TITLE 42

COMMERCIAL FISHING AND FISHERIES

Chapter 506. Application, Administration and Enforcement of Commercial Fishing Laws
507. Compacts with Other States
508. Licenses and Pass Books
509. General Protective Regulations
511. Local and Special Regulations
513. Packing Fish and Manufacture of Fish Products

Chapter 506

1957 REPLACEMENT PART

Application, Administration and Enforcement of Commercial Fishing Laws

GENERAL PROVISIONS

506.005 "Anadromous or food fish" defined
506.010 "Game fish" defined
506.015 "Salmon" defined
506.020 "This Act" defined
506.025 "Unlawful to purchase" defined
506.030 Effect of game laws on commercial fish laws
506.035 Attorney General to arbitrate conflict between game and fish commissions

FISH COMMISSION OF THE STATE OF OREGON; STATE FISHERIES DIRECTOR; POWERS AND DUTIES GENERALLY

506.105 Fish Commission of the State of Oregon; creation; membership; removal of members
506.110 Compensation and expenses of commission members
506.115 Meetings of commission; quorum
506.120 State Fisheries Director; appointment; term; compensation; bond
506.125 Delegation of commission powers and duties to director
506.130 General powers and duties of director
506.135 Director to keep records
506.140 Annual report of director; disposition with commission report
506.145 Employes of commission; appointment; bond; powers and duties; compensation; tenure
506.150 General administrative powers and duties of commission
506.155 Commission to protect, propagate and develop fish; fish under jurisdiction of commission
506.160 Propagating fish and stocking waters
506.165 Commission to prohibit taking and disposing of fish; limitations
506.170 Commission to regulate taking of fish; times, places, methods, numbers, sizes, sex, kinds; approval by game commission
506.175 Investigation and classification of fish
506.180 Scope of regulations of taking and disposing of fish
506.185 Hearing on proposed regulations; notice
506.190 Method of making regulations; publishing and filing resolution; effective date
506.192 Conforming regulations to modification of Oregon-Washington Columbia River fish compact; regulations immediately necessary in waters where Oregon and Washington have concurrent jurisdiction
506.195 Fishing rights of treaty Indians not affected
506.200 Condemnation and disposal of property; disposition of proceeds

506.205 Acquisition of fish and eggs for certain purposes
506.210 Taking salmon eggs from and returning salmon to Rogue River
506.215 Maintaining hatcheries in adjoining states
506.220 Erecting monuments or markers of closed waters; interference with markers
506.225 Classifying fishing appliances
506.230 Attorney General legal adviser of commission
506.235 Acceptance and use of gifts of money and property to commission

COMMERCIAL FISH MONEYS; RECEIPTS AND EXPENDITURES; SEAL FUND

506.305 Placing commercial fishing and fisheries moneys in General Fund
506.310 Collection of commercial fishing and fisheries moneys by commission and payment to treasurer
506.315 Appropriation necessary for commission expenditures
506.320 Manner of paying salaries and expenses
506.325 Seal Fund not affected by ORS 506.305 to 506.320
506.330 Revolving fund available to commission for certain purposes
506.335 Seal Fund
506.340 Use of Seal Fund; seal bounties; employing hunters

FEDERAL FISH AID AND PROJECTS

506.405 Powers of commission regarding federal aid for fish and fisheries
506.410 Disposition of federal aid moneys
506.415 Revolving fund for maintenance of federal aid fisheries stations
506.420 Federal fish culture in state authorized

COMMERCIAL FISH LAW ENFORCEMENT AND ENFORCEMENT OFFICERS

506.505 Jurisdiction and power of commission to enforce commercial fish laws
506.510 State police to enforce commercial fish criminal laws; enforcement expense paid from General Fund
506.515 Deputy fish wardens to supplement state police
506.518 Special deputy fish wardens, appointment of
506.520 Enforcement of commercial fish laws by commission members, director, wardens, peace officers
506.525 Peace officer powers of director and wardens
506.530 District attorneys to prosecute commercial fish law violations
506.535 Jurisdiction of courts of commercial fish law violations; commencement of prosecutions; discontinuance
506.540 Payment of rewards
506.545 Arrest without warrant of commercial fish law violators; hearing
506.550 Search by commercial fish law enforcement officers; institution of proceedings; disposition of fish taken as evidence
506.555 Issuance of search warrants; places searched; disposition of property discovered
506.560 Nonliability of commercial fish law enforcement officers
506.565 Seizure, confiscation, condemnation and sale of unlawful fishing devices
506.570 Officers to seize unlawful fishing devices
506.575 Commencement of proceeding to confiscate, condemn and sell unlawful fishing devices seized; petition
506.580 Parties to proceeding to confiscate, condemn and sell unlawful fishing devices
506.585 Summons and answer in proceeding to confiscate, condemn and sell unlawful fishing devices
506.590 Matter to be determined in proceeding to confiscate, condemn and sell unlawful fishing devices; judgment and execution
506.595 Nonliability of officers instituting proceeding to confiscate, condemn and sell unlawful fishing devices
506.600 Appeal by state from proceeding to confiscate, condemn and sell unlawful fishing devices
506.602 Seizure, forfeiture and disposition of fish taken in violation of law or regulations
506.603 Seizure, forfeiture and disposition of boats and equipment used in violation of law or regulations
506.605 When unnecessary to name place of offense in criminal complaint, information or indictment
506.610 When possession prima facie evidence of taking fish unlawfully
506.615 Investigating commercial fish law violations; summoning witnesses
506.620 Inspections by director
506.625 Compelling testimony in fish law enforcement proceedings
506.630 Disposition of fines

PENALTIES

506.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183
Compliance with state water resources policy required, 536.300 to 536.400
Klamath River Basin Compact, 542.620
Seafood commodity commission, Ch. 576

506.110

Subsistence and mileage allowance for state officers and employes, 292.210 to 292.260

506.120

Salary of director, 292.317 (31)

506.135

Director to keep license application records, 508.435

506.145

State Civil Service Law, Ch. 240

506.160

Tillamook County fish hatcheries, fish commission aid and cooperation, 501.100 to 501.120

506.190

Publication and effective date of Umpqua River regulations, 511.730

506.200

Disposal of surplus and salvage supplies, materials and equipment, control by Department of Finance and Administration, 291.004(4), 291.656

506.315

Use of gifts, 506.235

506.320

Designation of officer of fish commission to approve voucher claims, 291.472

506.330

When allotment required for expenditures, 291.238

506.340

Bounties on seals, payment of by counties, 610.205

506.415

When allotment required for expenditures, 291.238

506.535

Jurisdiction of courts of other commercial fish law violations, 506.990(1), 508.655, 508.990, 509.990, 511.995

506.565

Confiscation and sale of unlawful fishing devices and fish, 506.602, 506.603, 509.015, 509.220, 509.295, 509.380, 511.115, 511.140, 511.160, 511.170, 511.220, 511 510, 511.735, 511.740

506.610

Possession of fish killed by explosive or poison as justifying arrest, 509.155

506.630

Gear and appliances subject to execution for fines and costs, 509.300

Special fine disposition:
- Columbia River appliance regulations, violations of, 511.990(1)
- Pass book violations, 508.655
- Rogue River regulations, violations of, 511 995(1)
- Seal Fund fee violations, 508.990(4)

GENERAL PROVISIONS

506.005 "Anadromous or food fish" defined. As used in this Act, as defined in ORS 506.020, and in ORS 506.610, 509.050, 509.105, 511.005, 511.145 and subsection (3) of 511.515, "anadromous or food fish" does not include steelhead trout regardless of age or size in the waters of Rogue River and its tributaries, or any salmon less than 20 inches in length except mature salmon between 15 and 20 inches in length, inclusive, or any trout, bass, crappies, perch or catfish referred to in the laws of the state relating to angling; provided, that striped bass is a commercial and not a game fish, except as provided in ORS 506.010.

