

**A-Engrossed**  
**Senate Bill 198**

Ordered by the Senate February 28  
Including Senate Amendments dated February 28

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., 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.

Provides that in certain cases court may order State Fish and Wildlife Commission to revoke licenses or permits issued under commercial fishing laws.

**Provides that violation of commercial fishing laws is Class A violation when offense is committed without culpable mental state.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to commercial fishing; creating new provisions; amending ORS 506.991, 508.485, 508.490,  
3 508.787, 508.813, 508.855 and 508.898; and declaring an emergency.

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

5 **SECTION 1.** ORS 508.485 is amended to read:

6 508.485. (1) Except for vessel licenses [*prescribed*] **described in ORS 508.285 and 508.470 and**  
7 **vessel permits described in ORS [508.285, 508.470,] 508.775 to 508.796, 508.801 to 508.825, 508.880,**  
8 **508.883 and 508.889 to 508.910, the State Fish and Wildlife Commission may, in its discretion, revoke**  
9 **for the remainder of the license or permit year any license or permit issued to a person under the**  
10 **authority of the commission, or the State Fish and Wildlife Director, pursuant to the commercial**  
11 **fishing laws, and in its discretion may refuse the issuance of any license or permit issued under**  
12 **the authority of the commission, or director, pursuant to the commercial fishing laws, during**  
13 **any period not to exceed one year from the date of the license or permit revocation order:**

14 [(1)] (a) Upon conviction within this state of any person of violation of any of the commercial  
15 fishing laws or rules;

16 [(2)] (b) Upon receiving notice from the agency that regulates commercial fishing in the State  
17 of Washington of the conviction of any person in that state of an offense that was a violation of  
18 Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and that  
19 if committed in this state would be grounds for license revocation pursuant to [*subsection (1) of this*  
20 *section*] **paragraph (a) of this subsection;**

21 [(3)] (c) Upon conviction within this state of any person for violation of ORS 498.022, or any rule  
22 [*promulgated*] **adopted** pursuant thereto, involving game fish, through the use of a license issued  
23 pursuant to the commercial fishing laws; or

24 [(4)] (d) Upon conviction within this state of a person for violation of ORS 164.043 to 164.065  
25 when the subject of the theft is commercial fishing crab rings or crab pots, or the crabs taken

**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 therefrom.

2 (2)(a) Except for vessel licenses and permits described in ORS 508.285, 508.470, 508.775 to  
3 508.796, 508.801 to 508.825, 508.880, 508.883 and 508.889 to 508.910, a court may order the com-  
4 mission to revoke any licenses or permits issued to a person under the authority of the  
5 commission, or the director, pursuant to the commercial fishing laws. Such revocations may  
6 not exceed a period of two years from the date of the license or permit revocation order.  
7 Revocation of licenses and permits is in addition to and not in lieu of other penalties provided  
8 by law.

9 (b) The license and permit revocation provisions of paragraph (a) of this subsection apply  
10 to the following persons:

11 (A) Any person who is convicted of a violation of the commercial fishing laws, or any rule  
12 adopted pursuant thereto, or who otherwise fails to comply with the requirements of a cita-  
13 tion in connection with any such offense;

14 (B) Any person who is convicted of a violation of ORS 498.022, or any rule adopted pur-  
15 suant thereto, involving game fish, through the use of a license issued pursuant to the  
16 commercial fishing laws; or

17 (C) Any person who is convicted of a violation of ORS 164.043 to 164.065 when the subject  
18 of the theft is commercial fishing crab rings or crab pots, or the crabs taken therefrom.

19 (c) When a court orders the revocation of a license or permit under the provisions of this  
20 subsection, the court shall take up any such licenses and permits and forward them, together  
21 with a copy of the revocation order, to the commission. Upon receipt thereof, the commis-  
22 sion shall cause revocation of the appropriate licenses and permits in accordance with the  
23 court order.

24 (d) Nothing in this subsection requires a court to take additional action, after the con-  
25 clusion of the sentencing hearing, to secure the licenses or permits if the defendant does not  
26 have the license or permit in the defendant's possession at the time of sentencing.

27 (3) Any person whose license revocation involves the buying, selling or dealing of food  
28 fish is prohibited from engaging in such activity under any license issued by the commission  
29 during the period the court orders the revocation.

