Chapter 508

1959 REPLACEMENT PART

Licenses and Pass Books

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WHEN LICENSE REQUIRED

508.005 Requirement of license to take or deal in fish. It is unlawful for any person, firm or corporation, without first procuring a license to do so from the Fish Commission of the State of Oregon:

(1) To take, fish for or catch any salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish, 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.

(2) To buy, sell, dispose of or otherwise deal in such fishes.

(3) To preserve, can, cure, process, manufacture or otherwise convert such fishes into fish products or by-products.

508.010 Requirement of license to engage in business of dealing in fish. It is unlawful for any person, firm or corporation to engage in the business of buying, selling, canning, packing, preserving, peddling or otherwise dealing in salmon, shad, sturgeon or other anadromous, food or shellfish within the state, without first obtaining a license from the State Fisheries Director, as provided by law. In all prosecutions under this section, it is no defense that the person, firm or corporation caught his or its own salmon, shad, sturgeon or other anadromous, food or shellfish, or not.

508.015 Requirement of license for fishing gear. (1) It is unlawful for any person to operate or maintain, or leave in a condition to take salmon, sturgeon or other food fish, in any of the waters of this state, any fish traps, weir, poundnet, setnet, gillnet, fish wheel, seine or any device, apparatus or gear used in catching salmon, sturgeon or other food fish, without first obtaining from the fisheries director a license as provided by law.

(2) It is unlawful for any person, firm or corporation to operate any commercial fishing gear in any of the waters over which the State of Oregon has jurisdiction, concurrent or otherwise, without first obtaining and having in possession a license as specified by ORS 508.020, 508.105 to 508.160, 508.170 to 508.220, 508.405 and 508.470 at the time any such gear is being fished or so operated.

508.020 Requirement of separate licenses for certain fishing gear and activities. (1) Separate licenses are required for:

(a) Each trap, poundnet, setnet, setline, weir, fishwheel or other fixed appliance.

(b) Each seine, gillnet or other driftnet, and dipnet.

(c) Each person trolling for salmon in the waters of the state or over which the state has jurisdiction, concurrent or otherwise.

(d) Each person, other than employes, engaged in the canning, packing or curing of food or shellfish, or in the operation of a reduction plant for reducing or processing fish or fish offal.

(e) Each person, firm or corporation, other than employes, purchasing or selling salmon, shad, sturgeon, striped bass or other anadromous, food or shellfish, whether as principal, agent or broker, or transporting or bringing into the state for the purpose of canning, processing or sale, any salmon or other food or shellfish taken or caught in the waters of the Pacific Ocean.

(f) Each person operating as a retail fish dealer, a retail frozen fish dealer, a fish peddler, a wholesaler, a wholesale distributor, a canner, a shellfish canner and for each operation or separate place of business conducted or carried on by any person so operating.

(2) In case of a dispute as to the proper license to be issued to an applicant, the fish commission may classify and define the various licenses provided for in this section, and shall direct the State Fisheries Director to issue the kind or class of license determined upon by the fish commission. [Amended by 1953 c.656 §6]

508.025 to 508.100 [Reserved for expansion]

KINDS OF LICENSES AND REGULATIONS APPLICABLE THERETO; FEES

508.105 Personal commercial fishing license; fee; purpose; issuance; possession. (1) The fee for each personal commercial fishing license is $7.50.

(2) A personal commercial fishing license shall be obtained by each person who takes or assists in the taking of any fish or shellfish from the waters or beaches of the state over which the state has jurisdiction, concurrent or otherwise, for commercial purposes, or who operates or assists in

the operation of any boat or gear for the taking of fish or shellfish in the waters of the state over which the state has jurisdiction, concurrent or otherwise, for commercial purposes.

(3) The personal commercial fishing license shall be issued to any qualified person by the State Fisheries Director upon application therefor upon blanks to be furnished by the Fish Commission of the State of Oregon and payment of the required license fee. The personal commercial fishing license shall be in the possession of such person when engaged in the taking, landing or selling of such fish or shellfish, and is required in addition to any other license to take fish or shellfish required under this chapter. [Amended by 1955 c.176 §1]

508.110 Treaty Indians exempted from license fees. The fees prescribed in ORS 508.105 to 508.160, 508.170 to 508.190 and 508.200 to 508.220 are not required of Indians with treaty rights.

