

Chapter 498

2011 EDITION

Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures

GENERAL PROTECTIVE PROVISIONS	
498.002	Wildlife as state property; taking, angling, hunting or trapping in violation of wildlife law or rules prohibited
498.006	Chasing or harassing wildlife prohibited
498.012	Taking wildlife causing damage, posing public health risk or that is public nuisance
498.016	Taking crippled or helpless wildlife
498.019	Purchase, sale or exchange of hides, antlers and other parts of deer, elk and antelope; records required
498.022	Purchase, sale or exchange of wildlife prohibited
498.026	Transaction in threatened or endangered wildlife species prohibited
498.029	Purchase, sale or exchange of fox, skunk or raccoon prohibited; exceptions
498.032	Angling or hunting for compensation in violation of wildlife laws or rules prohibited
498.036	Possession in field of skinned or plucked wildlife prohibited
498.042	Removal of parts of wildlife and waste of wildlife prohibited
498.046	Making toxic substances accessible to wildlife prohibited
498.052	Releasing domestically raised or imported wildlife without permit prohibited
498.056	Aiming rifle from moving motor vehicle prohibited
HUNTING AND TRAPPING RESTRICTIONS	
498.102	Use of dogs to hunt or track game mammals or birds
498.106	Competitive field trials for hunting dogs
498.112	Use of live birds for competitive shooting prohibited
498.120	Hunting on another's cultivated or enclosed land
498.126	Hunting or assisting others to hunt or locate game animals or birds by aircraft prohibited; exemption; rules
498.136	Hunting from motor-propelled vehicle restricted; rules
498.142	Hunting with artificial light restricted; rules
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
498.152	Agreements restricting parking or use of motor vehicles on certain lands
498.153	Parking vehicle in violation of restrictions; vehicle owner subject to penalty
498.154	Notice adequate to charge defendant; delivery or posting
498.155	Failure to appear; issuance of warrant
498.158	Hunting or trapping wildlife in certain governmental districts restricted
498.164	Use of dogs or bait to hunt black bears or cougars; prohibitions; exemptions; penalties; rules
498.166	Bears or cougars posing threat to human safety
498.170	Hunters who have a visual impairment
498.172	Trap check requirements
498.180	Sale of hunts for feral swine prohibited; penalties; revocation of hunting licenses, tags and permits
498.182	Knowingly allowing feral swine to roam on certain lands prohibited; rules
ANGLING RESTRICTIONS; FISH PROTECTIVE PROVISIONS	
498.208	Use of electricity or foreign substances to take game fish prohibited; rules
498.216	Angling from fishways restricted; rules
498.222	Transportation or release of fish without permit prohibited; penalties; revocation of angling licenses and tags; suit for recovery of damages
498.228	Possession of fish taken outside state restricted
498.234	Protection of finfish and shellfish from introduction of disease; rules; exceptions; rules
498.242	Possession of walking catfish and piranha restricted
498.247	Protection of juvenile salmonids from cormorants
498.257	Prohibition on possession, sale, trade or distribution of shark fins; exceptions
ANGLING CONTESTS	
498.279	Black bass and walleye angling contests; rules
498.286	Prize limitation
SCREENING AND BY-PASS DEVICES FOR WATER DIVERSIONS OR OBSTRUCTIONS	
498.301	Policy
498.306	Screening or by-pass devices for water diversions; fees; costs
498.316	Exemption from screening or by-pass devices
498.321	Screening or by-pass standards
498.326	Department guidelines for screening and by-pass projects; expenditure of funds
498.336	Statutes not construed to limit ability to acquire funding for screening or by-pass devices
498.341	Additional funding

WILDLIFE

498.346	Injunction to require compliance with screening or by-pass requirements	498.438	Investigatory power of commission over outdoor clubs required to be licensed
	OUTDOOR CLUB REGULATION	498.444	Information developed in licensing process as public record
498.400	Definitions for ORS 498.400 to 498.464	498.452	Grounds for denial or revocation of license
498.406	License to operate certain outdoor clubs required; promotional activities for sale of membership without license prohibited	498.458	Term of license; renewal fee
498.412	Application of ORS 498.406	498.464	Commission authority to restrain violations of outdoor club laws
498.418	License application; form; fee		
498.424	Report to commission required; suspension of license pending investigation of reported information		PENALTIES
498.432	Notice to applicant upon receipt of license application; order granting or denying license; procedure	498.993	Penalty for violation of outdoor club laws; penalty for violation of law related to sale of certain animals as household pets

