

House Bill 2295

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Department of Fish and Wildlife)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Defines gray wolf as game mammal. Directs State Fish and Wildlife Commission to establish special management regulations for gray wolf. Describes circumstances in which gray wolf may be taken.

Directs commission to establish wolf depredation compensation and cost-sharing program for purposes of compensating persons who suffer loss or injury due to wolf depredation and providing financial assistance to persons who implement livestock management techniques or nonlethal wolf control techniques designed to discourage wolf depredation of livestock. Creates Wolf Management Compensation and Proactive Trust Fund and continuously appropriates fund moneys for purpose of providing compensation and financial assistance under program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to wolves; creating new provisions; amending ORS 496.004 and 498.012; appropriating
3 money; and declaring an emergency.

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

5 **SECTION 1.** ORS 496.004 is amended to read:

6 496.004. As used in the wildlife laws, unless the context requires otherwise:

7 (1) "Angle" means to take or attempt to take a fish for personal use by means involving hook
8 and line.

9 (2) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.

10 (3) "Compatible" means capable of existing in harmony so as to minimize conflict.

11 (4) "Department" means the State Department of Fish and Wildlife created by ORS 496.080.

12 (5) "Director" means the State Fish and Wildlife Director appointed pursuant to ORS 496.112.

13 (6) "Endangered species" means:

14 (a) Any native wildlife species determined by the commission to be in danger of extinction
15 throughout any significant portion of its range within this state.

16 (b) Any native wildlife species listed as an endangered species pursuant to the federal Endan-
17 gered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 **et seq.**), as [*amended*] **in effect on the ef-**
18 **fective date of this 2007 Act.**

19 (7) "Fund" means the State Wildlife Fund created by ORS 496.300.

20 (8) "Fur-bearing mammal" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon,
21 red fox and gray fox.

22 (9) "Game mammal" means antelope, black bear, cougar, deer, elk, **gray wolf**, moose, mountain
23 goat, mountain sheep and silver gray squirrel.

24 (10) "Hunt" means to take or attempt to take any wildlife by means involving the use of a
25 weapon or with the assistance of any mammal or bird.

26 (11) "Manage" means to protect, preserve, propagate, promote, utilize and control wildlife.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (12) "Optimum level" means wildlife population levels that provide self-sustaining species as well
2 as taking, nonconsumptive and recreational opportunities.

3 (13) "Person with a disability" means a person who complies with the requirement of ORS
4 496.018.

5 (14) "Shellfish" has the meaning given that term in ORS 506.011.

6 (15) "Species" means any species or subspecies of wildlife.

7 (16) "Take" means to kill or obtain possession or control of any wildlife.

8 (17) "Threatened species" means:

9 (a) Any native wildlife species the commission determines is likely to become an endangered
10 species within the foreseeable future throughout any significant portion of its range within this
11 state.

12 (b) Any native wildlife species listed as a threatened species pursuant to the federal Endangered
13 Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 *et seq.*), as [*amended*] **in effect on the effective**
14 **date of this 2007 Act.**

15 (18) "Trap" means to take or attempt to take any wildlife by means involving the use of a trap,
16 net, snare or other device used for the purpose of capture.

17 (19) "Wildlife" means fish, shellfish, wild birds, amphibians and reptiles, feral swine as defined
18 by State Department of Agriculture rule and other wild mammals.

19 **SECTION 2. Section 3 of this 2007 Act is added to and made a part of ORS chapter 496.**

20 **SECTION 3. (1) The State Fish and Wildlife Commission shall establish special manage-**
21 **ment regulations for the gray wolf. The regulations may be different from the management**
22 **regulations established by the commission for other game mammals.**

23 **(2) The commission may issue incidental take permits for gray wolves under the rules**
24 **adopted pursuant to ORS 496.172 (4). A permit issued under this section shall allow the tak-**
25 **ing of gray wolves only if incidental to trapping other species causing damage to livestock.**
26 **Notwithstanding ORS 496.172 (4), the commission may issue an incidental take permit under**
27 **this section while the gray wolf is listed by the federal government as an endangered or**
28 **threatened species if the permit is consistent with federal laws, regulations or management**
29 **practices under applicable provisions of the federal Endangered Species Act of 1973 (P.L.**
30 **93-205, 16 U.S.C. 1531 et seq.), as in effect on the effective date of this 2007 Act.**

