

HOUSE AMENDMENTS TO HOUSE BILL 3204

By COMMITTEE ON GENERAL GOVERNMENT

April 7

1 On page 2 of the printed bill, delete lines 3 through 45 and delete pages 3 through 7 and insert:

2 **“SECTION 1. (1) The State Department of Fish and Wildlife, in consultation with the**
3 **Oregon Health Authority, the Oregon State Police and the State Department of Agriculture,**
4 **shall prepare a report that evaluates Oregon’s current framework for monitoring, preventing**
5 **and responding to zoonotic diseases and recommends ways to strengthen the framework.**

6 **“(2) At minimum the report shall evaluate:**

7 **“(a) Existing protocols concerning zoonotic disease for proactive prevention, early de-**
8 **tection, monitoring during an outbreak, testing, coordination of testing laboratories,**
9 **quarantine and data sharing;**

10 **“(b) Existing channels of interagency and intra-agency communication concerning**
11 **zoonotic disease outbreaks or a risk of zoonotic disease outbreaks;**

12 **“(c) Staff capacity at relevant state agencies for addressing wildlife trafficking,**
13 **surveilling pathogens and mitigating disease risks;**

14 **“(d) Enforcement practices and agency capacity to deter or address activities that pose**
15 **a risk of introducing or transmitting zoonotic disease;**

16 **“(e) Existing agency jurisdictional responsibility for preventing, monitoring and respond-**
17 **ing to zoonotic disease outbreaks, including areas of overlap in jurisdictional responsibility**
18 **and areas over which clear jurisdictional responsibility is lacking;**

19 **“(f) Opportunities for increased collaboration with federal agencies, universities and**
20 **other relevant partners;**

21 **“(g) Opportunities to develop or bolster a comprehensive state framework for preventing**
22 **a zoonotic disease outbreak and planning and coordinating responses to a zoonotic disease**
23 **outbreak; and**

24 **“(h) Funding and other resources that are necessary to increase agency capacity and**
25 **strengthen and improve Oregon’s framework for monitoring, preventing and responding to**
26 **zoonotic diseases.**

27 **“(3) The Oregon Health Authority, the State Department of Agriculture and the Oregon**
28 **State Police shall consult on the report, provide information necessary for development of**
29 **the report and advise on development of the report, as requested by the State Department**
30 **of Fish and Wildlife.**

31 **“(4) To develop the report, the State Department of Fish and Wildlife may consult with**
32 **bona fide scientific or educational institutions, as defined in ORS 498.022, state veterinarians,**
33 **other agencies and any other experts with relevant expertise.**

34 **“(5) The department shall present the report to a committee or interim committee of the**
35 **Legislative Assembly related to public health, in the manner provided under ORS 192.245, on**

1 or before December 31, 2022.

2 **“SECTION 2.** Sections 3, 5 and 9 of this 2021 Act are added to and made a part of ORS
3 chapter 498.

4 **“SECTION 3.** (1) As used in this section, ‘prohibited species’ means a species that may
5 not be imported, possessed, sold, purchased, exchanged or transported in this state, as es-
6 tablished by rule by the State Fish and Wildlife Commission.

7 **“(2)** The commission shall update the list of prohibited species to add any wildlife species,
8 including but not limited to any wildlife species on another list established by commission
9 rule, that the commission deems:

10 **“(a)** A significant risk to public health; or

11 **“(b)** Highly susceptible to infection, pathogen replication and transmission of zoonotic
12 disease and capable of causing widespread infectious disease in human populations.

13 **“(3)** To make decisions required by this section, the commission:

14 **“(a)** Shall use the best available science;

15 **“(b)** Shall consult with the Oregon Health Authority and the State Department of Agri-
16 culture; and

17 **“(c)** May consult with bona fide scientific or educational institutions, as defined in ORS
18 498.022, and any other experts with relevant expertise.

19 **“(4)** The commission shall update and add to the list of prohibited species, as described
20 in this section, as necessary, as determined by the commission based on best available sci-
21 ence, and at least every five years.

22 **“(5)** In addition to updating the list of prohibited species as described in this section, the
23 commission may take any actions the commission deems necessary to protect the public
24 from a potential for transmission of zoonotic disease.

25 **“(6)** This section does not apply to livestock, as defined in ORS 596.010.

