

Chapter 498

1999 EDITION

Hunting, Angling and Trapping Regulations;  
Miscellaneous Wildlife Protective Measures

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## GENERAL PROTECTIVE PROVISIONS

**498.002 Wildlife as state property; angling, hunting or trapping in violation of wildlife law or rules prohibited.** (1) Wildlife is the property of the state. No person shall angle for, hunt, trap or possess, or assist another in angling for, hunting, trapping or possessing any wildlife in violation of the wildlife laws or of any rule promulgated pursuant thereto.

(2) No person shall angle for, hunt or trap, or assist another in angling for, hunting or trapping any wildlife while intentionally violating ORS 164.245 to 164.270 or 498.120. [1973 c.723 s.73; 1993 c.440 s.1]

**498.005** [Amended by 1971 c.658 s.26; repealed by 1973 c.723 s.130]

**498.006 Chasing or harassing wildlife prohibited.** Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall chase, harass, molest, worry or disturb any wildlife except while engaged in lawfully angling for, hunting or trapping such wildlife. [1973 c.723 s.74]

**498.010** [Repealed by 1957 c.249 s.1]

**498.012 Taking wildlife damaging land, livestock or agricultural or forest crops.** (1) Nothing in the wildlife laws is intended to prevent any person from taking any wildlife that is damaging land that the person owns or lawfully occupies or is damaging livestock or agricultural or forest crops on such land. However, no person shall take, pursuant to this subsection, at a time or under circumstances when such taking is prohibited by the State Fish and Wildlife Commission, any game mammal or game bird, fur-bearing mammal or nongame wildlife species, unless the person first obtains a permit for such taking from the commission. As used in this subsection "nongame wildlife" has the meaning for that term prescribed in ORS 496.375.

(2)(a) Nothing in subsection (1) of this section requires a permit for the taking of cougar, bobcat, red fox or bear pursuant to that subsection. However, any person who takes a cougar, bobcat, red fox or bear must have in possession written authority therefor from the landowner or lawful occupant of the land that complies with subsection (4) of this section.

(b) Nothing in subsection (1) of this section requires the commission to issue a permit for the taking of any wildlife species for which a U. S. Fish and Wildlife Service permit is required pursuant to the Migratory Bird Treaty Act (16 U.S.C. ss.703 to 711), as amended.

(3) Any person who takes, pursuant to subsection (1) of this section, any cougar, bobcat, red fox, bear, game mammal, game bird, fur-bearing mammal or wildlife species whose survival the commission determines is endangered shall immediately report the taking to a person authorized to enforce the wildlife laws, and shall dispose of the wildlife in such manner as the commission directs. In determining procedures for disposal of bear and cougar, the commission shall direct the State Department of Fish and Wildlife to first offer the animal to the landowner incurring the damage.

(4) The written authority from the landowner or lawful occupant of the land required by subsection (2) of this section for the taking of cougar, bobcat, red fox or bear must set forth all of the following:

- (a) The date of issuance of the authorization;
- (b) The name, address, telephone number and signature of the person granting the authorization;
- (c) The name, address and telephone number of the person to whom the authorization is granted;
- (d) The wildlife damage control activities to be conducted, whether for bear, cougar, red fox or bobcat; and
- (e) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.

(5) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an animal under subsection (3) of this section shall file a report with the State Fish and Wildlife Director within 30 days after the disposal. The report shall include but need not be limited to the loss incurred, the financial impact and the disposition of the animal. The director shall compile all reports received under this subsection on a bimonthly basis. The reports compiled by the director shall be available to the public upon request. [1973 c.723 s.75; 1977 c.136 s.2; 1979 c.399 s.3; 1985 c.332 s.1; 1985 c.489 s.1a; 1999 c.531 s.1]

**498.015** [Amended by 1959 c.529 s.1; repealed by 1973 c.723 s.130]

**498.016 Taking crippled or helpless wildlife.** Nothing in the wildlife laws is intended to prohibit any person from killing any crippled or helpless wildlife when the killing is done for a humane purpose. Any person so killing any wildlife shall immediately report such killing to a person authorized to enforce the wildlife laws, and shall dispose of the wildlife in such manner as the State Fish and Wildlife Commission directs. [1973 c.723 s.76]

**498.019 Purchase, sale or exchange of hides, antlers and other parts of deer, elk and antelope; records required.** (1) If the State Fish and Wildlife Commission, pursuant to its authority under ORS 498.022, establishes a license for the purchase of deer, elk and antelope hides and antlers, any person holding such license shall also be authorized to purchase, sell or exchange, or offer to purchase, sell or exchange, the hooves, dewclaws and sinews of deer, elk and antelope.

(2) A licensee under subsection (1) of this section shall maintain a record of transactions involving specimens of deer, elk or antelope. The record shall be in such form and contain such information as the commission, by rule, prescribes to accurately indicate the date, type and number of specimens received and the name and address of the person with whom such transaction was made. [1995 c.711 s.2]

**498.020** [Amended by 1959 c.529 s.2; repealed by 1973 c.723 s.130]

**498.022 Purchase, sale or exchange of wildlife prohibited.** Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall purchase, sell or exchange, or offer to purchase, sell or exchange any wildlife, or any part thereof. [1973 c.723 s.77]

**498.025** [Amended by 1961 c.276 s.1; renumbered 498.820]

**498.026 Transaction in threatened or endangered wildlife species prohibited.** (1) Except as provided in subsection (2) of this section, no person shall take, import, export, transport, purchase or sell, or attempt to take, import, export, transport, purchase or sell, any threatened species or endangered species, or the skin, hides or other parts thereof, or any article made in whole or in part from the skin, hide or other parts of any threatened species or endangered species.

(2) Nothing in subsection (1) of this section is intended to prevent the taking, importation, transportation or sale of any threatened species or endangered species in such manner as may be authorized in ORS 496.172, 497.218 to 497.238, 497.298 or 497.308.

(3) Nothing in this section applies to the resale of used skins, hides or other parts of a threatened species or endangered species or an article made in whole or part thereof if the seller acquired the item sold prior to October 5, 1973. [1973 c.425 s.2; 1977 c.242 s.1; 1987 c.686 s.6]

**498.027** [Repealed by 1973 c.723 s.130]

**498.028** [1955 c.506 s.1; 1961 c.143 s.1; repealed by 1973 c.723 s.130]

**498.029 Purchase, sale or exchange of fox, skunk or raccoon prohibited; exceptions.** (1) No person shall offer for sale, trade, barter or exchange as a household pet any fox, skunk or raccoon.

(2) An animal specified in subsection (1) of this section may be offered for sale, trade, barter or exchange to a public park, zoo, museum or educational institution for educational, medical, scientific or exhibition purposes if the organization possesses a permit from the State Fish and Wildlife Commission. The commission may refuse to issue a permit if the commission finds that the organization requesting the permit does not have physical facilities adequate to maintain the animal in health and safety and to prevent the escape of the animal from confinement. [1979 c.560 s.2]

**498.030** [Amended by 1971 c.658 s.27; repealed by 1973 c.723 s.130]

**498.032 Angling or hunting for compensation in violation of wildlife laws or rules prohibited.** No person shall angle for or hunt, or offer to angle for or hunt, for compensation, any wildlife in violation of any provision of the wildlife laws or any rule promulgated pursuant thereto. [1973 c.723 s.78]

**498.035** [Repealed by 1959 c.352 s.5]

**498.036 Possession in field of skinned or plucked wildlife prohibited.** Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall possess in the field or forest, or in transit from the field or forest, the carcass of any wildlife that has been skinned, plucked or mutilated in any manner so that the sex, size or species of the wildlife cannot be determined. [1973 c.723 s.79]

**498.040** [Repealed by 1959 c.352 s.5]

**498.041** [1965 c.507 ss.2,3,4; repealed by 1973 c.723 s.130]

**498.042 Removal of parts of wildlife and waste of wildlife prohibited.** (1) No person shall remove from the carcass of any game mammal or game bird, the head, antlers, horns, hide or plumage, and utilize only those parts so removed, except:

(a) When engaged in lawful trapping activities.

(b) When utilizing those game mammals or game birds that the State Fish and Wildlife Commission by rule declares to be inedible.