508.115 Poundnet or fish trap license; fee. The fee for each poundnet or fish trap license is $50.

508.120 Gillnet license; fee; licensee to personally operate gillnet; scope of license. (1) The fee for each gillnet license is $22.50.

(2) No gillnet license shall be issued in the name of or to any applicant unless the applicant is to be engaged personally in the operation of the gillnet.

(3) The gillnet license shall be issued to fish on any one stream and its tributaries. A separate gillnet license is required to fish on any other stream or its tributaries during any one license year.

508.125 Setline license; fee; scope; number of hooks on setline. (1) The fee for each setline license is $15.

(2) A setline license shall be issued for a definite and specific location.

(3) Not more than 100 hooks shall be attached to any one setline.

508.130 Salmon trolling license; fee. The fee for each license to troll for salmon for commercial purposes is $15. [Amended by 1959 c.128 §1]

508.135 Setnet license; fee; limit on number; length and operation of setnet. (1) The fee for each setnet license is $15.

(2) No person, firm or corporation shall be issued more than six such licenses for the same river, bay or stream during any one license year.

(3) No setnet operated under any license so issued shall:

(a) Exceed 300 feet in length, except in the waters of Tillamook Bay, where setnets of not to exceed 1,200 feet in length shall be permitted during the months of October, November and December.

(b) Be operated by other than the licensee.

508.140 Drag seine license; fee. The fee for each drag seine license is six cents per lineal foot; provided that a minimum license fee of $30 shall be charged for each license for a drag seine 500 feet in length or under.

508.145 Lampara, roundhaul or other net license; fee; length and operation of nets. (1) The fee for each license to operate a lampara, roundhaul or other net for the taking of anchovies, smelt, herring or other fishes, except any species of salmon, shad, striped bass, sturgeon or trout, for bait is $37.50.

(2) No such net shall exceed 900 feet in length or be operated in any of the waters of the state except such waters specifically designated by the fish commission in rules and regulations which they may promulgate and adopt for that purpose.

508.147 Longline license; fee. The fee for each longline license is $15. [1955 c.238 §2]

508.150 Bag or dipnet license; fee. The fee for each bag or dipnet license is $7.50.

508.152 Otter trawl or beam trawl license; fee. The fee for each license to operate an otter trawl or beam trawl is $37.50. [1955 c.238 §3]

508.155 License to take crabs, shrimps or crawfish; fee. (1) The fee for each license to take crabs is $15.

(2) The fee for each license to take shrimps is $10.

(3) The fee for each license to take crawfish is $7.50. [Amended by 1953 c.656 §6]

508.160 Clam, scallop and mussel license; fee. The fee for each license to take clams, scallops and mussels is $7.50. [Amended by 1955 c.167 §1]

508.165 Nonresident clam-taking license; fee; duration of license; confiscating and selling illegally taken clams. (1) Any person not a resident of this state who is a citizen of the United States, is permitted to take or dig razor clams from the shores, beaches or tideflats within the state for commercial purposes, upon the payment of an annual license fee of $25.

(2) This license fee shall be valid for the license year for commercial fishing, as provided by law.

(3) All clams found in the possession of any person, or taken in violation of this section, immediately become the property of the state and shall be sold by the fisheries director. The sale proceeds shall be paid to the State Treasurer to be deposited in the General Fund in the State Treasury.

508.170 Oyster license; fee. The fee for each license to tong or take oysters is $7.50.

508.175 License of fish dealer or processor limited to area of designated buying operations. Every person, firm or corporation desiring to obtain a license as a canner or wholesale dealer, or to sell at retail or peddle any food fish, or who engages in curing or preserving fish or manufacturing fish meal, fish oil or fish fertilizer, or in processing fish eggs, shall, at the time of making application to the fish commission for such license, designate one particular bay or stream, or its tributaries, upon which the applicant desires to operate as a buyer. The license so issued by the fish commission, together with a license for each person engaged by such person, firm or corporation as a buyer as provided for by ORS 508.200, shall entitle the applicant so to operate upon the particular bay or stream, or its tributaries, designated. A separate license is required to permit such applicant to operate on any other bay or stream, or its tributaries, during any one license year.

