

# House Bill 2655

Sponsored by Representative GAMBA; Representative NOSSE (Pre-session 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 **as introduced**.

Establishes certain requirements concerning aquaculture.

Establishes Aquatic Animals Fund, separate and distinct from General Fund. Appropriates moneys in Aquatic Animals Fund to State Department of Agriculture for certain purposes related to aquaculture and aquatic animals.

Provides that violation of requirements may be subject to civil penalties. Punishes first violation by maximum of six months' imprisonment, \$2,500 fine, or both. Punishes second or subsequent violation by maximum of 364 days' imprisonment, \$6,500 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to aquaculture; creating new provisions; and amending ORS 497.252, 616.992 and 616.997.

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

## DEFINITIONS

### **SECTION 1. As used in sections 1 to 8 of this 2023 Act:**

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7  
8 (1) "Aquaculture" means the farming of aquatic animals or aquatic plants for the pri-  
9 mary purpose of producing food for humans.

10 (2) "Aquaculture facility":

11 (a) Means a facility that engages in aquaculture by propagating, rearing, holding, har-  
12 vesting, transporting, receiving the transport of or slaughtering aquatic animals, either on  
13 land or in a natural or artificial body of water.

14 (b) Does not include:

15 (A) A business entity that:

16 (i) Is owned and operated independently from all other businesses; and

17 (ii) Has annual gross revenues of less than \$500,000, as reported on a tax return submit-  
18 ted to the federal government or the Department of Revenue; or

19 (B) A fish hatchery, including a facility subject to the provisions of ORS 497.325, 506.213  
20 or 508.700 to 508.745.

21 (3) "Aquatic animal" means:

22 (a) Finfish belonging to the classes Agnatha (jawless fishes), Chondrichthyes  
23 (cartilaginous fishes) and Osteichthyes (bony fishes);

24 (b) Mollusks belonging to the class Cephalopoda; and

25 (c) Any other game fish or food fish that is used as food for humans or for industrial  
26 purposes, if the State Fish and Wildlife Commission designates the game fish or food fish as  
27 an aquatic animal under this section.

28 (4) "Enclosure" means an area in which a group of farmed aquatic animals is held, in-

**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 cluding a tank, laboratory, pen, net, raceway, incubator or pond.

2 (5) "Environmental enrichment" means materials or other features that:

3 (a) Add complexity to the environment;

4 (b) Encourage the expression of natural behaviors such as hiding, foraging or exploring;  
5 and

6 (c) Decrease the expression of abnormal or deleterious behaviors such as nipping or  
7 cannibalism.

8 (6) "Farmed aquatic animal" means an aquatic animal propagated, reared, held, har-  
9 vested or slaughtered at, or transported to or from, an aquaculture facility, including an  
10 aquatic animal bred in captivity or captured in the wild and intended for use in an  
11 aquaculture facility.

12 (7) "Food fish" has the meaning given that term in ORS 506.011.

13 (8) "Game fish" has the meaning given that term in ORS 496.009.

14 (9) "Genetically engineered or transgenic":

15 (a) Means produced through the modification, cloning or manipulation of genes using  
16 biotechnology.

17 (b) Does not include simple selective breeding.

18 (10) "Slaughter process" means the period of time from the removal of a farmed aquatic  
19 animal from the habitat of the farmed aquatic animal through any sedation, stunning and  
20 transport and until slaughter.

21  
22 **FINDINGS ON AQUACULTURE**

23  
24 **SECTION 2.** The Legislative Assembly finds that:

25 (1) Aquaculture may be a growing industry.

26 (2) The state has a duty to protect the natural resources and ecosystems of this state,  
27 and a duty to ensure the humane treatment of animals raised for food.

28 (3) Aquaculture presents risks to the environment and animal welfare, among other  
29 risks, and the risks may be mitigated through appropriate regulation.

30 (4) Expert input is required in order to fully understand the risks associated with  
31 aquaculture and establish appropriate regulation.

32 (5) To adequately protect this state's natural resources, aquaculture operations must  
33 adhere to certain minimum standards related to preventing pollution and protecting water  
34 quality.