26 **“SECTION 4.** The State Fish and Wildlife Commission shall first update the list of pro-
27 hibited species, as defined in section 3 of this 2021 Act, and add wildlife species to the list,
28 as described in section 3 (2) of this 2021 Act, on or before December 31, 2022.

29 **“SECTION 5.** (1) The State Fish and Wildlife Commission may institute suit for recovery
30 of damages in the amount of \$2,500 for a violation of a rule related to the list of prohibited
31 species, as defined in section 3 of this 2021 Act.

32 **“(2)** Each action in violation of a rule related to the list of prohibited species that per-
33 tains to an individual animal constitutes a separate violation for purposes of this section.

34 **“(3)** The amount recoverable under this section shall be reduced by any amount paid to
35 the commission under ORS 496.992 (15).

36 **“(4)** In a suit brought under this section, the court shall award to the prevailing party,
37 in addition to costs and disbursements, reasonable attorney fees.

38 **“(5)** Civil damages awarded pursuant to this section are in addition to other penalties
39 prescribed by the wildlife laws.

40 **“(6)** Any circuit or justice court has jurisdiction to try a case for recovery of damages
41 for violation of rules establishing a list of prohibited species.

42 **“SECTION 6.** ORS 496.992 is amended to read:

43 **“496.992.** (1) Except as otherwise provided by this section or other law, a violation of any pro-
44 vision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A
45 misdemeanor if the offense is committed with a culpable mental state.

1 “(2) Except as otherwise provided by this section or other law, a violation of a provision of the
2 wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of
3 wildlife is a Class D violation if the offense is committed without a culpable mental state.

4 “(3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
5 laws, that involves the taking of wildlife, other than nongame mammals and game birds, is a Class
6 A violation if the offense is committed without a culpable mental state.

7 “(4) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
8 laws, that involves the taking of nongame mammals or game birds is a Class C violation if the of-
9 fense is committed without a culpable mental state.

10 “(5) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
11 laws, that involves the size or quantity limits for salmon, steelhead trout and sturgeon is a Class
12 A violation if the offense is committed without a culpable mental state.

13 “(6) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
14 laws, relating to the size or quantity limits for fish or shellfish, other than size and quantity limits
15 for salmon, steelhead trout and sturgeon, is a Class C violation if the offense is committed without
16 a culpable mental state.

17 “(7) A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class A
18 violation if the offense is committed without a culpable mental state.

19 “(8) A violation of ORS 496.994 is a Class A violation if the offense is committed without a
20 culpable mental state.

21 “(9) A violation of ORS 498.136, 498.142 or 498.146 is a Class A violation if the offense is com-
22 mitted without a culpable mental state.

23 “(10) The second and each subsequent conviction within a 10-year period for the taking of a
24 raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black
25 bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of any provision of the
26 wildlife laws, or any rule adopted pursuant thereto, that occurs more than one hour prior to, or
27 more than one hour subsequent to, a season established for the lawful taking of such game mammals
28 or game fish is a Class C felony if the offense is committed with a culpable mental state.

29 “(11) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
30 laws, is a Class C felony if the offense involves any of the following and is committed intentionally,
31 knowingly or recklessly:

32 “(a) The unlawful taking of wildlife with the intent to sell or to barter, trade, import, export or
33 otherwise exchange the wildlife or a part of the wildlife.

34 “(b) Except as provided in this paragraph, the second and each subsequent unlawful taking of
35 a game mammal during a 12-month period. This paragraph does not apply to the taking of silver gray
36 squirrel.

37 “(c) The unlawful taking of a moose, mountain sheep, Rocky Mountain goat or wolf.

38 “(d) The third and each subsequent taking of a game fish in excess of a bag limit during a
39 12-month period.

40 “(e) The second and each subsequent unlawful taking of nonadipose clipped steelhead during a
41 12-month period.

42 “(f) The unlawful taking of members of the family Acipenseridae that are commonly known as
43 green sturgeon or that are oversized and commonly known as white sturgeon.

44 “(g) The unlawful taking of wildlife that is a threatened species or endangered species.

45 “(12) If a person is convicted of a Class A misdemeanor under subsection (1) of this section, in

1 addition to any other penalty authorized by law, the court shall impose a fine that is:

2 “(a) Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or more
3 previous convictions for a Class A misdemeanor under subsection (1) of this section or if the offense
4 involves taking three or more times the daily bag limit of any wildlife.