508.180 Food or shellfish retailer license; fee. The fee for each license to operate as a retail dealer of food fish or shellfish is $7.50, except that the fee for any applicant who, at the time of making his written application for a license to the fisheries director, elects to handle or deal only in packaged frozen food fish or packaged frozen shellfish is $3. No license, surety bond or report to the fish commission, except as provided in this section, shall be required from a retail packaged frozen food fish or packaged frozen shellfish dealer. As used in this section, "packaged frozen food fish or packaged frozen shellfish" means any species of food fish or shellfish which is wrapped, frozen and placed in packages to which a legible label is stamped or printed showing the name, address, brand or trade name of the original processor or wholesale distributor under which the package is marketed and the kind of frozen food fish or frozen shellfish contained therein, for distribution and ultimate sale in the original package. [Amended by 1953 c.656 §6; 1959 c.401 §1]

508.185 Food and shellfish peddler license; fee. The fee for each license to operate as a peddler of food and shellfish is $15.

508.190 Food or shellfish wholesaler license; fee. The fee for each license to operate as a wholesale dealer of food and shellfish is $37.50. Any person, firm or corporation engaged in freezing, salting, smoking, kippering, preserving in ice or otherwise handling, dealing in or curing any of such commercial fishes shall be required to obtain a wholesale dealer's license. Any of these activities and operations shall be considered wholesaling.

508.195 Packaged frozen fish wholesaler license; fee. The fee for each wholesale distributor's license, entitling him to buy, distribute and sell packaged frozen food fish or packaged frozen shellfish only, is $10. As used in this section, "packaged frozen fish or packaged frozen shellfish" has the meaning given that term in ORS 508.180. [Amended by 1953 c.656 §6]

508.200 Fish buyer's license; fee; issuance; possession. (1) The fee for a buyer's license is $7.50.

(2) A buyer's license is required of each person engaged as a buyer of food or shellfish or of fish to be used in the manufacture of fertilizer, oil, meal, caviar, bait or other fish product or by-product from the producer, catcher or taker of such fish for any person, firm or corporation.

(3) No buyer's license shall be issued except to and in the name of the person, firm or corporation engaging the services of such buyer. The license shall be kept on the person of the buyer, or conspicuously dis-

played at the scene of operation, while so engaged.

(4) A person engaged as a buyer of any such fishes means an agent or representative of a person, firm or corporation licensed as a wholesale fish dealer, a peddler, a retailer, a canner, a broker or any other dealer or processor under the laws of the state; provided, that no buyer's license is required of any agent or representative of such person, firm or corporation in regard to purchase of such fish made at a regularly licensed establishment, cannery, plant or station by such person, firm or corporation at a permanent site or location.

508.205 Reduction plant license; fee. The fee for a reduction plant license is $37.50.

508.210 Fish broker's license; fee. The fee for each fish broker's license is $75. "Broker" includes any person handling salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish, whether fresh, frozen, canned or otherwise processed, for others or with others with whom he has an interest, divisible or indivisible, for a fixed compensation or on commission, or who negotiates, bargains and contracts with others relative to any of such fish and with the custody of which he may or may not have any concern. A broker's license is not required of any person, firm or corporation operating as a packer or canner.

508.215 Food and shellfish cannery licenses; fees. (1) The fee for each license to operate a cannery for the purpose of canning salmon and other food fish is $75.

(2) The fee for each license to operate a cannery for the purpose of packing or canning clams, clam nectar, crabs, shrimp and other shellfish is $37.50.

508.220 License to bring ocean-caught fish into state for disposition; fees; issuance; application. (1) It is unlawful for any person, firm or corporation to transport or bring into the state, for the purpose of canning, processing or sale, any salmon or other food or shellfish taken or caught in the waters of the Pacific Ocean unless such person, firm or corporation first obtains a delivery license.

