

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3204**

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

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

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

10 **“(a) Existing protocols concerning zoonotic disease for proactive**
11 **prevention, early detection, monitoring during an outbreak, testing,**
12 **coordination of testing laboratories, quarantine and data sharing;**

13 **“(b) Existing channels of interagency and intra-agency communi-**
14 **cation concerning zoonotic disease outbreaks or a risk of zoonotic**
15 **disease outbreaks;**

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

18 **“(d) Enforcement practices and agency capacity to deter or address**
19 **activities that pose a risk of introducing or transmitting zoonotic dis-**
20 **ease;**

21 **“(e) Existing agency jurisdictional responsibility for preventing,**

1 monitoring and responding to zoonotic disease outbreaks, including
2 areas of overlap in jurisdictional responsibility and areas over which
3 clear jurisdictional responsibility is lacking;

4 “(f) Opportunities for increased collaboration with federal agencies,
5 universities and other relevant partners;

6 “(g) Opportunities to develop or bolster a comprehensive state
7 framework for preventing a zoonotic disease outbreak and planning
8 and coordinating responses to a zoonotic disease outbreak; and

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

12 “(3) The Oregon Health Authority, the State Department of Agri-
13 culture and the Oregon State Police shall consult on the report, pro-
14 vide information necessary for development of the report and advise
15 on development of the report, as requested by the State Department
16 of Fish and Wildlife.

17 “(4) To develop the report, the State Department of Fish and
18 Wildlife may consult with bona fide scientific or educational insti-
19 tutions, as defined in ORS 498.022, state veterinarians, other agencies
20 and any other experts with relevant expertise.

21 “(5) The department shall present the report to a committee or in-
22 terim committee of the Legislative Assembly related to public health,
23 in the manner provided under ORS 192.245, on or before December 31,
24 2022.

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

27 “SECTION 3. (1) As used in this section, ‘prohibited species’ means
28 a species that may not be imported, possessed, sold, purchased, ex-
29 changed or transported in this state, as established by rule by the
30 State Fish and Wildlife Commission.

1 “(2) The commission shall update the list of prohibited species to
2 add any wildlife species, including but not limited to any wildlife spe-
3 cies on another list established by commission rule, that the commis-
4 sion deems:

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

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

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

10 “(a) Shall use the best available science;

11 “(b) Shall consult with the Oregon Health Authority and the State
12 Department of Agriculture; and

13 “(c) May consult with bona fide scientific or educational insti-
14 tutions, as defined in ORS 498.022, and any other experts with relevant
15 expertise.

16 “(4) The commission shall update and add to the list of prohibited
17 species, as described in this section, as necessary, as determined by the
18 commission based on best available science, and at least every five
19 years.

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

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

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

30 “SECTION 5. (1) The State Fish and Wildlife Commission may in-

1 **stitute suit for recovery of damages in the amount of \$2,500 for a vio-**
2 **lation of a rule related to the list of prohibited species, as defined in**
3 **section 3 of this 2021 Act.**

4 **“(2) Each action in violation of a rule related to the list of prohib-**
5 **ited species that pertains to an individual animal constitutes a sepa-**
6 **rate violation for purposes of this section.**

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

9 **“(4) In a suit brought under this section, the court shall award to**
10 **the prevailing party, in addition to costs and disbursements, reason-**
11 **able attorney fees.**

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

14 **“(6) Any circuit or justice court has jurisdiction to try a case for**
15 **recovery of damages for violation of rules establishing a list of pro-**
16 **hibited species.**

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

18 **“496.992. (1) Except as otherwise provided by this section or other law, a**
19 **violation of any provision of the wildlife laws, or any rule adopted pursuant**
20 **to the wildlife laws, is a Class A misdemeanor if the offense is committed**
21 **with a culpable mental state.**

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

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

30 **“(4) A violation of a provision of the wildlife laws, or a rule adopted**

1 pursuant to the wildlife laws, that involves the taking of nongame mammals
2 or game birds is a Class C violation if the offense is committed without a
3 culpable mental state.

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

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

13 “(7) A violation of the nonresident licensing provisions of ORS 497.102
14 or 497.121 is a Class A violation if the offense is committed without a cul-
15 pable mental state.

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

18 “(9) A violation of ORS 498.136, 498.142 or 498.146 is a Class A violation
19 if the offense is committed without a culpable mental state.

20 “(10) The second and each subsequent conviction within a 10-year period
21 for the taking of a raptor or the taking of game fish with a total value of
22 \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose,
23 mountain goat or mountain sheep in violation of any provision of the wildlife
24 laws, or any rule adopted pursuant thereto, that occurs more than one hour
25 prior to, or more than one hour subsequent to, a season established for the
26 lawful taking of such game mammals or game fish is a Class C felony if the
27 offense is committed with a culpable mental state.

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

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

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

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

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

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

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

16 “(g) The unlawful taking of wildlife that is a threatened species or en-
17 dangered species.

18 “(12) If a person is convicted of a Class A misdemeanor under subsection
19 (1) of this section, in addition to any other penalty authorized by law, the
20 court shall impose a fine that is:

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

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

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

28 “(B) Unlawfully taking wildlife to sell, barter, trade, import or export the
29 wildlife, or parts thereof, or selling, bartering, trading, importing or export-
30 ing unlawfully taken wildlife, or parts thereof; or

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

3 “(c) Not less than one-fourth of the maximum fine described in ORS
4 161.635 (1)(a), if the offense involves taking a raptor and the person does not
5 have a previous conviction for taking a raptor.

