

A-Engrossed
House Bill 2209

Ordered by the House April 3
Including House Amendments dated April 3

Sponsored by Representative MCKEOWN; Representatives BOONE, GOMBERG, KRIEGER, Senators JOHNSON, ROBLAN, WHITSETT (Presession 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.

Requires persons cultivating shellfish on public or private land to file annual report.

Creates **Oregon Shellfish** Task Force [*on Shellfish*].

Sunsets task force on [*date of convening of 2017 regular session of Legislative Assembly*] **December 31, 2016.**

Establishes pilot project to increase frequency of water quality monitoring and analysis in Tillamook Bay.

Sunsets pilot project on July 1, 2017.

Directs Oregon State University to conduct research activities related to shellfish.

Sunsets research activities related to shellfish on July 1, 2017.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to shellfish; creating new provisions; amending ORS 622.270, 622.310 and 622.330; and de-
3 claring an emergency.

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

5 **SECTION 1. (1) The Legislative Assembly finds and declares that it is the policy of the**
6 **State of Oregon to seek opportunities to:**

7 **(a) Enhance and expand cultivated shellfish production;**

8 **(b) Conserve, protect and restore wild populations of native shellfish; and**

9 **(c) Improve water quality and the health of aquatic and marine habitats.**

10 **(2) In furtherance of the policy declared by this section, it is the intent of the Legislative**
11 **Assembly that the state develop and adopt a shellfish initiative to prioritize and implement**
12 **strategies for achieving protection of native shellfish and the enhancement of shellfish pro-**
13 **duction.**

14 **SECTION 2. ORS 622.270 is amended to read:**

15 **622.270. (1) Any person cultivating oysters, clams or mussels on public or private land in this**
16 **state shall file an annual report with the State Department of Agriculture before March 1 of each**
17 **year showing the number of gallons, bushels or dozens of each species of oysters, or the number of**
18 **pounds of each species of clams or mussels harvested by the person during the preceding calendar**
19 **year. The report shall be made on forms provided by the department.**

20 **(2) Individually identifiable information procured by or furnished to the department in**
21 **connection with obtaining data under this section is a trade secret under ORS 192.501 and is**
22 **not subject to public disclosure under ORS 192.410 to 192.505. The department may use and**
23 **disclose the information in aggregated form.**

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 **SECTION 3.** ORS 622.310 is amended to read:

2 622.310. **Except as required in ORS 622.270 for production reporting**, nothing in ORS 506.036
3 and 622.210 to 622.310 affects any oyster cultivation right acquired prior to January 1, 1982, pursu-
4 ant to chapter 675, Oregon Laws 1969.

5 **SECTION 4.** ORS 622.330 is amended to read:

6 622.330. **Except as required in ORS 622.270 for production reporting**, nothing in ORS 509.505,
7 511.625, 622.210 to 622.300 and 622.320 interferes with any rights in, or ownership of, any private
8 plantations of oysters or oyster beds acquired or held under law existing on February 17, 1921.

9 **SECTION 5.** (1) **The Oregon Shellfish Task Force is established, consisting of 11 members**
10 **appointed as follows:**

11 (a) **The President of the Senate shall appoint one member from among members of the**
12 **Senate.**

13 (b) **The Speaker of the House of Representatives shall appoint one member from among**
14 **members of the House of Representatives.**

15 (c) **The Governor shall appoint nine members as follows:**

16 (A) **The Director of Agriculture or the director's designee;**

17 (B) **The State Fish and Wildlife Director or the director's designee;**

18 (C) **Two members representing commercial shellfish growers;**

19 (D) **One member representing port districts;**

20 (E) **One member representing those programs at Oregon State University that engage in**
21 **research and other efforts related to shellfish;**

22 (F) **One member representing the interests of recreational shellfish harvesters;**

23 (G) **One member representing the interests of Oregon Indian tribes; and**

24 (H) **One member representing a conservation organization with demonstrated expertise**
25 **in the conservation of estuarine habitats and restoration of native shellfish.**

26 (2) **The task force shall develop and produce a draft Oregon Shellfish Initiative that sets**
27 **forth priorities and implementation strategies for addressing shellfish production in this**
28 **state. The draft initiative shall include but not be limited to the following:**

29 (a) **A recognition of, and strategy for supporting and encouraging, facilitated by extension**
30 **activities, the collaboration between the commercial and recreational shellfish industries,**
31 **state and federal agencies and academia that is necessary to fully address issues related to**
32 **shellfish production in this state.**

33 (b) **Recommendations regarding which state agency is best suited to serve as the lead**
34 **agency for addressing and regulating shellfish production in this state, and legislative or**
35 **agency action that may be required to transfer necessary duties to the recommended lead**
36 **agency.**

