TITLE 41

GAME FISH AND GAME

Chapter 496. Application, Administration and Enforcement of Game and Fish Laws
497. Licenses and Permits
498. Hunting and Fishing Regulations; Miscellaneous Wildlife Protective Measures
501. Hatcheries, Refuges and Reservations; Shooting Preserves

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Chapter 496

1959 REPLACEMENT PART

Application, Administration and Enforcement of Game and Fish Laws

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GENERAL PROVISIONS

496.005 Definitions ("angle" to "fly"). (1) "Angle" or "angling" means taking or fishing for any fish in any manner involving the use of hook and line.

(2) "Bag limit" means the number or amount of game animals, game birds, game fish and fur-bearing animals which it is legal to kill at any one time during any stated period.

(3) "Closed season" is the time during which it is prohibited by law within the state to hunt, shoot at, pursue, take, kill, injure, molest, destroy or have in possession any game animal, fur-bearing animal, game bird or game fish or any part thereof.

(4) "Common carrier" incudes any railroad company, steamboat company, express company or any licensee of the Public Utility Commissioner, person, firm or corporation who carries or transports or who offers to carry or transport any game or fur-bearing animals or game fish either for or without compensation therefor.

(5) "Fly" or "artificial fly," commonly referred to as a "wet fly" or a "dry fly," as used in this Act, as defined in subsection (2) of ORS 496.025, means a lure used for angling, constructed or manufactured or consisting of either natural or artificial substances attached directly or indirectly to a fish hook so as to resemble a natural insect and designed either to float on the surface of the water or sink below the surface of the water, but does not include any spinner, wobbler or any attractor blade or device.

496.006 Definition of "game animals." As used in ORS chapters 496, 497, 498 and 501, "game animals" means antelope, deer, elk, mountain sheep, mountain goat and silver gray squirrels. [Formerly 497.505]

496.008 Definition of "game bird." As used in ORS chapters 496, 497, 498 and 501, "game bird" means:

(a) Anatidae, commonly known as swans, geese, brant, river and sea duck.

(b) Columbidae, commonly known as pigeons, including doves and wild pigeons.

(c) Gallinae, commonly known as wild turkeys, wild guinea fowl, bobwhite quail, sage hens, grouse, fool hen, prairie chickens, pheasants, partridges and quail.

(d) Guidae, commonly known as cranes, including little brown sandhill and whooping cranes.

(e) Limicolae, commonly known as shore birds, surf birds, snipe, sandpipers, tatlers, curlews, plover, jacksnipe, phalaropes and yellowlegs.

(f) Rallidae, commonly known as rails and coots or mudhens. [1957 c.268 §1]

496.010 Definitions of "game fish." (1) "Game fish" includes any trout mentioned in subsection (4) of ORS 496.025, bass, crappies, perch, catfish and all species of salmon when taken on hook and line, commonly called angling.

(2) "Game fish" means:

(a) Ameiurus melas, commonly known as black bullhead catfish.

(b) Ameiurus natalis, commonly known as yellow bullhead catfish.

(c) Ameiurus nebulosus, commonly known as brown bullhead catfish.

(d) Chaenobryttus coronarius, commonly known as warmouth bass.

(e) Cristivomer namaycush, commonly known as Mackinaw trout or lake trout.

(f) Ictalurus catus, commonly known as white catfish.

(g) Ictalurus lacustris, commonly known as channel catfish.

(h) Lepomis cyanellus, commonly known as green sunfish.

(i) Lepomis gibbosus, commonly known as pumpkinseed sunfish.

(j) Lepomis macrochirus, commonly known as bluegill sunfish.

(k) Micropterus dolomieu, commonly known as smallmouth bass.

(L) Micropterus salmoides, commonly known as largemouth bass.

(m) Oncorhynchus nerka kennerlyi, commonly known as silver trout, yanks or kokanee.

(n) Perca flavescens, commonly known as yellow perch.

(o) Pomoxis annularis, commonly known as white crappie.

(p) Pomoxis nigro-maculatus, commonly known as black crappie.

(q) Prosopium williamsoni, commonly known as whitefish.

(r) Salmo clarki, commonly known as cutthroat trout.

(s) Salmo gairdneri, commonly known as rainbow trout.

(t) Salmo salar, commonly known as Atlantic salmon.

(u) Salmo trutta, commonly known as brown trout or Loch Leven trout.

(v) Salvelinus fontinalis, commonly known as eastern brook trout.

(w) Salvelinus malma spectabilis, commonly known as Dolly Varden trout.

(x) Thymallus signifer, commonly known as grayling.

(y) Chasmistes brevirostris, stomias, copei, commonly known as mullet.

(3) "Game fish," as used in ORS chapters 496, 497, 498 and 501, includes:

(a) 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.

(b) Striped bass in the waters of Coos Bay and Isthmus Inlet, a tributary thereof, southerly of a point from a line connecting 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.

(c) 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.

(d) 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.

(4) "Game fish," as used in ORS 496.185, 496.190, 497.010, 497.020, 497.040, 497.050, 498.030 and 498.095, includes bullfrogs. [Amended by 1953 c.379 §2; 1957 c.250 §1; 1959 c.364 §1]

496.015 Definitions ("gaffing," "snagging" or "foul-hooking," to "hunt" and "hunting"). (1) "Gaffing," "snagging" or "foul-hooking" means the taking of or fishing for any game fish with hook, club, spear or other device which may be used to capture, kill or take any game fish, as defined in ORS 496.010, by wilfully engaging or attempting to engage in, to or with any part of the body of such fish, except that when angling the hook may be engaged in the mouth of the fish.

(2) "Game" includes any wild bird, animal or fish, or carcass or portion thereof, either singly or collectively, mentioned in this Act, as defined in subsection (2) of ORS 496.025, on which there is an open and closed season, including salmon and other food fish when taken with hook and line, commonly called angling.

(3) "Guide" means any person who, for pay, aids or assists any person in locating, pursuing, hunting or killing any of the game birds, animals or fish mentioned in this Act, as defined in subsection (2) of ORS 496.025, or engages in the business of packing for another person engaged in hunting or fishing, or, for pay, accompanies another person as guide or packer on hunting or fishing trips.

(4) "Hook" or "fishhook" means an implement to catch or hold fish. "Single hook" means any hook with one point and with or without a barb, with one shank and one point of attachment. "Double hook" means any hook with two points and with or without barbs, with one point of attachment. "Triple" or "treble hook" means any hook with three points and with or without barbs, with one point of attachment. "Snag" or "gaff" hooks are hooks with or without handles used to take fish.

