

# Enrolled Senate Bill 119

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CHAPTER .....

## AN ACT

Relating to shellfish fees; creating new provisions; amending ORS 622.080, 622.290 and 622.300; appropriating money; and declaring an emergency.

### Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 622.080 is amended to read:

622.080. (1)~~[(a)]~~ Persons engaged in the growing, production, harvesting or distribution of shellfish who receive from such operations not more than ~~[\$60,000]~~ **\$50,000** in annual gross income shall pay ~~[the following]~~ annual fees to the State Department of Agriculture~~[:]~~. **The department shall establish the amount of the annual fees by rule, not to exceed:**

~~[(A)]~~ **(a)** ~~[\$150]~~ **\$300** for a certificate of shellfish sanitation as a shucker-packer, for a person operating a shellfish shucking, packing or repacking plant for the distribution of shellfish.

~~[(B)]~~ **(b)** ~~[\$100]~~ **\$200** for a certificate of shellfish sanitation as a grower, for a person engaged in the business of growing shellfish.

~~[(C)]~~ **(c)** ~~[\$100]~~ **\$200** for a certificate of shellfish sanitation as a distributor, for any jobber or wholesaler who furnishes or sells shellfish to retail outlets.

~~[(D)]~~ **(d)** ~~[\$75]~~ **\$250** for a certificate of shellfish sanitation as a commercial harvester, for any person harvesting clams or mussels for commercial purposes.

~~[(b) Notwithstanding the fees established in paragraph (a) of this subsection, no commercial facility operating in one location shall pay more than \$250 in total annual fees to the department for any combination of certificates issued under paragraph (a) of this subsection.]~~

(2)~~[(a)]~~ Persons engaged in the growing, production, harvesting or distribution of shellfish who receive from such operations more than ~~[\$60,000]~~ **\$50,000 but not more than \$500,000** in annual gross income shall pay ~~[the following]~~ annual fees to the department~~[:]~~. **The department shall establish the amount of the annual fees by rule, not to exceed:**

~~[(A)]~~ **(a)** ~~[\$300]~~ **\$600** for a certificate of shellfish sanitation as a shucker-packer, for a person operating a shellfish shucking, packing or repacking plant for the distribution of shellfish.

~~[(B)]~~ **(b)** ~~[\$200]~~ **\$400** for a certificate of shellfish sanitation as a grower, for a person engaged in the business of growing shellfish.

~~[(C)]~~ **(c)** ~~[\$225]~~ **\$450** for a certificate of shellfish sanitation as a distributor, for any jobber or wholesaler who furnishes or sells shellfish to retail outlets.

~~[(D)]~~ **(d)** ~~[\$75]~~ **\$250** for a certificate of shellfish sanitation as a commercial harvester, for any person harvesting clams or mussels for commercial purposes.

*[(b) Notwithstanding the fees established in paragraph (a) of this subsection, no commercial facility operating in one location shall pay more than \$500 in total annual fees to the department for any combination of certificates issued under paragraph (a) of this subsection.]*

**(3) Persons engaged in the growing, production, harvesting or distribution of shellfish who receive from such operations more than \$500,000 in annual gross income shall pay annual fees to the department. The department shall establish the amount of the annual fees by rule, not to exceed:**

**(a) \$1,200 for a certificate of shellfish sanitation as a shucker-packer, for a person operating a shellfish shucking, packing or repacking plant for the distribution of shellfish.**

**(b) \$800 for a certificate of shellfish sanitation as a grower, for a person engaged in the business of growing shellfish.**

**(c) \$900 for a certificate of shellfish sanitation as a distributor, for any jobber or wholesaler who furnishes or sells shellfish to retail outlets.**

**(d) \$250 for a certificate of shellfish sanitation as a commercial harvester, for any person harvesting clams or mussels for commercial purposes.**

**SECTION 2.** ORS 622.290 is amended to read:

622.290. (1) Persons using state lands for cultivating oysters, clams or mussels shall pay annual cultivation fees and use taxes quarterly to the State Department of Agriculture. Fees and taxes become delinquent 30 days after the end of the quarter.

(2) Use taxes shall be in the amount of 10 cents per gallon of oysters if sold by the gallon, 10 cents per bushel of oysters if sold in the shell by the bushel or one cent per dozen oysters if sold by the dozen.

(3) Use taxes shall be in the amount of one-half cent per pound of clams or mussels sold.

(4) The annual cultivation fee shall be *[in the amount of \$4]* **established by department rule in an amount not to exceed \$14** for each acre claimed pursuant to chapter 675, Oregon Laws 1969, or claimed pursuant to a plat made subsequent thereto.

(5) Annual cultivation fees and use taxes shall be assessed in lieu of property taxes, lease fees or rental charges for the use of lands upon which oysters, clams or mussels are grown and harvested.

**SECTION 3.** ORS 622.300 is amended to read:

622.300. All moneys received by the State Department of Agriculture under ORS 622.290 shall be paid over to the State Treasurer and deposited in the Department of Agriculture Service Fund and be subject to ORS 561.144. All such moneys are appropriated continuously to the department to carry out the provisions of *[ORS 622.220 and 622.320]* **this chapter.**

**SECTION 4.** (1) **The amendments to ORS 622.080 and 622.290 by sections 1 and 2 of this 2011 Act apply to fees assessed for annual periods that begin on or after July 1, 2011. The Legislative Assembly intends that any initial rule adopted under ORS 622.080 or 628.290 by the State Department of Agriculture shall apply retroactively if necessary to allow charging and collection of the full fee amount established by rule for annual periods that begin on or after July 1, 2011.**

**(2) If the department does not complete the adoption of initial rules under ORS 622.080 and 622.290 on or before July 1, 2011, for any annual period that begins on or after July 1, 2011, and prior to the initial rules taking effect, the department may elect to charge and collect at the beginning of the annual period a partial payment equal to the applicable fee amount under ORS 622.080 and 622.290 as in effect immediately prior to the effective date of the amendments to ORS 622.080 and 622.290 by sections 1 and 2 of this 2011 Act. If the department elects to charge and collect a partial payment under this subsection, the department shall apply the full amount of the collected partial payment toward the annual fee amount due from the person under the applicable initial rule adopted by the department.**

**(3) The amendments to ORS 622.300 by section 3 of this 2011 Act become operative July 1, 2011.**

**SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by Senate May 19, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State