506.010 "Game fish" defined. As used in ORS chapters 506, 507, 508, 509, 511 and 513, "game fish" includes:

(1) Salmo gairdneri, commonly known as steelhead trout, when found in the waters of Rogue River, its tributaries or within a radius of three miles from the center of the mouth of the Rogue River, or when being taken, caught or angled for in any stream or lake with a hook and line, commonly called angling.

(2) Striped bass in the waters of Coos Bay and Isthmus Inlet, a tributary thereof, southerly of a point from a line connecting the ferry slips of the ferry running between Coos Bay and Eastside in Coos County, and in the waters of Catching Inlet in Coos County southerly of the county bridge crossing the inlet on the Coos River market road.

(3) Striped bass, shad and sturgeon when taken with hook and line, commonly called angling, in any waters of the state over which the state has concurrent jurisdiction or otherwise.

(4) The following salmon when under 15 inches in length or when being taken, caught or angled for with a hook and line, commonly called angling: Oncorhynchus nerka, commonly known as sockeye, red or blueback salmon; Oncorhynchus tschawytscha, commonly known as Chinook salmon; Oncorhynchus kisutch, commonly known as silver salmon; Oncorhynchus keta, commonly known as chum or dog salmon.

506.015 "Salmon" defined. As used in any of the laws of Oregon, "salmon" includes chinook, silversides, steelheads, blueback, sockeye and all anadromous species of salmon and trout, except that steelheads in the waters of the Rogue River are classified as game fish.

506.020 "This Act" defined. As used in ORS chapters 506, 508 and 509, "this Act" means ORS 506.015, 506.025, subsection (2) of 506.030, ORS 506.035, 506.105 to 506.115, subsections (2), (3) and (5) of 506.130, ORS 506.135, 506.140, subsection (6) of 506.145, subsection (2) of 506.150, ORS 506.200, 506.205, 506.215, 506.225, 506.230, 506.305, 506.320, 506.325, 506.505, 506.518, subsection (2) of 506.520, ORS 506.525 to 506.600, 506.615, 506.620, subsections (3), (4), (5) and (6) of 506.990, ORS 507.010, 507.020, 508.010 to 508.020, 508.105 to 508.160, 508.170 to 508.190, 508.200 to 508.220, 508.305 to 508.350, 508.405, 508.410 to 508.480, subsections (5) and (8) of 508.990, ORS 509.005 to 509.020, 509.035 to 509.045, 509.065 to 509.090, 509.110 to 509.155, 509.205, 509.235, 509.250, 509.255 to 509.300, 509.425 to 509.470, 509.605 to 509.645, subsections (2), (9) and (12) of 509.990, ORS 511.125, 511.305 to 511.320, 511.405 to 511.415, 511.505, subsections (1) and (2) of 511.515, ORS 511.605, 511.625 to 511.635, 511.705 and 511.825.

506.025 "Unlawful to purchase" defined. Whenever it states in the laws of the state that it is unlawful to purchase salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish, illegally caught, this prohibition means that it is unlawful to purchase, knowing or having reasonable cause to believe that the fish have been illegally caught or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state.

506.030 Effect of game laws on commercial fish laws. (1) Nothing in the laws relating to game affects the operation of any appliances or the taking of any fish lawfully under the commercial fish laws.

(2) Except trout, the provisions of this Act, as defined in ORS 506.020, apply exclusively to salmon, shad, sturgeon and other anadromous, food and shell fish, and shall be enforced regardless of any conflicting provisions in the game laws of the state. No act lawfully done under the provisions of this Act, as defined in ORS 506.020, is unlawful in the event that such act conflicts with any provisions of the game laws.

506.035 Attorney General to arbitrate conflict between game and fish commissions.

In case of any conflict of authority or jurisdiction between the Fish Commission of the State of Oregon and the State Game Commission, the Attorney General shall act as arbiter and shall render an opinion on any matter in controversy within 30 days after presentation of the matter in controversy by both commissions or their authorized representatives. When any controversy arises the commission raising the issue shall notify, in writing, the other commission of its intention to apply to the Attorney General for arbitration.

506.040 to 506.100 [Reserved for expansion]

FISH COMMISSION OF THE STATE OF OREGON; STATE FISHERIES DIRECTOR; POWERS AND DUTIES GENERALLY

506.105 Fish Commission of the State of Oregon; creation; membership; removal of members. (1) There is created a Fish Commission of the State of Oregon, which shall consist of three members appointed by the Governor, whose terms of office shall begin immediately upon appointment. The term of one commissioner so appointed shall terminate on June 1, 1923. The term of the second commissioner shall terminate on June 1, 1924. The term of the third commissioner shall terminate on June 1, 1925. As the terms of these commissioners expire, the Governor shall appoint their successors for a term of four years.

(2) The Governor may remove any member of the fish commission for cause only.

506.110 Compensation and expenses of commission members. The members of the fish commission shall receive no compensation for their services as members thereof, except a per diem of $10 for each member for every day in actual attendance at the meetings of the commission or in the execution of their duties as members of the fish commission; provided, that in no instance shall any member receive as per diem a sum in excess of $600 in any one year. The members shall also be allowed their necessary expenses expended in the performance of their official duties.

506.115 Meetings of commission; quorum. (1) The fish commission shall, as soon as appointed, and annually thereafter, meet and organize and select a chairman from among its membership.

(2) The commission shall hold monthly meetings at its headquarters, or at such other times and places as it deems necessary and proper.

(3) Two members of the commission constitute a quorum and have full power to transact any business and exercise all rights, duties and powers of the commission.

506.120 State Fisheries Director; appointment; term; compensation; bond. There is created the office of State Fisheries Director. The State Fisheries Director shall:

(1) Be appointed by the fish commission.

(2) Serve for a term of four years, unless sooner removed by the fish commission.

(3) Be paid a salary, the amount of which shall be fixed by the fish commission.

(4) Be required by the fish commission to post a bond in such amount as it determines. The cost of such bond may be paid as an administrative expense.

506.125 Delegation of commission powers and duties to director. The fish commission may delegate to the fisheries director any of the administrative authority, powers and duties granted to or imposed upon it by ORS chapters 506, 507, 508, 509, 511 and 513, and the fish commission shall so delegate all such authority, powers and duties necessary to fully accomplish the purposes of ORS 506.120, 506.125, subsections (1) and (4) of 506.130, ORS 506.145 and 506.150.