(5) "Hunt" and "hunting" include pursuing, shooting at, killing or trapping or capturing any wild animals or wild birds and lesser acts, such as disturbing, harrying, worrying, molesting, taking or using a gun, dog, trap or like method, commonly employed to take any wild animals or wild birds, whether this results in taking or not, and every attempt to take and act of assistance of any other person to take or attempt to take such animal or bird. [Amended by 1959 c.578 §1]

496.020 Definitions ("inclosed" land to "possession"). (1) The boundaries of "inclosed" land may be indicated by wire, ditch, hedge, fence, water or by any visible or distinctive lines that indicate a separation from the surrounding or contiguous territory, and shall include the established and posted boundaries of Indian reservations within the State of Oregon, which boundaries are established and designated by treaties of the United States of America and the various Indian tribes.

(2) "Nonresident" means any person who has not resided in this state for a period of at least six months immediately

before making application for hunting, angling, trapping or guide's license.

(3) "Open season" is the time during which any game animal, fur-bearing animal, game bird or game fish may be taken within the state, under such restrictions and regulations as may be provided by law for the killing or taking thereof.

(4) "Possession" means that if there are any persons, any of whom, who aid or abet with the knowledge and consent of the rest, or any person who aids or abets any other person who has any game bird, nongame bird, game animal, fur-bearing animal, fish, or any parts thereof, in custody or possession, it shall be deemed to be in the custody and possession of each and all of them. [Amended by 1957 c.55 §1; 1957 c.471 §1]

496.025 Definitions ("storage" to "trout"). (1) "Storage" means the keeping or storage in the state of any game birds, game animals or game fish in any warehouse, refrigerating room or other public place.

(2) As used in ORS chapters 496, 497 and 498, "this Act" means ORS 166.620, 449.110, 449.115, 496.005, subsection (1) of 496.010, ORS 496.015 to 496.030, 496.250, 496.310, 496.315, 496.620, subsection (2) of 496.625, ORS 496.630, 496.680, 496.690, 496.695,496.715, 497.090, 497.110 to 497.140, 497.220 to 497.260, 497.280, 497.290, 497.440, 497.450, 497.470, 497.740 to 497.800, 497.820, 497.830, 498.005 to 498.025, 498.027, 498.045 to 498.085, 498.100, 498.105, 498.115 to 498.125, 498.140, 498.205 to 498.215, 498.510 to 498.525, 498.535, 498.565 to 498.575, 498.585, 498.605, 498.615, 498.625, 498.640, 498.730 to 498.745, 501.010 to 501.060, 501.210 to 501.260, 501.290, 501.620 and 610.295.

(3) "Trap" or "trapping" includes the use of any trap, net, snare or deadfall used for the purpose of killing, or attempting to kill, capture, trap, net or ensnare any game animal, fur-bearing animal, game bird, nongame bird or game fish, whether this results in taking or not, and any kind of attempt of assistance of any other person to take or attempt to take by such methods.

(4) "Trout" includes any speckled trout, brook trout, cutthroat trout, Dolly Varden trout, brown trout, rainbow trout, mountain trout, black-spotted trout, land-locked salmon, lake trout and charr, steelhead trout, any other variety and species of trout and any species of salmon under 15 inches in length.

496.030 Effect of commercial fish laws on game fishing laws. Nothing in the laws relating to commercial fish renders lawful the taking of game fish in any manner declared by the laws relating to game to be unlawful.

496.035 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. The Attorney General shall render an opinion on the matter in dispute within 30 days after presentation of the matter in dispute by both commissions or their authorized representatives. In case a dispute or conflict of authority arises the commission raising the issue shall notify in writing the other commission of its intention to apply to the Attorney General to arbitrate the dispute or conflict.

496.040 Proclamation by Governor prohibiting hunting because of excessive fire danger. (1) Whenever it appears to the Governor that the hunting of any game bird or game animal in this state during any open season prescribed by law or by rule or regulation of the State Game Commission, or any authorized representative thereof, is liable to result in an excessive fire danger in this state, then the Governor may, by proclamation stating the existence of such possible excessive fire danger, declare that the open season for such game bird or game animal is suspended and that the hunting thereof in this state is prohibited.

(2) The proclamation provided for in subsection (1) of this section shall, so long as it is in effect as provided in ORS 496.045, control over and supersede any law or any rule or regulation of the State Game Commission, or any authorized representative thereof, declaring an open season on the hunting of said game bird or game animal in this state. [1953 c.184 §1]

496.045 Period for which proclamation may be effective. (1) The proclamation provided for in ORS 496.040 may be effective for:

(a) A specified period of time; or

(b) An indeterminate period of time, which shall be terminated by proclamation

of the Governor when it appears to the Governor that the possible excessive fire danger no longer exists.

(2) The proclamation provided for in ORS 496.040 shall either state the specific period for which it is effective or that it is effective for an indeterminate period. [1953 c.184 §2]

496.050 to 496.100 [Reserved for expansion]

STATE GAME COMMISSION; STATE GAME DIRECTOR; POWERS AND DUTIES GENERALLY

496.105 State Game Commission; creation and membership. (1) There is created a State Game Commission, which shall consist of five members appointed by the Governor, one to serve one year, one to serve two years, one to serve three years, one to serve four years and one to serve five years, their successors to be appointed by the Governor at the expiration of their respective terms of office to serve for a period of five years.

(2) Thereafter each member of the game commission shall be appointed for a term ending five years from the date of the expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of such terms shall be appointed for the remainder of the term.

(3) Two of the members of the game commission shall be selected from that portion of the state lying west of the Cascade Mountains and comprising the territory included in the counties of Clatsop, Columbia, Tillamook, Washington, Benton, Yamhill, Multnomah, Clackamas, Lincoln, Polk, Marion, Lane, Linn, Douglas, Coos, Curry, Josephine and Jackson; two from that territory lying east of the Cascade Mountains and comprising the territory included in the counties of Sherman, Grant, Wasco, Crook, Klamath, Lake, Wheeler, Gilliam, Hood River, Morrow, Umatilla, Wallowa, Union, Baker, Malheur, Harney, Jefferson and Deschutes, and one from the state at large.

496.110 Qualifications of commission members. The members of the game commission shall be citizens of the state who are well informed on the principles of wildlife restoration and conservation and the correlation of this resource with industry, agriculture and other natural resources.