(2) No person shall waste any edible portion of any game mammal, game bird or game fish or the pelt of any fur-bearing mammal. [1973 c.723 s.80]

**498.045** [Repealed by 1973 c.723 s.130]

**498.046 Making toxic substances accessible to wildlife prohibited.** No person shall place any toxic substance where it is accessible to wildlife unless the substance used and the method of application is approved by the state governmental agencies having authority to prescribe or implement environmental control programs. [1973 c.723 s.81]

**498.050** [Amended by 1965 c.507 s.5; repealed by 1973 c.723 s.130]

**498.052 Releasing domestically raised or imported wildlife without permit prohibited.** No person shall release within this state any domestically raised wildlife or wildlife brought to this state from any place outside this state unless the person first obtains a permit therefor from the State Fish and Wildlife Commission. [1973 c.723 s.82]

**498.055** [Repealed by 1973 c.723 s.130]

**498.056 Aiming rifle from moving motor vehicle prohibited.** No person who is the occupant of a motor vehicle that is moving on a road open to the public shall aim a rifle or other firearm from the motor vehicle at a time when the hunting of wildlife is lawful. [1993 c.440 s.4]

**498.060** [Amended by 1961 c.269 s.1; repealed by 1969 c.60 s.1]

**498.065** [Amended by 1953 c.196 s.2; 1961 c.269 s.2; repealed by 1969 c.60 s.1]

**498.070** [Repealed by 1969 c.60 s.1]

**498.075** [Repealed by 1969 c.60 s.1]

**498.080** [Repealed by 1969 c.60 s.1]

**498.085** [Repealed by 1973 c.723 s.130]

**498.090** [Repealed by 1955 c.162 s.1]

**498.095** [Amended by 1967 c.166 s.2; 1971 c.517 s.2; repealed by 1973 c.723 s.130]

**498.100** [Amended by 1967 c.523 s.12; 1967 c.594 s.4; repealed by 1973 c.723 s.130]

## HUNTING AND TRAPPING RESTRICTIONS

**498.102 Use of dogs to hunt or track game mammals or birds.** (1) Any dog that is not wearing a collar with a license number thereon in compliance with ORS 609.100 that is found unlawfully hunting, running or tracking any game mammal or game bird may be killed at such time by any person authorized to enforce the wildlife laws.

(2) If a dog that is found unlawfully hunting, running or tracking any game mammal or game bird is wearing a collar with a license number thereon in compliance with ORS 609.100, the owner of the dog shall be notified by any person authorized to enforce the wildlife laws. If the owner or reputed owner of the dog disclaims ownership of the dog, the dog may be killed at such time by a person authorized to enforce the wildlife laws.

(3) If the owner of a dog has been notified that the dog has been found unlawfully hunting, running or tracking game mammals or game birds and thereafter fails to prevent the dog from unlawfully hunting, running or tracking game mammals or game birds, such dog may be killed by any person authorized to enforce the wildlife laws.

(4) No person shall permit any dog the person owns to unlawfully hunt, run or track any game mammal or game bird. [1973 c.723 s.84]

**498.105** [Repealed by 1973 c.723 s.130]

**498.106 Competitive field trials for hunting dogs.** Competitive field trials for hunting dogs may be held at such times and places and under such conditions as the State Fish and Wildlife Commission may prescribe by rule. [1973 c.723 s.85]

**498.110** [Amended by 1953 c.157 s.2; repealed by 1973 c.723 s.130]

**498.112 Use of live birds for competitive shooting prohibited.** No person shall use any live bird as a target for the purpose of competitive shooting. [1973 c.723 s.86]

**498.115** [Amended by 1953 c.178 s.2; repealed by 1973 c.723 s.130]

**498.120 Hunting on another's cultivated or enclosed land.** (1) No person shall hunt upon the cultivated or enclosed land of another without first obtaining permission from the owner or lawful occupant thereof, or the agent of such owner or occupant. No prosecution shall be commenced under this section except upon written complaint filed with a magistrate. The complaint shall be verified by the oath of the owner or lawful occupant of the cultivated or enclosed land, or the agent of such owner or occupant.

(2) For the purpose of subsection (1) of this section, the boundaries of "enclosed" land may be indicated by wire, ditch, hedge, fence, water or by any visible or distinctive lines that indicate a separation from the surrounding or contiguous territory, and includes the established and posted boundaries of Indian reservations established by treaties

of the United States and the various Indian tribes. [Amended by 1959 c.318 s.1; 1971 c.580 s.1; 1973 c.723 s.83]

**498.125** [Repealed by 1973 c.723 s.130]

**498.126 Hunting or assisting others to hunt or locate game animals or birds by aircraft prohibited.**

(1) No person shall:

(a) Hunt game mammals or game birds from or with the aid of an aircraft.

(b) Transmit from an aircraft to a person not in the aircraft information regarding the location of any game mammals or game birds.

(c) Otherwise use an aircraft to assist another person in hunting or locating game mammals or game birds for the purpose of hunting.

(2) No person shall hunt any game mammal within eight hours after having been transported by aircraft to or from any place other than a recognized airport that the Oregon Department of Aviation has licensed as a public use airport, registered as a personal use airport or specifically exempted from licensing or registration.

(3) Every pilot shall maintain a log book that shows the names and addresses of record of the persons transported, point of departure, point of destination, time and date of each flight that the pilot makes in an aircraft within this state to transport a person to or from any place to hunt. The log book is subject to inspection by any person authorized to enforce the wildlife laws. [1973 c.723 s.87; 1987 c.277 s.1; 1989 c.448 s.1; 1999 c.935 s.30]

**Note:** The amendments to 498.126 by section 30, chapter 935, Oregon Laws 1999, become operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's convenience.

**498.126.** (1) No person shall:

(a) Hunt game mammals or game birds from or with the aid of an aircraft.

(b) Transmit from an aircraft to a person not in the aircraft information regarding the location of any game mammals or game birds.

(c) Otherwise use an aircraft to assist another person in hunting or locating game mammals or game birds for the purpose of hunting.

(2) No person shall hunt any game mammal within eight hours after having been transported by aircraft to or from any place other than a recognized airport that the Department of Transportation has licensed as a public use airport, registered as a personal use airport or specifically exempted from licensing or registration.

(3) Every pilot shall maintain a log book that shows the names and addresses of record of the persons transported, point of departure, point of destination, time and date of each flight that the pilot makes in an aircraft within this state to transport a person to or from any place to hunt. The log book is subject to inspection by any person authorized to enforce the wildlife laws.

**498.130** [Repealed by 1973 c.723 s.130]

**498.132** [1953 c.184 s.3; repealed by 1973 c.723 s.130]

**498.135** [Repealed by 1973 c.723 s.130]

**498.136 Hunting from motor-propelled vehicle restricted.** (1) Except as provided in subsection (2) of this section, no person shall hunt wildlife from a motor-propelled vehicle.

(2) The State Fish and Wildlife Commission, by rule, may authorize hunting from a motor-propelled vehicle by a person with a disability or for the purpose of alleviating damage by wildlife to other resources.

(3) Nothing in the wildlife laws, or rules adopted pursuant thereto, is intended to prohibit the able-bodied companion of a person with a disability who is lawfully hunting from a motor-propelled vehicle from killing an animal wounded by the disabled person and applying thereto the tag issued to such disabled person for the taking of such an animal, even if that able-bodied person has already validated any tag required for the taking of such an animal. [1973 c.723 s.88; 1987 c.292 s.1; 1999 c.25 s.8]

**498.140** [Amended by 1955 c.64 s.1; 1961 c.122 s.1; repealed by 1973 c.723 s.130]



**498.142 Hunting with artificial light restricted.** (1) Except as provided in subsection (2) of this section, no person shall hunt wildlife with the aid of any artificial light.

(2) The State Fish and Wildlife Commission, by rule, may authorize hunting with the aid of an artificial light for the purpose of taking raccoon, opossum or bobcat or to alleviate damage by wildlife to other resources. [1973 c.723 s.88a; 1977 c.136 s.3]

**498.145** [Renumbered 498.272]

**498.146 Shining artificial light on game mammal, predatory animal or livestock while in or near motor vehicle and while in possession of weapon restricted.** (1) No person shall cast from a motor vehicle or from within 500 feet of a motor vehicle an artificial light upon any game mammal, predatory animal or livestock while there is in the possession or in the immediate physical presence of the person a weapon with which the game mammal, predatory animal or livestock could be killed.