(2) The fee for a delivery license shall be $7.50 for each boat used in taking or catching fish in the waters of the Pacific Ocean and transporting or bringing the same in and through the waters of the State of Oregon and delivering the same in any place or port in the State of Oregon for commercial purposes, and $7.50 for each member of the crew of such boat. Persons holding a license under ORS 508.105 shall not be required to pay the fee provided in this subsection for a crew member.

(3) A delivery license shall be issued in the same manner as other commercial licenses by the State Fisheries Director. Applications shall be made by either the owner or captain of the boat, and shall show the name and federal registration number of the boat for which desired. [Amended by 1955 c.177 §1]

508.225 Special permit to net or trap carp or nongame or nonfood fish; fee. (1) Upon receiving a written application therefor, accompanied by a fee of $1.50, either the fish commission or the State Game Commission may issue to any person a special permit to net or trap carp or nongame or nonfood fish from any of the waters of the state or waters over which the state has concurrent jurisdiction.

(2) The kind or kinds of fish authorized to be netted or trapped, the method to be used, and the name and location of the body of water from which the fish are to be netted or trapped shall be specified in the permit.

(3) After having obtained a special permit as provided for in subsection (1) of this section, and subject to any regulations of the fish commission or State Game Commission, any person may net or trap carp or nongame or nonfood fish from any of the waters of the state or waters over which the state has concurrent jurisdiction described in the permit.

(4) No person shall take and retain any fish other than described in the permit in connection with the use of any permit issued under subsection (1) of this section. [Amended by 1955 c.279 §1; 1957 c.134 §1]

508.230 Additional fees for operating fishing appliances or cannery; payment to Seal Fund. (1) For the purpose of placing money in the Seal Fund provided for by ORS 506.335, there shall be paid to the fisheries director by each applicant for a gillnet, setnet and troll license for the purpose of taking salmon, shad or other food fish within the waters of the Columbia River and the waters over which this state has concurrent jurisdiction at the time the application is

made, $2.50; for each application for a trap license, $10; for each application for a drag or other seine license, $20, and for each application for a canner's license, the sum of $50. These fees are in addition to all other fees provided by law for the operation of such fishing appliances or cannery.

(2) It is unlawful for any person, firm or corporation to operate any gillnet, setnet, troll, trap, seine or cannery, as provided in subsection (1) of this section, without first paying the fees therein specified to the Seal Fund.

(3) The fisheries director shall issue, upon payment of the fees mentioned in subsection (1) of this section, a certificate to the applicant for any of the licenses mentioned, at the time of issuing said licenses, showing that the applicant has paid such fees to the Seal Fund.

(4) No person shall fail to pay the sum specified in subsection (1) of this section nor shall operate any such appliances or any cannery without receiving the certificate mentioned in subsection (3) of this section.

508.235 to 508.300 [Reserved for expansion]

POUNDAGE FEES

508.305 Additional poundage fees; by whom paid. Additional fees shall be collected by the fisheries director as follows: Every person, firm or corporation operating within the state as a canner, receiver, buyer, retail dealer, fish peddler or wholesaler of salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish shall pay, in addition to all other licenses or fees provided by law, three-fourths of a cent per pound on each species of salmon, striped bass, sturgeon or other anadromous, food or shellfish received or purchased by such canner, packer, receiver, buyer, retail dealer, fish peddler or wholesaler, except that the fee on all shad and chum salmon shall be three-sixteenths of a cent per pound, the fee on crabs shall be seven and one-half cents a dozen, the fee on clams shall be three-tenths of a cent per pound gross weight in shell and the fee on shrimp shall be one-tenth of a cent per pound. [Amended by 1957 (s.s.) c.9 §1]

508.310 Time of payment of additional poundage fees; accompanying report; interest on overdue fees. (1) The poundage fee required by ORS 508.305 shall be paid to the fisheries director on or before the fifteenth day of each calendar month for the preceding calendar month or at such other times as the fish commission may order and direct.

(2) The fee shall be accompanied by a report showing the total number of pounds of all varieties of fish, stated separately upon blanks furnished by the fisheries director.

(3) In the event that such poundage fee is not paid within 45 days after the due date, there shall be charged an interest rate of two-thirds of one percent per month until the principal and interest is paid.