496.115 Removal of commission members. The Governor may remove any member of the game commission for inefficiency, neglect of duty or misconduct in office. The Governor shall give the member a copy of the charges against him and an opportunity of being publicly heard in person, or by counsel, in his own defense, upon not less than 15 days' notice. If the member is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member, and his findings thereon, together with a complete record of the proceedings.

496.120 Compensation and expenses of commission members. Members of the game 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, or in traveling to and from, the meetings of the commission, or in the execution of their duties as members of the commission; provided, that in no instance shall any member receive as per diem a sum in excess of $600 in any one fiscal year. The members shall also be reimbursed for actual and necessary travel and other expenses incurred in the performance of their duties.

496.125 Majority of commission to transact business. A majority of the members of the game commission constitutes a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the game commission.

496.130 Commission meetings. (1) The members of the game commission shall meet within 30 days after July 16, 1949, and organize by the election from the members of a chairman who shall serve for the calendar year for which he is elected.

(2) The game commission shall meet regularly once every three months at the office of the game commission, and may meet at such other times and places as may be specified by call of the chairman or the Governor.

(3) The game commission shall hold not less than two stated meetings in each year at its usual place of meeting. One of these meetings shall be held on the second Friday in January and the other or others shall be held between May 15 and August 31, inclusive. Each of these meetings shall convene

at 10 a.m. and shall be open to the public. [Amended by 1959 c.371 §1]

496.135 State Game Director; appointment, qualifications, bond, compensation, expenses and oath. The game commission shall appoint a State Game Director, who shall:

(1) Be a man with knowledge of, and experience in the requirements for the protection, conservation and restoration of the wildlife resources of this state.

(2) Give bond for the faithful performance of his duties in such form as the game commission may approve and in an amount not less than $40,000. The premium on the bond shall be paid out of the State Game Fund.

(3) Receive such compensation as the game commission may determine and also be reimbursed for actual and necessary travel and other expenses incurred in the performance of his duties.

(4) Before entering upon the duties of his office, take and subscribe to the constitutional oath of office and, in addition thereto, swear or affirm that he holds no other public office nor any position under any political committee or party. Such oath or affirmation shall be filed in the office of the Secretary of State.

496.140 Removal of director. The game commission may remove the game director for cause, and shall give him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than 15 days' notice.

496.145 General powers and duties of director. (1) The game director shall:

(a) Devote his entire time to his office.

(b) Be the administrative officer of the game commission.

(c) Have and exercise all powers and duties conferred by law upon the State Game Supervisor.

(d) Establish such departments or divisions as are necessary to properly carry out the work designated by the game commission.

(e) Have direct supervision and control of all employes, functions and activities of the game department.

(f) Direct the improvement and protection of state wildlife resources.

(g) Collect data relative to wildlife conditions.

(h) Cooperate with landowners, counties and others in wildlife protection.

(i) Advise and encourage preservation of wildlife resources.

(j) Authorize such scientific, biological or other studies which he deems necessary to the work of the game department.

(k) Collect and classify such statistics, data and information as in his discretion will tend to promote the objects of ORS 496.105 to 496.125, subsections (1) and (2) of 496.130, ORS 496.135 to 496.145, subsections (1) and (2) of 496.160, ORS 496.165, 496.170, 496.305, 496.320 to 496.330, 496.405, 496.415 and 496.505.

(L) Appoint or employ such personnel as may be necessary for the proper management of the fish and wildlife resources of this state.

(m) Fix the duties of the employes of the game commission.

(2) The game director may, in times of emergency, exercise the full powers of the game commission, until such time as the emergency ends or the game commission meets in formal session.

496.150 Annual report of director. The game director shall annually make a report to the game commission of the operations of the departments during the preceding year. The game commission shall annually transmit such report to the Secretary of State. The report shall be one of the permanent records in the office of the Secretary of State.

496.155 Fixing and paying salaries of commission employes; bond of payroll officer. (1) The salaries of all employes of the game commission shall be fixed by the game commission, and shall be paid as follows:

(a) At the end of each month the game director shall cause a payroll to be made and forwarded to the Secretary of State, showing the names of each regularly employed person with the rate of salary or wages, the capacity in which such persons are employed and the amount which shall be paid from the State Game Fund.

(b) Such payroll shall be verified by the game director and approved by a majority of the game commission.

(c) The Secretary of State shall audit the payroll and draw a warrant on the State Treasurer for the aggregate amount allowed thereon, in favor of the game director.

(d) The game director shall deposit the warrant in a reputable bank and immediately pay over the moneys received thereon to the several parties entitled thereto, taking receipts therefor. The receipts shall be transmitted to the Secretary of State.

(2) Before the game director forwards a payroll or receives from the Secretary of State a warrant issued thereon, he shall file in the office of the Secretary of State a bond as provided in ORS 292.040.

496.160 General powers of commission. (1) The game commission has:

(a) Full power and authority to formulate the general policies and programs of the state respecting the management, which, for the purposes of ORS 496.320 to 496.330, 496.415 and 496.505 includes protection, preservation, propagation and promotion of game fish, game animals, fur-bearing animals, other than domestic fur-bearing animals, game birds and nongame birds, other than domestic birds and fowls, within this state.

(b) Such further general powers as are necessary to carry out the provisions, purposes and objectives of the statutes listed in paragraph (k) of subsection (1) of ORS 496.145.

(2) The powers set forth in subsection (1) of this section are at all times subject to the law and to the rules and regulations of the Department of Finance and Administration in the purchase and disposal of property other than real property.

(3) The game commission has such other powers necessary to fully carry out the purposes and intent of all laws pertaining to hunting, angling and trapping and game propagation, distribution, protection and promotion.

(4) The game commission may make and declare such rules and regulations, and appoint such officers and employes as it deems necessary in the administration of its duties.

496.165 Limitation on power of commission. Nothing in the statutes listed in paragraph (k) of subsection (1) of ORS 496.145 authorizes the game commission to change any penalty prescribed by law for a violation of its provisions, to change the amount of license fees or to alter the privileges conferred by law upon the licensee.