(2) Subsection (1) of this section does not apply to a person who casts artificial light upon a game mammal, predatory animal or livestock:

(a) From the headlights of a motor vehicle that is being operated on a road in the usual manner, if that person makes no attempt to kill the game mammal or livestock; or

(b) When the weapon that person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of a motor vehicle; or

(c) On land owned or lawfully occupied by that person; or

(d) On publicly owned land when that person has an agreement with the public body to use that property.

(3) As used in this section, "predatory animal" has the meaning for that term provided in ORS 610.002. [1973 c.542 s.2; 1975 c.791 s.2]

**498.150** [1971 c.223 s.2; repealed by 1973 c.723 s.130]

**498.152 Agreements restricting parking or use of motor vehicles on certain lands.** (1) The State Fish and Wildlife Commission may enter into agreements with the owners or lawful possessors of land to restrict the operation or parking of motor-propelled vehicles on the land when the commission determines that such operation or parking is damaging wildlife or wildlife habitat.

(2) An agreement shall restrict the types and uses of motor-propelled vehicles on the land and shall specify the times and places that such restrictions apply.

(3) The commission shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the area to which the restrictions apply.

(4) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations. [1973 c.723 s.89; 1987 c.798 s.1]

**498.153 Parking vehicle in violation of restrictions; vehicle owner subject to penalty; defense.** (1) A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under ORS 498.152 commits an offense punishable as provided in ORS 496.992.

(2) Except as otherwise provided in subsection (1) of this section, a person who is the owner of an unattended motor-propelled vehicle parked in violation of restrictions established and posted under ORS 498.152 is guilty of a Class A violation without regard to culpable mental state.

(3) It is an affirmative defense to a prosecution under subsection (2) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication. [1987 c.798 s.3; 1999 c.1051 s.194]

**498.154 Notice adequate to charge defendant; delivery or posting; jurisdiction.** (1) In all prosecutions under ORS 498.153 (2), it shall be sufficient for a police officer to charge the defendant by an unsworn written notice if the notice clearly states:

(a) The date, place and nature of the charge.

(b) The time and place for defendant's appearance in court.

(c) The name of the issuing officer.

(d) The license number of the vehicle.

(2) The notice provided for in subsection (1) of this section shall either be delivered to the defendant or placed in a

conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. The issuing officer need not have observed the act of parking, but need only have observed that the vehicle appeared to be parked in violation of restrictions established and posted under ORS 498.152.

(3) A circuit court and a justice court have concurrent jurisdiction over the offenses described in ORS 498.153 committed within the county. [1987 c.798 s.4; 1995 c.658 s.108]

**498.155 Failure to appear; issuance of warrant.** If a vehicle owner cited under ORS 498.154 to appear in a circuit or justice court upon an alleged parking offense fails to appear on or before the date and time stated on the citation, the court and the Department of Transportation may take such actions as are otherwise authorized by law under the Oregon Vehicle Code in the case of a failure to appear, except that in no case may a warrant of arrest be issued nor a criminal prosecution for failure to appear be commenced unless the citing or prosecuting authority, more than 10 days prior thereto, has sent a letter to the registered owner at the address shown upon the vehicle registration records of the department advising such owner of the charge pending and informing the owner that the owner may be subject to arrest if the owner does not appear in the court within 10 days to answer the charge. The letter must be sent by certified mail, restricted delivery, return receipt requested. A warrant of arrest may not be issued, nor a criminal prosecution for failure to appear be commenced if such a letter has not been sent or if the owner appears in court to answer the charge within 10 days after receiving the letter. [1987 c.798 s.5; 1993 c.741 s.69; 1995 c.658 s.109; 1999 c.1051 s.274]

**498.158 Hunting or trapping wildlife in certain governmental districts restricted.** (1) Except as provided in ORS 448.305 and in subsection (2) of this section, no person shall hunt or trap any wildlife within the boundaries of any city, public park, cemetery or on any school lands.

(2) No hunting or trapping shall be allowed on any lands within the boundaries of any city, public park or on any school lands unless:

(a) The governing body or other agency that administers the affairs of the city, public park or school, after notice and hearing, authorizes such hunting or trapping by ordinance or resolution; and

(b) The State Fish and Wildlife Commission, after notice and hearing, determines that such hunting or trapping would not adversely affect public safety or unreasonably interfere with other authorized uses of such lands. [1973 c.723 s.90]

**498.160** [1971 c.223 s.3; repealed by 1973 c.723 s.130]

**498.164 Taking black bear or cougar using dogs or bait prohibited; damage control and government management exceptions; hunting license suspension for violation.** (1) Except as provided in subsections (2) and (3) of this section, no person shall use bait to attract or take black bears or use one or more dogs to hunt or pursue black bears or cougars.

(2) Nothing in subsection (1) of this section shall prohibit the use of bait or one or more dogs by employees or agents of county, state, or federal agencies while acting in their official capacities.

(3) Nothing in subsection (1) of this section shall prohibit the use of bait or dogs by persons for the taking of black bears or cougars in accordance with the provisions of ORS 498.012.

(4) Any person who violates subsection (1) of this section commits a Class A misdemeanor and, upon conviction, shall in addition to appropriate criminal penalties have his or her privilege to apply for any hunting license suspended for a period of five years for a first offense and permanently suspended for any subsequent offense.

(5) For the purposes of this section, "bait" means any material placed for the purpose of attracting or attempting to attract bears. [1995 c.4 s.1]

**Note:** 498.164 was adopted by the people by initiative petition but was not added to or made a part of ORS chapter 498 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**498.170 Visually impaired hunters.** (1) A person who is not visually impaired and who accompanies a hunter who possesses a visually impaired hunter license may:

(a) Assist the hunter in selecting a game animal or bird;

(b) Assist the aiming or sighting of a firearm;

(c) Advise the hunter when to fire a firearm;

(d) Shoot a game animal or bird on behalf of the hunter while in the immediate presence of the hunter; and

(e) Tag and retrieve game animals and birds on behalf of the hunter.

(2) The person accompanying a hunter who is visually impaired shall be required to possess a valid hunting license. The person accompanying a visually impaired hunter may also hunt game animals or birds if the person possesses the appropriate tags, permits and stamps for the area and time period.

(3) A hunter who possesses a visually impaired hunter license must comply with all other tag, permit and stamp requirements of the State Fish and Wildlife Commission and applicable hunting laws.

(4) As used in this section, "visually impaired hunter" means a person who files proof with the commission that the person's central visual acuity does not exceed 20/200 in the better eye with best correction or that the person's visual acuity, if better than 20/200, is accompanied by a limit to the field of vision to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. [1997 c.407 s.1]

**Note:** 498.170 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**498.202** [1973 c.723 s.91; 1981 c.510 s.1; repealed by 1997 c.12 s.2]

**498.205** [Amended by 1973 c.723 s.109; renumbered 501.400]

## ANGLING RESTRICTIONS; FISH PROTECTIVE PROVISIONS

**498.208 Use of electricity or foreign substances to take game fish prohibited.** (1) Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall:

(a) Use in any body of water any electric current that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.

(b) Place in any body of water any foreign substance such as blood or fish offal or any gas, chemical, drug or powder that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.

(c) Use in any body of water any explosive device for the purpose of taking game fish.

(2) No person shall possess any game fish that the person knows or has reason to know was taken in violation of subsection (1) of this section. [1973 c.723 s.92]

**498.210** [Amended by 1973 c.723 s.110; renumbered 501.405]

**498.215** [Amended by 1973 c.723 s.111; renumbered 501.425]

**498.216 Angling from fishways restricted.** Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall trespass upon or angle from any fishway or angle within an area of a body of water bounded by a line extending across the body of water 200 feet above the upper end of a fishway and a line across the body of water 200 feet below the lower end of a fishway. [1973 c.723 s.93]

**498.220** [Repealed by 1973 c.723 s.130]

**498.222 Transportation or release of fish without permit prohibited.** (1) No person shall:

(a) Transport any live fish unless the person has first obtained a permit therefor from the State Fish and Wildlife Commission.

(b) Release or attempt to release into any body of water any live fish that was not taken from that body of water, unless the person has first obtained a permit therefor from the commission.

(2) The commission may refuse to issue the permit referred to in subsection (1)(b) of this section if the commission finds that release of the fish into a body of water would adversely affect existing fish populations.