506.130 General powers and duties of director. The fisheries director shall:

(1) Be the executive head of, and responsible to the fish commission for, the administration of all the laws of this state applicable to commercial fishing and commercial fisheries.

(2) Devote his attention to the fishing interests and fishing industries of the state.

(3) See that all laws for the protection, preservation and propagation of all salmon, shad, striped bass, sturgeon and other anadromous or food fish and oysters and other shell fishes in the waters and streams of this state and of the Columbia River are enforced.

(4) Have and exercise all powers and duties conferred by law upon the Master Fish Warden.

(5) Perform such other duties in addition to those prescribed by law as the fish commission may from time to time designate and prescribe.

506.135 Director to keep records. The

fisheries director shall keep proper books showing the licenses issued, to whom issued and amounts received and all moneys disbursed for any cause.

506.140 Annual report of director; disposition with commission report. The fisheries director shall annually make a report to the fish commission of the operation of the several departments during the preceding year. The fish commission shall annually transmit this report, together with the report of the fish commission during the preceding year, to the Secretary of State. These reports shall be permanent records in the office of the Secretary of State.

506.145 Employes of commission; appointment; bond; powers and duties; compensation; tenure. (1) The fisheries director shall appoint and employ such personnel as he, with the advice of the fish commission, deems necessary for the efficient administration of the laws of this state applicable to commercial fishing and fisheries.

(2) The fish commission may require a bond from any employe. The cost of such bond may be paid as an administrative expense.

(3) The fisheries director shall fix the duties of all employes of the commission. The authority, powers and duties of all employes appointed by the fisheries director shall be prescribed and delegated by the fisheries director.

(4) Employes appointed by the fisheries director shall be subject at all times to the direction, supervision and control of the fisheries director.

(5) The fisheries director, with the approval of the fish commission, shall fix the compensation to be paid to all employes appointed by him.

(6) Unless otherwise provided, all appointees of the fish commission shall hold office at the will of the fish commission.

506.150 General administrative powers and duties of commission. (1) The fish commission shall establish the policies of the state in connection with the administration of the commercial fishing and fisheries laws and, acting with the State Fisheries Director, shall promulgate such rules and regulations of procedure as are necessary and adequate to carry out such policies and to attain maximum efficiency in the administration of all such laws.

(2) The fish commission may make and declare such rules and regulations as are reasonably required in the administration of its affairs.

506.155 Commission to protect, propagate and develop fish; fish under jurisdiction of commission. The duty of protection, preservation, propagation, cultivation, development and promotion of all fishes within the state or within waters in which the state has joint or other jurisdiction with any other state or government is delegated to and imposed upon the fish commission. For such purpose the fish commission has exclusive jurisdiction over salmon, shad, striped bass, sturgeon and all other anadromous or food or shell fish, except trout of all species including steelhead trout, within the waters over which the state has jurisdiction, or joint or other jurisdiction with any other state or government over all such fishes within the waters of the Columbia River and its tributaries within the confines of the States of Oregon and Washington where such waters form the boundaries of the states.

506.160 Propagating fish and stocking waters. The fish commission shall propagate and stock the various streams and waters of this state with such of the fishes as in its judgment is deemed proper. The State Game Commission may propagate steelhead and any such salmon and release the same in any waters of the state it designates.

506.165 Commission to prohibit taking and disposing of fish; limitations. (1) In carrying out the duty and meeting the responsibility imposed and delegated by ORS 506.155 to 506.190, 506.195, 507.030, 508.005, 509.025 and 509.030, the fish commission shall promulgate such rules, orders and regulations it finds, after investigation, to be convenient or necessary to prevent the taking, catching or fishing for any such fishes at such times or places or by such means or in such manner as will impair the ultimate supply thereof. The fish commission shall promulgate such orders, rules and regulations to prevent the possession, sale or other disposition of such fishes at such times and in such manner as in its judgment will impair the ultimate supply thereof.

(2) No rule, order or regulation shall be promulgated for the purpose, or which has the effect, of permitting the use of any gear or equipment prohibited by law, or of authorizing commercial fishing in any stream, water or area where commercial fishing is

prohibited by law, or is not authorized by law immediately prior to July 5, 1947, or of authorizing commercial fishing in any of the streams, bays, waters or areas mentioned in ORS 511.325, 511.405 to 511.415, 511.505, 511.515, 511.605, 511.612, 511.630, 511.635 and 511.705, except within the seasons and the areas therein prescribed for commercial fishing.

506.170 Commission to regulate taking of fish; times, places, methods, numbers, sizes, sex, kinds; approval by game commission. Salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish, except trout of all species including steelhead trout, in any of the waters over which the state has jurisdiction, concurrent or otherwise, including waters of the Pacific Ocean within the boundaries of the state or over which the state has jurisdiction, may be taken only pursuant to such regulations, orders and rules and in such manner, at such times and places, by such means, in such limits, quantities, numbers, sizes and sex and of such species and kinds, as the fish commission finds, after hearing as provided in ORS 506.185, will not affect injuriously the ultimate supply thereof, except that:

(1) Licenses for angling shall be issued by the State Game Commission.

(2) Before the fish commission publicly proposes any intent to issue any rule, order or regulation regarding the taking or catching of any of the several species or classes of such fish by hook and line, commonly known as angling, the proposed rule, order or regulation shall first be officially approved by the State Game Commission.

(3) No such order, rule or regulation issued by the fish commission has any force or effect unless so approved by official action of the State Game Commission.

506.175 Investigation and classification of fish. The fish commission shall investigate the habits, supply and economic uses of and classify all fishes under its exclusive jurisdiction.

506.180 Scope of regulations of taking and disposing of fish. (1) Except as otherwise provided in the statutes listed in subsection (1) of ORS 506.165, the fish commission shall from time to time make, promulgate, adopt and amend rules, orders and regulations governing the taking, possession, sale and disposition of fishes under its exclusive jurisdiction except all species of trout including steelhead.

(2) The fish commission shall promulgate, adopt and may amend such rules, orders and regulations governing the taking, possession, sale and disposition of fishes under its exclusive jurisdiction as it finds reasonable and necessary for the proper propagation and conservation of such fishes. Regulations so promulgated and adopted shall govern and have the effect of:

(a) Fixing the times when fishing for, taking, catching, possession, sale and disposal of any of the several species or classes of such fish is permitted.

(b) Specifying and defining the areas, places and waters in which fishing for, taking and catching of any of the several species or classes of such fish is permitted.

(c) Defining, fixing and prescribing the kinds of gear, appliance, device or other means by which fishing for, taking and catching of any of the several species or classes of such fish is permitted, and specifying, fixing and prescribing the times, places and manner of using the same.

(d) Governing the possession, sale or disposition of any of the several species or classes of such fishes within the state, except food or shell fish when canned or otherwise processed.

(e) Fixing and prescribing the size, numbers and amounts of any of the several species or classes of such fishes and the sex of shell fish that may be taken, sold or disposed of within the state.

(f) Requiring and regulating the landing of any of the several species or classes of such fishes or any part thereof, whether taken or caught within or without the state.