496.170 Commission to regulate taking of game; times, places, methods, seasons, bag limits, refuges. The game commission shall, through the game director, make adequate investigation regarding the supply of game fish, game animals, fur-bearing animals, game birds and nongame birds of this state and thereupon shall, by appropriate rules and regulations:

(1) Prescribe the time, place, method or means by which game fish, game animals, fur-bearing animals, game birds and nongame birds may be taken, fix seasons and bag limits, open and close seasons on any species of game in any specified locality or the entire state, when it finds after adequate investigation that such action is necessary to assure maintenance of an adequate supply thereof.

(2) Open or close streams or lakes or any designated part thereof to hunting, trapping or fishing.

(3) Establish or abolish, and open or close to hunting, trapping or fishing, game refuges on public or private lands; provided that, before the refuges may be established on private lands, the consent of the landowner must be first obtained.

496.175 Regulation of tagging and sealing. The game commission may enact and promulgate such tagging and sealing regulations as in its judgment are necessary or expedient to the proper enforcement of any of the statutes or regulations relating to game fish, game birds, game animals and fur-bearing animals, as defined in subsection (6) of ORS 497.730, except domestic mink, or to obtaining information for management of such fish, birds and animals. The game commission may regulate the procedure, manner and time of such tagging and sealing.

496.180 Regulation requiring licensees to keep record and make reports. The game commission may adopt rules and regulations requiring records to be kept and reports to be made by licensees concerning the time, manner and place of taking any game animals, game birds, game fish and fur-bearing animals, the quantities taken and such other information as may be helpful in enforcing the rules and regulations of the game commission. Such rules and regulations may:

(1) Prescribe the form of such records and reports.

(2) Require licensees to keep such records correct while hunting, fishing or trapping and to display the same.

(3) Authorize the game director to prepare and distribute such records and report forms to licensees.

496.185 Propagation of game fish; introduction of new species of fish, birds and animals. (1) The game commission may propagate and stock the various waters of this state with game fish, steelhead and salmon.

(2) The game commission may at any time introduce any new species of game fish, wild birds or wild animals. Thereafter it is unlawful at any time or at any place within the state for any person to hunt, trap, pursue or kill any wild birds or wild animals of the species so introduced or to take, catch or angle for any game fish of the species so introduced until such time as the game commission, by appropriate regulation, authorizes the same.

496.190 Procedure at January meeting of commission. At its stated meeting in January of each year, the game commission shall hold a hearing to find and determine what game fish may be taken, caught or angled for and of what species or kinds, in what numbers, quantities or bag limits, at what places, in what manner and at what seasons or times as will not affect injuriously the supply thereof. The meeting may be adjourned from time to time but not later than the last day of said month of January in which it is held. After the hearing the commission shall make written findings setting forth the species, kinds, numbers, quantities and bag limits of game fish that may be taken, caught or angled for and in what places, in what manner and at what seasons and times so as not to affect injuriously the supply thereof.

496.195 Procedure at other meetings of commission. At its stated meeting or meetings between May 15 and August 31, inclusive, of each year, the game commission shall hold a hearing or hearings to find and determine what wild animals or wild birds may be hunted, trapped, pursued or killed with a gun, bow and arrow or other means or devices and of what species, kinds and sex, in what numbers, quantities or bag limits, in what places, in what manner and at what seasons or times as will not affect injuriously the supply thereof. The meetings may be adjourned from time to time but not later than the last day of August. After the hearing or hearings the game commission shall make written findings setting forth the species, kinds, sex, numbers, quantities and bag limits of wild animals and wild birds that may be hunted, trapped, pursued or killed and in what places, in what manner and at what seasons and times so as not to affect injuriously the supply thereof [Amended by 1959 c.371 §2]

496.200 Disposition of commission findings made at meetings. The written findings mentioned in ORS 496.190 and 496.195 shall be recorded in the minutes of the game commission. A copy of the findings, certified to be such by one or more members of the game commission, shall be filed in the office of the Secretary of State within 15 days after the date of the stated meeting, or adjournment thereof, at which they are made.

496.205 Hearing to modify commission findings. Whenever in the judgment of the game commission it is for the best interests of the state, the commission may hold a hearing for the purpose of modifying the findings made under ORS 496.190 or 496.195 after publishing a notice of the hearing at least two weeks prior to the date thereof, in at least two issues of two newspapers of general circulation throughout the state published in Portland; except that in the case of a hearing to consider changes in regulations pertaining to taking of big game animals, such as deer, elk or antelope, the hearing may be held after publishing a notice 48 hours prior to the date thereof in two newspapers of general circulation in the state published in Portland. The provisions of ORS 496.215 to 496.225 and 501.300 are not affected by this section.

496.210 Disposition of order modifying commission findings. Any order adopted modifying or changing findings previously adopted by the game commission, shall be recorded in the minutes of the commission. A copy of the order, certified to be such by one or more members of the commission, shall be filed in the office of the Secretary of State promptly after it is adopted and it shall become effective as of the date filed with the Secretary of State. The order also shall be published in at least two issues of two newspapers of general circulation throughout the state published in Portland, and in at least two issues of a newspaper of general circulation published in the counties in which the areas affected by the order are located. The provisions of ORS 496.215 to 496.225 and 501.300 are not affected by this section.

496.215 Emergency closing of areas to hunting and angling to protect game. The

game commission, whenever it deems such action necessary to the preservation or protection of any game fish, animals or birds of this state by reason of any act of God or other sudden or unexpected emergency, shall by written order declare the existence and cause of such necessity, describe or designate all affected areas or streams and close the same to hunting or angling or impose such restrictions and conditions upon hunting or angling therein as it deems necessary. Every such order shall:

(1) Become immediately effective upon its adoption.

(2) Be rescinded by further order of the game commission as soon as it deems the necessity therefor has ceased to exist.

(3) Remain in full force and effect until so rescinded.

496.220 Emergency closing of seasons and areas to hunting and fishing to preserve public peace, health and safety. (1) Notwithstanding the provisions of subsection (3) of ORS 496.130, ORS 496.190 to 496.210 and 498.030, the game commission may close any hunting or fishing season or any stream or area to hunting or fishing by a written order that an extreme emergency exists and that a closure is necessary to preserve the public peace, health and safety. This order shall be effective at 12:01 a. m., on the fifth day after the same is made.

(2) The game commission shall give notice of such closure in two newspapers of general circulation in the state on at least three successive days immediately after the making of the order.

(3) Upon a written finding that the emergency has ceased to exist and that an opening of the season will not interfere with the public peace, health and safety, the commission may rescind the order closing the season or closing any stream or area to hunting or fishing. The rescinding order shall be effective immediately upon its adoption.

