

REVENUE: No revenue impact

FISCAL: No fiscal impact

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	4 - 2 - 1
<b>Yeas:</b>	Clem, Dingfelder, Macpherson, Roblan
<b>Nays:</b>	Maurer, Smith P.
<b>Exc.:</b>	Boquist
<b>Prepared By:</b>	Beth Patrino, Administrator
<b>Meeting Dates:</b>	5/8

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**WHAT THE MEASURE DOES:** Authorizes the Fish and Wildlife Commission to adopt rules to define “wild birds” and “wild mammals” for purposes of the wildlife laws.

**ISSUES DISCUSSED:**

- Oregon Supreme Court decision, *State of Oregon v. Clark Zane Couch*
- Existing administrative rules relating to potential hazards non-native species pose to native species

**EFFECT OF COMMITTEE AMENDMENT:** Adds emergency clause.

**BACKGROUND:** Historically, the State Fish and Wildlife Commission has used a broad definition of wildlife that focused on wildlife as species and not wildlife as individuals. This has allowed the Commission to exercise rulemaking authority over both native and non-native wildlife – regardless of whether existing in the wild or held in captivity – to ensure protection of Oregon's native wildlife and habitat.

In a recent court case related to hunting on game ranches, the Oregon Supreme Court issued a ruling that narrowed the Commission's authority to regulate wildlife. This ruling is based on the statutory definition of wildlife found in ORS 496.004(9) which states: "Wildlife means, fish, shellfish, *wild* birds, amphibians and reptiles, feral swine as defined by State Department of Agriculture rule and other *wild* mammals." Based on the modified language, the court ruled that wild means "living untamed or in a state of nature." Consequently, the ruling effectively prevents the Commission from adopting rules that would regulate birds or mammals unless they meet the definition of wild, or are covered under other statutes passed by the Legislature that give more specific regulatory authority to the Commission.

Senate Bill 804-A gives the State Fish and Wildlife Commission the authority to define wild birds and wild mammals by rule, thus reinstating its ability to regulate wildlife as it had done historically prior to the Supreme Court decision.