506.185 Hearing on proposed regulations; notice. (1) No rule, order or regulation referred to in ORS 506.180 shall be made, promulgated, modified, adopted or amended until after the fish commission has held a hearing at its usual place of meeting after public notice thereof as provided in this section, for the purpose of determining in each instance whether or not the ultimate supply of any of the several species or classes of fishes will be affected injuriously or conserved and enhanced thereby. Only such rules, orders or regulations shall be promulgated or adopted by the fish commission as it finds, after such hearing, to be reasonable, necessary or convenient for the conservation and protection

of the ultimate supply of the several species or classes of fishes.

(2) Notice of the hearing shall be published by the chairman of the fish commission for a period of at least two weeks prior to the date thereof. The notice shall appear in not less than two issues of a newspaper of general circulation throughout the state published in Portland. In case of a modification or change of any existing rule, order or regulation, the notice shall appear in at least two issues of a newspaper of general circulation throughout the state.

506.190 Method of making regulations; publishing and filing resolution; effective date. (1) All rules, orders and regulations of the fish commission and all amendments to or modifications or revocation of any such rule, order or regulation made, promulgated or adopted under the authority of the statutes listed in subsection (1) of ORS 506.165, shall be made and adopted by a majority vote of the fish commission on a resolution entered and recorded in the minutes of the meeting at which the action was taken.

(2) A certified copy of the resolution shall be published in at least two issues of a newspaper of general circulation throughout the state published in Portland. A copy of the resolution, certified to by one or more members of the fish commission, shall be filed in the office of the Secretary of State promptly after it is adopted.

(3) The resolution is effective as of the date filed with the Secretary of State with the certificate of the publisher showing publication.

506.192 Confirming regulations to modification of Oregon - Washington Columbia River fish compact; regulations immediately necessary in waters where Oregon and Washington have concurrent jurisdiction. (1) Notwithstanding the provisions of ORS 506.185 and 506.190, when the Fish Commission of the State of Oregon declares in the resolution that the action is immediately necessary for the protection or preservation of fish in the waters over which the States of Oregon and Washington have concurrent jurisdiction, as defined in ORS 507.020, or for the purposes of ORS 506.170 the fish commission by a majority vote on a resolution entered and recorded in the minutes of the meeting at which such action is taken, may modify, amend or revoke existing rules, orders or regulations or may make, promulgate or adopt new rules, orders or regulations pursuant to a modification of the existing agreement with the State of Washington under ORS 507.030. However, no resolution shall be entered under this subsection until a public hearing has been held. Notice shall be given of the hearing by publication in a newspaper of general circulation throughout the state published in Portland at least 72 hours prior to the hearing. The published notice of hearing shall include a general statement as to the purport of the proposed resolution, the area affected and the proposed effective date thereof. The commission also shall use all reasonable means of communication to inform known agencies, groups, unions, firms and communities directly interested in commercial fishing in areas affected by the proposed resolution of the date of the hearing and in general terms the nature of the proposed resolution.

(2) The effective date of the rules, orders or regulations made, promulgated or adopted or the modification, amendment or revocation of existing rules, orders or regulations under subsection (1) of this section is the date of filing of the certified copy of the resolution in the office of the Secretary of State.

(3) Immediately after the filing of the resolution in the office of the Secretary of State the fish commission shall provide for the publication of a copy of the resolution in at least two issues of a newspaper of general circulation throughout the state published in Portland. [1957 c.461 §1]

506.195 Fishing rights of treaty Indians not affected. There are excluded from the operation of the statutes listed in subsection (1) of ORS 506.165 any Warm Springs, Umatilla, Yakima, Wasco, Tenino, Wyum and other Columbia River Indians affiliated with these tribes and entitled to enjoy fishing rights, who have not severed their tribal relations in so far as it would conflict with any rights or privileges granted to such Indians under the terms of the treaties made by the United States with the Warm Springs Indians on June 25, 1855, and with the Umatilla and Yakima Indians on June 9, 1855.

506.200 Condemnation and disposal of property; disposition of proceeds. The fish commission has full power and authority to condemn and dispose of all property owned by the state and used for the protection, propagation or preservation of salmon, shad,

sturgeon and other anadromous, food and shell fish, which is found to be of no further use or value to the state. The commission shall turn over the proceeds arising therefrom to the State Treasurer to be by him credited to the General Fund.

506.205 Acquisition of fish and eggs for certain purposes. The fish commission may acquire by gift or purchase from other states, or may acquire by capture or otherwise in this state, any salmon, shad, sturgeon or other anadromous or food or shell fishes or eggs thereof for propagation, experimental or scientific purposes.

506.210 Taking salmon eggs from and returning salmon to Rogue River. Whenever the fish commission or any other duly authorized person takes salmon eggs from the waters of the Rogue River which are closed to commercial fishing, for the purpose of supplying the various hatcheries of the state, the fish commission shall return at least 40 percent of the fish hatched from the eggs to the stream from which the eggs producing the hatch were taken.

506.215 Maintaining hatcheries in adjoining states. The fish commission may construct, maintain or operate hatcheries in an adjoining state, but no hatchery shall be constructed or operated on any stream in an adjoining state that is not a tributary of the Columbia River, or whose waters do not flow into the Columbia River.

506.220 Erecting monuments or markers of closed waters; interference with markers. Whenever deadlines are established on any stream of water of this state, either by legislative enactment or by order of the fish commission, the fish commission shall, within a reasonable time, erect suitable monuments or markers on the banks of the stream or water designating the closed portion of the stream or water. No person shall remove, destroy or mutilate any of these monuments or markers.

506.225 Classifying fishing appliances. The fish commission shall classify all fishing appliances and its classification shall be final.

506.230 Attorney General legal adviser of commission. The fish commission may apply to the Attorney General for his official opinion upon any question touching the construction and interpretation of the statutes and duty of the fish commission wherein it needs legal advice. The Attorney General is the legal adviser of the fish commission.

506.235 Acceptance and use of gifts of money and property to commission. Notwithstanding the provisions of ORS 506.315, the Fish Commission of the State of Oregon may accept gifts of money, lands or other property and use the same for the protection, preservation, propagation and development of the fishery resource, subject to the terms of the gift. Subject to such terms the gifts may be used or exchanged for the acquisition of other lands, waters, rights, easements or other property. Any moneys received under this section not otherwise appropriated hereby are appropriated for such purposes. [1957 c.141 §1]

506.240 to 506.300 [Reserved for expansion]

COMMERCIAL FISH MONEYS; RECEIPTS AND EXPENDITURES; SEAL FUND

506.305 Placing commercial fishing and fisheries moneys in General Fund. (1) All funds of the state acquired for the protection, preservation, propagation and development of the commercial fishing industry, arising from state appropriations, the sale of commercial fishing licenses, licenses for fishing appliances, fees on fish taken or caught, licenses for persons engaged in the business of canning salmon and licenses for persons other than canners selling, packing and otherwise dealing in, taking or catching salmon, sturgeon or any other anadromous, food or shell fish, or from any other source, shall be paid to the State Treasurer and by him placed to the credit of the General Fund.