30 **SECTION 2.** ORS 508.787 is amended to read:

31 508.787. The **Commercial Fishery Permit** Board may revoke and refuse subsequent issuance  
32 of a permit required by ORS 508.775 in the manner provided in ORS 508.485 (1) and 508.490.

33 **SECTION 3.** ORS 508.813 is amended to read:

34 508.813. The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of  
35 a permit required by ORS 508.801 in the manner provided in ORS 508.485 (1) and 508.490.

36 **SECTION 4.** ORS 508.855 is amended to read:

37 508.855. The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of  
38 a permit required by ORS 508.840 in the manner provided in ORS 508.485 (1) and 508.490.

39 **SECTION 5.** ORS 508.898 is amended to read:

40 508.898. The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of  
41 a permit required by ORS 508.880 in the manner provided in ORS 508.485 (1) and 508.490.

42 **SECTION 6.** ORS 508.490 is amended to read:

43 508.490. Except for vessel licenses [*prescribed*] **described** in ORS 508.260, **508.285 and 508.470**  
44 and vessel permits [*prescribed*] **described** in ORS [*508.285, 508.470,*] 508.775 to 508.796, 508.801 to  
45 508.825, 508.880, 508.883 and 508.889 to 508.910, the State Fish and Wildlife Commission may, in its

1 discretion, refuse the issuance of any license **or permit** issued under the authority of the commis-  
2 sion, or the State Fish and Wildlife Director, **pursuant to the commercial fishing laws**, during  
3 any period not to exceed two years from the date of the license **or permit** revocation order:

4 (1) Upon conviction within this state of any person of violation of any of the commercial fishing  
5 laws or rules after the person has once been convicted and penalized under ORS 508.485; or

6 (2) Upon receiving notice from the agency that regulates commercial fishing in the State of  
7 Washington of the conviction of any person in that state of an offense that was a violation of  
8 Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and that  
9 if committed in this state would be grounds for refusal to issue a license **or permit** pursuant to  
10 subsection (1) of this section.

11 **SECTION 7.** ORS 506.991 is amended to read:

12 506.991. (1) Except as **otherwise** provided [*in*] **by** this section[, *and subject to ORS 153.022,*] **or**  
13 **other law**, violation of any provision of the commercial fishing laws, or of any rule [*promulgated*]  
14 **adopted** by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is  
15 a Class A misdemeanor **if the offense is committed with a culpable mental state.**

16 (2) **Except as otherwise provided by this section or other law, violation of any provision**  
17 **of the commercial fishing laws, or of any rule adopted by the State Fish and Wildlife Com-**  
18 **mission in carrying out the commercial fishing laws, is a Class A violation if the offense is**  
19 **committed without a culpable mental state.**

20 [(2)] (3) In lieu of the fine provided in ORS 161.635, and in addition to the imprisonment provided  
21 in ORS 161.615, any violation of [*this section*] **subsection (1) of this section** is punishable as fol-  
22 lows:

23 (a) For the first conviction, a fine not to exceed \$2,500.

24 (b) For the second conviction within a 10-year period, a fine not to exceed \$4,000.

25 (c) For the third conviction within a 10-year period, a fine not to exceed \$10,000.

26 (d) For the fourth and subsequent convictions within a 10-year period, a fine not to exceed  
27 \$25,000.

28 [(3)] (4) Violation of any provision of ORS 509.011 [*which*] **that** occurs more than 12 hours prior  
29 to or more than 12 hours subsequent to a season established under ORS 506.129 by the commission  
30 for the lawful taking of food fish when the total value of the food fish is \$200 or more is a Class C  
31 felony.

32 [(4)] (5) In addition to the penalties of this section and notwithstanding the provisions of ORS  
33 506.690, all fish or sexual products therefrom taken by or in the possession of any person sentenced  
34 under this section shall be seized and confiscated, condemned, and sold.

35 (6) **As used in this section, “culpable mental state” has the meaning given that term in**  
36 **ORS 161.085.**

37 **SECTION 8.** (1) **The amendments to ORS 508.485 by section 1 of this 2013 Act apply to**  
38 **offenses committed on or after the effective date of this 2013 Act.**

39 (2) **The amendments to ORS 506.991 by section 7 of this 2013 Act apply to offenses com-**  
40 **mitted on or after the effective date of this 2013 Act.**

41 **SECTION 9.** **This 2013 Act being necessary for the immediate preservation of the public**  
42 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
43 **on its passage.**