5 “(b) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the offense
6 involves:

7 “(A) Failing to release a sturgeon more than six feet in length;

8 “(B) Unlawfully taking wildlife to sell, barter, trade, import or export the wildlife, or parts
9 thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts
10 thereof; or

11 “(C) Taking a raptor and the person has a previous conviction for taking a raptor.

12 “(c) Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the offense
13 involves taking a raptor and the person does not have a previous conviction for taking a raptor.

14 “(13) If more than one minimum fine described in subsection (12) of this section applies, the
15 court shall impose a fine in an amount that is not less than the highest of the applicable minimum
16 fines.

17 “(14)(a) If a court imposes a fine as penalty for an offense under the wildlife laws that involves
18 the unlawful taking or killing of wildlife listed under ORS 496.705 (2), the court shall order that the
19 defendant pay all or a portion of the fine separately to the clerk of the court for paying over to the
20 State Fish and Wildlife Commission. The clerk shall pay over to the commission the amount that the
21 court ordered the defendant to pay separately for that purpose. The amount that the court orders
22 to be paid separately to the clerk for paying over to the commission shall be the lesser of:

23 “(A) The amount of the fine imposed; or

24 “(B) The amount that the commission could recover under ORS 496.705 (2) as damages for the
25 unlawful taking or killing.

26 “(b) If the amount that the commission could recover under ORS 496.705 (2) as damages for the
27 unlawful taking or killing of wildlife is more than the maximum fine established for the offense un-
28 der ORS 153.018, 161.625 or 161.635 or a specific fine statute, notwithstanding ORS 153.018, 161.625
29 or 161.635 or any specific fine statute, the maximum fine for the offense is the amount that the
30 commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing.

31 “(c) If an amount paid over to the commission under this subsection is less than the amount that
32 the commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing
33 of wildlife, payment of the amount does not prevent the commission from bringing an action under
34 ORS 496.705 (2) to recover damages for the unlawful taking or killing. However, notwithstanding
35 ORS 496.705, the amount recoverable under ORS 496.705 (2) by the commission as damages for the
36 unlawful taking or killing shall be reduced by the amount paid to the commission under this sub-
37 section from a fine imposed for the unlawful taking or killing.

38 **“(15)(a) If a court imposes a fine as penalty for an offense under the wildlife laws that**
39 **involves a violation of a rule related to the list of prohibited species, as defined in section 3**
40 **of this 2021 Act, the court shall order that the defendant pay all or a portion of the fine**
41 **separately to the clerk of the court for paying over to the commission. The clerk shall pay**
42 **over to the commission the amount that the court ordered the defendant to pay separately**
43 **for that purpose, which shall be the lesser of:**

44 **“(A) The amount of the fine imposed; or**

45 **“(B) The amount that the commission could recover under section 5 of this 2021 Act as**

1 **civil damages.**

2 **“(b) The amount recoverable under section 5 of this 2021 Act shall be reduced by the**
3 **amount paid to the commission under this subsection.**

4 “[(15)(a)] **(16)(a)** In addition to any other penalty authorized by law, the court shall order the
5 [State Fish and Wildlife Commission] **commission** to revoke all licenses, tags and permits issued to
6 a person in the manner provided for in ORS 497.415 (3), (5) and (6) if the person is convicted of:

7 “(A) A Class A misdemeanor under subsection (1) of this section if the offense involves:

8 “(i) A violation of ORS 498.042; or

9 “(ii) The unlawful taking of wildlife to sell, barter, trade, import or export the wildlife, or parts
10 thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts
11 thereof; or

12 “(B) A Class C felony under subsection (10) of this section.

13 “(b) Notwithstanding ORS 497.415 (5), upon having a license, tag or permit revoked under par-
14 agraph (a)(A)(i) of this subsection for the second time in a 10-year period, a person is prohibited from
15 applying for or obtaining another such license, tag or permit.

16 “[(16)] **(17)** Upon the third conviction within a 10-year period for violation of a provision of the
17 wildlife laws, or a rule adopted pursuant to the wildlife laws, the court shall order all guns, boats,
18 vehicles, traps, fishing apparatus, electronic devices and other implements used in committing the
19 third or subsequent offense to be seized and forfeited to the State of Oregon, to be turned over to
20 the [State Fish and Wildlife Commission] **commission** for disposal in the manner provided for in
21 ORS 496.680.

