

# House Bill 2632

Sponsored by Representative ROBLAN; Representative OLSON (Presession filed.)

## 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 "hatchery produced" for purposes of provisions related to salmon and trout enhancement program. Provides that fish habitat improvement projects may be designed only for benefit of native fish.

Prohibits State Fish and Wildlife Commission from establishing bag limits, size restrictions or closed seasons for species of fish that are not native fish.

Prohibits state agencies from enhancing, protecting or introducing into waters of this state fish that is not native fish.

## A BILL FOR AN ACT

1  
2 Relating to fish; creating new provisions; and amending ORS 496.146 and 496.430.

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

4 **SECTION 1.** ORS 496.430 is amended to read:

5 496.430. As used in this section and ORS 496.435 to 496.455:

6 (1) "Enhancement" means resource conservation, utilization and educational activities that  
7 contribute to the recovery and sustainability of native fish.

8 (2) "**Hatchery produced**" means a fish that is reared from native stocks in an artificial  
9 environment and that is provided food for its survival.

10 [(2)] (3) "Listed unit" means one population or a group of populations of a species, such as an  
11 evolutionarily significant unit, that has been listed as threatened or endangered under the federal  
12 Endangered Species Act of 1973 (P.L. 93-205), as amended, or under ORS 496.171 to 496.192.

13 [(3)] (4) "Native fish" means indigenous to Oregon and not introduced. Naturally produced fish  
14 and hatchery produced fish are both native fish if the fish are indigenous to Oregon and not intro-  
15 duced.

16 [(4)] (5) "Native stocks" means those fish indigenous to Oregon that naturally propagate in a  
17 given watershed.

18 [(5)] (6) "Naturally produced" means a fish that reproduces and completes its full life cycle in  
19 its natural habitat. The naturally produced progeny of hatchery fish are naturally produced.

20 [(6)] (7) "Population" means a group of fish that:

21 (a) Originates and reproduces in a particular area at a particular time;

22 (b) Does not interbreed to any substantial degree with any other group reproducing in a differ-  
23 ent area or in the same area at a different time; and

24 (c) Is composed of naturally produced fish, hatchery produced fish or a combination of both.

25 [(7)] (8) "Recovery" means that a proportion of the constituent populations of naturally produced  
26 native fish belonging to a listed unit are sufficiently abundant, productive and diverse in life histo-  
27 ries and distribution such that the listed unit as a whole will be self-sustaining into the foreseeable  
28 future.

**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        [(8)] (9) “Self-sustaining” means having a sufficient proportion and distribution of constituent  
 2 populations that:

- 3        (a) Are likely to survive prolonged periods of habitat, oceanic, climatic and environmental con-  
 4 ditions that are detrimental to a population; and
- 5        (b) Have habitat of sufficient quality and quantity that is likely to provide survival rates ade-  
 6 quate to maintain associated ecological, cultural and economic benefits.

7        **SECTION 2. A fish habitat improvement project may be designed only for the benefit of**  
 8 **native fish, as that term is defined in ORS 496.430.**

9        **SECTION 3.** ORS 496.146 is amended to read:

10        496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife  
 11 Commission:

12        (1) May accept, from whatever source, appropriations, gifts or grants of money or other property  
 13 for the purposes of wildlife management, and use such money or property for wildlife management  
 14 purposes.

15        (2) May sell or exchange property owned by the state and used for wildlife management pur-  
 16 poses when the commission determines that such sale or exchange would be advantageous to the  
 17 state wildlife policy and management programs.

18        (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-  
 19 mission determines will carry out the state wildlife policy and management programs.