496.225 Additional open season to compensate for emergency closure order. If at the time of rescinding an emergency closure order the game commission finds that an open season in the affected area would not be detrimental to the conservation of wild life, it may extend the existing open season, or if the open season by its terms has expired it may designate an open season, but in either event for a period not to exceed the period of the emergency closure.

496.230 Emergency open seasons on game animals. (1) As used in this section "game animals" means antelope, deer or elk.

(2) To alleviate acute game animal damage problems on cultivated agricultural lands the game commission may at any time make regulations declaring emergency open seasons on game animals in areas designated by the commission. No area in which an open season is declared under this section shall exceed one township in size. If an emergency open season on game animals is declared, the commission:

(a) Shall establish the time during which such emergency open season shall exist.

(b) Shall establish the manner of taking game animals during the emergency open season.

(c) Shall designate the type and number of game animals that may be taken in the designated area during any emergency open season; but the total number of any one type of game animal taken in an area during one emergency open season shall not exceed 75.

(d) Shall establish the number of persons to hunt game animals in an area during an emergency open season and shall require that all persons who do so hunt game animals obtain a permit or tag from the commission.

(e) Shall, in a manner as fair and uniformly applicable throughout the state as possible, designate the persons eligible to hunt during a specified emergency open season.

(f) May fix the fee, at not to exceed $10, for the permit or tag to be issued under paragraph (d) of this subsection. [1957 c.119 §2]

496.235 Establishment of juvenile fishing areas. The game commission may, in its discretion and under such rules and regulations as it deems necessary and expedient, create, establish and set aside in any of the public waters of the state, juvenile fishing areas confined to the taking, catching or angling for fish by persons under 14 years of age. No right incident to the ownership of real property shall be affected by this section.

496.240 Hearing and findings on juvenile fishing areas. The game commission may, at any of its stated meetings in January and between May 15 and August 31, inclusive, hold a hearing to find and determine what, if any, juvenile fishing areas may be created,

established and set aside, what species of fish may be taken, caught or angled for, in what numbers, quantities or bag limits, in what manner and at what seasons or times as will not affect injuriously the supply thereof. After the hearing the commission, if it creates any juvenile fishing areas, shall make written findings setting forth and describing and designating the areas, the species, kinds, numbers, quantities and bag limits of fish that may be taken, caught or angled for, in what manner, and at what seasons and times so as not to affect injuriously the supply thereof. [Amended by 1959 c.371 §3]

496.245 Disposition of juvenile fishing area findings. The written findings mentioned in ORS 496.240 shall be recorded in the minutes of the game commission. A copy of the findings, certified to be such by one or more members of the commission, shall be filed in the office of the Secretary of State within 15 days after the stated meeting, or adjournment thereof, at which they are made.

496.250 Application for Attorney General opinion. The game commission may apply to the Attorney General for his official opinion upon any question touching the construction and interpretation of the statutes and the duties and rights of the game commission.

496.255 to 496.300 [Reserved for expansion]

GAME MONEYS; RECEIPTS AND EXPENDITURES; GIFTS

496.305 State Game Fund account. Except as provided in ORS 496.345, all receipts by the game commission shall be deposited in the General Fund in the State Treasury to the credit of an account to be known as the State Game Fund, which is appropriated for the purposes of the statutes listed in paragraph (k) of subsection (1) of ORS 496.145, and for such other purposes as the game commission may within the purview of such statutes be authorized to expend funds. [Amended by 1959 c.692 §6]

Note: The 1959 amendments to ORS 496.305, 496.310, 496.315, 496.320 and 496.630 take effect on January 1, 1960. Until then, these sections as compiled in the 1957 Replacement Part remain in effect.

496.310 Commission to deposit receipts in bank; security for deposit; interest on deposit. (1) Except as provided in ORS 496.345, the game commission shall deposit the license moneys mentioned in ORS 497.450 and all other moneys received by it with a national bank or other bank doing business in this state.

(2) The game commission shall require such bank to keep such funds and the accrued interest thereon fully secured in the same manner that the public funds in the custody of the State Treasurer are by law required to be secured. The market value of the securities shall at all times equal or exceed the full amount of the deposit and the accrued interest thereon. Surety bonds accepted as security for the fund shall run to the State of Oregon and shall be approved as to form by the Attorney General. All such bonds or securities received by the game commission shall be placed in the custody of the State Treasurer.

(3) Interest at the same rate as is paid on inactive deposits of the public funds of this state shall be paid by the depository at the beginning of each month to the game commission. The interest payments shall be accompanied by statements from the depository showing the daily balances to the credit of the account. [Amended by 1959 c.692 §7]

Note: See note under ORS 496.305.

496.315 Commission to pay receipts to treasurer; crediting game fund account. At least once each month the game commission shall pay to the State Treasurer all of the moneys mentioned in ORS 496.310, except moneys deposited as provided under ORS 496.345, and except such as may be required as a revolving fund for payroll and emergency expenses. The State Treasurer shall credit the payments to the State Game Fund. [Amended by 1959 c.692 §8]

Note: See note under ORS 496.305.

496.320 Power of commission to expend moneys. Except as provided under ORS 496.345, the game commission has exclusive power to expend for the management of game fish, game animals, fur-bearing animals, game birds and nongame birds, all funds of the state acquired for the management of game fish, game animals, fur-bearing animals, game birds and nongame birds, arising from state appropriations, licenses, gifts or otherwise. [Amended by 1959 c.692 §9]

Note: See note under ORS 496.305.

496.325 Uses of game fund. (1) The game commission may use so much of the State Game Fund as is necessary for:

(a) The acquisition of lands, water rights,

waters, roads, lanes, pathways, riparian rights, easements and other property.

(b) The construction, maintenance, operation and repair of game fish hatcheries, game farms and other property.

(c) Providing access to and making available to the public game fish, game birds, game animals and land or waters used by them, by means of roads, pathways, lanes, easements and other lands, shores and waters as in the judgment of the commission is wise and necessary.

(d) Other means and appliances for the management of game fish, game animals, fur-bearing animals, game birds and nongame birds in the state.

(2) The game commission may expend state game funds for biological research work and for the collection, preservation and diffusion of such facts, statistics and information as are germane to the purpose of the statutes listed in paragraph (k) of subsection (1) of ORS 496.145.