(3) Subsection (1)(a) of this section does not apply to live fish that are for aquaria use. [1973 c.723 s.94]

**498.225** [Amended by 1965 c.20 s.1; repealed by 1973 c.723 s.130]

**498.228 Possession of fish taken outside state restricted.** (1) Except as provided in subsection (2) of this section:

(a) No person shall possess or import into this state from the waters of the Pacific Ocean beyond the boundaries of this state any game fish unless the person has in possession those valid angling licenses, tags and permits required therefor by the wildlife laws or rules promulgated pursuant thereto.

(b) No person shall possess or import into this state from any waters beyond the boundaries of this state any game fish in excess of the amount prescribed by the wildlife laws or rules promulgated pursuant thereto.

(2) Subsection (1) of this section does not apply to:

(a) The possession or importation of fish taken pursuant to the commercial fishing laws; or

(b) The possession or importation of fish taken in the waters of another state, a territory of the United States or a foreign country pursuant to the laws of such state, territory or foreign country. [1973 c.723 s.95]

**498.230** [Repealed by 1973 c.723 s.130]

**498.234 Protection of finfish and shellfish from introduction of disease; exceptions.** (1) The State Fish and Wildlife Commission shall, by rule, establish a program to protect all finfish and shellfish in waters of this state, both public and private, from infection by the introduction of detrimental fish diseases.

(2) Rules adopted under subsection (1) of this section shall not apply to live aquaria species imported or transported for aquaria use unless those species are reared in facilities from which effluent directly enters waters of this state.

(3) The requirements of subsection (1) of this section are in addition to any other requirement of law, or rule promulgated pursuant thereto, regarding the importation into this state of live game fish or game fish eggs. [1973 c.723 s.96; 1987 c.294 s.1]

**498.235** [Repealed by 1973 c.723 s.130]

**498.240** [Amended by 1967 c.523 s.13; repealed by 1973 c.723 s.130]

**498.242 Possession of walking catfish and piranha restricted.** (1) Except as provided in subsections (2) and (3) of this section, no person shall possess any live fish of the various species:

(a) Of the family Clariidae, commonly known as walking catfish; or

(b) Of the subfamily Serrasalminae of the family Characidae, commonly known as caribe or piranha.

(2) A public park, zoo, museum or educational institution may possess any of the fish referred to in subsection (1) of this section for educational, medical, scientific or exhibition purposes if the organization first obtains a permit from the State Fish and Wildlife Commission. The commission may refuse to issue the permit if the commission finds that the organization requesting the permit has physical facilities for holding the fish that are inadequate to prevent their escape from confinement.

(3) Subsections (1) and (2) of this section do not prohibit the possession or require a permit for the possession of live fish that are of the genera Pygocentrus, Serrasalmus or Pristobrycon that are carnivorous fish in the subfamily Serrasalminae, from the family Characidae, commonly known as piranha or caribe. [1973 c.723 s.97; 1995 c.355 s.1]

**498.245** [Repealed by 1959 c.352 s.5]

**498.246** [1995 s.s. c.3 s.41a; repealed by 1996 c.7 s.2 (498.247 enacted in lieu of 498.246)]

**498.247 Protection of juvenile salmonids from cormorants.** (1) The State Fish and Wildlife Commission shall issue not more than three permits annually for activities involving the protection of juvenile salmonids from cormorants (Phalacrocoracidae) on Oregon coastal river systems between Cape Falcon and Cascade Head.

(2) Activities authorized under the permits shall not include the killing, trapping or other taking of cormorants.

(3) Persons to whom permits are issued may subcontract with others for the performance of protection activities. [1996 c.7 s.3 (enacted in lieu of 498.246)]

**498.248** [1973 c.723 s.98; 1987 c.488 s.1; 1995 c.426 s.5; renumbered 498.311 in 1995]

**498.250** [Repealed by 1973 c.723 s.130]

**498.252** [1989 c.933 s.5; 1991 c.858 s.3; repealed by 1995 c.426 s.11]

**498.254** [1973 c.723 s.99; repealed by 1987 c.488 s.5]

**498.255** [Amended by 1957 c.253 s.1; repealed by 1959 c.352 s.5]

**498.256** [1989 c.933 ss.6,7; 1995 c.426 s.10; renumbered 498.326 in 1995]

**498.260** [Repealed by 1959 c.352 s.5]

**498.262** [1973 c.723 s.100; 1987 c.488 s.3; 1995 c.426 s.8; renumbered 498.316 in 1995]

**498.265** [Repealed by 1955 c.160 s.1]

**498.268** [1973 c.723 s.101; renumbered 498.351 in 1995]

**498.270** [Repealed by 1959 c.352 s.5]

**498.272** [Formerly 498.145; repealed by 1973 c.723 s.130]

**498.274** [1973 c.723 s.102; 1987 c.488 s.4; 1995 c.426 s.9; renumbered 498.346 in 1995]

**498.275** [Repealed by 1959 c.352 s.5]

**498.276** [1991 c.858 s.9; renumbered 498.336 in 1995]

## ANGLING CONTESTS

**498.279 Black bass angling contests.** (1) A person, or group of persons, may conduct, sponsor and participate in any competition or contest in which prizes are offered for the amount, quality, size, weight or other physical characteristics of black bass taken only in accordance with the following restrictions:

(a) The same fish may be used in different categories of competition in a contest if the prize awarding system is such that the value of prizes awarded to a participant does not exceed two times the individual prize value limitation.

(b) The rules of any such competition or contest must be prepared and distributed by the sponsors to the contestants and must be administered and enforced by the sponsors. Such rules shall include, but not be limited to:

(A) A requirement that the contestants utilize aerated live wells or other such equipment so that all reasonable efforts are made to maintain the fish taken in a live and healthy condition so that the fish may be returned alive to the water or delivered to the State Fish and Wildlife Commission for restocking.

(B) A requirement that contestants use only artificial or other such prepared baits.

(C) A requirement that the sponsor shall specify the maximum number of boats participating to minimize any adverse impact on other uses of the contest waters.

(c) The sponsor of the competition or contest must submit to the commission, at least 30 days prior to commencement of the event, a written description of the manner in which the competition or contest is to be conducted. Such description shall include the locations, dates and times of the event, rules for conduct of the events, the amounts of entry fees, the amounts, descriptions and methods of awarding prizes and the equipment and methods to be used by contestants to keep fish taken in a live and healthy condition.

(d) At the request of the commission, the sponsor of the event shall report the results of the event to the commission, on a form provided by the commission not later than 30 days after the end of the event.

(e) A competition or contest may not be held on any particular body of water more often than once in any 14-day period. The commission may order closure of any waters to competitions or contests when the commission considers such action necessary to protect wildlife resources.

(2) The commission shall limit the number of contests and participants and determine the location of such contests and shall adopt any other rules the commission considers necessary to carry out the provisions of this section.

(3) As used in this section, “black bass” means largemouth bass, smallmouth bass, redeye bass, spotted bass and all other basses of the genus *Micropterus*. [1981 c.510 s.3; 1985 c.562 s.1; 1987 c.299 s.1]

**498.280** [Repealed by 1973 c.723 s.130]

**498.284 Walleye angling contests.** (1) A person, or group of persons, may conduct, sponsor and participate in any competition or contest in which prizes are offered for the amount, quality, size, weight or other physical characteristic of walleye taken only in accordance with the following restrictions:

(a) The same fish may be used in different categories of competition in a contest if the prize awarding system is such that the value of prizes awarded to a participant does not exceed two times the individual prize value limitation.

(b) The rules of any such competition or contest must be prepared and distributed by the sponsors to the contestants and must be administered and enforced by the sponsors. Such rules shall include, but not be limited to:

(A) A requirement that the contestants utilize aerated live wells or other such equipment so that all reasonable efforts are made to maintain the fish taken in a live and healthy condition so that the fish may be returned alive to the water or delivered to the State Fish and Wildlife Commission for restocking.

(B) Prescribing the types of baits or lures that may be used.

(C) A requirement that the sponsor shall specify the maximum number of boats participating to minimize any adverse impact on other uses of the contest waters.