35 (6) Fish are sentient beings capable of experiencing pain, stress and fear, but no state  
36 or federal law directly addresses the welfare of fish in aquaculture operations.

37 (7) To adequately ensure the humane treatment of animals used in aquaculture,  
38 aquaculture operations must adhere to certain minimum standards concerning enrichment,  
39 stocking density, transportation and slaughter, among other standards.

40 (8) The humane treatment of animals used in aquaculture may benefit producers, work-  
41 ers and consumers.

42  
43 **FINFISH AND CEPHALOPOD AQUACULTURE**

44  
45 **SECTION 3.** (1) An aquaculture facility shall apply for a license from the State Depart-

1 **ment of Fish and Wildlife and submit, as part of the application, a plan for:**

2 (a) **Preventing the spread of disease from the aquatic animals at the proposed**  
3 **aquaculture facility to wild species of game fish or food fish;**

4 (b) **Reducing the incidence of disease at the proposed aquaculture facility; and**

5 (c) **Remediating disease that occurs at the proposed aquaculture facility.**

6 (2) **Before issuing a license under this section, the department shall:**

7 (a) **Conduct an environmental review of the proposed aquaculture facility that includes**  
8 **assessment of:**

9 (A) **The effects of the proposed aquaculture facility on the public interest;**

10 (B) **The direct and indirect effects of the proposed aquaculture facility on the aquatic**  
11 **habitat and existing populations of game fish or food fish, including:**

12 (i) **The impacts of fish waste and fish feed introduced into the aquatic habitat;**

13 (ii) **Any proposed use of animal drugs, pesticides or other chemicals; and**

14 (iii) **The potential for the escape of the aquatic animals from the aquaculture facility,**  
15 **other types of pollution or the spread of disease to wild species of game fish or food fish; and**

16 (C) **The cumulative effects of the proposed aquaculture facility and any other aquaculture**  
17 **facilities, and businesses subject to the licensing requirements of ORS 497.252, in the vicinity**  
18 **of the proposed aquaculture facility; and**

19 (b) **Provide the public with notice and an opportunity to comment on the proposed**  
20 **aquaculture facility and the environmental review.**

21 (3) **The department may not issue a license to a proposed aquaculture facility if:**

22 (a) **The environmental review indicates that the proposed aquaculture facility will ad-**  
23 **versely affect the aquatic habitat, existing populations of game fish or food fish or the public**  
24 **interest; or**

25 (b) **The proposed aquaculture facility would be located in marine waters, including the**  
26 **ocean, an estuary or a bay.**

27 (4) **An aquaculture facility licensed under this section:**

28 (a) **May not release an aquatic animal from the aquaculture facility into the waters of**  
29 **this state.**

30 (b) **May not propagate or rear a genetically engineered or transgenic aquatic animal.**

31 (c) **Shall eliminate plastic pollution to the greatest extent possible, including by:**

32 (A) **Avoiding the use of plastics in the waters of this state unless there is no alternative;**  
33 **and**

34 (B) **Reducing the use of plastics that may enter the waters of this state as waste or by**  
35 **other means.**

36 (5) **The provisions of ORS 468B.025 and 468B.050 apply to an aquaculture facility licensed**  
37 **under this section.**

38 (6) **The department may adopt rules to implement this section, including rules estab-**  
39 **lishing license application procedures, fees and license renewal requirements.**

40 **SECTION 4. (1) To ensure the humane treatment of farmed aquatic animals, an**  
41 **aquaculture facility:**

42 (a) **Must address water quality at the aquaculture facility, including by:**

43 (A) **Providing adequate fresh water, aeration and oxygen.**

44 (B) **Removing or filtering water so water parameters remain within tolerable limits for**  
45 **specific species of aquatic animals and the characteristics of the aquaculture facility.**