496.330 Acceptance and use of gifts. The game commission may accept gifts of money, lands or other property and use the same for the management of game fish, game animals, fur-bearing animals, game birds and nongame birds in the state, or, according to the terms, conditions and limitations of the gifts, in exchange or otherwise for the acquisition of other lands, waters, rights and other property authorized by ORS 496.325.

496.335 Manner of paying certain commission expenses. All expenses incurred under ORS 496.035, 496.150, 496.155, subsections (3) and (4) of 496.160, ORS 496.250, subsection (1) of 496.625, ORS 496.635 to 496.675, 496.685, 496.700, 496.705, 498.625 and 498.630 shall, unless otherwise provided, upon presentation of verified accounts by the proper officers empowered to enforce such statutes and duly approved by a majority of the game commission, be audited by the Secretary of State, who shall draw warrants in payment thereon upon the State Treasurer for the amounts specified in the accounts.

496.340 Payments to counties for loss of revenue from certain real property of game commission. (1) Except as provided in subsection (2) of this section, whenever real property administered by the game commission pursuant to ORS chapters 496 or 501 is exempt from taxation on July 1 of any year by reason of its ownership by the state or any of its agencies, the game commission shall pay to the county in which the property is situated an amount equal to the ad valorem taxes which would have been levied against the property if it had been assessed to a taxable owner as of January 1 of such year.

(2) This section does not apply to real property used for bird farms, fish hatcheries or office quarters of the game commission, to capital improvements to the real property made by the game commission or to real property acquired by the state in the Camp Adair, Camp White and Fort Stevens military reservations prior to August 3, 1955.

(3) The amount prescribed in subsection (1) of this section shall be determined annually by the assessor of the county in which the property is situated and certified by him to the county court or the board of county commissioners. A notice of the determination, signed by the county judge or the chairman of the board of county commissioners, shall be mailed to the principal office of the game commission not later than October 15. The notice shall contain a statement of the value of the property and a complete explanation of the method used in computing the amount claimed pursuant to subsection (1) of this section. Upon request of the game commission, the State Tax Commission shall review the determination and shall redetermine the amount due if in its judgment the amount claimed by the county is substantially incorrect. Not later than November 15, the game commission shall pay each amount as originally determined or as redetermined by the tax commission, less a discount equivalent to that which is provided in ORS 311.505. Payment shall be made to the county treasurer who shall apportion the payment among the several taxing bodies in which the exempt property is situated in accordance with their respective millages for the current year.

(4) Notwithstanding the provisions of ORS 496.305 and 496.325, there is appropriated annually from the moneys in the State Game Fund in the State Treasury such amounts as are necessary for the purpose of making the payments to counties required by this section. [Amended by 1955 c.729 §1]

496.345 Salmon Research Account. All moneys received by the game commission

from the issuance of salmon anglers' licenses described in ORS 497.100, shall be deposited in the General Fund in the State Treasury to the credit of an account to be known as the Salmon Research Account, which account hereby is created. Subject to the provisions of ORS 291.232 to 291.260, the moneys in the Salmon Research Account are continuously appropriated to the Game Commission of the State of Oregon, for the purpose of management and research by that commission or under contract with the Oregon Fish Commission or other qualified agencies, in matters relating to the salmon and steelhead trout described in ORS 497.100 [1959 c.692 §5]

Note: ORS 496.345 takes effect January 1, 1960.

496.350 to 496.400 [Reserved for expansion]

ACQUISITION AND DISPOSAL OF REAL PROPERTY

496.405 Acquisition of lands and waters for specified purposes. The game commission has full power and authority to acquire by purchase, lease, agreement or gift, and to develop, maintain and operate suitable lands or waters for the following purposes:

(1) For fish hatcheries, nursery ponds or game farms.

(2) For the restoration, propagation or protection of game.

(3) For public hunting, fishing or trapping areas.

(4) For capturing, propagating, transporting, buying, selling or exchanging any species of game fish, game animal, furbearing animal, game bird or nongame bird needed for propagation or stocking purposes, or to exercise control of undesirable species of game fish, game animal, furbearing animal, game bird or nongame bird.

496.410 Acquisition and control of public hunting grounds. The game commission may:

(1) Acquire by purchase, lease, gift, exercise of eminent domain or otherwise, the title to real property in this state and thereon establish, maintain, operate and administer public hunting grounds and waters.

(2) Charge and collect fees for hunting and fishing on such public hunting grounds and waters, all moneys so received to become a part of the State Game Fund.

(3) Make and enforce all rules and regulations governing the use of such public hunting grounds and waters that by the commission are deemed necessary or proper.

496.415 Condemnation and disposal of real property. The game commission has full power and authority to condemn and dispose of all real property owned by the state and used for the management of game fish, game animals, fur-bearing animals, game birds and nongame birds, 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 State Game Fund.

496.420 Disposition of Government Island, Lemmon Island and McGuire Island restricted. Notwithstanding ORS 496.415, the State Game Commission shall not sell or otherwise dispose of any of its interest in the islands in Multnomah County lying between the north channel and the south channel of the Columbia River, known as Government Island, Lemmon Island and McGuire Island, to any person or entity other than the United States, the State of Oregon, or a political subdivision of the State of Oregon, or an instrumentality of the United States, the State of Oregon or a political subdivision of the State of Oregon. [1959 c.146 §1]

496.425 to 496.500 [Reserved for expansion]

WILDLIFE COOPERATION; FEDERAL WILDLIFE AID

496.505 Cooperative wildlife agreements. The game commission may:

(1) Enter into cooperative agreements with educational institutions, other departments, agencies or individuals of this state, other states or of the Federal Government, to promote and encourage wildlife research and train personnel for wildlife research.

(2) Enter into cooperative agreements with departments, agencies or individuals of this state, the Federal Government, other states, municipalities, corporations, associations, individual landowners or organized groups of landowners for the development and encouragement of game management and development projects.

496.510 Assent to federal wildlife-restoration statute; duty of commission with regard thereto. The State of Oregon

assents to the Act of Congress entitled, "An Act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937, Public No. 415, 75th Congress (50 Stat. 917, 16 U.S.C.A. § 669). The game commission shall perform such acts as may be necessary to the conduct and establishment of cooperative wildlife-restoration projects, as defined in said Act of Congress, in compliance with said Act and with rules and regulations promulgated by the Secretary of the Interior thereunder.

496.515 Federal wildlife aid; powers of commission with regard thereto. The game 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 game in this state or concerning any federal project wherein the conservation and preservation of such fish or game are involved.