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

9 “(14)(a) If a court imposes a fine as penalty for an offense under the
10 wildlife laws that involves the unlawful taking or killing of wildlife listed
11 under ORS 496.705 (2), the court shall order that the defendant pay all or a
12 portion of the fine separately to the clerk of the court for paying over to the
13 State Fish and Wildlife Commission. The clerk shall pay over to the com-
14 mission the amount that the court ordered the defendant to pay separately
15 for that purpose. The amount that the court orders to be paid separately to
16 the clerk for paying over to the commission shall be the lesser of:

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

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

20 “(b) If the amount that the commission could recover under ORS 496.705
21 (2) as damages for the unlawful taking or killing of wildlife is more than the
22 maximum fine established for the offense under ORS 153.018, 161.625 or
23 161.635 or a specific fine statute, notwithstanding ORS 153.018, 161.625 or
24 161.635 or any specific fine statute, the maximum fine for the offense is the
25 amount that the commission could recover under ORS 496.705 (2) as damages
26 for the unlawful taking or killing.

27 “(c) If an amount paid over to the commission under this subsection is
28 less than the amount that the commission could recover under ORS 496.705
29 (2) as damages for the unlawful taking or killing of wildlife, payment of the
30 amount does not prevent the commission from bringing an action under ORS

1 496.705 (2) to recover damages for the unlawful taking or killing. However,
2 notwithstanding ORS 496.705, the amount recoverable under ORS 496.705 (2)
3 by the commission as damages for the unlawful taking or killing shall be
4 reduced by the amount paid to the commission under this subsection from a
5 fine imposed for the unlawful taking or killing.

6 **“(15)(a) If a court imposes a fine as penalty for an offense under the**
7 **wildlife laws that involves a violation of a rule related to the list of**
8 **prohibited species, as defined in section 3 of this 2021 Act, the court**
9 **shall order that the defendant pay all or a portion of the fine sepa-**
10 **rately to the clerk of the court for paying over to the commission. The**
11 **clerk shall pay over to the commission the amount that the court or-**
12 **dered the defendant to pay separately for that purpose, which shall be**
13 **the lesser of:**

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

15 **“(B) The amount that the commission could recover under section**
16 **5 of this 2021 Act as civil damages.**

17 **“(b) The amount recoverable under section 5 of this 2021 Act shall**
18 **be reduced by the amount paid to the commission under this sub-**
19 **section.**

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

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

26 **“(i) A violation of ORS 498.042; or**

27 **“(ii) The unlawful taking of wildlife to sell, barter, trade, import or export**
28 **the wildlife, or parts thereof, or selling, bartering, trading, importing or ex-**
29 **porting unlawfully taken wildlife, or parts thereof; or**

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

1 “(b) Notwithstanding ORS 497.415 (5), upon having a license, tag or per-
2 mit revoked under paragraph (a)(A)(i) of this subsection for the second time
3 in a 10-year period, a person is prohibited from applying for or obtaining
4 another such license, tag or permit.

5 “[~~(16)~~] (17) Upon the third conviction within a 10-year period for violation
6 of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
7 laws, the court shall order all guns, boats, vehicles, traps, fishing apparatus,
8 electronic devices and other implements used in committing the third or
9 subsequent offense to be seized and forfeited to the State of Oregon, to be
10 turned over to the [*State Fish and Wildlife Commission*] **commission** for
11 disposal in the manner provided for in ORS 496.680.

12 “[~~(17)~~] (18) As used in this section:

13 “(a) ‘Culpable mental state’ has the meaning given that term in ORS
14 161.085.

15 “(b) ‘Previous conviction’ includes a conviction entered in the same sen-
16 tencing proceeding if the conviction is for a separate criminal episode as
17 defined in ORS 131.505.

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

20 **“SECTION 7. Section 5 of this 2021 Act and the amendments to ORS
21 496.992 by section 6 of this 2021 Act apply to offenses committed on or
22 after the effective date of this 2021 Act.**

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

24 “164.115. For the purposes of chapter 743, Oregon Laws 1971, the value
25 of property shall be ascertained as follows:

26 “(1) Except as otherwise specified in this section, value means the market
27 value of the property at the time and place of the crime, or if such cannot
28 reasonably be ascertained, the cost of replacement of the property within a
29 reasonable time after the crime.

30 “(2) Whether or not they have been issued or delivered, certain written

1 instruments, not including those having a readily ascertainable market
2 value, shall be evaluated as follows:

3 “(a) The value of an instrument constituting an evidence of debt, includ-
4 ing, but not limited to, a check, draft or promissory note, shall be considered
5 the amount due or collectible thereon or thereby.

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

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

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

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

17 “(5) When the value of property cannot reasonably be ascertained, it shall
18 be presumed to be an amount less than \$100 in a case of theft, and less than
19 \$500 in any other case.

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

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

23 “(b) Against the same victim, or two or more persons who are joint own-
24 ers, within a 180-day period.

25 **“SECTION 9. (1) In this state, a person may not sell, offer for sale
26 or otherwise participate in the sale or offer for sale of wildlife that is
27 sold alive for the purpose of human consumption.**

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

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

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

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

3 “497.308. (1) No person shall remove from its natural habitat or acquire
4 and hold in captivity any live wildlife in violation of the wildlife laws or
5 [of] any rule [*promulgated pursuant thereto*] **adopted under the wildlife**
6 **laws.**

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

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

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

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

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

19 **“(a) Strive to protect public health;**

20 **“(b) Consider any public health risks related to holding wildlife or**
21 **transmitting zoonotic disease, including any public health risks iden-**
22 **tified by the Oregon Health Authority; and**

23 **“(c) Consult with the authority.**

24 “[(3)] (4) No person to whom a wildlife holding or removal from habitat
25 permit has been issued shall violate any of the terms or conditions thereof.

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

29