(c) The sponsor of the competition or contest must submit to the commission, at least 30 days prior to commencement of the event, a written description of the manner in which the competition or contest is to be conducted. Such description shall include the locations, dates and times of the event, rules for conduct of the events, the amounts of entry fees, the amounts, descriptions and methods of awarding prizes and the equipment and methods to be used by contestants to keep fish taken in a live and healthy condition.

(d) At the request of the commission, the sponsor of the event shall report the results of the event to the commission, on a form provided by the commission not later than 30 days after the end of the event.

(e) A competition or contest may not be held on any particular body of water more often than once in any 14-day period. The commission may order closure of any waters to competitions or contests when the commission considers such action necessary to protect wildlife resources.

(2) The commission shall limit the number of contests and participants and determine the location of such contests and shall adopt any other rules the commission considers necessary to carry out the provisions of this section.

(3) As used in this section, “walleye” means the species *stizostedion vitreum*. [1989 c.373 s.2]

**498.285** [Repealed by 1973 c.723 s.130]

**498.286 Prize limitation.** (1) Except as provided in subsection (2) of this section and ORS 498.279 and 498.284, no person shall conduct, sponsor or participate in any competition or contest in which any prize of a retail value of more than \$1,000 is offered for the amount, quality, size, weight or other physical characteristic of game fish taken.

(2) When a prize is offered that exceeds \$1,000 for the amount, quality, size, weight or other physical characteristic of a game fish taken, the State Fish and Wildlife Commission, by rule, may limit the number of contests and participants, determine the location of such contests and prescribe such other terms and conditions regarding the conduct of such contests as the commission determines necessary to protect wildlife resources and ensure an orderly fishery. [1989 c.373 s.4; 1997 c.12 s.1]

**498.290** [1961 c.129 s.1; repealed by 1973 c.723 s.130]

**498.295** [Repealed by 1957 c.235 s.1]

**498.300** [Repealed by 1959 c.352 s.5]

## SCREENING, BY-PASS DEVICES OR FISHWAYS FOR WATER DIVERSIONS OR OBSTRUCTIONS

**498.301 Policy.** It is the policy of the State of Oregon to prevent appreciable damage to game fish populations or populations of nongame fish that are classified as sensitive species, threatened species or endangered species by the State Fish and Wildlife Commission as the result of the diversion of water for nonhydroelectric purposes from any

body of water in this state. [1993 c.478 s.2]

**498.305** [Repealed by 1959 c.352 s.5]

**498.306 Screening or by-pass devices for water diversions less than 30 cubic feet per second; costs.** Any person who diverts water, at a rate of less than 30 cubic feet per second, from any body of water in this state in which any fish, subject to the State Fish and Wildlife Commission's regulatory jurisdiction, exist may be required to install, operate and maintain screening or by-pass devices to provide adequate protection for fish populations present at the water diversion in accordance with the following provisions:

(1)(a) The State Department of Fish and Wildlife shall establish a cost-sharing program to implement the installation of screening or by-pass devices on not less than 75 water diversions referred to in this section per year. The department shall select the water diversions to be screened from the priority listing of diversions established by the department and reviewed by the Fish Screening Task Force. The installation of a screening or by-pass device may be required only when:

(A) Fewer than 75 persons per year volunteer to request such installation on the diversions for which they are responsible; or

(B) The Fish Screening Task Force has reviewed and approved the department's request to require installation of screening or by-pass devices in order to complete the screening of a stream system or stream reach.

(b) The limitations on the number of diversions to be screened as provided in this section and section 5, chapter 858, Oregon Laws 1991, do not prevent the installation of fish screening and by-pass devices for diversions by persons responsible for diversions who are willing to pay the full cost of installing fish screening and by-pass devices.

(2) When selecting diversions to be equipped with screening or by-pass devices, the department shall attempt to solicit persons who may volunteer to request the installation of such devices on the diversions for which they are responsible. When selecting diversions to be equipped with screening or by-pass devices, the department shall select those diversions that will provide protection to the greatest number of indigenous naturally spawning fish possible.

(3) If the department constructs and installs the by-pass or screening device, a fee shall be assessed against the person responsible for the diversion in an amount that does not exceed \$5,000 or 40 percent of the construction and installation cost of the devices, whichever amount is the lesser. The fee shall be paid into the Fish Screening Subaccount. If the person responsible for the diversion constructs and installs the by-pass or screening device, the person shall be reimbursed from the Fish Screening Subaccount in an amount that does not exceed \$10,000 or 60 percent of the actual construction and installation costs of the device, whichever amount is the lesser.

(4) The department's cost of major maintenance and repair of screening or by-pass devices shall be paid from the Fish Screening Subaccount.

(5) The department is responsible for major maintenance and repair of screening or by-pass devices, and if failure by the department to perform major maintenance on or repair such devices results in damage or blockage to the water diversion on which the devices have been installed, the person responsible for the water diversion shall give written notice of such damage or blockage to the department. If within seven days of the notice, the department fails to take appropriate action to perform major maintenance on or repair the devices, and to repair any damage that has occurred, the person responsible for the water diversion may remove the device. If an emergency exists that will result in immediate damage to livestock or crops, the person responsible for the water diversion may remove the screening or by-pass device. A person required to comply with this section shall be responsible for minor maintenance and shall, in a timely manner, notify the department of the need for activities associated with major maintenance.

(6) A person required to comply with this section may design, construct and install screening or by-pass devices adequate to prevent fish from leaving the body of water and entering the diversion or may request the department to design, construct and install such devices. However, if a person required to comply with this section fails to comply within 180 days after notice to comply by the department, the department shall design, install and operate on that person's water diversion appropriate screening or by-pass devices and shall charge and collect from the person the actual costs thereof in an amount not to exceed the average cost for diversions of that size.

(7) If the diversion requiring screening or by-pass devices is located on public property, the department shall obtain from the property owner approval or permits necessary for such devices. Activities of the department pursuant to this section shall not interfere with existing rights of way or easements of the person responsible for the diversion.

(8)(a) The department or its agent shall have the right of ingress and egress to and from those places where screening or by-pass devices are required, doing no unnecessary injury to the property of the landowner, for the purpose of designing, installing, inspecting, performing major maintenance on or repairing such devices.

(b) If a screening or by-pass device installed by the department must be removed or replaced due to inadequate design or faulty construction, the person responsible for the diversion shall bear no financial responsibility for its replacement or reconstruction.

(c) If a screening or by-pass device installed by the person responsible for the diversion must be removed or replaced due to faulty construction, the person shall bear full financial responsibility for its replacement or reconstruction.

(d) If the person responsible for a diversion on which a screening or by-pass device is installed fails to conduct appropriate inspection and minor maintenance, the department may perform such activities and charge and collect from the person responsible a fee not to exceed \$25 for each required visit to the location of the screening or by-pass device.

(9) No person shall interfere with, tamper with, damage, destroy or remove in any manner not associated with regular and necessary maintenance procedures any screening or by-pass devices installed pursuant to this section.

(10) The department may maintain an action to cover any costs incurred by the department when a person who is required to comply with this section fails to comply. Such action shall be brought in the circuit court for the county in which the water diversion is located.

(11) Upon receiving notice from the department to comply with this section, a person responsible for a water diversion may be excused from compliance if the person demonstrates to the Fish Screening Task Force that:

(a) The installation and operation of screening or by-pass devices would not prevent appreciable damage to the fish populations in the body of water from which water is being diverted.

(b) Installation and operation of screening or by-pass devices would not be technically feasible.

(c) Installation of screening or by-pass devices would result in undue financial hardship.

(12)(a) Not later than January 1, 1996, the department, with the assistance of the Fish Screening Task Force and the Water Resources Department, shall establish and publish an updated priority listing of 3,500 water diversions in the state that should be equipped with screening or by-pass devices. Changes may be made to the list whenever deletions are made for any reason. The priority listing shall include the name and address of the person currently responsible for the water diversion, the location of the diversion, size of the diversion, type of screening or by-pass device required, estimated costs for construction and the installation of screening or by-pass devices for the individual diversion and species of fish present in the water body. When developing the priority listing, the department shall base priorities for the installation of screening or by-pass devices on unscreened diversions on the following criteria:

(A) Fish species status.

(B) Fish numbers.

(C) Fish migration.

(D) Diversion size.

(E) Diversion amount.

(F) Any other criteria that the department, in consultation with the Fish Screening Task Force, considers appropriate.