20        (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,  
 21 hunting and trapping and may prescribe such tagging and sealing procedures as the commission  
 22 determines necessary to carry out the provisions of the wildlife laws or to obtain information for  
 23 use in wildlife management. Permits issued pursuant to this subsection may include special hunting  
 24 permits for a person and immediate family members of the person to hunt on land owned by that  
 25 person in areas where permits for deer or elk are limited by quota. As used in this subsection,  
 26 “immediate family members” means husband, wife, father, mother, brothers, sisters, sons, daughters,  
 27 stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags  
 28 from the commission may request two additional tags for providing public access and two additional  
 29 tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with  
 30 supporting evidence that the access is significant and the habitat programs benefit wildlife. The  
 31 board may recommend that the commission grant the request. When a landowner is qualified under  
 32 landowner preference rules adopted by the commission and receives a controlled hunt tag for that  
 33 unit or a landowner preference tag for the landowner’s property and does not use the tag during the  
 34 regular season, the landowner may use that tag to take an antlerless animal, when approved by the  
 35 State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the  
 36 landowner’s property.

37        (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued  
 38 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and  
 39 place of taking wildlife, the quantities taken and such other information as the commission deter-  
 40 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in  
 41 wildlife management.

42        (6) May establish special hunting and angling areas or seasons in which only persons less than  
 43 18 years of age or over 65 years of age are permitted to hunt or angle.

44        (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests  
 45 therein for wildlife management and wildlife-oriented recreation purposes.

1 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise  
 2 real property and all interests therein and establish, operate and maintain thereon public hunting  
 3 areas.

4 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-  
 5 erning the use of such areas and the use of wildlife refuge and management areas established and  
 6 developed pursuant to any other provision of law.

7 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required  
 8 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of  
 9 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-  
 10 scribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user  
 11 charge prescribed by the commission pursuant to this subsection shall exceed \$100.

12 (11) May enter into contracts with any person or governmental agency for the development and  
 13 encouragement of wildlife research and management programs and projects.

14 (12) May perform such acts as may be necessary for the establishment and implementation of  
 15 cooperative wildlife management programs with agencies of the federal government.

16 (13) May offer and pay rewards for the arrest and conviction of any person who has violated  
 17 any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

18 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless  
 19 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-  
 20 section shall be based on actual or projected costs of administering falconry regulations and shall  
 21 not exceed \$250.

22 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons  
 23 with disabilities.

24 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-  
 25 lation levels shall be reviewed at least once every five years.

26 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled  
 27 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those  
 28 drawings in subsequent years. In establishing the preference system, the commission shall consider  
 29 giving additional preference points to persons who have been issued a resident pioneer hunting li-  
 30 cense pursuant to ORS 497.102.

31 (18) May sell advertising in State Department of Fish and Wildlife publications, including annual  
 32 hunting and angling regulation publications.

33 (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an  
 34 organization that sponsors hunting trips for terminally ill children.

35 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting  
 36 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to  
 37 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or  
 38 other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the  
 39 department from the prohibition.

40 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-  
 41 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the  
 42 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-  
 43 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS  
 44 496.300.

45 **(22) May not establish bag limits, size restrictions, closed seasons or closed areas for a**

1 particular species of fish that is not native fish, as that term is defined in ORS 496.430.

2 **SECTION 4.** A state agency may not enhance, protect or introduce into the waters of this  
3 state a population of fish that is not native fish, as that term is defined in ORS 496.430.

4 **SECTION 5.** (1) The amendments to ORS 496.430 by section 1 of this 2011 Act apply to  
5 salmon and trout enhancement activities first begun pursuant to ORS 496.435 to 496.455 on  
6 or after the effective date of this 2011 Act.

7 (2) Section 2 of this 2011 Act applies to fish habitat improvement projects first begun on  
8 or after the effective date of this 2011 Act in waters of this state that contain or that his-  
9 torically contained populations of anadromous fish.

10 (3) The amendments to ORS 496.146 by section 3 of this 2011 Act apply to waters of this  
11 state that contain or that historically contained populations of anadromous fish.

12 (4) Section 4 of this 2011 Act applies to activities by state agencies first begun on or after  
13 the effective date of this 2011 Act in waters of this state that contain or that historically  
14 contained populations of anadromous fish.

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