31 **SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS chapter 498.**

32 **SECTION 5. (1) Notwithstanding any provision of the wildlife laws, a person may take a**
33 **gray wolf at any time if it is necessary to avoid imminent, grave injury to any person.**

34 **(2) Nothing in the wildlife laws is intended to prevent any person from taking a gray wolf**
35 **that is causing damage to livestock or working dogs on land that the person owns or lawfully**
36 **occupies if the person has a valid permit issued by the commission that authorizes the tak-**
37 **ing.**

38 **(3) A person who owns or lawfully occupies land does not need a permit issued by the**
39 **commission to take a gray wolf under subsection (2) of this section on the land that is owned**
40 **or occupied by the person if the gray wolf is caught in the act of attacking livestock or**
41 **working dogs. A gray wolf may be taken under the provisions of this subsection only if:**

42 **(a) The person has not used bait to attract gray wolves or taken any other intentional**
43 **act to attract gray wolves other than engaging in regular and ordinary livestock manage-**
44 **ment practices; and**

45 **(b) The taking is allowed under the federal Endangered Species Act of 1973 (P.L. 93-205,**

1 16 U.S.C. 1531 et seq.), as in effect on the effective date of this 2007 Act.

2 (4) A person who is a landowner or a lawful occupant of land may authorize another
 3 person to enter the land for the purpose of taking a gray wolf under subsection (3) of this
 4 section on behalf of the landowner or occupant. The authorization must be in writing and
 5 must include:

6 (a) The date of issuance of the authorization;

7 (b) The name, address, telephone number and signature of the person granting the au-
 8 thorization;

9 (c) The name, address and telephone number of the person to whom the authorization is
 10 granted; and

11 (d) The expiration date of the authorization, which may not be later than one year from
 12 the date of issuance of the authorization.

13 (5) The person taking the gray wolf on behalf of a landowner or lawful occupant under
 14 subsection (4) of this section must be carrying the written authorization when the gray wolf
 15 is taken.

16 (6) If a person takes a gray wolf under the provisions of this section, the person shall
 17 report the taking to the State Department of Fish and Wildlife within 24 hours and make all
 18 reasonable efforts to preserve, and to keep undisturbed, the scene of the taking. The de-
 19 partment shall immediately investigate the report of the taking.

20 **SECTION 6. Definitions.** As used in sections 6 to 14 of this 2007 Act:

21 (1) "Livestock" means ratites, psittacines, horses, mules, jackasses, cattle, llamas,
 22 alpacas, sheep, goats, swine, bison, domesticated fowl and any fur-bearing animal bred and
 23 maintained commercially, or otherwise, within pens, cages or hutches.

24 (2) "Sporting dog" means any animal of the species *Canis familiaris* used to aid a person
 25 in legally authorized hunting.

26 (3) "Working dog" means any animal of the species *Canis familiaris* used to aid in the
 27 herding or protection of livestock.

28 **SECTION 7. Wolf depredation compensation and cost-sharing program.** (1) The State Fish
 29 and Wildlife Commission shall develop and implement a wolf depredation compensation and
 30 cost-sharing program. The program shall:

31 (a) Provide compensation to persons who suffer losses or injuries due to wolf
 32 depredation; and

33 (b) Provide financial assistance to persons who implement livestock management tech-
 34 niques or nonlethal wolf control techniques designed to discourage wolf depredation of live-
 35 stock.

36 (2) Compensation and financial assistance under the program shall be paid from the Wolf
 37 Management Compensation and Proactive Trust Fund established under section 14 of this
 38 2007 Act.

39 **SECTION 8. Payment of compensation and financial assistance under program.** (1) Com-
 40 pensation may be paid under the wolf depredation compensation and cost-sharing program
 41 if, due to wolf activity, a person has suffered a confirmed or probable loss or injury of live-
 42 stock located on private land or legally grazing on public land. A confirmed loss or injury
 43 occurs if there is clear and convincing evidence that the loss or injury was caused by wolf
 44 depredation. A probable loss or injury occurs if a preponderance of the evidence establishes
 45 that a loss or injury was caused by wolf depredation.

1 (2) Compensation may also be paid under the program if a working dog or sporting dog
 2 is killed or injured by a wolf. Compensation may be paid for sporting dogs only if the loss
 3 or injury occurs:

4 (a) During an authorized hunting or pursuit season; or

5 (b) While engaged, with the authorization of the State Fish and Wildlife Commission in
 6 the pursuit of bears or cougars that are causing damage or posing a threat to human safety.