(2) All moneys received on account of appropriations, fines collected for violation of the commercial fishing laws, commercial fishing licenses, licenses for fishing appliances, fees on fish taken or caught, licenses for persons engaged in the business of canning salmon and licenses of persons other than canners engaged in the business of buying, selling, packing or otherwise dealing in, taking, catching or handling salmon, striped bass, sturgeon, shad or other anadromous, food or shell fish, shall be paid to the State Treasurer and by him placed to the credit of the General Fund.

506.310 Collection of commercial fishing and fisheries moneys by commission and payment to treasurer. The fish commission

has exclusive authority to and shall collect all funds to be paid to the state and used for the protection, preservation, propagation and development of the commercial fishing industry, and arising from the sale of commercial fishing licenses, licenses for fishing appliances, fees on fish taken or caught, licenses for persons engaged in the business of canning fresh salmon, and licenses for persons other than canners selling, packing and otherwise dealing in, taking or catching salmon, sturgeon or other anadromous, food or shell fish, or otherwise, under the laws applicable to commercial fishing. On or before the first day of each month following the receipt of any such funds the fish commission shall pay the same to the State Treasurer, who shall deposit them in the State Treasury to the credit of the General Fund.

506.315 Appropriation necessary for commission expenditures. All funds required for the administration of the commercial fishery laws or otherwise by the fish commission in the performance of its duties and the exercise of its powers, including the acquisition of land, water rights, easements and other property, and the construction, maintenance, operation and repair of fish hatcheries and other means and appliances for the protection and propagation of salmon and other food and shell fish in the state, shall be provided by legislative appropriation from the General Fund in the State Treasury.

506.320 Manner of paying salaries and expenses. (1) All expenses incurred under the provisions of this Act, as defined in ORS 506.020, shall, upon approval by the fish commission, be audited by the Secretary of State, who shall draw warrants from the proper funds in payment thereof upon the State Treasurer for the amounts specified.

(2) All expenditures to be made by the fish commission pursuant to the commercial fishery laws of this state shall be made from funds appropriated from the General Fund in the State Treasury for the purposes for which such funds are used, upon claims presented to the Secretary of State in the form and warrants drawn by the Secretary of State in the manner provided by ORS 291.462.

506.325 Seal Fund not affected by ORS 506.305 to 506.320. ORS 506.305 to 506.315 and subsection (2) of ORS 506.320 do not apply to the Seal Fund created by ORS 506.335, nor affect the laws applicable thereto.

506.330 Revolving fund available to commission for certain purposes. (1) The sum of $5,000, drawn in favor of the fish commission upon the warrant of the Secretary of State on the State Treasurer payable out of the 1949-1951 general, operating and maintenance expense appropriation for the fish commission, for the purpose of providing funds to pay ordinary and current expenses of the fish commission incurred in carrying out the duty and meeting the responsibility imposed and delegated under the law where it may be desirable and necessary to make immediate cash payments in order to obtain trade discounts or for travel, postage, expressage, emergency advances and items which are payable immediately in cash upon presentation, is intended to be a revolving fund for the use of the fish commission.

(2) As the fish commission, through a designated disbursing officer, from time to time files with the Secretary of State verified vouchers covering disbursements from this revolving fund, accompanied by an itemized statement showing in detail the names of the persons, firms or corporations to whom and the purposes for which such disbursements were made pursuant to the law, the Secretary of State shall issue his further warrant for the amount thereof in favor of the fish commission in like manner as the original disbursement was made for the amount of the vouchers and statement not exceeding the amount of the revolving fund. Such verified vouchers for disbursement also shall bear the certification of the individual designated and authorized by the fish commission to sign vouchers for the disbursement of such funds.

(3) The $5,000 mentioned in subsection (1) of this section and any subsequent payments shall be credited to the revolving fund created and provided for by this section, and may be held as petty cash funds or carried with the State Treasurer as are suspense funds as provided by law or deposited in banks.

(4) Disbursements from this revolving fund shall be made only in payment of claims authorized by law.

(5) This revolving fund shall be secured by a surety bond, executed by a surety company authorized to do business in the state,

in the amount of $5,000 and furnished by the disbursing officer. The premiums on such bond shall be paid by the fish commission.

506.335 Seal Fund. For the purpose of hunting, killing, capturing or otherwise exterminating seals in the waters of the Columbia River and in the waters over which the state has concurrent jurisdiction, there is created a fund to be known as the Seal Fund, which shall be under the control of the fish commission.

506.340 Use of Seal Fund; seal bounties; employing hunters. (1) The fish commission may use the Seal Fund in any manner it deems best for the purpose of hunting, killing, capturing or exterminating seals.

(2) The fish commission may use 20 percent of the balance remaining in the Seal Fund at June 30, 1943, together with not to exceed 20 percent of the yearly receipts of the fund, for the purpose of administration and enforcement in connection with the collection of fees, the issuance of certificates, payment of bounties and for the maintenance of records incident thereto. The balance of the fund may be paid out as bounty on seals, or the fish commission may employ persons in its discretion to hunt for, capture, kill or otherwise eradicate such seals, but no exclusive contract or agreement shall be entered into by the fish commission with any person, firm or corporation for the purpose of killing seals.

(3) The fish commission shall pay as a bounty not less than $5 nor more than $25 to any person who delivers a scalp of a seal proven to the satisfaction of the fish commission or fisheries director to have been killed in the waters mentioned in ORS 506.335. The scalp of any seal upon which a bounty has been paid shall be destroyed immediately after payment of the bounty. [Amended by 1953 c.83 §2]

506.345 to 506.400 [Reserved for expansion]

FEDERAL FISH AID AND PROJECTS

506.405 Powers of commission regarding federal aid for fish and fisheries. The fish commission may:

(1) Enter into such contracts, appoint such officers and do any other act or thing necessary fully to meet the requirements of the United States and the officers acting under federal statute in aid of the conservation and preservation of fish and fisheries in this state or concerning any federal project wherein the conservation and preservation of such fish and fisheries are involved.

(2) Accept contributions of funds from the Federal Government for such purposes.

506.410 Disposition of federal aid moneys. Any funds accepted pursuant to ORS 506.405 by the fish commission shall be deposited in the State Treasury to the credit of a special fund separate and distinct from the General Fund to be designated the Fish Commission Federal Aid Fund. Such funds are appropriated for the purposes of ORS 506.405 and shall not be expended for any other purpose than that for which contributed.

506.415 Revolving fund for maintenance of federal aid fisheries stations. (1) There is appropriated out of the General Fund in the State Treasury, $124,000 for the purpose of providing funds to pay current expenses in the maintenance and operation of the Marion Forks Fisheries Station in accordance with the terms of an interim agreement for the maintenance and operation of facilities for the hatching and rearing of salmon and steelhead trout on the North Santiam River, Oregon, (contract No. DA 35-026-eng-4163) entered into under date July 6, 1950, by and between the United States and the State of Oregon acting by and through the fish commission, and for the operation and maintenance of other fisheries stations or facilities operated and maintained by the fish commission under agreement with the Federal Government, such agreements being authorized by ORS 506.405.

(2) The money appropriated by subsection (1) of this section shall be transferred to an account in the General Fund in the State Treasury to be known as the Fish Commission Revolving Account.

