

Chapter 498

Hunting and Fishing Regulations; Miscellaneous Wildlife Protective Measures

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CASE CITATIONS: *Klamath & Modoc Tribes v. Maison*, (1956) 139 F Supp 634.

ATTY. GEN. OPINIONS: Application of state and federal forest service regulations in same area, 1954-56, p 50; commission power to require stream flows necessary for wild fish and animals, 1962-64, p 117.

498.005

NOTES OF DECISIONS

This section is concerned only with animals constituting a part of the wild life of the state. *Belanger v. Howard*, (1941) 166 Or 408, 112 P2d 1022.

FURTHER CITATIONS: *Fields v. Wilson*, (1949) 186 Or 491, 207 P2d 153; *Anderson v. Britton*, (1957) 212 Or 1, 318 P2d 291.

ATTY. GEN. OPINIONS: Commission's authority to salvage marooned fish without landowner's permission, 1936-38, p 350; power of the Federal Government to protect its national forests by causing wild game to be removed therefrom without reference to state game laws, 1944-46, p 112; riparian landowner's right to fish as subject to state regulations, 1948-50, p 432; authority to lease state land to private interests for exclusive waterfowl privileges, 1958-60, p 312; application to unbranded horses running at large on uninclosed public lands, (1971) Vol 35, p 720.

498.027

ATTY. GEN. OPINIONS: Authority of commission to pay commercial fisherman, under contract for his services, 75 percent of the proceeds from the sale of game fish, 1950-52, p 333; application to unbranded horses running at large on uninclosed public lands, (1971) Vol 35, p 720.

498.085

ATTY. GEN. OPINIONS: Possession of side of ribs of a deer during open season without tag as a violation, 1934-36, p 532; jerking or canning meat of deer at hunter's camp, 1938-40, p 446.

498.105

NOTES OF DECISIONS

"At such time" as used in subsection (1) is construed to authorize the killing of a dog running game animals only at the time of its offense. *Fleck v. Russell*, (1928) 126 Or 341, 269 P 883.

Killing a dog which, by reason of its being less than eight months old on March 1 of the year of its offense, did not require a license for that year, is not authorized by this section. *Id.*

498.115

ATTY. GEN. OPINIONS: Training dogs in Champoeg Park for hunting, 1938-40, p 273; effect of this section on the powers of the Federal Government, 1954-56, p 49.

498.120

ATTY. GEN. OPINIONS: Marshland inclosed by natural barriers as "inclosed land," 1938-40, p 104; trespassers on uninclosed lands within Klamath Indian Reservation, 1954-56, p 172; trustee managed property of tribe as inclosed land, 1960-62, p 313.

498.125

CASE CITATIONS: *Thomson v. Dana*, (1931) 52 F2d 759.

ATTY. GEN. OPINIONS: Establishment of game refuge on navigable streams, 1922-24, p 489; floating boat-landing obstructing right of fishing as nuisance, 1924-26, p 90; authority of tenant of upland adjoining navigable rivers, sloughs or streams to restrict or interfere with the right of licensed hunters to hunt from boats on that portion of such waters as are in fact navigable, 1944-46, p 42.

498.205

ATTY. GEN. OPINIONS: Construing area description, 1950-52, p 79.

498.220

ATTY. GEN. OPINIONS: "Shores" defined, 1938-40, p 563.

498.285

ATTY. GEN. OPINIONS: Applicability of this section to flumes, tributaries or millraces branching from Mill Creek, 1948-50, p 285; right of lessee of land bordering Mill Creek to fish from his land, 1948-50, p 432.

498.405

ATTY. GEN. OPINIONS: Authority of permittee to sell beavers for commercial purposes, 1948-50, p 161.

498.577

ATTY. GEN. OPINIONS: When persons killing muskrats need no license, 1938-40, p 249.

498.585

ATTY. GEN. OPINIONS: Returning to water trout under six inches as waste, 1938-40, p 676; contracting for commercial fisherman to remove undesirable fish, 1950-52, p 334.

498.605

ATTY. GEN. OPINIONS: Requirement that jerked or canned venison be tagged or sealed during closed season, 1938-40, p 598.

498.625

CASE CITATIONS: State v. Schuman, (1899) 36 Or 16, 58 P 661, 78 Am St Rep 754, 47 LRA 153; In re Deininger, (1901) 108 F 623.

ATTY. GEN. OPINIONS: Buying or selling skin or hide of deer for purpose of manufacturing same into gloves to be sold in state, 1924-26, p 596; authority of game commission to limit the sale of game animals, birds, or fish, or any part thereof, 1926-28, p 444; authority of commission to pay commercial fisherman, under contract for his services, 75 percent of the proceeds from the sale of game fish, 1950-52, p 333.

498.641

ATTY. GEN. OPINIONS: Constitutionality of similar proposed bill, 1952-54, p 95; validity of section where federal regulations apply, 1956-58, p 49.

498.720

ATTY. GEN. OPINIONS: Availability of injunction to enforce, 1950-52, p 70.

498.725

ATTY. GEN. OPINIONS: Availability of injunction to enforce, 1950-52, p 70.

498.730

NOTES OF DECISIONS

It is public policy to protect migratory fish and also to permit and encourage the use of waters for the development of electric power, neither of which is to be disregarded. State v. Beaver Portland Cement Co., (1942) 169 Or 1, 124 P2d 524, 126 P2d 1094.

It is doubtful whether this section applies to a dam which is not built across any stream. Id.

In game commission's suit to enjoin reconstruction of hydroelectric project, the evidence showed that the project would not appreciably interfere with the free passage of fish. Id.

ATTY. GEN. OPINIONS: Right of game commission to require fish ladders to be brought up to standard, 1930-32, p 212; commission's authority to construct screens to prevent fish passing from Crescent Lake into Crescent Creek, 1938-40, p 471; authority of the game commission to grant permission for the construction of a dam by a logging company, 1942-44, p 375.

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

498.732

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

498.735

ATTY. GEN. OPINIONS: State Fisheries Director's authority to require removal of obstructions, 1962-64, p 80.

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

498.740

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

498.745

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

498.750

ATTY. GEN. OPINIONS: Power of game commission to enjoin the operation of a ditch, canal or millrace without proper grating, 1950-52, p 70.

498.820

ATTY. GEN. OPINIONS: Furnishing a gun to any child between the ages of 12 and 14 years, (1968) Vol 34, p 350.