7 (3) Financial assistance under section 7 (1)(b) of this 2007 Act may be provided only after
 8 the applicant has consulted with the State Department of Fish and Wildlife and has received
 9 approval for implementation of the livestock management techniques or nonlethal wolf con-
 10 trol techniques.

11 **SECTION 9. Application for compensation or financial assistance.** (1) A person may apply
 12 for compensation or financial assistance under the wolf depredation compensation and cost-
 13 sharing program on a form established by rule of the State Fish and Wildlife Commission.

14 (2) A person applying for compensation under the program shall provide evidence of the
 15 loss or injury. Evidence of the loss or injury must include a finding, after investigation by
 16 the State Department of Fish and Wildlife, the Wildlife Services program of the Animal and
 17 Plant Health Inspection Service of the United States Department of Agriculture or the
 18 United States Fish and Wildlife Service, that wolf depredation was the probable cause of loss
 19 or injury.

20 (3) A person applying for financial assistance under the program shall provide an esti-
 21 mate of the potential cost of the livestock management techniques or nonlethal wolf control
 22 techniques designed to discourage wolf depredation.

23 **SECTION 10. Investigation of loss or injury.** A person who has suffered loss or injury due
 24 to wolf depredation may request that the State Department of Fish and Wildlife investigate
 25 the claim of loss or injury. Within 24 hours after receiving a request, the department shall
 26 investigate the claim of loss or injury. A person's ability to make a claim for compensation
 27 is not affected by the failure of the department to respond to a request for an investigation
 28 within the time allowed.

29 **SECTION 11. Determination of compensation.** (1) Compensation payable to a person un-
 30 der the wolf depredation compensation and cost-sharing program shall be determined by the
 31 State Fish and Wildlife Commission as follows:

32 (a) Confirmed losses shall be paid at 100 percent of the market value of the livestock lost.

33 (b) Probable losses shall be paid at a rate determined by the commission, but in no case
 34 less than 50 percent of the market value of the livestock lost.

35 (c) The owners of missing livestock may be compensated as determined by the commis-
 36 sion.

37 (d) If livestock are injured, compensation shall be made for veterinary treatments and
 38 for the reduction in market value of the livestock that, as a result of the injury, are unable
 39 to reproduce or have to be destroyed or sold.

40 (e) Payments for loss or injury shall be reduced by any amount of compensation that the
 41 person receives from any other source.

42 (f) Owners of lost or injured working dogs and sporting dogs shall be compensated at the
 43 market value of dogs of similar breed, training, age and gender.

44 (2) The commission shall compute the market value of livestock using the following
 45 guidelines:

1 (a) Males that are at least one year old have a market value equal to the purchase price
 2 of the animal or the average price paid for other males, whichever is higher. If sales receipts
 3 are unavailable to determine the purchase price, the market value shall be the average local
 4 market value for animals of the same breed and age.

5 (b) Females that are at least one year old have a market value equal to the average
 6 available recorded purchase price of females of the same age, breed and quality from the
 7 same herd, and if bred, the value of offspring at weaning.

8 (c) An animal that is less than one year old has a market value equal to the average
 9 amount received for other animals of the same gender, age and breed at the time of planned
 10 sale.

11 (3) Disputes involving the market value of an animal may be resolved by using a third-
 12 party appraiser to determine market value.

13 SECTION 12. Implementation of livestock management and nonlethal wolf control tech-
 14 niques. If the State Fish and Wildlife Commission determines that a person has suffered loss
 15 or injury of livestock or working dogs, the State Department of Fish and Wildlife and the
 16 person shall design and implement mutually agreeable livestock management techniques or
 17 nonlethal wolf control techniques designed to discourage wolf depredation.

18 SECTION 13. Financial assistance for livestock management. The State Fish and Wildlife
 19 Commission may pay persons compensation for employing livestock management techniques
 20 or nonlethal wolf control techniques at a rate established by the commission. However, the
 21 commission may not reduce the financial assistance based on other moneys received by the
 22 applicant for habitat improvement or habitat protection.

23 SECTION 14. Wolf Management Compensation and Proactive Trust Fund. (1) The Wolf
 24 Management Compensation and Proactive Trust Fund is established separate and distinct
 25 from the General Fund. Interest earned on the moneys in the Wolf Management Compensa-
 26 tion and Proactive Trust Fund shall be credited to the fund. All moneys in the fund are
 27 continuously appropriated to the State Fish and Wildlife Commission for the purpose of
 28 paying compensation and financial assistance under sections 6 to 14 of this 2007 Act.

29 (2) The fund shall consist of all moneys appropriated by the Legislative Assembly and any
 30 gifts, grants, donations, endowments or bequests from any public or private source. The
 31 commission may seek out and receive any gifts, grants, donations, endowments or bequests
 32 for the purpose of paying compensation to persons who suffer loss or injury due to wolf
 33 depredation or who implement livestock management techniques or nonlethal wolf control
 34 techniques designed to discourage wolf depredation. The commission shall deposit such
 35 moneys into the fund.

36 SECTION 15. Advisory committee. (1) The State Fish and Wildlife Commission shall cre-
 37 ate an advisory committee to recommend to the commission a process for screening claims
 38 and for developing a method for resolving compensation claims made under sections 6 to 14
 39 of this 2007 Act. The committee shall also recommend:

40 (a) When and how the commission compensates persons for missing livestock, if the
 41 number of missing livestock exceeds historic losses;

42 (b) A procedure to ensure that compensation is paid in a timely manner, including an
 43 opportunity for discussion between a claimant and the commission to agree upon timing for
 44 the payment; and

45 (c) A alternative dispute resolution process for resolving disputes regarding compen-

1 **sation.**

2 **(2) The advisory committee created under this section shall have five members appointed**
 3 **by the commission. The members must be familiar with wolf depredation, livestock man-**
 4 **agement techniques or nonlethal control techniques designed to discourage wolf depredation.**

5 **Of the five members:**

6 **(a) One member shall represent cattle producers;**

7 **(b) One member shall represent sheep producers;**

8 **(c) One member shall represent the State Department of Agriculture;**

9 **(d) One member shall represent hunters; and**

10 **(e) One member shall represent the wolf conservation community.**

11 **(3) The members of the advisory committee are not entitled to compensation or re-**
 12 **imbursement for expenses and serve as volunteers on the advisory committee.**

13 **(4) The advisory committee shall provide its recommendations to the commission no later**
 14 **than January 1, 2009.**

15 **SECTION 16. In addition to and not in lieu of any other appropriation, there is appro-**
 16 **propriated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2007,**
 17 **out of the General Fund, the amount of \$_____, which may be expended only for the pur-**
 18 **pose of carrying out sections 6 to 14 of this 2007 Act.**

19 **SECTION 17. Section 15 of this 2007 Act is repealed on January 2, 2009.**

20 **SECTION 18. ORS 498.012 is amended to read:**

21 498.012. (1) Nothing in the wildlife laws is intended to prevent any person from taking any
 22 wildlife that is causing damage, is a public nuisance or poses a public health risk on land that the
 23 person owns or lawfully occupies. However, no person shall take, pursuant to this subsection, at a
 24 time or under circumstances when such taking is prohibited by the State Fish and Wildlife Com-
 25 mission, any game mammal or game bird, fur-bearing mammal or nongame wildlife species, unless
 26 the person first obtains a permit for such taking from the commission.

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

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

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

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

43 (a) The date of issuance of the authorization;

44 (b) The name, address, telephone number and signature of the person granting the authorization;

45 (c) The name, address and telephone number of the person to whom the authorization is granted;

1 (d) The wildlife damage control activities to be conducted, whether for bear, cougar, red fox or
2 bobcat; and

3 (e) The expiration date of the authorization, which shall be not later than one year from the
4 date of issuance of the authorization.

5 (5) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an
6 animal under subsection (3) of this section shall file a report with the State Fish and Wildlife Di-
7 rector within 30 days after the disposal. The report shall include but need not be limited to the loss
8 incurred, the financial impact and the disposition of the animal. The director shall compile all re-
9 ports received under this subsection on a bimonthly basis. The reports compiled by the director shall
10 be available to the public upon request.

11 **(6) Section 5 of this 2007 Act governs the taking of a gray wolf that is causing damage.**

12 [~~6~~] (7) As used in this section:

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

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

15 (c) "Public nuisance" means loss of or harm inflicted on gardens, ornamental plants, ornamental
16 trees, pets, vehicles, boats, structures or other personal property.

17 **SECTION 19. The section captions used in this 2007 Act are provided only for the con-**
18 **venience of the reader and do not become part of the statutory law of this state or express**
19 **any legislative intent in the enactment of this 2007 Act.**

20 **SECTION 20. This 2007 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
22 **on its passage.**