- 1 (C) Remediating the effects of feed in the water or densely stocked aquatic animals.
- 2 (b) May not stock aquatic animals at levels that exceed the optimal density for specific  
3 species of aquatic animals.
- 4 (c) Must provide the aquatic animals with environmental enrichment that is:
- 5 (A) Easily accessible by all aquatic animals in an enclosure.
- 6 (B) Cleaned and maintained to protect water quality and encourage use of the environ-  
7 mental enrichment.
- 8 (d) Must provide the aquatic animals with an appropriate environment that includes a  
9 total swimmable volume of water acceptable for specific species of aquatic animals.
- 10 (e) May not physically alter an aquatic animal.
- 11 (f) May not operate in a manner that results in average monthly mortality of aquatic  
12 animals exceeding 1 percent.
- 13 (g) Must require agents of the aquaculture facility to:
- 14 (A) Handle aquatic animals as quickly and gently as possible, in a manner that reduces  
15 stress and injury;
- 16 (B) Promptly treat or humanely euthanize sick or injured aquatic animals;
- 17 (C) Promptly and humanely euthanize physically deformed aquatic animals; and
- 18 (D) Undertake euthanasia in a manner that causes rapid insensibility immediately fol-  
19 lowed by, or contemporaneous with, death.
- 20 (h) May use equipment that comes into direct contact with aquatic animals, such as  
21 fishing nets or holding containers, only if the equipment is designed to minimize the risk of  
22 injury to the aquatic animals.
- 23 (i) Must tailor feed to:
- 24 (A) The stages of development of specific species of aquatic animals; and
- 25 (B) The nutrient requirements of specific species of aquatic animals to promote growth,  
26 the development of a good immune system and stable health.
- 27 (j) Must adjust the amount of feed and feeding frequency as needed to prevent stress  
28 caused by oxygen depletion.
- 29 (k) May breed aquatic animals only through appropriate breeding practices.
- 30 (L) Notwithstanding ORS 498.012 and 610.105, may not take lethal action against a pred-  
31 ator.
- 32 (m) May only transport live aquatic animals:
- 33 (A) In containers that are suitable for the specific species of the aquatic animals, easy  
34 to clean, able to be disinfected and designed to prevent injuries and reduce stress; and
- 35 (B) To minimize water quality deterioration and injury and stress to the aquatic animals:
- 36 (i) For durations as short as possible; and
- 37 (ii) With as low a density of aquatic animals as is professionally justifiable.
- 38 (n) Must provide persons that transport aquatic animals from the aquaculture facility  
39 with training and encourage the persons to regularly check water quality during transport,  
40 to prevent injury or stress to the aquatic animals as much as practicable.
- 41 (o) Must require persons that transport aquatic animals from the aquaculture facility to:
- 42 (A) Establish a quality assurance system to improve the transport;
- 43 (B) Record the death of aquatic animals during transport; and
- 44 (C) Regularly evaluate the quality of the transport.
- 45 (p) Must comply with any other requirements for humane treatment of aquatic animals

1 that are established in rule by the State Department of Agriculture.

2 (2) In consultation with scientific experts, representatives of the aquaculture industry  
 3 and advocates of the environment and animal welfare, the department shall adopt rules to  
 4 implement this section that ensure the humane treatment of farmed aquatic animals.

5 **SECTION 5.** (1) To ensure that the slaughter, and any handling related to the slaughter,  
 6 of farmed aquatic animals is humane, an aquaculture facility that slaughters aquatic ani-  
 7 mals:

8 (a) Must stun the aquatic animals fully and irreversibly before or during slaughter.

9 (b) May stun and slaughter aquatic animals simultaneously only if the stunning occurs  
 10 instantly, so the aquatic animals do not experience pain, fear or sensation.

11 (c) Must sedate or immobilize aquatic animals in a humane manner before stunning, if  
 12 necessary to maximize the welfare of the aquatic animals.

13 (d) Must slaughter aquatic animals promptly after stunning and before the aquatic ani-  
 14 mals regain consciousness.

15 (e) Must provide a quiet and nonstimulatory environment during the slaughter process,  
 16 including by reducing sound and light intensity for the aquatic animals while maintaining  
 17 adequate lighting for persons involved in the slaughter.