GENERAL PROTECTIVE PROVISIONS**498.002 Wildlife as state property; taking, 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, take, hunt, trap or possess, or assist another in angling for, taking, 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, take, hunt or trap, or assist another in angling for, taking, hunting or trapping any wildlife while intentionally violating ORS 164.245 to 164.270 or 498.120. [1973 c.723 §73; 1993 c.440 §1; 2003 c.656 §10]

498.005 [Amended by 1971 c.658 §26; repealed by 1973 c.723 §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, taking, hunting or trapping such wildlife. [1973 c.723 §74; 2003 c.656 §11]

498.010 [Repealed by 1957 c.249 §1]

498.012 Taking wildlife causing damage, posing public health risk or that is public nuisance.

(1) Nothing in the wildlife laws is intended to prevent any person from taking any wildlife that is causing damage, is a public nuisance or poses a public health risk on land that the person owns or lawfully occupies. 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.

(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. §§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 bi-monthly basis. The reports compiled by the director shall be available to the public upon request.

(6) As used in this section:

(a) "Damage" means loss of or harm inflicted on land, livestock or agricultural or forest crops.

(b) "Nongame wildlife" has the meaning given that term in ORS 496.375.

(c) "Public nuisance" means loss of or harm inflicted on gardens, ornamental plants, ornamental trees, pets, vehicles, boats, structures or other personal property. [1973 c.723 §75; 1977 c.136 §2; 1979 c.399 §3; 1985 c.332 §1; 1985 c.489 §1a; 1999 c.531 §1; 2003 c.248 §1]

498.015 [Amended by 1959 c.529 §1; repealed by 1973 c.723 §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 §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 §2]

498.020 [Amended by 1959 c.529 §2; repealed by 1973 c.723 §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 §77]

498.025 [Amended by 1961 c.276 §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 §2; 1977 c.242 §1; 1987 c.686 §6]

498.027 [Repealed by 1973 c.723 §130]

498.028 [1955 c.506 §1; 1961 c.143 §1; repealed by 1973 c.723 §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 §2]

498.030 [Amended by 1971 c.658 §27; repealed by 1973 c.723 §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 §78]

498.035 [Repealed by 1959 c.352 §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 §79]

498.040 [Repealed by 1959 c.352 §5]

498.041 [1965 c.507 §§2,3,4; repealed by 1973 c.723 §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 §80]

498.045 [Repealed by 1973 c.723 §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 §81]

498.050 [Amended by 1965 c.507 §5; repealed by 1973 c.723 §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 §82]

498.055 [Repealed by 1973 c.723 §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 §4]

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

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

498.070 [Repealed by 1969 c.60 §1]

498.075 [Repealed by 1969 c.60 §1]

498.080 [Repealed by 1969 c.60 §1]

498.085 [Repealed by 1973 c.723 §130]

498.090 [Repealed by 1955 c.162 §1]

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

498.100 [Amended by 1967 c.523 §12; 1967 c.594 §4; repealed by 1973 c.723 §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 §84]

498.105 [Repealed by 1973 c.723 §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 §85]

498.110 [Amended by 1953 c.157 §2; repealed by 1973 c.723 §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 §86]

498.115 [Amended by 1953 c.178 §2; repealed by 1973 c.723 §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 §1; 1971 c.580 §1; 1973 c.723 §83]

498.125 [Repealed by 1973 c.723 §130]

498.126 Hunting or assisting others to hunt or locate game animals or birds by aircraft prohibited; exemption; rules. (1) A person may not:

(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) A person may not 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.

(4)(a) Notwithstanding subsections (1) to (3) of this section, and except as provided in subsection (5) of this section, the State Department of Fish and Wildlife, or its agents, may conduct wildlife management activities necessary for scientific research or, in emergency situations, to protect human safety, wildlife species or property by:

(A) Hunting game mammals or game birds from or with the aid of an aircraft; or

(B) Transmitting from an aircraft information regarding the location of any game mammal or game bird.

(b) The State Fish and Wildlife Commission shall define by rule the terms "emergency situations" and "necessary" for purposes of implementation of this section.

