

# House Bill 4060

Sponsored by Representatives BOONE, HOLVEY; Representative TOMEI (Pre-session 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**.

Prohibits importation of genetically engineered fish into this state. Prohibits farming, cultivation or incubation of genetically engineered fish in any body of water in this state. Prohibits release or attempt to release genetically engineered fish into any body of water in this state. Provides exceptions.

Prohibits farming, cultivation or incubation of any species of fish that is not native and may spread infectious anemia to native stock of anadromous fish.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to fish; creating new provisions; amending ORS 498.222; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS chapter 498.**

5 **SECTION 2. (1) As used in this section:**

6 (a) **"Genetically engineered" means having a genetic structure that has been altered at**  
7 **the molecular or cellular level through recombinant DNA or RNA techniques, gene deletion**  
8 **or doubling, alteration of gene position or the introduction of exogenous genetic material or**  
9 **by other means that are not possible under natural conditions or processes.**

10 (b) **"Recombinant DNA or RNA techniques" means processes in which segments of**  
11 **deoxyribonucleic acid or ribonucleic acid from different organisms are joined together to**  
12 **create recombinant DNA or RNA molecules that have the capacity to replicate in a host cell,**  
13 **either autonomously or as an integrated part of the host genome.**

14 (2) **A person may not:**

15 (a) **Import into, or transport within, this state any genetically engineered fish.**

16 (b) **Farm, cultivate, incubate or induce to spawn any genetically engineered fish in any**  
17 **body of water in this state.**

18 (c) **Release or attempt to release into any body of water in this state any genetically**  
19 **engineered fish.**

20 (3) **This section does not apply to:**

21 (a) **Genetically engineered fish that are no longer living and that are imported into, or**  
22 **transported within, this state for human consumption.**

23 (b) **Genetically engineered fish that are no longer living and that are imported into, or**  
24 **transported within, this state and contained within:**

25 (A) **Dog food;**

26 (B) **Cat food;**

27 (C) **Any fertilizer; or**

28 (D) **Any consumer product other than those described in paragraph (a) of this subsection.**

**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 (c) **Triploid fish.**

2 (d) **Genetically engineered fish destined for, or in, a closed body of water on private land.**

3 (e) **Genetically engineered fish to be used for, or that are used for, scientific research in**  
 4 **an aquarium or other similar closed water system. Genetically engineered fish described in**  
 5 **this paragraph may not be disposed of in any body of water in this state. The State Fish and**  
 6 **Wildlife Commission by rule shall adopt requirements for the disposal of genetically engi-**  
 7 **neered fish described in this paragraph, specifying disposal procedures that may be verified**  
 8 **by the State Department of Fish and Wildlife.**

9 **SECTION 3.** ORS 498.222 is amended to read:

10 498.222. (1) No person shall:

11 (a) Transport any live fish unless the person has first obtained a permit therefor from the State  
 12 Fish and Wildlife Commission.

13 (b) Release or attempt to release into any body of water any live fish that was not taken from  
 14 that body of water, unless the person has first obtained a permit therefor from the commission.

15 (2) The commission may refuse to issue the permit referred to in subsection (1)(b) of this section  
 16 if the commission finds that release of the fish into a body of water would adversely affect existing  
 17 fish populations.

18 (3)(a) Subsection (1)(a) of this section does not apply to live fish that are for aquaria use.

19 **(b) Subsection (1) of this section does not apply to genetically engineered fish described**  
 20 **in section 2 (3) of this 2012 Act.**

21 (4) Violation of subsection (1)(b) of this section is:

22 (a) A Class C felony if the violation is committed intentionally or knowingly.

23 (b) A Class A misdemeanor if the violation is committed recklessly or with criminal negligence.

24 (5)(a) Notwithstanding ORS 497.415 (1), (2), (3) and (5), when a person is convicted of violating  
 25 subsection (1)(b) of this section, the court in which the conviction occurs shall notify the commis-  
 26 sion, which shall revoke all angling licenses and tags issued to that person pursuant to the wildlife  
 27 laws. Revocation of licenses and tags is in addition to and not in lieu of other penalties provided  
 28 by law.

29 (b) No person who has been convicted of violating subsection (1)(b) of this section shall apply  
 30 for, obtain or possess any angling license or tag issued pursuant to the wildlife laws within five  
 31 years after the conviction.

32 (6)(a) The commission may institute suit for the recovery of damages for the control or  
 33 eradication of live fish released into a body of water in violation of subsection (1)(b) of this section.  
 34 The damages awarded under this subsection shall be the amount necessary to return the body of  
 35 water to its condition prior to the violation.

36 (b) In any action under this subsection, the court shall award to the prevailing party, in addition  
 37 to costs and disbursements, reasonable attorney fees.

38 (c) Damages awarded under this subsection shall be in addition to other penalties prescribed by  
 39 the wildlife laws for releasing or attempting to release live fish without a permit.

40 (d) Any circuit or justice court has jurisdiction to try any case for the recovery of damages as  
 41 provided by this subsection.

42 **SECTION 4. Section 5 of this 2012 Act is added to and made a part of ORS chapter 498.**

43 **SECTION 5. (1) As used in this section, “native stocks” has the meaning given that term**  
 44 **in ORS 496.430.**

45 **(2) A person may not farm, cultivate, incubate or induce to spawn in this state any spe-**

1 cies of fish that is not a native stock and that may come into contact with and spread in-  
2 fectionous anemia to native stocks of anadromous fish.

3 **SECTION 6.** (1) Except as provided in subsection (2) of this section, sections 1, 2, 4 and  
4 5 of this 2012 Act and the amendments to ORS 498.222 by section 3 of this 2012 Act become  
5 operative on January 1, 2013.

6 (2) The State Fish and Wildlife Commission may adopt rules or take any other action  
7 before the operative date specified in subsection (1) of this section that is necessary to im-  
8 plement, on or after the operative date specified in subsection (1) of this section, sections  
9 1, 2, 4 and 5 of this 2012 Act and the amendments to ORS 498.222 by section 3 of this 2012  
10 Act.

11 **SECTION 7.** This 2012 Act being necessary for the immediate preservation of the public  
12 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect  
13 on its passage.  
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