18 (f) Must provide water quality in the slaughter environment, during the slaughter pro-  
 19 cess, that is similar to that of the environment in which the aquatic animals have been liv-  
 20 ing, or that is optimized for the specific species of aquatic animals.

21 (g) May only use methods, devices and equipment for stunning and slaughter that:

22 (A) Are humane;

23 (B) Are specific to the species and life stages of the aquatic animals;

24 (C) Are tested and proven to be effective before being used;

25 (D) Are properly calibrated for the species and size of the aquatic animals;

26 (E) Are checked regularly; and

27 (F) Are safe, effective and properly maintained to ensure each animal is receiving an ef-  
 28 fective stun.

29 (h) May not:

30 (A) Use gas, including carbon dioxide or another method that blocks oxygen uptake, for  
 31 sedation or stunning of aquatic animals;

32 (B) Use salt, ammonia or another chemical with a similar effect for sedation or stunning  
 33 of aquatic animals;

34 (C) Thermically shock, by boiling or rapid chilling, a conscious aquatic animal;

35 (D) Slaughter more aquatic animals per unit of time than is justifiable with regard to the  
 36 welfare of the aquatic animals and worker health and safety; or

37 (E) Engage in any practice prohibited by rule by the State Department of Agriculture.

38 (i) Must stun and slaughter an aquatic animal that is transported to the aquaculture fa-  
 39 cility for the purpose of slaughter as soon as possible after the aquatic animal arrives at the  
 40 aquaculture facility.

41 (j) Must require that agents of the aquaculture facility that slaughter aquatic animals  
 42 or operate slaughter equipment:

43 (A) Have species-specific knowledge of aquatic animals at the aquaculture facility;

44 (B) Are trained to use the equipment;

45 (C) Are present during the slaughter process in numbers sufficient to protect the welfare

1 of the aquatic animals; and

2 (D) Undertake a documented training program provided by the aquaculture facility.

3 (2) In consultation with scientific experts, representatives of the aquaculture industry  
4 and advocates of the environment and animal welfare, the department:

5 (a) Shall adopt rules to implement this section that ensure the humane treatment of  
6 farmed aquatic animals during the slaughter process.

7 (b) May adopt rules that set an upper limit on the slaughter speed for different slaughter  
8 methods and species of aquatic animals.

9 **SECTION 6.** (1) An aquaculture facility shall keep detailed records of:

10 (a) Veterinary review or treatment of aquatic animals.

11 (b) Medications or vaccinations administered to aquatic animals.

12 (c) Any outbreaks of infectious disease.

13 (d) Water quality tests.

14 (e) Equipment checks.

15 (f) Equipment servicing and maintenance.

16 (g) Staff trainings related to aquatic animals and worker health and safety, including  
17 information on which staff members are competent to perform a vaccination, sedation,  
18 stunning or slaughter.

19 (h) Any violations of sections 1 to 8 of this 2023 Act.

20 (i) Any slaughter performed at the aquaculture facility, including records of:

21 (A) The numbers of aquatic animals slaughtered per day, week, month and year;

22 (B) Slaughter broken down by species;

23 (C) Methods of slaughter;

24 (D) The effectiveness of stunning methods; and

25 (E) Any problems with stunning methods and any efforts to remediate the problems.

26 (2) The aquaculture facility shall:

27 (a) Immediately report any outbreak of infectious disease to the Department of Envi-  
28 ronmental Quality, the State Department of Agriculture and the State Department of Fish  
29 and Wildlife, as well as any other relevant health and safety entities;

30 (b) Immediately report to the State Department of Agriculture any technical failure or  
31 other condition at the aquaculture facility that has the potential to cause significant negative  
32 effects on the welfare of aquatic animals;

33 (c) Annually submit the records required under subsection (1) of this section to the de-  
34 partment; and

35 (d) Make the records publicly available.

36 (3) The department shall post the records on a department website.

37 (4) In consultation with scientific experts, representatives of the aquaculture industry  
38 and advocates of the environment and animal welfare, the department shall adopt rules to  
39 implement this section.