(5) If the definition of "game mammal" in ORS 496.004 is modified to include wolves, then the department may conduct wolf management activities under this section only under a statewide wolf management plan adopted by the commission. [1973 c.723 §87; 1987 c.277 §1; 1989 c.448 §1; 1999 c.935 §30; 2003 c.566 §1; 2003 c.762 §1]

498.130 [Repealed by 1973 c.723 §130]

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

498.135 [Repealed by 1973 c.723 §130]

498.136 Hunting from motor-propelled vehicle restricted; rules. (1) Except as provided in subsection (2) of this section, a person may not 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)(a) Nothing in the wildlife laws, or rules adopted pursuant thereto, is intended to prohibit the companion of a person with a disability who is lawfully hunting from a motor-propelled vehicle from killing an animal wounded by the person and applying to the animal the tag issued to the person for the taking of the animal, even if the companion has already validated any tag required for the taking of such an animal.

(b) For purposes of this subsection, "companion" means a person who does not have a disability. [1973 c.723 §88; 1987 c.292 §1; 1999 c.25 §8; 2007 c.70 §278]

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

498.142 Hunting with artificial light restricted; rules. (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 §88a; 1977 c.136 §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 pro-

vided in ORS 610.002. [1973 c.542 §2; 1975 c.791 §2]

498.150 [1971 c.223 §2; repealed by 1973 c.723 §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 §89; 1987 c.798 §1]

498.153 Parking vehicle in violation of restrictions; vehicle owner subject to penalty. A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under ORS 498.152, and any owner of the vehicle who authorizes the operation or parking of the vehicle, commits a Class A violation. [1987 c.798 §3; 1999 c.1051 §194; 2011 c.597 §65]

498.154 Notice adequate to charge defendant; delivery or posting. (1) In all prosecutions against the owner of a motor-propelled vehicle under ORS 498.153, 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. [1987 c.798 §4; 1995 c.658 §108; 2011 c.597 §65a]

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 §5; 1993 c.741 §69; 1995 c.658 §109; 1999 c.1051 §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 §90]

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

498.164 Use of dogs or bait to hunt black bears or cougars; prohibitions; exemptions; penalties; rules. (1) Except as provided in subsections (2) to (4) of this section, a person may not 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 prohibits 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)(a) As allowed by subsection (2) of this section, the State Department of Fish and Wildlife is authorized to appoint persons to act as agents for the department for the purpose of using one or more dogs to hunt or pursue black bears or cougars. Such hunt or pursuit must be in compliance with any black bear management plan and any cougar management plan adopted by rule by the State Fish and Wildlife Commission. An agent acts on the department's behalf and, subject to the department's direction and control, implements specific management programs of the department. An agent may not engage in any other hunting or pursuit while acting on the department's behalf.

(b) The department shall:

(A) Make the appointment in written form; and

(B) Ensure that the written appointment is available to the public for review at the main office of the department in Salem.

(c) Upon appointment of an agent by the department, the department shall fix the compensation of the agent and prescribe the duties of the agent. The authority of the agent to act shall be limited to the terms set forth in the written appointment under paragraph (b) of this subsection.

(d) The commission shall adopt by rule a process and criteria for selecting and training persons to act as agents pursuant to paragraph (a) of this subsection. The process and criteria shall include, but are not limited to, the qualifications and training for agents and are to cover any guidelines, policies or codes of conduct of the department regarding firearms, first aid, all-terrain vehicles and snowmobiles and the use of alcohol or drugs. The department may also require fingerprints as specified in ORS 496.121 for the purpose of requesting state or nationwide criminal records checks.

(4) Nothing in subsection (1) of this section prohibits 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 relating to taking wildlife that is causing damage.

(5) 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.

(6) For the purposes of this section, "bait" means any material placed for the

purpose of attracting or attempting to attract bears. [1995 c.4 §1; 2003 c.248 §2; 2007 c.675 §1]

Note: The amendments to 498.164 by section 2, chapter 675, Oregon Laws 2007, become operative January 2, 2014. See section 3, chapter 675, Oregon Laws 2007. The text that is operative on and after January 2, 2014, is set forth for the user's convenience.

498.164. (1) Except as provided in subsections (2) and (3) of this section, a person may not 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 prohibits 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 prohibits 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 relating to taking wildlife that is causing damage.

(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.

