

Enrolled
House Bill 2027

Sponsored by Representative CLEM (Pre-session filed.)

CHAPTER

AN ACT

Relating to wildlife; creating new provisions; amending ORS 496.146 and section 2, chapter 460, Oregon Laws 1995, and section 1, chapter 461, Oregon Laws 2003; and declaring an emergency.

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

SECTION 1. Section 2, chapter 460, Oregon Laws 1995, as amended by section 1, chapter 227, Oregon Laws 2001, section 1, chapter 349, Oregon Laws 2009, and section 2a, chapter 832, Oregon Laws 2009, is amended to read:

Sec. 2. Notwithstanding any other provision of the wildlife laws, during the period beginning January 1, 1996, and ending January 2, [2014,] **2020**, the following provisions apply with regard to the issuance and use of landowner preference tags referred to in ORS 496.146 (4):

- (1) Landowner preference tags shall be issued for the hunting of deer, elk or antelope.
- (2) Landowner preference tags may be used only for hunting on the landowner's property.

(3) **Subject to subsection (6) of this section**, landowner preference tags for the hunting of deer or elk may be transferred to any person of the landowner's choosing and shall be used for the taking of antlerless animals [*except as authorized by subsection (6) of this section*].

(4) Landowner preference tags for the hunting of antelope are not transferable and may not be used for the taking of buck antelope.

(5) Each landowner preference tag for the hunting of deer [*or elk*] may be used to take two antlerless animals before, during or after the hunting season for which the tags are valid for the purpose of alleviating damage that is presently occurring to the landowner's property, in accordance with such rules as the State Fish and Wildlife Commission may adopt.

(6) Landowner preference tags for the hunting of deer or elk [*that are*] **may be** transferred to a person of the landowner's choosing [*who is not a member of the landowner's immediate family may be used to take an antlered animal only*] as follows:

- [(a) *If the landowner receives one preference tag, that tag may not be so used.*]
- [(b) *If the landowner receives two, three or four preference tags, one of those tags may be so used.*]
- [(c) *If the landowner receives five, six or seven preference tags, two of those tags may be so used.*]
- [(d) *If the landowner receives eight, nine or 10 preference tags, three of those tags may be so used.*].

(a) **A landowner who is issued only one tag may not transfer that tag.**

(b) **A landowner who is issued two or more tags may transfer not more than 50 percent of the tags to a person who is not an immediate family member, as defined in ORS 496.146 (4). If the calculation of the number of tags eligible for transfer under the provisions of this**

paragraph results in a fraction, the commission shall round up the number of tags to the next whole number.

(7)(a) As specified pursuant to a formula determined by the commission by rule, the number of landowner preference tags issued for mule deer must be based upon the management, research and habitat needs set forth in the wildlife management plan for mule deer.

(b) If the population of mule deer in a wildlife management unit is greater than the goal specified in the wildlife management plan for mule deer, a landowner who is issued a landowner preference tag is eligible, pursuant to criteria established by rule of the commission, for the number of tags that corresponds to the number of acres that landowner has registered with the State Department of Fish and Wildlife for participation in the program.

(c) The commission may specify by rule a formula for determining the number of landowner preference tags that are available for controlled hunts for mule deer in a wildlife management unit in which the population of mule deer is less than the goal specified for that wildlife management unit in the wildlife management plan for mule deer.

~~[(7)]~~ (8) Landowners ~~[must]~~ shall pay a \$30 fee to register for participation in the program.

~~[(8)]~~ (9) ~~[Establishes]~~ A landowner shall pay a \$15 fee ~~[for landowners]~~ to modify the landowner's tag distribution.

SECTION 2. (1) The amendments to section 2, chapter 460, Oregon Laws 1995, by section 1 of this 2013 Act apply to landowner preference tags issued on or after the operative date specified in subsection (2) of this section.

(2)(a) Except as provided in paragraph (b) of this subsection, the amendments to section 2, chapter 460, Oregon Laws 1995, by section 1 of this 2013 Act become operative on January 1, 2014.

(b) The State Fish and Wildlife Commission may adopt rules or take any other action before the operative date specified in paragraph (a) of this subsection that is necessary to implement, on and after the operative date specified in paragraph (a) of this subsection, the amendments to section 2, chapter 460, Oregon Laws 1995, by section 1 of this 2013 Act.