40 **SECTION 7.** (1) The Aquatic Animals Fund is established in the State Treasury, separate  
41 and distinct from the General Fund. All moneys in the Aquatic Animals Fund are contin-  
42 uously appropriated to the State Department of Agriculture for:

43 (a) Carrying out the provisions of sections 1 to 8 of this 2023 Act;

44 (b) Actions and activities benefiting aquatic animals, including conducting education re-  
45 garding the humane treatment of aquatic animals; and

1 (c) Making grants available to aquaculture facilities seeking to transition to more hu-  
 2 mane methods of operation, or to aquaculture related to aquatic plants instead of aquatic  
 3 animals.

4 (2) The fund shall consist of any moneys:

5 (a) Transferred to the fund by the Legislative Assembly or from any other source; and

6 (b) Received under ORS 616.997 (7).

7 (3) Interest earnings on moneys in the fund shall be credited to the fund.

8  
 9 **ENFORCEMENT**

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 11 **SECTION 8.** (1) The Attorney General, a state agency, a county attorney, a district at-  
 12 torney, a city attorney or a person residing or doing business in the county where an  
 13 aquaculture facility is located may apply to the circuit court for the county in which the  
 14 aquaculture facility is located for a temporary or permanent injunction requiring the  
 15 aquaculture facility to:

16 (a) Refrain from any activity or inactivity constituting a violation of sections 1 to 8 of  
 17 this 2023 Act or another applicable law; and

18 (b) Take any actions necessary to remedy the violation.

19 (2) The circuit court may award reasonable attorney fees to a plaintiff prevailing under  
 20 this section.

21 **SECTION 9.** ORS 616.992 is amended to read:

22 616.992. The violation of any provisions of this chapter or of any rule adopted under this  
 23 chapter, **or of any provision of sections 1 to 8 of this 2023 Act**, is a Class B misdemeanor for a  
 24 first offense, and a Class A misdemeanor for a second or subsequent offense.

25 **SECTION 10.** ORS 616.997 is amended to read:

26 616.997. (1) In addition to any penalty available under ORS 561.190, 616.992 or 616.994, the State  
 27 Department of Agriculture may impose a civil penalty for a violation of this chapter, of rules, reg-  
 28 ulations or standards adopted [*under this chapter*] **thereunder, of sections 1 to 8 of this 2023 Act**  
 29 **or a rule adopted thereunder** or of an order issued under ORS 616.713. For the purposes of this  
 30 section, each day a violation continues after the period of time established for compliance shall be  
 31 considered a separate violation unless the department finds that a different period of time is more  
 32 appropriate to describe a specific violation event.

33 (2) The department may adopt rules establishing a schedule of civil penalties that may be im-  
 34 posed under this section. Civil penalties imposed under this section, **other than civil penalties**  
 35 **imposed for a violation of sections 1 to 8 of this 2023 Act or rules adopted thereunder**, may  
 36 not exceed \$10,000 for each violation.

37 (3) **Rules establishing a schedule of penalties for violation of sections 1 to 8 of this 2023**  
 38 **Act or rules adopted thereunder must prioritize the welfare of farmed aquatic animals, as**  
 39 **defined in section 1 of this 2023 Act, and the water quality of waters of this state.**

40 (4) **To establish liability of an aquaculture facility, as defined in section 1 of this 2023 Act,**  
 41 **for a violation of sections 1 to 8 of this 2023 Act or rules adopted thereunder, the department**  
 42 **shall demonstrate that the owner or operator of the aquaculture facility knew or should have**  
 43 **known of the violation.**

44 [(3)] (5) When the department imposes a civil penalty under subsection (1) of this section, the  
 45 department shall impose the penalty in the manner provided by ORS 183.745, except that the written

1 application for a hearing must be received by the department no later than 10 days after the date  
 2 of mailing or personal service of the notice of civil penalty.

3 [(4)] (6) Moneys received by the department from civil penalties imposed under this section shall  
 4 be deposited in the General Fund to the credit of the Department of Agriculture Account.

