

D R A F T

SUMMARY

Removes requirement that State Department of Fish and Wildlife obtain confidentiality agreement when disclosing certain animal data to federal government, tribal government, public body, public utility or college or university. Provides that department refusal to disclose certain animal data is not subject to review of order in contested case.

Extends sunset of provisions related to department ability to refuse disclosure of certain animal data to January 2, 2029.

A BILL FOR AN ACT

Relating to the release of animal data; amending sections 2 and 6, chapter 532, Oregon Laws 2019.

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

SECTION 1. Section 2, chapter 532, Oregon Laws 2019, is amended to read:

Sec. 2. (1) The State Department of Fish and Wildlife may refuse to disclose information described in subsection (3) of this section regarding the habitat, location or population of a fish or wildlife species that is:

(a) Listed by the federal government or by the State Fish and Wildlife Commission as a threatened species or an endangered species;

(b) Under consideration by the commission for listing as a threatened species or an endangered species; or

(c) A sensitive species as defined by the department by rule.

(2) The department may refuse to disclose data described in subsection (3) of this section if:

(a) The species has value as a commercial species or game species, or has

1 black market value;

2 (b) There exists a history of harm to a local population of the species
3 from malicious or unlawful behavior, accidental taking, disturbance or
4 harassment and the behavior or ecology of the species makes the species es-
5 pecially vulnerable to that harm;

6 (c) There is a known demand for illegally taking or harassing the species;
7 or

8 (d) The species has limited distribution and concentration or is an
9 endemic species.

10 (3) The department may refuse to disclose telemetry, radio frequency or
11 other locational data about a species, an individual member of a species or
12 the habitat of a species or individual member of a species, that are described
13 in subsection (1) or (2) of this section if the data concern:

14 (a) Present, projected or recent past locations of individual members or
15 populations of the species;

16 (b) Present, projected or recent past habitat used by the species, including
17 but not limited to habitat used for breeding, nesting, denning, migration,
18 dispersal or other sensitive or vulnerable life stages, if disclosure of the
19 habitat could be expected to lead to discovery of the location of the species
20 or of an individual member of the species;

21 (c) Results or other specific information from the unpublished data and
22 findings of research, monitoring or evaluation efforts conducted by the state
23 or by an entity acting jointly with the state; or

24 (d) Confidential information provided on a voluntary basis by private
25 landowners or representatives of private landowners.

26 [(4)(a)] (4) The department may disclose data **that may be** withheld under
27 subsections (1) to (3) of this section to a requester that is one or more of the
28 following:

29 [(A)] (a) The federal government, a tribal government, a public body as
30 defined in ORS 174.109, a public utility or an accredited college or univer-
31 sity;

1 [(B)] (b) Owners of, lessees of rights-of-way in or holders of easements
2 on private land to which the data pertain;

3 [(C)] (c) Holders of public grazing permits for the land to which the data
4 pertain;

5 [(D)] (d) Owners of agricultural land or forestland, if the disclosure might
6 prevent loss to an agricultural or forest operation; and

7 [(E)] (e) Resource management partners and stakeholders.

8 [(b) *If the department refuses disclosure because disclosure could harm a*
9 *species or member of a species, the department shall issue a proposed order*
10 *refusing the disclosure request and provide the requester with notice of rights*
11 *and remedies as provided in ORS 183.415.*]

12 (5) The department shall require a recipient of information disclosed un-
13 der subsection [(4)] (4)(b) to (e) of this section to sign an agreement to
14 maintain the confidentiality of the information. The agreement may include,
15 but need not be limited to, a proposed protective order for use, if necessary,
16 in a legal proceeding to maintain confidentiality of the information. If the
17 department is prohibited under subsection (8) of this section from withhold-
18 ing the information, the agreement may prohibit the recipient from disclos-
19 ing the information, except to further the protection or conservation of a
20 species in a manner described in subsection (8) of this section.

21 (6) A disclosure of information under subsection (4) of this section does
22 not require that the department disclose the information to any other party.

23 (7) Subsections (1) to (3) of this section may not be used to withhold data,
24 studies or other information about the total numbers or health of a species
25 in this state or in a region of this state.

26 (8) The department may not withhold information under subsection (3) of
27 this section if the information is relevant to:

28 (a) An ongoing petition, litigation or other administrative or legal action
29 in furtherance of the protection or conservation of a species; or

30 (b) The preparation of a petition, or for a litigation or other administra-
31 tive or legal action, in furtherance of the protection or conservation of a

1 species.

2 (9) If the department provides data described in this section, to the extent
3 practicable the department shall aggregate the data to a scale that does not
4 create a risk to the fish or wildlife species or members of the species.

5 **SECTION 2.** Section 6, chapter 532, Oregon Laws 2019, is amended to
6 read:

7 **Sec. 6.** [*Section 2 of this 2019 Act*] **Section 2, chapter 532, Oregon Laws**
8 **2019, as amended by section 1 of this 2023 Act,** is repealed on January
9 2, [2024] **2029.**

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