Note: 498.164 was enacted into law but was not added to or made a part of ORS chapter 498 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

498.166 Bears or cougars posing threat to human safety. (1) Notwithstanding the licensing and tag requirements of ORS 497.102 and 497.112, a person may take a cougar or bear that poses a threat to human safety.

(2) Any person who takes a cougar or bear pursuant to subsection (1) of this section shall immediately report the taking to a person authorized to enforce the wildlife laws and shall dispose of the animal in such manner as the State Fish and Wildlife Commission directs.

(3) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an animal under subsection (2) 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 disposition of the animal, the events leading to the taking of the animal and any injury caused by the animal to humans or domesticated animals. 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.

(4) As used in this section:

(a) "Structure" includes a building being used as a residence, a building located on land actively used for agricultural, timber management, ranching or construction pur-

poses or a building used as part of a business.

(b) "Threat to human safety" means the exhibition by a cougar or bear of one or more of the following behaviors:

(A) Aggressive actions directed toward a person or persons, including but not limited to charging, false charging, growling, teeth popping and snarling.

(B) Breaking into, or attempting to break into, a residence.

(C) Attacking a pet or domestic animal as defined in ORS 167.310.

(D) Loss of wariness of humans, displayed through repeated sightings of the animal during the day near a permanent structure, permanent corral or mobile dwelling used by humans at an agricultural, timber management, ranching or construction site. [2001 c.431 §2]

Note: 498.166 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

498.170 Hunters who have a visual impairment. (1) A person who does not have a visual impairment 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 has a visual impairment shall be required to possess a valid hunting license. The person accompanying a hunter who has a visual impairment 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, "hunter who has a visual impairment" 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 §1; 2007 c.70 §279]

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.

498.172 Trap check requirements. (1) A person holding a license issued under ORS 497.142 may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hour period.

(2) A person may not set a trap for a predatory animal, as defined in ORS 610.002, without checking the trap on a regular basis. [2001 c.562 §2]

Note: 498.172 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

498.180 Sale of hunts for feral swine prohibited; penalties; revocation of hunting licenses, tags and permits. (1) A person may not offer for sale or sell a hunt for feral swine on public or private lands.

(2) Violation of subsection (1) of this section is a Class A misdemeanor. A person may not be convicted under this subsection if a civil penalty has been imposed against the person under subsection (3) of this section.

(3)(a) The State Fish and Wildlife Commission may impose a civil penalty of \$1,000 for a violation of subsection (1) of this section.

(b) Civil penalties described in this subsection shall be imposed in the manner provided in ORS 183.745. A civil penalty may not be imposed against a person under this subsection if the person has been convicted under subsection (2) of this section.

(4) Notwithstanding ORS 497.415 (1), (2), (3) and (5) and in addition to any criminal penalty or civil penalty imposed under this section, when a person is convicted under subsection (2) of this section or a civil penalty is imposed under subsection (3) of this section, the commission shall revoke all hunting licenses, tags and permits issued to the person under the wildlife laws, and the person may not apply for or obtain any hunting license, tag or permit for a period of 24 months after the conviction or imposition of the civil penalty. [2009 c.605 §2]

498.182 Knowingly allowing feral swine to roam on certain lands prohibited; rules. (1) A person, or an employee of that person who acts as a land manager, may not knowingly, as defined in ORS 161.085, allow feral swine to roam on land owned or controlled by that person.

(2) A person, or an employee of that person who acts as a land manager, shall take action in a manner consistent with rules adopted by the State Fish and Wildlife Commission to remove any feral swine that roams on land owned or controlled by that person if the person or employee knows that feral swine roam on land owned or controlled by that person. ORS 497.075 does not apply to this subsection.

(3) A person, or an employee of that person who acts as a land manager, shall, within 10 days after discovering feral swine on land owned or controlled by that person, inform the State Department of Fish and Wildlife about the feral swine. [2009 c.605 §3]

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

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

ANGLING RESTRICTIONS; FISH PROTECTIVE PROVISIONS

498.208 Use of electricity or foreign substances to take game fish prohibited; rules. (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 §92]

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

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

498.216 Angling from fishways restricted; rules. 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 §93]

498.220 [Repealed by 1973 c.723 §130]

498.222 Transportation or release of fish without permit prohibited; penalties; revocation of angling licenses and tags; suit for recovery of damages. (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.