5 (7) **Notwithstanding subsection (6) of this section, moneys received by the department**  
 6 **from civil penalties imposed under this section for violation of sections 1 to 8 of this 2023**  
 7 **Act or rules adopted thereunder shall be deposited in the Aquatic Animals Fund established**  
 8 **by section 7 of this 2023 Act.**

9  
 10 **RELATED AMENDMENTS**

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 12 **SECTION 11.** ORS 497.252 is amended to read:

13 497.252. (1) Except as provided in ORS 508.700 to 508.745 and 622.220, [no] a person [shall] **may**  
 14 **not** engage in the business of propagating game fish or food fish for sale, **other than the business**  
 15 **of operating an aquaculture facility subject to the provisions of section 3 of this 2023 Act,**  
 16 unless a fish propagation license is first obtained from the State Department of Fish and Wildlife.

17 (2) The [State Fish and Wildlife Commission] **department** may refuse to issue a license to an  
 18 applicant if the [commission] **department** finds that the conduct of the fish propagation business  
 19 would tend to be harmful to existing game fish or food fish populations.

20 (3) The [commission] **State Fish and Wildlife Commission**, by rule, may prescribe requirements  
 21 for the care, inspection, transportation and the sale, taking or other disposition of the game fish or  
 22 food fish, and for such record keeping and reporting procedures as will insure that the propagation  
 23 activities are conducted in such manner as will not be harmful to existing game fish or food fish  
 24 populations.

25 (4) Persons propagating the following food fish under the license prescribed in subsection (1) of  
 26 this section are exempt from the licensing provisions of ORS 508.025 and 508.035:

27 (a) Food fish raised entirely in, then harvested from facilities which are enclosed or designed  
 28 to prevent escape and from which the fish are not released for natural rearing.

29 (b) Food fish harvested from the wild under licenses prescribed in ORS 508.025 and 508.035 and  
 30 on which the appropriate fee has been paid at the time holding or rearing commences in the licensed  
 31 fish propagation facility.

32 (5) As used in this section, food fish has the meaning [as defined] **given that term** in ORS  
 33 506.011.

34  
 35 **SHELLFISH AQUACULTURE**

36  
 37 **SECTION 12.** Section 13 of this 2023 Act is added to and made a part of ORS chapter 622.

38 **SECTION 13.** (1) **Before approving an application for shellfish cultivation under this**  
 39 **chapter, the State Department of Agriculture shall evaluate the cumulative impact of all**  
 40 **existing shellfish cultivation in the vicinity of the proposed shellfish cultivation.**

41 (2) **The department shall adopt rules to implement this chapter that:**

42 (a) **Prohibit the use of pesticides in shellfish cultivation.**

43 (b) **Require shellfish cultivators to minimize the use of plastics in shellfish cultivation,**  
 44 **to the maximum extent feasible.**

45 (3) **The provisions of subsection (1) of this section and rules adopted under subsection (2)**



1 of this section do not apply to a business entity that:

2 (a) Is owned and operated independently from all other businesses; and

3 (b) Has annual gross revenues of less than \$500,000, as reported on a tax return submit-  
4 ted to the federal government or the Department of Revenue.

5  
6 **CAPTIONS**

7  
8 **SECTION 14.** The unit captions used in this 2023 Act are provided for the convenience  
9 of the reader and do not become part of the statutory law of this state or express any leg-  
10 islative intent in the enactment of this 2023 Act.

11  
12 **OPERATIVE DATE**

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14 **SECTION 15.** (1) Sections 1 to 8 and 13 of this 2023 Act and the amendments to ORS  
15 497.252, 616.992 and 616.997 by sections 9 to 11 of this 2023 Act become operative on January  
16 1, 2024.

17 (2) Notwithstanding subsection (1) of this section, the Department of Environmental  
18 Quality, the State Department of Agriculture and the State Department of Fish and Wildlife  
19 may take any actions, on or after the effective date of this 2023 Act, that are necessary to  
20 prepare for implementation of sections 1 to 8 and 13 of this 2023 Act and the amendments  
21 to ORS 497.252, 616.992 and 616.997 by sections 9 to 11 of this 2023 Act.