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

496.520 Disposition of federal wildlife aid moneys. Any funds accepted pursuant to ORS 496.515 by the game 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 Game Commission Federal Aid Fund. Such funds are appropriated for the purposes of ORS 496.515 and shall not be expended for any other purpose than that for which contributed.

496.525 Federal fish restoration and management aid; powers of commission with regard thereto. (1) The State of Oregon assents to the provisions of the Act of Congress entitled, "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, Public Law No. 681, 81st Congress (64 Stat. 430, 16 U.S.C.A. § 777).

(2) The game commission shall perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in said Act of Congress, in compliance with said Act and rules and regulations promulgated thereunder by the Secretary of the Interior.

496.530 to 496.600 [Reserved for expansion]

GAME LAW ENFORCEMENT AND ENFORCEMENT OFFICERS

496.605 Enforcement of game laws by game wardens, fisheries director, fish wardens and peace officers. Any deputy game warden, the State 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 496, 497, 498 and 501.

496.610 State police to enforce fish and game criminal laws; enforcement expense paid from game fund. (1) The Department of State Police shall employ a sufficient number of state police to perform the duties required of game wardens in the various parts of the state, in the enforcement of criminal laws relating to fish and game.

(2) The services and expenses of the Department of State Police incurred in the enforcement of criminal laws relating to fish and game shall be paid from the funds of the state acquired for the protection, preservation or propagation of game fish and game arising from state appropriations, licenses, gifts or otherwise, which are paid into the State Treasury for deposit in the General Fund and credited to the State Game Fund account, as provided by ORS 496.305.

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

496.615 Deputy game wardens to supplement state police. The game commission, with the approval of the Governor and Superintendent of State Police, may employ such persons, to be known as deputy game wardens, as they deem necessary or expedient. The services and expenses of these deputy game wardens are payable out of the moneys paid into the State Treasury for deposit in the General Fund to the credit of the State Game Fund account, as provided by law. It is the intention of this

section and ORS 496.610 that the game commission employ only such game wardens as agreed upon between the game commission, the Governor and the Superintendent of State Police, and that the duties of law enforcement formerly vested in game wardens, so far as is economical and practicable, be performed by the Department of State Police.

496.620 Nonliability of game law enforcement officers. (1) No game warden or member, employe or duly authorized representative of the game commission, charged with the enforcement of any of the provisions of this Act, as defined in subsection (2) of ORS 496.025, shall suffer any civil liability for the enforcement or attempted enforcement of any provisions of the laws for the protection, propagation and promotion of fish and game or for the exercise or attempted exercise of any of the duties or privileges granted to or imposed by law upon the game commission or such officers.

(2) As used in this section, "protection" means not only policing and patrolling, but shall be taken in its broader sense, also, to mean educational, scientific and other work which may be effective in interesting and encouraging people for the better conservation of the wild birds, animals and fish of the state.

496.625 District attorneys to prosecute game law violations. (1) District attorneys shall prosecute every case in which it appears that any of the laws for the protection of wild animals, birds or game fish have been violated. When directed to do so by the game commission, such attorneys shall prosecute every case brought before them by the game commission or other officer charged with enforcement of the laws for the protection of wild animals, birds or game fish.

(2) District attorneys, within their respective districts, shall prosecute, in their respective districts, on information and complaint of the game commission or game director, any person violating any of the provisions of this Act, as defined in subsection (2) of ORS 496.025.

496.630 Jurisdiction of courts of game law violations; commencement of prosecutions. (1) Unless otherwise specifically provided, justice courts and district courts have concurrent jurisdiction in the first instance with the circuit court of all offenses under this Act, as defined in subsection (2) of ORS 496.025, and of all offenses under ORS 496.185, 497.010 to 497.060, 497.100, 497.210, 497.510 to 497.550, 497.610 to 497.640, 497.730, 498.030, 498.095, 498.530, 498.635, 498.645, 498.650, subsection (2) of 498.992 and subsection (2) of 498.994.

(2) Any action or proceeding under this Act, as defined in subsection (2) of ORS 496.025, shall be commenced on order of the game commission, the game director or other person authorized to enforce the game laws, or by any district or prosecuting attorney, in the county in which the offense is alleged to have been committed. [Amended by 1959 c.352 §1; 1959 c.692 §10]

Note: See note under ORS 496.305.

496.635 Payment of rewards. The game commission may offer and authorize payment of rewards, to be paid from the State Game Fund, for the arrest and conviction of any person who has violated any of the laws of the state for the protection of any of the animals, birds or fish of the state; provided, that no reward of more than $100 shall be offered or paid for any one arrest or conviction.

496.640 Service of process by game law enforcement officers. The officers mentioned in ORS 496.645 have all powers and rights of a peace officer in serving warrants, subpenas or other legal process in the enforcement of laws for the protection of game animals, fur-bearing animals, game fish, game birds and nongame birds of the state.

496.645 Arrest without warrant of game law violators; trial. Any member of the game commission, the game director, any state police officer, sheriff, deputy sheriff, constable, United States forest supervisor, ranger or guard may, without warrant, arrest any person violating any of the laws of this state for the protection or propagation of game animals, fur-bearing animals, game fish, game birds or nongame birds, 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 proofs.

496.650 Issuance of summons to game law violator. (1) Should any person making an arrest mentioned in ORS 496.645 for the violation of the game or fishing laws desire not to forthwith take the person arrested before the justice of the peace or judge

having jurisdiction or desire not to immediately take the arrested person into custody, the person making the arrest may issue a summons to the person arrested. The summons shall direct the arrested person to appear at the justice court or other court having jurisdiction named in the summons, to answer a complaint to be therein filed charging the arrested person with a violation of the game laws. The violation shall be noted on the summons, which shall be dated and signed by the person making the arrest.

(2) It is unlawful for any person receiving the summons mentioned in subsection (1) of this section not to appear on the day named and at the hour specified.

496.655 Seizure upon arrest and issuance of summons. The person making an arrest mentioned in ORS 496.645 may at the time thereof seize as evidence only the firearms of the arrested person, his dogs, his boat and other equipment used in the violation or attempted violation for which the summons is issued.

496.660 Search by game law enforcement officers; institution of proceedings. (1) The officers mentioned in ORS 496.645 may search any person, and examine any boat, automobile, conveyance, vehicle, game bag, game coat or other receptacle for game or game fish, or cold storage rooms, warehouses, taverns, boarding houses, restaurants, club rooms, outhouses, saloons, depots, hotels and all other places, except private dwelling houses, wherein game or game fish may be kept or sold, and examine all packages and boxes held either for storage or shipment which they have reason to believe contain evidence of violations of the laws of this state for the protection of wild animals, birds or game fish.

