisions of this 2013 Act.

SECTION 13. Notwithstanding any other law limiting expenditures, the amount of \$2,002,000 is established for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the State Department of Fish and Wildlife, for purposes of carrying out the provisions of this 2013 Act.

MISCELLANEOUS

SECTION 14. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY

SECTION 15. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate July 7, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House July 8, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State