(b) Criteria identified in this subsection shall be given appropriate consideration by the department when updating its priority listing. The priority list will be updated to give the highest priority to those diversions that save the greatest number of fish and simultaneously protect the greatest number of threatened or endangered fish species.

(c) After the priority list has been updated, the persons responsible for the diversions on the list shall be notified that their diversion appears on the the list. Such persons also shall be furnished a description of the fish screening program.

(d)(A) The department shall notify, by means of registered mail, each person responsible for the first 250 diversions on the priority listing on or before January 1, 1996. The department shall furnish information regarding the fish screening program to each person responsible for a diversion included in the first 250 diversions on the priority listing on or before January 1, 1996. No person shall be required to install a screening or by-pass device unless previously notified by the department of the requirement to install such devices.

(B) On or before January 1, 1998, and each even-numbered year thereafter, the department will notify each person responsible for the first 250 diversions on the priority listing. However, the department is not required to notify in a subsequent year any person previously notified. The department shall include with such notification, information regarding the fish screening program to each person responsible for a diversion included in the first 250 diversions on the priority listing.

(C) Before any person is required to install a screening or by-pass device on a diversion of less than 30 cubic feet per second, the department shall confirm the need for the screening device through a visual, on-site inspection by appropriate staff of the fish screening division of the department, or a district biologist of the department.



(13) As used in this section:

(a) "Behavioral barrier" means a system that utilizes a stimulus to take advantage of natural fish behavior to attract or repel fish. A behavioral barrier does not offer a physical impediment to fish movement, but uses such means as electricity, light, sound or hydraulic disturbance to move or guide fish.

(b) "Body of water" includes but is not limited to irrigation ditches, reservoirs, stock ponds and other artificially created structures or impoundments.

(c) "By-pass device" means any pipe, flume, open channel or other means of conveyance that transports fish back to the body of water from which the fish were diverted but does not include fishways or other passages around a dam.

(d) "Fish screen" means a screen, bar, rack or other barrier, including related improvements necessary to insure its effective operation, to provide adequate protection for fish populations present at a water diversion.

(e) "Major maintenance" means all maintenance work done on a fish screening or by-pass device other than minor maintenance.

(f) "Minor maintenance" means periodic inspection, cleaning and servicing of fish screening or by-pass devices at such times and in such manner as to ensure proper operation of the screening or by-pass device.

(g) "Screening device" means a fish screen or behavioral barrier.

(h) "Person" means any person, partnership, corporation, association, municipal corporation, political subdivision or governmental agency. [1991 c.858 s.2; 1993 c.478 s.4; 1995 c.426 s.1]

**498.310** [Repealed by 1973 c.723 s.130]

**498.311 Department authorized to require installation of screening or by-pass devices for water diversions exceeding 30 cubic feet per second; costs.** (1) Any person who diverts water, at a rate of 30 cubic feet per second or more, from any body of water in this state in which game fish exist shall install, operate and maintain, at the expense of the person, all fish screening or by-pass devices that the State Department of Fish and Wildlife determines necessary to prevent fish from leaving the body of water and entering the diversion.

(2) Upon failure of any person to install, operate and maintain fish screening or by-pass devices as required under subsection (1) of this section, the department may install, operate and maintain, at the expense of the responsible person, fish screening or by-pass devices necessary to prevent fish from leaving the body of water and entering the diversion.

(3) The department or its agent shall have the right of ingress and egress to and from those places where the department determines that fish screening or by-pass devices are required, doing no unnecessary injury to the property of the landowner, for the purpose of installing, inspecting, maintaining and replacing such fish screening and by-pass devices, and, if installed by a person under subsection (1) of this section, to determine if such fish screening or by-pass devices meet department requirements. The department may order a person responsible under subsection (1) of this section to repair or replace fish screening or by-pass devices found to be noncomplying, at the expense of the responsible person.

(4) If the department considers the installation, operation, maintenance, repair or replacement of fish screening or by-pass devices under subsections (1) to (3) of this section necessary, the department shall notify by certified mail the person who diverts water of the action the person is required to take. The person may request a hearing before the State Fish and Wildlife Commission according to provisions of ORS 183.310 to 183.550.

(5) No person shall interfere with, tamper with, damage, destroy or remove in a manner not associated with regular and necessary maintenance procedures any fish screening or by-pass device installed pursuant to this section.

(6) The department may maintain an action to recover any costs the department incurs in installing, maintaining or replacing fish screening or by-pass devices on behalf of a person responsible under subsection (1) of this section. Such action shall be brought in the circuit court for the county in which the fish screening or by-pass devices are located.

(7) As used in this section:

(a) "By-pass device" means any pipe, flume, open channel or other means of conveyance that transports fish back to the body of water from which the fish were diverted.

(b) "Department" means the State Department of Fish and Wildlife.

(c) "Person" means any person, partnership, corporation, association, municipal corporation, political subdivision or governmental agency.

(d) "Screening" means a screen, grating or other barrier and related improvements or measures necessary to ensure efficient operation of the screening device, to prevent the passage of fish from a body of water into a diversion.

[Formerly 498.248]

**498.315** [Repealed by 1973 c.723 s.130]

**498.316 Exemption from screening or by-pass devices.** ORS 498.306 and 498.311 do not require the installation of fish screening or by-pass devices in those water diversions for which the State Fish and Wildlife Commission, by contract or other form of agreement with the person diverting the water, has made such other provision as the commission determines is adequate for the protection of the game fish in the body of water from which water is being diverted. [Formerly 498.262]

**498.321 Screening or by-pass standards.** (1) In order to carry out the provisions of ORS 498.301 and 498.306 and section 5, chapter 858, Oregon Laws 1991, the following minimum standards and criteria shall apply to actions of the State Fish and Wildlife Commission and the State Department of Fish and Wildlife with regard to fish screening or by-pass devices:

(a) Standards and criteria shall address the overall level of protection necessary at a given water diversion and shall not favor one technology or technique over another.

(b) Standards and criteria shall take into account at least the following factors relating to the fish populations present at a water diversion:

(A) The source of the population, whether native or introduced and whether hatchery or wild.

(B) The status of the population, whether endangered, threatened or sensitive.

(c) Standards and criteria may take into account the cumulative effects of other water diversions on the fish populations being protected.

(d) Design and engineering recommendations shall consider cost-effectiveness.

(e) Alternative design and installation proposals must be approved if they can be demonstrated to provide an equal level of protection to fish populations as those recommended by the department.

(2) In order to maximize effectiveness and promote consistency relating to the protection of fish at nonhydroelectric water diversions, the department shall establish a single organizational entity to administer all agency activities related to fish screening and by-pass devices.

(3) The department shall emphasize cooperative effort and mutual understanding with those responsible for water diversions that need fish screening or by-pass devices.

(4) The department shall aggressively investigate and encourage the development of new technologies and techniques to provide protection for fish populations at water diversions in order to reduce initial costs, reduce operating costs and improve cost-effectiveness. [1993 c.478 s.3]

**498.326 Department guidelines for screening and by-pass projects; expenditure of funds.** (1) The State Department of Fish and Wildlife shall establish guidelines to determine the need for and location of potential fish screening and by-pass projects. The guidelines shall include a plan to be used for determining priorities for and expected costs of installing and maintaining the fish screening and by-pass devices.

(2) Nothing in subsection (1) of this section is intended to prevent the State Department of Fish and Wildlife from expending federal or other funds if such funds become available for the installation and maintenance of fish screening and by-pass projects. [Formerly 498.256]

**Note:** 498.326 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**498.331 Application for cost share assistance by persons sharing water diversion.** (1) Any two or more persons other than public corporations, municipal corporations, irrigation districts or owners of land served by the district, public utilities or entities that provide utility service, who install a screening or by-pass device on a water diversion, at a point shared by those persons, with a rate of 30 cubic feet per second or more, from any body of water in this state in which fish exist that are subject to the State Fish and Wildlife Commission's regulatory jurisdiction, may make application to the State Department of Fish and Wildlife for reimbursement of construction and installation costs of such screening or by-pass device. Upon approval by the department in conjunction with the Fish Screening Task Force, reimbursement shall be made from the Fish Screening Subaccount established pursuant to ORS 496.300. However, reimbursement shall not exceed \$10,000 or 60 percent of the actual construction and installation costs, whichever amount is the lesser.