(3) Notwithstanding ORS 506.410, all reimbursements or repayments by the Federal Government, as provided by the agreement or agreements mentioned in subsection (1) of this section, shall, upon receipt, be credited to the Fish Commission Revolving Account.

(4) All moneys in such revolving account are appropriated and constituted a continuous appropriation out of the General Fund for the purposes of this section.

(5) Whenever it is determined by the fish commission and the Department of

Finance and Administration that such revolving account is no longer needed for the purposes of this section, the balance thereof shall be returned to the General Fund in the State Treasury.

506.420 Federal fish culture in state authorized. The United States Fish and Wildlife Service and its duly authorized agents are accorded the right to conduct fish cultural operations and scientific investigations in the waters of this state in such manner and at such times as may be considered necessary and proper by the Fish and Wildlife Service and its agents.

506.425 to 506.500 [Reserved for expansion]

COMMERCIAL FISH LAW ENFORCEMENT AND ENFORCEMENT OFFICERS

506.505 Jurisdiction and power of commission to enforce commercial fish laws. (1) The fish commission has jurisdiction in the enforcement of all laws enacted for the propagation, protection, preservation and development of the commercial fisheries of this state, including all laws relating to salmon of any variety, as defined by law, shad, striped bass, sturgeon and other anadromous, food and shell fishes.

(2) The fish commission, or a majority thereof, has full power and authority to enforce all laws of the state respecting the protection, preservation and propagation of salmon, sturgeon, shad and other anadromous, food and shell fish within the waters over which the state has jurisdiction and within the waters over which the state has concurrent jurisdiction.

506.510 State police to enforce commercial fish criminal laws; enforcement expense paid from General Fund. (1) The Department of State Police shall employ a sufficient number of state police to perform the duties required in the various parts of the state in the enforcement of criminal laws relating to commercial fish.

(2) The services and expenses of the Department of State Police incurred in the enforcement of criminal laws relating to commercial fish shall be paid from the funds of the state acquired for the protection, propagation and preservation of salmon, shad, sturgeon and other anadromous, food and shell fish paid into the State Treasury and placed to the credit of the General Fund, as provided by ORS 506.305.

(3) The members of the state police who shall be assigned to perform the duties of fish wardens shall be selected from names suggested by the fish commission. If the fish commission fails to submit sufficient qualified nominees for such positions, the Department of State Police shall make its own selections.

506.515 Deputy fish wardens to supplement state police. The fish commission, with the approval of the Governor and Superintendent of State Police, may employ such persons, to be known as deputy fish wardens, as they deem necessary or expedient. The services and expenses of these deputy fish wardens are payable out of the moneys paid into the State Treasury and placed to the credit of the General Fund, as provided by ORS 506.305. It is the intention of this section and ORS 506.510 that the fish commission employ only such fish wardens as agreed upon between the fish commission, the Governor and the Superintendent of State Police, and that the duties of law enforcement formerly vested in fish wardens, so far as is economical and practicable, be performed by the Department of State Police.

506.518 Special deputy fish wardens, appointment of. The fish commission may appoint and may vest in the fisheries director the power to appoint any number of special deputy fish wardens. Such special deputy fish wardens shall serve without compensation except for what the commission may allow for special services.

506.520 Enforcement of commercial fish laws by commission members, director, wardens, peace officers. (1) Any deputy game warden, the fisheries director, any of his deputies and all other peace officers of this state or any political subdivision thereof have jurisdiction of and may enforce any of the provisions of ORS chapters 506, 507, 508, 509, 511 and 513.

(2) Each member of the fish commission, the fisheries director and every inspector, deputy fish warden, special deputy fish warden, sheriff, deputy sheriff and constable shall enforce all laws for the protection of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish within their respective counties or districts. In the performance of these duties

such officers are subject to the direction and control of the fish commission or fisheries director. All such officers on making an arrest must report it, together with the disposition of the case, to the fisheries director within 30 days from the date of the arrest, and failure to do so subjects such officer to removal from office.

506.525 Peace officer powers of director and wardens. (1) The fisheries director or deputy fish wardens may arrest without writ, rule, order or process, any person detected by such officer in the act of committing a crime in violation of the fish laws of this state. Such officers are peace officers of the state for this purpose. Such officers may execute all criminal process issued for the arrest or detention of any person complained against for violation of any of the fish laws of this state. No person shall knowingly or wilfully resist or oppose such officers in the discharge of their duties

(2) Deputy fish wardens or inspectors appointed by the fisheries director and serving under regular salary have all the powers and authority of a peace officer in making arrests and in serving warrants, subpenas and other legal process in the enforcement of the laws for the protection of salmon and other food and shell fish.

506.530 District attorneys to prosecute commercial fish law violations. (1) District attorneys shall prosecute any case in which it appears that any of the laws for the protection, propagation or preservation of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish have been violated. When directed to do so by the fish commission or its duly empowered officer, the district attorney shall prosecute any case brought before him by the fish commission, the fisheries director, any deputy fish warden or other officer charged with the enforcement of such laws.

(2) District attorneys, within their respective districts, shall prosecute, on information and complaint of the fish commission, fisheries director or deputy fish wardens, any person violating any provision of this Act, as defined in ORS 506.020.

506.535 Jurisdiction of courts of commercial fish law violations; commencement of prosecutions; discontinuance. (1) Unless otherwise specifically provided, justice courts have concurrent jurisdiction in the first instance with circuit courts of all offenses under this Act, as defined in ORS 506.020.

(2) Any action or proceedings under this Act, as defined in ORS 506.020, shall be commenced on order of the fish commission, the fisheries director or other person duly authorized to enforce such laws, or by any district attorney, in the county in which the offense is alleged to have been committed. Any such action shall be prosecuted to determination in the county where commenced, unless for good cause appearing a discontinuance is directed by the fish commission, or one duly authorized by it. In no case where such discontinuance is directed or in no other case shall any costs be charged or chargeable to the prosecution.

506.540 Payment of rewards. The fish commission may offer and authorize payment of rewards for the arrest and conviction of any person who has violated any of the laws of the state for the protection, propagation and preservation of salmon, shad, sturgeon or other anadromous, food or shell fishes, but no reward of more than $100 shall be offered or paid for any one arrest or conviction.

506.545 Arrest without warrant of commercial fish law violators; hearing. Any member of the fish commission, the fisheries director, any regular deputy fish warden, any special deputy fish warden, any sheriff, deputy sheriff or constable may, without warrant, arrest any person violating any of the laws of the state for the protection or propagation of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish, and take the person before any court having jurisdiction of the offense. The court shall proceed without delay to hear, try and determine the matter and enter judgment according to allegations and proof.

506.550 Search by commercial fish law enforcement officers; institution of proceedings; disposition of fish taken as evidence. (1) The officers mentioned in ORS 506.545 may search and examine all boats, conveyances, vehicles, cold storage rooms, warehouses, taverns, boarding houses, restaurants, outhouses, depots, hotels and other places where salmon, shad, striped bass, sturgeon or other food or shell fish may be kept, sold or secreted, and examine all packages, boxes and bundles held either for storage or shipment which they have reason to believe contain evidence of violation of the laws of this state for the protection of

salmon, shad, striped bass, sturgeon or other food or shell fish.