22 “[(17)] **(18)** As used in this section:

23 “(a) ‘Culpable mental state’ has the meaning given that term in ORS 161.085.

24 “(b) ‘Previous conviction’ includes a conviction entered in the same sentencing proceeding if the
25 conviction is for a separate criminal episode as defined in ORS 131.505.

26 “(c) ‘Raptor’ means a member of the order Falconiformes or Strigiformes and includes owls,
27 hawks, falcons, eagles, osprey and harriers.

28 **“SECTION 7. Section 5 of this 2021 Act and the amendments to ORS 496.992 by section**
29 **6 of this 2021 Act apply to offenses committed on or after the effective date of this 2021 Act.**

30 **“SECTION 8.** ORS 164.115 is amended to read:

31 “164.115. For the purposes of chapter 743, Oregon Laws 1971, the value of property shall be
32 ascertained as follows:

33 “(1) Except as otherwise specified in this section, value means the market value of the property
34 at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of re-
35 placement of the property within a reasonable time after the crime.

36 “(2) Whether or not they have been issued or delivered, certain written instruments, not in-
37 cluding those having a readily ascertainable market value, shall be evaluated as follows:

38 “(a) The value of an instrument constituting an evidence of debt, including, but not limited to,
39 a check, draft or promissory note, shall be considered the amount due or collectible thereon or
40 thereby.

41 “(b) The value of any other instrument which creates, releases, discharges or otherwise affects
42 any valuable legal right, privilege or obligation shall be considered the greatest amount of economic
43 loss which the owner might reasonably suffer because of the loss of the instrument.

44 “(3) The value of a gambling chip, token, imitation currency or similar device is its face value.

45 “(4)(a) The value of the wildlife listed in ORS 496.705 is the amount of damages as specified in

1 ORS 496.705.

2 “(b) The value of the wildlife listed on the list of prohibited species, as defined in section
3 3 of this 2021 Act, is the amount of damages as specified in section 5 of this 2021 Act.

4 “(5) When the value of property cannot reasonably be ascertained, it shall be presumed to be
5 an amount less than \$100 in a case of theft, and less than \$500 in any other case.

6 “(6) The value of single theft transactions may be added together if the thefts were committed:

7 “(a) Against multiple victims by similar means within a 30-day period; or

8 “(b) Against the same victim, or two or more persons who are joint owners, within a 180-day
9 period.

10 “**SECTION 9. (1) In this state, a person may not sell, offer for sale or otherwise partic-**
11 **ipate in the sale or offer for sale of wildlife that is sold alive for the purpose of human con-**
12 **sumption.**

13 “(2) This section does not apply to the sale, offer for sale or other participation in the
14 sale or offer for sale of:

15 “(a) Livestock, as defined in ORS 596.010.

16 “(b) Food fish, as defined in ORS 506.011.

17 “**SECTION 10.** ORS 497.308 is amended to read:

18 “497.308. (1) No person shall remove from its natural habitat or acquire and hold in captivity
19 any live wildlife in violation of the wildlife laws or [of] any rule [promulgated pursuant thereto]
20 **adopted under the wildlife laws.**

21 “(2) The State Fish and Wildlife Commission may [promulgate] **adopt** rules to carry out the
22 provisions of subsection (1) of this section that include but are not limited to:

23 “(a) Providing for the issuance and form of permits for the holding or removal from habitat of
24 wildlife.

25 “(b) Prescribing the wildlife species for which holding or habitat removal permits are required.

26 “(c) Prescribing the terms and conditions of holding wildlife and removing wildlife from habitat
27 to [insure] **ensure** the humane care and treatment of the wildlife.

28 “(3) In adopting rules authorized by subsection (2) of this section, the commission shall:

29 “(a) Strive to protect public health;

30 “(b) Consider any public health risks related to holding wildlife or transmitting zoonotic
31 disease, including any public health risks identified by the Oregon Health Authority; and

32 “(c) Consult with the authority.

33 “[3] (4) No person to whom a wildlife holding or removal from habitat permit has been issued
34 shall violate any of the terms or conditions thereof.

35 “**SECTION 11. This 2021 Act being necessary for the immediate preservation of the public**
36 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
37 **on its passage.”.**