(4) Violation of subsection (1)(b) of this section is:

(a) A Class C felony if the violation is committed intentionally or knowingly.

(b) A Class A misdemeanor if the violation is committed recklessly or with criminal negligence.

(5)(a) Notwithstanding ORS 497.415 (1), (2), (3) and (5), when a person is convicted of violating subsection (1)(b) of this section, the court in which the conviction occurs shall notify the commission, which shall revoke all angling licenses and tags issued to that person pursuant to the wildlife laws. Revocation of licenses and tags is in addition to and not in lieu of other penalties provided by law.

(b) No person who has been convicted of violating subsection (1)(b) of this section shall apply for, obtain or possess any angling license or tag issued pursuant to the wildlife laws within five years after the conviction.

(6)(a) The commission may institute suit for the recovery of damages for the control or eradication of live fish released into a body of water in violation of subsection (1)(b) of this section. The damages awarded under this subsection shall be the amount necessary to return the body of water to its condition prior to the violation.

(b) In any action under this subsection, the court shall award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees.

(c) Damages awarded under this subsection shall be in addition to other penalties prescribed by the wildlife laws for releasing or attempting to release live fish without a permit.

(d) Any circuit or justice court has jurisdiction to try any case for the recovery of damages as provided by this subsection. [1973 c.723 §94; 2009 c.243 §1; 2011 c.597 §66]

498.225 [Amended by 1965 c.20 §1; repealed by 1973 c.723 §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 §95]

498.230 [Repealed by 1973 c.723 §130]

498.234 Protection of finfish and shellfish from introduction of disease; rules; exceptions; rules. (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 §96; 1987 c.294 §1]

498.235 [Repealed by 1973 c.723 §130]

498.240 [Amended by 1967 c.523 §13; repealed by 1973 c.723 §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 §97; 1995 c.355 §1]

498.245 [Repealed by 1959 c.352 §5]

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

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

498.250 [Repealed by 1973 c.723 §130]

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

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

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

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

498.257 Prohibition on possession, sale, trade or distribution of shark fins; exceptions. (1) As used in this section:

(a) "Shark fin" means the raw or dried fin or tail of a shark.

(b) "Spiny dogfish" means a shark belonging to the family *Squalidae* in the order *Squaliformes* that has two spines, one

anterior to each dorsal fin, and that does not have an anal fin.

(2) A person may not possess, sell or offer for sale, trade or distribute a shark fin in this state.

(3) This section does not apply to:

(a) A person who possesses, sells or offers for sale, trades or distributes a shark fin from a spiny dogfish that was legally taken or landed under rules adopted by the State Department of Fish and Wildlife and in accordance with federal regulations; and

(b) A person who holds a license or permit issued by the State Department of Fish and Wildlife under the wildlife laws to take a shark and who possesses, sells or offers for sale, trades or distributes a shark fin consistent with the terms of that license or permit. [2011 c.371 §4]

498.260 [Repealed by 1959 c.352 §5]

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

498.265 [Repealed by 1955 c.160 §1]

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

498.270 [Repealed by 1959 c.352 §5]

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

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

498.275 [Repealed by 1959 c.352 §5]

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

ANGLING CONTESTS

498.279 Black bass and walleye angling contests; rules. (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 or walleye, provided that the rules of a competition or contest are prepared and distributed by the sponsors to the contestants and are administered and enforced by the sponsors. Such rules shall include, but are not limited to:

(a) A requirement that the contestants use aerated live wells or other equipment so that all reasonable efforts are made to maintain the fish taken in a live and healthy condition.

(b) A requirement that all fish caught that are in a healthy condition are immediately returned to the water where they were caught, after weighing. Black bass may be turned over to the State Department of Fish and Wildlife for restocking.

(c) A requirement that bass tournament contestants use only artificial or other such prepared baits.

(2) As used in this section, "black bass" means largemouth bass, smallmouth bass,

redestye bass, spotted bass and all other basses of the genus *Micropterus*.