(2) The department, by rule, shall prescribe the form and content of applications and the criteria for application approval. [1993 c.478 s.11; 1995 c.426 s.18]

**498.336 Statutes not construed to limit ability to acquire funding for screening or by-pass devices.** Nothing in ORS 498.306, 498.311, 498.351, 509.605 or 509.615 shall be construed:

(1) To limit the eligibility of a person required to install and operate fish screening or by-pass devices to obtain funding from the Water Development Fund pursuant to ORS 541.700 to 541.855.

(2) To limit the acquisition or acceptance of any federal funds available for the installation, operation, maintenance, improvement or repair of fish screening or by-pass devices on water diversions in this state, regardless of the size of the diversion. [Formerly 498.276]

**498.341 Additional funding.** Notwithstanding the limitation on the number of diversions to be screened as provided in ORS 498.306 and section 5, chapter 858, Oregon Laws 1991, if sufficient funds are made available in the Fish Screening Subaccount of the State Wildlife Fund, by allocation from the Administrative Services Economic Development Fund or from other sources, the State Department of Fish and Wildlife may provide financial assistance for construction and installation of screening or by-pass devices on an additional 250 water diversions. [1993 c.478 s.8]

**498.346 Injunction to require compliance with screening, by-pass or fishway requirements.** The State Fish and Wildlife Commission may maintain a suit to enjoin any person, including governmental agencies of this state and political subdivisions of this state, from violating the provisions of ORS 498.306, 498.311 or 498.351. The circuit court for any county in which are situated any waters in which any such violations are threatened has jurisdiction of the suit authorized by this section. [Formerly 498.274]

**498.351 Fishway required for artificial obstruction across body of water.** (1) Except as otherwise provided by law, no person shall construct, operate or maintain any dam or artificial obstruction across any body of water in this state in which game fish exist unless the person provides a fishway in such location and of such design as the State Fish and Wildlife Commission determines will provide adequate upstream and downstream passage for fish at the dam or obstruction.

(2) If the State Fish and Wildlife Commission determines that a fishway required by subsection (1) of this section does not provide adequate passage for fish, the State Fish and Wildlife Commission shall so notify the person who constructed or who operates or maintains the dam or obstruction. The notice shall also specify the manner in which the fishway is inadequate, and shall require the person who constructed or who operates or maintains the dam or obstruction to make appropriate alterations, specifying a reasonable time for the completion thereof.

(3) A person required to alter a fishway pursuant to subsection (2) of this section may file with the Water Resources Commission a protest against the alteration requirements on the grounds that such alterations are not in the public interest. A person who protests pursuant to this subsection must file the protest with the Water Resources Commission not later than the 10th day after the date of the notice of alteration requirements from the State Fish and Wildlife Commission.

(4) Within a reasonable time after receiving a protest, the Water Resources Commission shall give notice to the protestant and the State Fish and Wildlife Commission and hold a hearing to determine whether the fishway alterations are in the public interest. In making the determination, the Water Resources Commission shall approve, disapprove or approve with modifications the fishway alterations required by the State Fish and Wildlife Commission. In making the determination, the Water Resources Commission shall consider the state water resources policy and the considerations set forth in ORS 536.310.

(5) If the person required by this section to make alterations to a fishway fails to make the alterations in the manner and within the time required by the State Fish and Wildlife Commission or the Water Resources Commission, as the case may be, the State Fish and Wildlife Commission may remove the dam or obstruction, or any parts thereof.

(6) No person who has constructed or who operates or maintains a dam or artificial obstruction for which a fishway is required by this section shall fail to keep the fishway free from obstruction to the passage of fish. However, no prosecution for violation of this subsection shall be commenced unless the violation continues after the State Fish and Wildlife Commission has given written notice of the violation to the person who is to be prosecuted. Every day of violation of this subsection after the date written notice was given to the person to be prosecuted constitutes a separate offense. [Formerly 498.268]

**Note:** Sections 3 and 5, chapter 882, Oregon Laws 1999, provide:

**Sec. 3.** (1) Notwithstanding ORS 498.351, 509.605, 509.610, 509.620, 509.625 or 509.640, for the period beginning on the effective date of this 1999 Act [July 30, 1999] and ending June 30, 2001, the State Fish and Wildlife Commission may enter into a memorandum of understanding that waives the requirements of ORS 498.351 or 509.605 for any new project or modification of an existing project if:

(a) The commission determines, after sufficient opportunity for public review and comment, that alternative mitigation proposed by the project owner or operator would provide a net benefit to wild anadromous and other migratory native fish; and

(b) The proponent of the alternative mitigation submits a memorandum of understanding for approval by the commission on or before January 1, 2001.

(2) Any proposed alternative passage and mitigation for the project in lieu of providing a fishway under ORS 498.351 or 509.605 shall not include a hatchery component or the introduction of exotic fish species within the project area. [1999 c.882 s.3]

**Sec. 5.** Sections 2, 3 and 4 of this 1999 Act are repealed June 30, 2001. [1999 c.882 s.5]

## OUTDOOR CLUB REGULATION

**498.400 Definitions for ORS 498.400 to 498.464.** As used in ORS 498.400 to 498.464, unless the context requires otherwise:

(1) "Advertise" means to make public distribution by any means of communication any material relating to the sale of membership in an outdoor club.

(2) "Outdoor club" means a business entity organized for profit that:

(a) Conducts, or under whose authority is conducted, hunting or angling or both hunting and angling activities exclusively for its members and their guests; and

(b) Engages in promotional plan activities for the sale of membership in such club.

(3) "Promotional plan" includes, but is not limited to advertising. [1973 c.749 s.2]

**498.405** [Repealed by 1973 c.723 s.130]

**498.406 License to operate certain outdoor clubs required; promotional activities for sale of membership without license prohibited.** (1) Except as provided in ORS 498.412, no person shall operate an outdoor club unless the person has a valid license for such operation issued by the State Fish and Wildlife Commission, if the outdoor club activities are to be conducted on land that is leased from the owners thereof and if:

(a) The members of the club are not parties to the lease; and

(b) The members of the club do not have any financial or proprietary interest in the club.

(2) No person required by subsection (1) of this section to obtain a license to operate an outdoor club shall engage in promotional plan activities for the sale of membership in the outdoor club unless the person first obtains the license. [1973 c.749 s.3]

**498.410** [Repealed by 1961 c.113 s.2]

**498.412 Application of ORS 498.406.** ORS 498.406 does not apply to any landowner offering to sell recreational access to property the landowner owns. [1973 c.749 s.4]

**498.415** [Repealed by 1973 c.723 s.130]

**498.418 License application; form; fee.** (1) A person who is required to obtain a license from the State Fish and Wildlife Commission to operate an outdoor club shall submit to the commission an application for such license, on a form approved by the commission, that contains such information as the commission may require regarding the ownership, financial condition and operation of the club and promotional plans for sale of membership therein.

(2) The application shall be accompanied by a fee of \$100. [1973 c.749 s.5]

**498.420** [Repealed by 1973 c.723 s.130]

**498.424 Report to commission required; suspension of license pending investigation of reported information.**

(1) A person who is licensed to operate an outdoor club shall report immediately to the State Fish and Wildlife Commission any material changes in the information required to be contained in the application.

(2) Upon receipt of any such report, the commission may suspend a license that has been issued for such time as the commission considers necessary to adequately investigate and approve the information submitted. [1973 c.749 s.6]

**498.425** [Repealed by 1961 c.113 s.2]

**498.430** [Amended by 1959 c.372 s.1; repealed by 1973 c.723 s.130]

**498.432 Notice to applicant upon receipt of license application; order granting or denying license; procedure.** (1) Upon receipt in proper form of an application for a license to operate an outdoor club, the State Fish and Wildlife Commission shall issue a notice of filing to the applicant. Within 30 days from the date of the notice of filing, the commission shall enter an order granting or denying the license. If the license is denied, the commission shall give the applicant notice of the reasons therefor.

(2) If an order denying a license is not entered within 60 days from the date of notice of filing of an application, a license shall be considered granted unless the applicant has consented in writing to a delay.