37 (c) **Recommendations for priorities for research and research funding related to:**

38 (A) **Identifying opportunities to enhance shellfish production in this state, by conducting**
39 **site suitability research and prioritizing pilot projects, that will initially focus on enhancing**
40 **existing certified areas and that have a basis in enhancing resource protection and restora-**
41 **tion, mariculture production potential and economic potential.**

42 (B) **Developing best management practices through cooperative efforts between the**
43 **commercial and recreational shellfish industries, state and federal agencies and academia to**
44 **identify planning actions and mariculture techniques that are consistent with the conserva-**
45 **tion of wild shellfish stocks and shellfish habitats.**

1 (C) The impacts of ocean acidification on wild shellfish stocks and cultivated shellfish and
2 the relevance of ocean acidification to this state's ability to successfully implement the pri-
3 orities and strategies contained in the shellfish initiative.

4 (D) The socioeconomic and social vulnerability impacts of shellfish production in this
5 state, including the economic costs and benefits of shellfish mariculture and recreational
6 shellfish harvesting to coastal communities.

7 (E) Improving water quality and monitoring related to mariculture certification, and
8 improving the monitoring of bays and estuaries for biotoxins, harmful algae blooms and fecal
9 indicator bacteria.

10 (F) Assessing wild shellfish stocks, enhancing recreational harvest opportunities and re-
11 storing native shellfish populations, with a particular focus on opportunities to enhance and
12 recover degraded shellfish populations, including but not limited to Olympia oysters.

13 (G) Other issues related to shellfish production in this state as identified by the task
14 force.

15 (d) An identification of strategies for obtaining funding to support the priorities identified
16 under paragraph (c) of this subsection.

17 (3) A majority of the members of the task force constitutes a quorum for the transaction
18 of business.

19 (4) Official action by the task force requires the approval of a majority of the members
20 of the task force.

21 (5) The task force shall elect one of its members to serve as chairperson.

22 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
23 ment to become immediately effective.

24 (7) The task force shall meet at times and places specified by the call of the chairperson
25 or of a majority of the members of the task force.

26 (8) The task force may adopt rules necessary for the operation of the task force.

27 (9) The task force shall submit the draft initiative, which may include recommendations
28 for legislation, to the interim committees of the Legislative Assembly related to environment
29 and natural resources, in the manner provided by ORS 192.245 and no later than September
30 15, 2016.

31 (10) The Legislative Administration Committee shall provide staff support to the task
32 force.

33 (11) Members of the task force who are not members of the Legislative Assembly are not
34 entitled to compensation, but may be reimbursed for actual and necessary travel and other
35 expenses incurred by them in the performance of their official duties in the manner and
36 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
37 of the task force shall be paid out of funds appropriated to the Legislative Administration
38 Committee for purposes of the task force.

39 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
40 the task force in the performance of its duties and, to the extent permitted by laws relating
41 to confidentiality, to furnish such information and advice as the members of the task force
42 consider necessary to perform their duties.

43 **SECTION 6.** Section 5 of this 2015 Act is repealed on December 31, 2016.

44 **SECTION 7.** The State Department of Agriculture shall conduct a pilot project for in-
45 creasing the frequency of water quality monitoring and analysis related to the closure and

1 opening of shellfish harvesting in Tillamook Bay.

2 **SECTION 8.** Section 7 of this 2015 Act is repealed on July 1, 2017.

3 **SECTION 9.** In addition to and not in lieu of any other appropriation, there is appropri-
4 ated to the State Department of Agriculture, for the biennium beginning July 1, 2015, out
5 of the General Fund, the amount of \$125,000 for the purpose of supporting the pilot project
6 described in section 7 of this 2015 Act.

7 **SECTION 10.** Oregon State University shall engage in the following research activities
8 related to shellfish:

9 (1) Monitor the effects of ocean acidification at the Whiskey Creek Shellfish Hatchery;
10 and

11 (2) Conduct the Molluscan Broodstock Program at the Hatfield Marine Science Center in
12 conjunction with the Whiskey Creek Shellfish Hatchery.

13 **SECTION 11.** Section 10 of this 2015 Act is repealed on July 1, 2017.

14 **SECTION 12.** In addition to and not in lieu of any other appropriation, there is appro-
15 priated to the Higher Education Coordinating Commission for distribution to Oregon State
16 University, for the biennium beginning July 1, 2015, out of the General Fund, the amount of
17 \$500,000 for the purpose of funding the activities described in section 10 of this 2015 Act.

18 **SECTION 13.** This 2015 Act being necessary for the immediate preservation of the public
19 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
20 on its passage.

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