(2) Any hindrance or interference to such search is prima facie evidence of a violation of the laws by parties who hindered or interfered, or attempted to hinder or interfere, in the search or examination.

(3) If upon such inquiry or search, the officer can discover evidence sufficient in his judgment to secure conviction, or if the officer has cause to believe he has sufficient evidence thereon to justify it, he shall at once institute proceedings against the alleged offenders.

(4) All salmon or other food or shell fish so taken as evidence shall, upon conviction of the offender, be confiscated and sold. The proceeds of this sale shall be paid to the State Treasurer and by him deposited in the General Fund.

506.555 Issuance of search warrants; places searched; disposition of property discovered. Any court having jurisdiction of any offense against the commercial fishing laws of this state, upon receiving proof or probable cause for believing in the concealment of any salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish taken or possessed contrary to law, shall issue a search warrant and cause a search to be made in any place, and to that end cause any building, vessel, boat, boathouse, scow, car, chest, box, motor truck, motor vehicle, automobile or other vehicle or any other place where concealment may be effected, to be opened and the contents examined by any officer charged with the enforcement of the laws for the protection, propagation and preservation of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish within the state. Such contents shall be disposed of in a manner directed by the court before whom the offense is tried, or by any court of competent jurisdiction.

506.560 Nonliability of commercial fish law enforcement officers. The fisheries director, any deputy fish warden or other officer charged with the enforcement of the laws for the protection, propagation and preservation of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish within the state, shall not suffer civil or criminal liability for any arrest, seizure or search as provided under this Act, as defined in ORS 506.020.

506.565 Seizure, confiscation, condemnation and sale of unlawful fishing devices. All fish traps, poundnets, gillnets, setnets, fishing boats and vessels used in fishing and apparatus, and any appliances or devices used or employed by any person, including such fishing appliances fished or operated by any person who has not obtained a license, or a license to operate the appliance, in fishing for or catching salmon or other food fish at any time or in any of the waters prohibited by this Act, as defined in ORS 506.020, and which is made unlawful by this Act, as defined in ORS 506.020, whether being operated by any person, or left in a condition to take such fish, or abandoned but left in a condition to take such fish, shall be seized, confiscated, condemned and sold. The proceeds of such sale shall be paid to the State Treasurer and by him deposited in the General Fund in the State Treasury.

506.570 Officers to seize unlawful fishing devices. The fisheries director, deputy fish wardens, game warden, deputy game wardens and any state or county officer shall seize and take into his possession all fishing appliances mentioned in ORS 506.565 which are operated wrongfully or unlawfully by any person, or left by any person in a condition to take salmon or other food fish, or abandoned but left in a condition to take such fish, at any time or in any of the waters prohibited by this Act, as defined in ORS 506.020, and which is made unlawful by this Act, as defined in ORS 506.020.

506.575 Commencement of proceeding to confiscate, condemn and sell unlawful fishing devices seized; petition. (1) Immediately upon the seizure mentioned in ORS 506.565 the district attorney for the district in which the appliance is seized shall institute an action in the circuit court for that county to have the appliance confiscated, condemned and sold.

(2) The petition shall:

(a) Contain a true description of the appliance sought to be confiscated, condemned and sold, as nearly as practicable, together with all marks, brands or any special features calculated to designate the appliance from other appliances of like nature, and if a fixed appliance, the number.

(b) Allege facts showing that the appliance was used in violation of this Act as defined in ORS 506.020.

(c) Be verified by the oath of the fisheries director or one of his deputies, game warden, deputy game warden, or the district attorney or any deputy district attorney.

506.580 Parties to proceeding to confiscate, condemn and sell unlawful fishing devices. In the action commenced as provided in ORS 506.575 the State of Oregon is the plaintiff, and the owner of the appliance, if known, is the defendant. If the owner of the appliance is unknown, he shall be designated as "John Doe," whose true name is unknown.

506.585 Summons and answer in proceeding to confiscate, condemn and sell unlawful fishing devices. (1) Like proceedings shall be had and the action mentioned in ORS 506.575 shall be prosecuted to final determination as in actions at law, except that the summons shall be issued by the clerk of the court, requiring the defendant, if known, to appear and answer within 15 days after the service of the summons upon him, and containing a brief description of the appliance sought to be confiscated. The summons shall be served upon the defendant, if known personally, in any county in this state. If such defendant is unknown or cannot be found, the district attorney shall file with the court an affidavit to such effect and the clerk of the court shall forthwith post written notices, one in the courthouse and one each in three conspicuous public places in the county, requiring the defendant to appear within four weeks from the date of said notice. Such notice shall contain a brief description of the appliances sought to be forfeited and the date when and the place where such appliances were seized. If the defendant fails to appear and answer, judgment of confiscation shall be entered as prayed for in the petition.

(2) All persons owning or claiming any interest in the fishing appliance sought to be confiscated shall be permitted to answer, setting forth their various interests. [Amended by 1953 c.636 §2]

506.590 Matter to be determined in proceeding to confiscate, condemn and sell unlawful fishing devices; judgment and execution. (1) Upon the trial of the cause mentioned in ORS 506.575 the matter to be determined shall be whether or not the appliance seized was unlawfully employed, or suffered or permitted to be unlawfully employed, in violation of this Act, as defined in ORS 506.020, or used or operated without a license or by one not licensed.

(2) If judgment is entered that the appliance was used or employed, or suffered or permitted to be used or employed, in violation of this Act, as defined in ORS 506.020, a judgment shall be rendered confiscating each appliance and ordering it to be sold at public auction to the highest bidder for cash. Execution shall issue upon the judgment as in ordinary actions at law. Like proceedings shall be had under the execution as provided by law. The money arising from the sale of the appliance shall immediately be deposited with the fisheries director, and by him deposited with the State Treasurer, and by him deposited in the General Fund in the State Treasury.

506.595 Nonliability of officers instituting proceeding to confiscate, condemn and sell unlawful fishing devices. No fee shall be charged or collected from the fish commission, fisheries director, game warden, deputy game warden, district attorney or deputy district attorney at the institution or during the prosecution of the action mentioned in ORS 506.575. No judgment shall be awarded against the fish commission, the State of Oregon, or any of the officers signing the petition mentioned in ORS 506.575 or instituting the proceeding, for costs and disbursements.

506.600 Appeal by state from proceeding to confiscate, condemn and sell unlawful fishing devices. If the fish commission deems itself aggrieved by the decision of the court at any time after the institution of the action mentioned in ORS 506.575, the right of appeal is given the State of Oregon, to be prosecuted in the same manner as appeals in ordinary civil actions, except that no fee shall be charged the state and no bond shall be required on appeal.

506.602 Seizure, forfeiture and disposition of fish taken in violation of law or regulations. (1) All fish taken by or in the possession of any person in violation of the commercial fishing laws or the rules or regulations of the Fish Commission of the State of Oregon shall be seized by any member of the Fish Commission of the State of Oregon, the State Fisheries Director, any member of the State Police or any other officer charged with enforcement of the commercial fishing laws, rules or regulations of the state.