(3) Orders of the commission regarding the issuance, renewal, suspension or revocation of a license shall be issued and reviewed in accordance with ORS 183.310 to 183.550. [1973 c.749 s.7]

**498.435** [Repealed by 1973 c.723 s.130]

**498.438 Investigatory power of commission over outdoor clubs required to be licensed.** The State Fish and Wildlife Commission may cause to be investigated, to such extent as the commission considers appropriate, the activities and operations of an outdoor club for which a license to operate has been received, previously granted or previously denied. The commission's power to investigate includes, but is not limited to:

(1) Contracting for investigative services with, and receiving information and recommendations from, any other agency or political subdivision of this state, another state or of the United States.

(2) Making on-site inspections of all lands upon which outdoor club activities are to be conducted. [1973 c.749 s.8]

**498.440** [Repealed by 1961 c.113 s.2]

**498.444 Information developed in licensing process as public record.** Each application to the State Fish and Wildlife Commission for a license to operate an outdoor club, all information submitted with the application, and all information obtained by the commission through investigation of applications, is a public record. [1973 c.749 s.9]

**498.445** [Amended by 1961 c.113 s.1; repealed by 1973 c.723 s.130]

**498.450** [Repealed by 1973 c.723 s.130]

**498.452 Grounds for denial or revocation of license.** The State Fish and Wildlife Commission may refuse to issue or renew a license to operate an outdoor club, or may revoke a license that has been previously issued if the commission finds:

(1) Failure by the outdoor club or person advertising the sale of membership in the outdoor club to comply with the provisions of ORS 498.400 to 498.464 and 498.993 or any rule promulgated pursuant thereto;

(2) That the promotional plan for the sale of outdoor club membership is false, deceptive or misleading, or that the promotional plan for the sale of membership is not in conformity with the plan submitted with the license application and approved by the commission;

(3) That any land upon which it has been represented that outdoor club activities are to be conducted is unsuitable for the purposes for which represented;

(4) That any obligation, guaranty or warranty to members of the club by the outdoor club that was included in the

promotional plan for the sale of membership or in the contract or other documents relating to membership is not being fulfilled or that adequate financial arrangements to secure performance of such obligations, guaranties or warranties has not been made; or

(5) That the proposed outdoor club activities would have adverse effect upon existing wildlife populations or habitat or upon wildlife-oriented recreation. [1973 c.749 s.10]

**498.455** [Repealed by 1961 c.113 s.2]

**498.458 Term of license; renewal.** A license to operate an outdoor club expires one year from the date of its issuance. A person who desire to renew a license shall submit an application therefor to the State Fish and Wildlife Commission, together with a fee of \$100. The application shall be in such form, contain such information and be submitted at such time as the commission prescribes. [1973 c.749 s.11]

**498.460** [Repealed by 1973 c.723 s.130]

**498.464 Commission authority to restrain violations of outdoor club laws.** (1) Whenever the State Fish and Wildlife Commission has cause to believe that any person is engaged in or is about to engage in any acts or practices that constitute a violation of ORS 498.400 to 498.464 and 498.993, or any rule promulgated pursuant thereto, that requires immediate action to protect the wildlife resources of this state, the commission shall institute actions or proceedings for legal or equitable remedies to restrain the violation or threatened action.

(2) The actions or proceedings authorized by subsection (1) of this section may be instituted without necessity of a prior administrative proceeding, or at any time during an administrative proceeding if a proceeding has been commenced. [1973 c.749 s.12; 1979 c.284 s.160]

**498.465** [1957 c.251 s.1; repealed by 1973 c.723 s.130]

**498.505** [Repealed by 1973 c.723 s.130]

**498.510** [Amended by 1965 c.73 s.1; repealed by 1973 c.723 s.130]

**498.515** [Repealed by 1973 c.723 s.130]

**498.520** [Repealed by 1973 c.723 s.130]

**498.525** [Repealed by 1973 c.723 s.130]

**498.530** [Repealed by 1973 c.723 s.130]

**498.535** [Repealed by 1973 c.723 s.130]

**498.540** [Repealed by 1973 c.723 s.130]

**498.545** [Repealed by 1973 c.723 s.130]

**498.550** [Repealed by 1973 c.723 s.130]

**498.555** [Repealed by 1973 c.723 s.130]

**498.560** [Repealed by 1973 c.723 s.130]

**498.565** [Repealed by 1973 c.723 s.130]

**498.570** [Repealed by 1973 c.723 s.130]

**498.575** [Amended by 1967 c.594 s.5; 1971 c.359 s.1; repealed by 1973 c.723 s.130]

**498.577** [1959 c.341 s.1; 1963 c.295 s.1; repealed by 1973 c.723 s.130]

**498.580** [Repealed by 1973 c.723 s.130]

**498.585** [Repealed by 1973 c.723 s.130]

**498.590** [Repealed by 1973 c.723 s.130]

**498.605** [Repealed by 1973 c.723 s.130]

**498.610** [Repealed by 1973 c.723 s.130]

**498.615** [Repealed by 1973 c.723 s.130]

**498.620** [Repealed by 1973 c.723 s.130]

**498.625** [Amended by 1959 c.529 s.3; repealed by 1973 c.723 s.130]

**498.630** [Repealed by 1969 c.15 s.1]

**498.635** [Amended by 1955 c.78 s.1; repealed by 1973 c.723 s.130]

**498.640** [Amended by 1955 c.62 s.1; repealed by 1973 c.723 s.130]

**498.641** [1955 c.507 s.1; 1959 c.235 s.1; repealed by 1973 c.723 s.130]

**498.645** [Repealed by 1955 c.65 s.2]

**498.646** [1955 c.65 s.1; repealed by 1973 c.723 s.130]

**498.650** [Repealed by 1973 c.723 s.130]

**498.655** [1965 c.201 s.1; repealed by 1973 c.723 s.130]

**498.660** [1965 c.201 ss.2,3; repealed by 1973 c.723 s.130]

**498.665** [1965 c.201 s.4; repealed by 1973 c.723 s.130]

**498.705** [Repealed by 1973 c.723 s.130]

**498.710** [Repealed by 1973 c.723 s.130]

**498.715** [Repealed by 1973 c.723 s.130]

**498.720** [Repealed by 1973 c.723 s.130]

**498.725** [Repealed by 1973 c.723 s.130]

**498.730** [Amended by 1955 c.707 s.44; 1965 c.167 s.1; repealed by 1973 c.723 s.130]

**498.732** [1955 c.707 s.46; repealed by 1973 c.723 s.130]

**498.735** [Amended by 1955 c.707 s.47; repealed by 1973 c.723 s.130]

**498.740** [Amended by 1955 c.707 s.48; repealed by 1973 c.723 s.130]

**498.745** [Repealed by 1973 c.723 s.130]

**498.750** [Repealed by 1973 c.723 s.130]

**498.805** [1961 c.663 s.1; repealed by 1973 c.723 s.130]

**498.810** [1961 c.663 ss.2,3; repealed by 1973 c.723 s.130]

**498.815** [1961 c.663 ss.4,5,6; repealed by 1973 c.723 s.130]

**498.820** [Formerly 498.025; repealed by 1973 c.723 s.130]

## PENALTIES

**498.990** [Subsection (5) of 1965 Replacement Part enacted as 1953 c.184 s.4; subsection (1) of 1965 Replacement Part enacted as 1955 c.506 s.2; 1959 c.352 s.3; 1967 c.523 s.3; subsection (2) enacted as 1971 c.223 s.4; repealed by 1973 c.723 s.130]

**498.992** [Amended by 1959 c.352 s.4; repealed by 1967 c.523 s.14]

**498.993 Penalty for violation of outdoor club laws.** Violation of any provision of ORS 498.029 or 498.400 to 498.464 is a Class A violation, if committed by an individual. If the violation is committed by any person other than an individual, violation of any provision of ORS 498.029 or 498.400 to 498.464 is a violation punishable by a fine not to exceed \$10,000. [1973 c.749 s.13; 1979 c.560 s.3; 1999 c.1051 s.195]

**498.994** [Repealed by 1967 c.523 s.14]

**498.996** [Repealed by 1967 c.523 s.14]

**498.997** [1955 c.507 s.2; 1959 c.235 s.2; subsection (2) of 1965 Replacement Part enacted as 1965 c.201 s.5; repealed by 1967 c.523 s.14]

**498.998** [Repealed by 1967 c.523 s.14]

**498.999** [1961 c.663 s.7; repealed by 1967 c.523 s.14]

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## CHAPTERS 499 AND 500

[Reserved for expansion]