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

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

496.665 Issuance of search warrants; places searched; use and disposition of seized property. (1) Any court having jurisdiction of the offense, upon receiving proof or probable cause for believing in the concealment of any wild animals, birds or game fish taken, killed or had in possession, under control, or shipped contrary to any law of this state, shall issue a search warrant and cause a search to be made in any place, and to that end cause any building, inclosure, car, automobile, boat, apartment, chest, box, parcel, crate or basket to be opened and the contents examined by any officer charged with the enforcement of the laws for the protection of fur-bearing animals and game within the state.

(2) All fur-bearing animals and game, or parts thereof, thus discovered shall be held by the game commission as evidence against any party accused of the crime in connection therewith.

(3) Upon conviction of the parties accused, such fur-bearing animals or game, or parts thereof, shall be disposed of by the game commission. Any funds arising from the disposal shall become a part of the State Game Fund.

496.670 Arrests and searches made on Sunday. The arrests and searches mentioned in ORS 496.645 and 496.660 may be made on Sunday. In this event the persons arrested shall be taken before any justice of the peace or judge having jurisdiction, who shall bind over the persons arrested to appear and be proceeded against as soon as may be on week day following the arrest.

496.675 Seizure without warrant by game law enforcement officers. The officers mentioned in ORS 496.645 may at any time, without warrant, seize and take possession of:

(1) Any wild animals, birds or game fish which have been caught, taken or killed, or had in possession or under control, which have been killed, had in possession or shipped, at any time, in any manner or for any purpose contrary to any law of this state.

(2) Any guns, boats, dogs, fishing or other apparatus used for the purpose of hunting or fishing, at any time, in any manner or for any purpose contrary to any law of this state.

496.680 Seizure of unlawful devices and unlawfully taken animals and furs; forfeiture and disposition. (1) All fish, game birds, game animals, furs or fur-bearing animals taken by, or in the possession of any person in violation of law, and all guns, dogs, boats, traps, fishing apparatus and implements used in hunting or fishing or taking any fish, game birds, game animals, furs or fur-bearing animals in violation of law shall be seized by any member of the game commission, by the game director, any state police officer or any other officer charged with the enforcement of the game laws of the state, and may be forfeited.

(2) If forfeited, such property shall be turned over to the game commission by order of the court at the time of passing sentence or for forfeiture of bail for the violation.

(3) The game commission may dispose of such property in any manner it deems proper, but any moneys derived from the sale of any seized guns, dogs, boats, traps, fishing apparatus or implements shall be deposited in the State Game Fund. Any fish, game birds or game animals, furs or fur-bearing animals taken in violation of law may be disposed of forthwith or used for food purposes, under rules and regulations of the commission, to prevent spoilage.

496.685 Interference with or resisting game law enforcement officers. No person shall resist or interfere with any officer charged with the enforcement of the game laws in the discharge of his duties.

496.690 Possession of birds, animals and fish as evidence of illegal taking. The fact that any person has any game bird, nongame bird, game animal, fur-bearing animal, fish, or any part thereof, in possession when it is illegal to take or have same is prima facie evidence that such person killed such game illegally.

496.695 Counseling, aiding or sharing in game law violation. Any person who counsels, aids or assists in any violation of this Act, as defined in subsection (2) of ORS 496.025, or shares in any of the proceeds of such violation by receiving or possessing any wild animals or wild birds, shall incur the penalties provided for the person guilty of such violation.

496.700 Investigating game law violations; summoning witnesses. (1) Where the game commission has been furnished information of the violation of any of the laws for the protection of game fish, game animals, fur-bearing animals, game birds or nongame birds, the commission, or one especially 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 game commission from the State Game Fund at the rate of $3 per day and mileage from their places 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.

496.705 Damage suits for unlawful killing of game; jurisdiction of courts. (1) The game commission may institute suit for the recovery of damages for the unlawful killing of any of the game birds and animals which are the property of the state.

(2) The liability for the illegal killing of game birds and animals shall be as follows:

(a) Elk, not less than $100 nor more than $300.

(b) Deer, not less than $100 nor more than $200.

(c) Mountain sheep, not less than $100 nor more than $300.

(d) Mountain goat, not less than $100 nor more than $300.

(e) Moose, not less than $100 nor more than $300.

(f) Antelope, not less than $100 nor more than $200.

(g) Any protected upland game birds or water fowl, not less than $2 nor more than $5.

(3) Such civil liability shall be in addition to other penalties as prescribed by this Act, as defined by subsection (2) of ORS 496.025, for the unlawful killing of game birds and animals.

(4) Any justice court has jurisdiction to try any case for the recovery of damages for the killing of any of the wild birds or animals, as provided by this section.

496.710 Compelling testimony in game 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 subject 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.

496.715 Disposition of fines and confiscation sale proceeds. (1) All fines imposed as provided in this Act, as defined in subsection (2) of ORS 496.025, and collected in money shall be paid to the treasurer of the county in which the action or proceedings were 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 game commission by the county treasurer within 30 days after he receives the moneys, together with an itemized statement thereof. The game commission shall deposit these moneys in the State Game Fund. The other one-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.

(2) All moneys arising from the sale of confiscated property under the provisions of this Act, as defined in subsection (2) of ORS 496.025, shall be paid to the State Treasurer within 30 days after the receipt thereof. The State Treasurer shall deposit these moneys in the State Game Fund. [Amended by 1959 c.530 §8]

496.720 to 496.980 [Reserved for expansion]

PENALTIES

496.990 Penalties. (1) Violation of subsection (2) of ORS 496.650 is punishable, in addition to the punishment for the violation for which the summons was issued, upon conviction, as for a misdemeanor.

(2) Violation of ORS 496.685 is punishable, upon conviction, by a fine of not less than $50 nor more than $500, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or both.

(3) Violation of subsection (3) of ORS 496.700 is punishable, upon conviction, by a fine of not less than $25 nor more than $50.

(4) Any person violating any provision of any statute or violating any order promulgated by the game commission pursuant to statute 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, except that if any statute prescribes a larger penalty then the larger penalty shall be invoked.

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 November 1, 1959.

Sam R. Haley
Legislative Counsel