(2) Any fish seized under the provisions of subsection (1) of this section may be forfeited in the same manner as property may be forfeited under subsection (2) of ORS 506.603 but the fish so seized may, immediately upon seizure, be disposed of or used for food purposes, under the rules and regulations of the fish commission, to prevent spoilage.

(3) If the fish seized under subsection (1) of this section are not subsequently forfeited, the fish commission shall pay to the person from whom the fish were seized an amount equal to the market value of the fish at the time of seizure.

(4) The fish commission shall certify to the Secretary of State the amount required to be paid a person under subsection (3) of this section and the Secretary of State shall audit the claim and draw a warrant on the State Treasurer payable out of the General Fund for the amount so certified payable to the fish commission who shall immediately pay over the money received to the person. There hereby is appropriated from the General Fund in the State Treasury an amount equal to the amounts certified by the fish commission under this section. [1957 c.298 §1]

506.603 Seizure, forfeiture and disposition of boats and equipment used in violation of law or regulations. (1) All boats, nets, traps or other fishing apparatus, implements or gear used in fishing for or taking fish in violation of the commercial fishing laws or the rules or regulations of the Fish Commission of the State of Oregon shall be seized by any member of the Fish Commission of the State of Oregon, the State Fisheries Director, any member of the State Police, or by any other officer charged with the enforcement of the commercial fishing laws, rules or regulations of the state.

(2) Upon the order of the court at the time of passing sentence or for forfeiture of bail for the violation, the property seized under subsection (1) of this section may be forfeited. If forfeited, such property shall be turned over to the Fish Commission of the State of Oregon.

(3) The Fish Commission of the State of Oregon may dispose of such forfeited property in any manner it deems proper, but any moneys derived from the sale of any forfeited boats, nets, traps, fishing apparatus, implements or gear shall be deposited with the State Treasurer to be placed in the General Fund in the State Treasury. [1957 c.298 §2]

506.605 When unnecessary to name place of offense in criminal complaint, information or indictment. In any criminal prosecution under this Act, as defined in ORS 506.020, or under ORS 509.060, 509.105, subsection (4) of 509.990, ORS 511.145, subsection (3) of 511.515, subsection (3) of 511.990 or subsection (7) of 511.995, it is not necessary in the complaint, information or indictment to name the particular river, stream, bay, inlet or other waters of the state if they are unknown to the person signing or filing the complaint or information or to the grand jury returning the indictment, but it is sufficient if it is stated in such cases in the complaint, information or indictment that the particular river, stream, bay, inlet or other waters of the state is to such person or to the grand jury unknown.

506.610 When possession prima facie evidence of taking fish unlawfully. The possession or custody of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish on, near, adjacent to or in the vicinity of any river, stream, bay, inlet or other waters of the state or over which the state has concurrent or other jurisdiction during the closed season thereof or thereon, is prima facie evidence that such fish were unlawfully caught or taken during the closed season on or of such particular river, stream, bay, inlet or other waters. In all cases where such possession or custody by accused persons on, near, adjacent to or in the vicinity of any of such closed waters is proven, the burden of proof is shifted to the persons found having such possession or custody, to establish that the fish were lawfully caught or taken during an open season and from waters from which it was at such time lawful to take or catch such salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish.

506.615 Investigating commercial fish law violations; summoning witnesses. (1) Where the fish commission has been furnished information of the violation of any of the laws for the protection, propagation or preservation of salmon or other food or shell fish, the fish commission, or one specially authorized by it, may proceed to the place where the offense is said to have

been committed and summon and examine under oath witnesses to ascertain the facts and to avoid useless and frivolous indictments or prosecutions.

(2) Witnesses shall be paid by the fish commission at the rate of $3 per day and mileage from their place of residence at the rate of 10 cents per mile one way.

(3) No witness so summoned shall refuse to attend or testify under this section.

506.620 Inspections by director. The fisheries director may enter and inspect all canneries, cold storage houses, packing establishments, business places, boats, nets, wheels, traps and other fishing apparatus, and all property used in the catching and packing of salmon, shad, striped bass, sturgeon or other anadromous, food or shell fish, for the purpose of enforcing the provisions of this Act, as defined in ORS 506.020

506.625 Compelling testimony in fish law enforcement proceedings. In any action or proceeding for the enforcement of any of the provisions of any law affecting fish or game, or in any investigation before a grand jury, district attorney or other officer, or any criminal proceeding, no person shall be excused from testifying concerning any offense committed by another or by himself on the ground that his testimony may incriminate him. However, such testimony shall not be used against him in any prosecution for any crime or misdemeanor under the laws of the state, nor shall he be subjected to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he has been compelled to testify or to produce evidence, documentary or otherwise.

506.630 Disposition of fines. All fines imposed for the violation of any of the laws relating to or regulating commercial fishing and collected in money shall be paid to the treasurer of the county in which the action or proceeding is commenced. The district attorney of the county, upon payment of any judgment, shall satisfy it of record as attorney for the state. One-half of all such moneys shall be paid to the fish commission by such county treasurer within 30 days after he receives the moneys, together with an itemized statement thereof. The fish commission shall deposit these moneys with the State Treasurer to the credit of the General Fund in the State Treasury. The other half of the fine shall be retained by the county treasurer, who shall deposit it in the general fund of the county in which the fine was imposed.

506.635 to 506.985 [Reserved for expansion]

PENALTIES

506.990 Penalties. (1) Violation of any provision of ORS 506.155 to 506.190 and 506.195, or any rule, order or regulation promulgated and adopted by the fish commission in carrying out any provision of ORS 506.155 to 506.190 and 506.195, is punishable, upon conviction, by a fine of not less than $25 nor more than $500, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both. Justice, district and circuit courts have concurrent jurisdiction of any prosecution instituted under authority of this subsection.

(2) Violation of ORS 506.220 is punishable, upon conviction, by a fine of not less than $100.

(3) Violation of subsection (3) of ORS 506.615 is punishable, upon conviction, by a fine of not less than $25 nor more than $50.

(4) Violation of any rule or regulation adopted or promulgated under authority of this Act, as defined in ORS 506.020, is punishable, upon conviction, by a fine of not less than $100 nor more than $500, and costs of such suit or action, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

(5) Unless a specific penalty is provided, violation of any provision of this Act, as defined in ORS 506.020, is punishable, upon conviction, by a fine of not less than $100 nor more than $500, and the costs of the action, or by imprisonment in the county jail not less than 30 days nor more than six months, or both. In case of fine only the violator shall be imprisoned in the county jail until such fine and costs of action are paid, and he shall be credited $2 on such fine and costs for each day of imprisonment.

(6) A person who, after having been convicted within this state of a violation of any provision of this Act, as defined in ORS 506.020, or of any attempt to violate any provision of this Act, as defined in ORS 506.020, subsequently violates any provision

of this Act, as defined in ORS 506.020, is punishable, upon conviction of such subsequent offense, by a fine of not less than $250 nor more than $500, or by imprisonment for not less than 60 days nor more than six months, or both.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel