



# Oregon

Kate Brown., Governor

**Department of Fish and Wildlife**  
Office of the Director  
4034 Fairview Industrial Drive SE  
Salem, OR 97302  
(503) 947-6044  
FAX (503) 947-6042  
odfw.com

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**To: The Honorable Brian Clem, Chair  
House Committee on Agriculture and Natural Resources**



**House Bill 3193  
Shannon Hurn, Deputy Director for Fish and Wildlife Programs  
Oregon Department of Fish and Wildlife**

Good morning Chair Clem and members of the Committee. We appreciate the opportunity to provide testimony on House Bill 3193. HB 3193 places new authority for managing seaweed harvest with Oregon Department of Fish and Wildlife (ODFW), and repeals the existing Department of State Lands (DSL) leasing authority for kelp and seaweed harvesting. The bill requires ODFW to adopt new administrative rules for a permit program to allow small-scale commercial hand harvest of seaweeds from the Ocean Shore and tidal submerged lands. It also allows for an exemption to the permit to allow seaweed harvest for personal use. The bill further allows ODFW to enter into memoranda of agreement with DSL and Oregon Parks and Recreation Department (OPRD) to assign sole responsibility for permitting commercial seaweed harvest to ODFW. The bill establishes a Seaweed Harvest Permit Program Account, and requires that permit fees be deposited into the account and used for purposes of administering the permit program.

Seaweeds, also referred to as marine algae, grow along Oregon's shore and out in the ocean to about a 90 foot water depth. In Oregon's ocean, they are most commonly found growing on rocky shores, tidepools, rocky intertidal areas, and submerged rocky reefs. Seaweeds can also be found in Oregon's estuaries where they grow on both rocks and sandy sediments. Approximately 500 species of seaweeds occur in Oregon and many species are edible. Some recreational harvest of seaweed currently occurs in Oregon and there has been a small amount of commercial harvest in the past.

HB 3193 expands ODFW's jurisdictional authority to include seaweeds growing on the Ocean Shore and tidal submerged lands for the purpose of developing a permit program for small-scale commercial hand harvest of seaweed for human consumption. OPRD currently has jurisdiction over seaweed harvest along the Ocean Shore, and DSL currently has jurisdiction in tidal submerged lands. The Ocean Shore includes all intertidal areas (between low and high tide) of the outer coast (not estuaries), and tidal submerged lands includes all areas below low tide in both the ocean and estuaries. Nearly all seaweed growth occurs within these areas. This bill would allow for commercial harvest of seaweeds from any location in which they currently grow, except for the intertidal areas of estuaries, which are not included in this bill. ODFW currently manages commercial fisheries, including fishery

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permits, under ORS 506, 507, 508, 509, 511 and 513, collectively referred to as the commercial fishing laws.

HB 3193's provisions to add jurisdiction over seaweeds to ODFW may not be complete. ORS 506.036 establishes the department's jurisdiction to manage harvest of organisms within the commercial fishing laws by the statement "... the State Fish and Wildlife Commission has exclusive jurisdiction over all fish, shellfish, and all other animals living intertidally on the bottom, within the waters of this state." HB 3193's proposed addition of seaweed to the scope of ORS 506.011 implies the intent to move seaweeds under ODFW's jurisdiction with respect to the commercial fishing laws; however, to clearly establish that jurisdiction, it appears the bill would also need to add seaweeds to the jurisdictional statement in ORS 506.036.

To implement the bill, ODFW would need to develop rules for a commercial harvest program within the context of all aspects of the commercial fishing laws. Some of the actions required for developing a harvest permit program would include:

- 1) Clarify the jurisdictional intent of the law
- 2) Define what is meant by "small scale" harvest
- 3) Determine if the permit program would be limited entry or open-access
- 4) Determine the areas and conditions under which harvest would be allowed
- 5) Establish limits on harvest by area, species, seasons, and other factors
- 6) Determine methods for ensuring harvest meets permit requirements
- 7) Determine if the ad valorem tax would be applied to landings and whether or not application of the tax would require legislative action
- 8) Determine methods for recording landings and sale of harvested material
- 9) Establish rules for personal use harvest
- 10) Work with DSL and OPRD to develop rules and administer the program (as stipulated in HB 3193)

In addition to the administrative work of adopting rules, ODFW would also need to develop a defensible ecological basis and rationale to support any limitations on harvest levels and other stipulations or decisions regarding rule-making. Of the hundreds of species of marine seaweeds in Oregon, at least 15-20 are good candidates for harvest. ODFW's existing fishery management programs (for fish and shellfish) are based on scientific information such as the abundance and distribution of the species, life history and productivity information, and information on the effects of harvest on the populations. This type of fundamental baseline information is currently sparse or unavailable for most seaweed species in Oregon. Additionally, management of seaweed harvest is further complicated when consideration is given to the multiple habitat values provided by seaweed. Seaweeds are complex organisms that provide important marine habitat for many fish and invertebrates, including acting as nursery habitat for economically important fishery species. Management of seaweed harvests would require ODFW to consider the secondary effects of seaweed removal on habitat values as well as the direct effects of harvest on seaweed populations. ODFW would need to gain technical expertise from the published literature regarding seaweeds, consult with outside experts, and conduct new field studies to develop the necessary baseline information required for responsible harvest management.

ODFW would incur significant costs to develop and implement a seaweed harvest permit program. There is no excess staff capacity within the department's current fishery

management programs to develop a new permit program as directed by the bill. Staff effort would need to be diverted away from existing high-priority fisheries that provide significant economic contribution to Oregon's coastal economy. While the bill provides a mechanism to collect the modest fees associated with the seaweed harvest, it is unlikely a program to manage small-scale harvest, as defined by the bill, would generate more than a few hundred to a few thousand dollars in fees per year. At this level, the fees could only cover a small fraction of ODFW's costs.

In addition to ODFW's role, Oregon State Police (OSP) would be required to enforce harvest regulations, as they do with all commercial fisheries. Each species of seaweed would require different harvest specifications because they have different growth patterns, ability to recover from harvest, and seasonality. Enforcement efforts for a new, complex set of regulations would likely require OSP to allocate officer time beyond their current workload capacity.

A potential alternative to changing ODFW jurisdiction and developing a new program would be to manage small-scale commercial hand harvest of seaweed within the existing statutory authority of DSL and OPRD. This would alleviate the need to change statutes and bring a new set of organisms into ODFW's management authority. However, this alternative would not avoid the fundamental requirements, complexity, and associated costs that would be incurred for state agency(ies) to meet the management responsibilities described earlier.

**CONTACTS:**

**Shannon Hurn, Deputy Director, 503-947-6044**