(3) The State Fish and Wildlife Commission may adopt rules to limit the number of contests and participants, determine the location of contests and prescribe other terms and conditions regarding the conduct of contests under this section. [1981 c.510 §3; 1985 c.562 §1; 1987 c.299 §1; 2001 c.186 §1]

498.280 [Repealed by 1973 c.723 §130]

498.284 [1989 c.373 §2; repealed by 2001 c.186 §3]

498.285 [Repealed by 1973 c.723 §130]

498.286 Prize limitation. (1) Except as provided in subsection (2) of this section and ORS 498.279, 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 contests and prescribe other terms and conditions regarding the conduct of contests. [1989 c.373 §4; 1997 c.12 §1; 2001 c.186 §2]

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

498.295 [Repealed by 1957 c.235 §1]

498.300 [Repealed by 1959 c.352 §5]

SCREENING AND BY-PASS DEVICES 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 §2]

498.305 [Repealed by 1959 c.352 §5]

498.306 Screening or by-pass devices for water diversions; fees; costs. (1) Any person who diverts water 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 provisions of this section.

(2)(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

150 water diversions or 150 cubic feet per second of diverted water per biennium. 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 if:

(A) The water diversion is 30 cubic feet per second or more;

(B) A new water right is issued for the water diversion;

(C) The point of water diversion is transferred as described in ORS 540.525;

(D) Fewer than 150 persons per biennium volunteer to request such installation on the diversions for which they are responsible; or

(E) 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 or cubic feet per second of diverted water to be screened as provided in this section do not prevent the installation of screening and by-pass devices for diversions by persons responsible for diversions who are willing to pay the full cost of installing screening and by-pass devices.

(c) Cost-sharing program funds may not be provided under this subsection for screening or by-pass devices on a water diversion involving water rights issued on or after January 1, 1996, unless the Fish Screening Task Force finds there is good cause to allow an exception. The department shall give preference to diversions of 30 cubic feet per second or less when making cost-sharing program funds available.

(3) 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.

(4) If the department constructs and installs the screening or by-pass device, a fee shall be assessed against the person responsible for the diversion in an amount that does not exceed 40 percent of the construction and installation costs of the device. 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 or other state funds in an amount that does not exceed 60 percent of the actual construction and installation costs of the device.

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

(6) The department is responsible for major maintenance and repair of screening or by-pass devices at water diversions of less than 30 cubic feet per second, 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 a device has 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 device, 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 is responsible for minor maintenance and shall, in a timely manner, notify the department of the need for activities associated with major maintenance.

(7) A person who diverts water at a rate of 30 cubic feet per second or more is responsible for all maintenance of an installed screening or by-pass device.

(8) 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, operate and maintain 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.

(9) 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 may not interfere with existing rights of way or ease-

ments of the person responsible for the diversion.

(10)(a) The department or its agent has 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 \$150 for each required visit to the location of the screening or by-pass device.

(e) If the department determines that a person must install, operate, maintain, repair or replace a screening or by-pass device under this section, the department shall notify the person, by registered mail, of the specific action the person is required to take. The person may request a contested case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS chapter 183.

(11) A person may not 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.

(12) 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 screening or by-pass device is located.

(13) 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.

(14)(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 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 listing 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 listing has been updated, the persons responsible for the diversions on the list shall be notified that their diversions appear on the list. Such persons also shall be furnished a description of the fish screening cost-sharing 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 re-

garding the fish screening cost-sharing program to each person responsible for a diversion included in the first 250 diversions on the priority listing on or before January 1, 1996. A person may not 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 January 1 of each even-numbered year, the department shall notify each person responsible for a diversion included in 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 cost-sharing program.

(C) Before any person is required to install a screening or by-pass device, the department shall confirm the need for the 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.

(15) 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 ensure 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 screening or by-pass device other than minor maintenance.

(f) "Minor maintenance" means periodic inspection, cleaning and servicing of 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) "Person" means any person, partnership, corporation, association, municipal corporation, political subdivision or governmental agency.

(h) "Screening device" means a fish screen or behavioral barrier. [1991 c.858 §2; 1993 c.478 §4; 1995 c.426 §1; 2005 c.22 §370; 2007 c.625 §1]

498.310 [Repealed by 1973 c.723 §130]

498.311 [Formerly 498.248; repealed by 2007 c.625 §16]

498.315 [Repealed by 1973 c.723 §130]

498.316 Exemption from screening or by-pass devices. ORS 498.306 does not require the installation of 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; 2007 c.625 §6]

498.321 Screening or by-pass standards. (1) In order to carry out the provisions of ORS 498.301 and 498.306, the following minimum standards and criteria 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 may 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 §3; 2005 c.22 §371]

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 [1993 c.478 §11; 1995 c.426 §18; 2001 c.822 §9; repealed by 2007 c.625 §16]

498.336 Statutes not construed to limit ability to acquire funding for screening or by-pass devices. Nothing in ORS 498.306 or 509.585 shall be construed:

(1) To limit the eligibility of a person required to install and operate 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 screening or by-pass devices on water diversions in this state. [Formerly 498.276; 2001 c.923 §6; 2007 c.625 §9]

498.341 Additional funding. Notwithstanding the limitations imposed by ORS 498.306, if sufficient funds are made available in the Fish Screening Subaccount of the Fish and Wildlife Account, 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 additional water diversions. [1993 c.478 §8; 2001 c.822 §10; 2005 c.22 §372; 2007 c.625 §7]

498.346 Injunction to require compliance with screening or by-pass 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. 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; 2001 c.923 §7; 2007 c.625 §8]

498.351 [Formerly 498.268; repealed by 2001 c.923 §21]

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 §2]

498.405 [Repealed by 1973 c.723 §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 §3]

498.410 [Repealed by 1961 c.113 §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 §4]

498.415 [Repealed by 1973 c.723 §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 §5]

498.420 [Repealed by 1973 c.723 §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 §6]

498.425 [Repealed by 1961 c.113 §2]

498.430 [Amended by 1959 c.372 §1; repealed by 1973 c.723 §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 chapter 183. [1973 c.749 §7]

498.435 [Repealed by 1973 c.723 §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 §8]

498.440 [Repealed by 1961 c.113 §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 §9]

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

498.450 [Repealed by 1973 c.723 §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 §10]

498.455 [Repealed by 1961 c.113 §2]

498.458 Term of license; renewal fee.

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 §11]

498.460 [Repealed by 1973 c.723 §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 §12; 1979 c.284 §160]

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

498.505 [Repealed by 1973 c.723 §130]

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

498.515 [Repealed by 1973 c.723 §130]

498.520 [Repealed by 1973 c.723 §130]

498.525 [Repealed by 1973 c.723 §130]

498.530 [Repealed by 1973 c.723 §130]

498.535 [Repealed by 1973 c.723 §130]

498.540 [Repealed by 1973 c.723 §130]

498.545 [Repealed by 1973 c.723 §130]

498.550 [Repealed by 1973 c.723 §130]

498.555 [Repealed by 1973 c.723 §130]

498.560 [Repealed by 1973 c.723 §130]

498.565 [Repealed by 1973 c.723 §130]

498.570 [Repealed by 1973 c.723 §130]

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

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

498.580 [Repealed by 1973 c.723 §130]

498.585 [Repealed by 1973 c.723 §130]

498.590 [Repealed by 1973 c.723 §130]

498.605 [Repealed by 1973 c.723 §130]

498.610 [Repealed by 1973 c.723 §130]

498.615 [Repealed by 1973 c.723 §130]

498.620 [Repealed by 1973 c.723 §130]

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

498.630 [Repealed by 1969 c.15 §1]

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

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

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

498.645 [Repealed by 1955 c.65 §2]

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

498.650 [Repealed by 1973 c.723 §130]

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

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

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

498.705 [Repealed by 1973 c.723 §130]

498.710 [Repealed by 1973 c.723 §130]

498.715 [Repealed by 1973 c.723 §130]

498.720 [Repealed by 1973 c.723 §130]

498.725 [Repealed by 1973 c.723 §130]

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

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

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

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

498.745 [Repealed by 1973 c.723 §130]

498.750 [Repealed by 1973 c.723 §130]

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

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

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

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

PENALTIES

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

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

498.993 Penalty for violation of outdoor club laws; penalty for violation of law related to sale of certain animals as household pets. 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 specific fine violation punishable by a fine not to exceed \$10,000. [1973 c.749 §13; 1979 c.560 §3; 1999 c.1051 §195; 2011 c.597 §90]

~~498.994~~ [Repealed by 1967 c.523 §14]

~~498.996~~ [Repealed by 1967 c.523 §14]

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

~~498.998~~ [Repealed by 1967 c.523 §14]

~~498.999~~ [1961 c.663 §7; repealed by 1967 c.523 §14]

CHAPTERS 499 AND 500

[Reserved for expansion]