SECTION 3. Notwithstanding any other provision of the wildlife laws, the State Department of Fish and Wildlife shall create and implement an Oregon Landowner Damage Program that:

(1) Addresses damage caused by elk on privately owned lands in Oregon.

(2) Provides landowner damage tags only for areas where elk are currently causing damage, where there has been a history of elk damage coupled with actions to alleviate elk damage or where the department has designated the area as an elk deemphasis area.

(3) Limits the use of damage tags to taking antlerless elk.

(4) Limits the use of damage tags to taking elk on property owned, leased or rented by the landowner complaining of elk damage or on property owned, leased or rented by a business entity that includes the landowner as a principal partner or shareholder.

(5) Allows exchange of unused general season elk tags or controlled hunt elk tags for landowner damage tags.

(6) Does not impose a limit on the number of total damage tags available for each landowner, except that no more than five damage tags may be valid at any one time.

(7) Does not impose a minimum acreage requirement for landowner participation.

(8) Allows landowners to register for participation in the program at any time prior to the issuance of damage tags.

(9) Establishes a \$30 fee for landowners to register for participation in the program.

(10) Establishes a \$15 fee for landowners to modify the landowner's damage tag distribution.

(11) Authorizes department biologists to sell and exchange damage tags.

(12) Authorizes department biologists to establish the period of validity for damage tags through negotiation with landowners.

(13) Requires landowners to record the number of elk taken and, within 10 days after the end of a designated hunt period, to report to the local department biologist the number of elk taken.

SECTION 4. (1) Except as provided in subsection (2) of this section, section 3 of this 2013 Act becomes operative on January 1, 2014.

(2) The State Fish and Wildlife Commission may adopt rules or take any other action before the operative date specified in subsection (1) of this section that is necessary to implement, on and after the operative date specified in subsection (1) of this subsection, section 3 of this 2013 Act.

SECTION 5. Sections 3 and 4 of this 2013 Act are repealed on January 2, 2020.

SECTION 6. Section 1, chapter 461, Oregon Laws 2003, as amended by section 1, chapter 8, Oregon Laws 2007, and section 1, chapter 832, Oregon Laws 2009, is amended to read:

Sec. 1. Notwithstanding any other provision of the wildlife laws, the State Department of Fish and Wildlife shall create and implement a Southwest Oregon Landowner Preference Pilot Program during the period beginning July 1, 2004, and ending [June 30, 2014,] **December 31, 2013**, that:

(1) Addresses damage caused by elk on privately owned lands in Jackson, Josephine, Coos, Curry and Douglas Counties Oregon.

(2) Provides landowner preference tags only for areas where elk are currently causing damage, where there has been a history of elk damage coupled with actions to alleviate elk damage or where the department has designated the area as an elk deemphasis area.

(3) Limits the use of tags to taking antlerless elk.

(4) Limits the use of tags to taking elk on property owned, leased or rented by the landowner complaining of elk damage or on property owned, leased or rented by a business entity that includes the landowner as a principal partner or shareholder.

(5) Allows exchange of unused general season elk tags or controlled hunt elk tags for landowner preference tags.

(6) Does not impose a limit on the number of total tags available for each property, except that no more than five tags may be valid at any one time on a particular property.

(7) Does not impose a minimum acreage requirement for landowner participation.

(8) Allows landowners to register for participation in the program at any time prior to the issuance of tags.

(9) Establishes a \$30 fee for landowners to register for participation in the program.

(10) Establishes a \$15 fee for landowners to modify the landowner's tag distribution.

(11) Authorizes department biologists to sell and exchange tags.

(12) Authorizes department biologists to establish the period of validity for tags through negotiation with landowners.

(13) Requires landowners to record the number of elk taken and, within 10 days after the end of a designated hunt period, to report to the local department biologist the number of elk taken.

SECTION 7. ORS 496.146 is amended to read:

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

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

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

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

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for

use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means husband, wife, father, mother, brothers, **brothers-in-law**, sisters, **sisters-in-law**, sons, daughters, stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.

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

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

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

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

(9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.

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

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

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

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

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

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

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

(17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider

giving additional preference points to persons who have been issued a resident pioneer hunting license pursuant to ORS 497.102.

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

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

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

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

(22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

SECTION 8. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House March 18, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 4, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State