

Enrolled Senate Bill 198

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)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 508.485 is amended to read:

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

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

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

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

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

(2)(a) Except for vessel licenses and permits described in ORS 508.285, 508.470, 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883 and 508.889 to 508.910, a court may order the commission to revoke any licenses or permits issued to a person under the authority of the commission, or the director, pursuant to the commercial fishing laws. Such revocations may not exceed a period of two years from the date of the license or permit revocation order.

Revocation of licenses and permits is in addition to and not in lieu of other penalties provided by law.

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

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

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

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

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

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

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

SECTION 2. ORS 508.787 is amended to read:

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

SECTION 3. ORS 508.813 is amended to read:

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

SECTION 4. ORS 508.855 is amended to read:

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

SECTION 5. ORS 508.898 is amended to read:

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

SECTION 6. ORS 508.490 is amended to read:

508.490. Except for vessel licenses [*prescribed*] **described** in ORS 508.260, **508.285 and 508.470** and vessel permits [*prescribed*] **described** in ORS [508.285, 508.470,] 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883 and 508.889 to 508.910, the State Fish and Wildlife Commission may, in its discretion, refuse the issuance of any license **or permit** issued under the authority of the commission, or the State Fish and Wildlife Director, **pursuant to the commercial fishing laws**, during any period not to exceed two years from the date of the license **or permit** revocation order:

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

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

SECTION 7. ORS 506.991 is amended to read:

506.991. (1) Except as **otherwise** provided [*in*] **by** this section[, *and subject to ORS 153.022,*] **or other law**, violation of any provision of the commercial fishing laws, or of any rule [*promulgated*]

adopted by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is a Class A misdemeanor **if the offense is committed with a culpable mental state.**

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

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

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

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

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

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

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

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

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

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

(2) The amendments to ORS 506.991 by section 7 of this 2013 Act apply to offenses committed on or after the effective date of this 2013 Act.

SECTION 9. 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 Senate March 5, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 9, 2013

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Tina Kotek, Speaker of House

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