508.315 Bond to guarantee additional poundage fee payment. The fish commission may, in its discretion, require a bond from any person, firm or corporation licensed, guaranteeing the payment of the poundage fee required by ORS 508.305.

508.320 Fish on which additional poundage fees paid; effect of Washington license. (1) The poundage fees provided by ORS 508.305 shall be paid on all ocean-caught food and shellfish, including troll fish, except as otherwise provided by law.

(2) The poundage fee shall be paid by every person, firm or corporation mentioned in ORS 508.305, irrespective of whether the fish are taken under a Washington or Oregon license, it being the intention that every person, firm or corporation operating as a canner, wholesaler, buyer, retail dealer, fish peddler or receiver of salmon, shad, striped bass, sturgeon or other anadromous or food or shellfish within the state shall pay such poundage fees, irrespective of whether the fish were caught under a Washington or Oregon license, or in the waters of the Pacific Ocean.

508.325 Determination of additional poundage fee disputes. It is the intention that only one poundage fee shall be collected for each pound of fish purchased or received, and in order that this end may be accomplished the fish commission and the fisheries director may determine finally any dispute arising out of the operation and enforcement of ORS 508.305.

508.330 Additional poundage fee lien; foreclosure; jurisdiction of courts. The poundage fee required by ORS 508.305 constitutes a first lien upon the cannery, packing plant, scow, boat and its equipment used in the canning, receiving or transporting of the fish. This lien may be foreclosed by the fish commission in the name of the state by

a suit in equity in the circuit court of the county in which the property upon which a lien is given by this section is situated. If situated in two or more counties the court first acquiring jurisdiction of a part of the property shall have jurisdiction of all the property described in such foreclosure suit.

508.335 Making regulations and requiring reports; violating regulations and falsifying reports. (1) The fish commission may make such rules, regulations and orders and require such reports to be made as, in its judgment, are necessary to insure the collection and payment of the poundage fee required by ORS 508.305.

(2) It is unlawful for any person to falsify any of the reports or to violate any of the rules, regulations or orders made or required by the fish commission.

508.340 Keeping poundage records; contents; display; inspection. (1) Every person, firm or corporation licensed to operate as a canner, packer, buyer, receiver, retail dealer, fish peddler or wholesaler by the fisheries director shall keep a record in such form so that the following information and facts shall be found thereon:

(a) Name of person from whom any of the fish are obtained.

(b) The license number and kind of gear operated by such person.

(c) For the Columbia River district the license number shall be preceded by the letter "O", in case the license has been issued by the State of Oregon, and the letter "W", in case the license has been issued by the State of Washington.

(d) The number of pounds of each variety of fish purchased or received from such person, weights to be the gross weight, figured in the whole or round.

(e) The date when the fish were purchased or received.

(f) The name of the purchaser or receiver.

(2) At least one copy of this record shall be kept:

(a) On each boat, vessel, scow, pickup boat or other craft, truck, automobile, motor vehicle or other vehicle of any kind whatsoever used in buying, receiving or transporting the fish.

(b) By the canner or packer, the retail dealer and fish peddler and the wholesaler or his buyer or receiver.

(3) This record is subject to inspection by the fish commissioners, the fisheries director or any duly authorized police officer. This record shall be transmitted to the office of the fisheries director at such times and in such manner as the fish commission directs.

508.345 Failure to keep record or pay poundage fee as grounds for license suspension, revocation and nonrenewal. (1) In addition to the penalty prescribed by subsection (5) of ORS 508.990, failure on the part of any person, firm or corporation to keep the record required by ORS 508.340 is good and sufficient reason for the fish commission to order the fisheries director to suspend or revoke the license granted to such person, firm or corporation.

(2) Any person, firm or corporation failing to pay the poundage fee required shall be denied a renewal of such license or the issuance of any other license which may be issued by the fisheries director.

508.350 Privacy of records and reports. The information received from the records and reports provided for by ORS 508.310, 508.335 and 508.340 shall not be made public by the fish commission, the fisheries director or any other person in the employment of the fish commission or fisheries director, except in a case where such information is called for by the Governor, member of the legislature or proper service in a court proceeding, by the fish commission or one especially authorized by it as provided in ORS 506.615, or before a grand jury. Nothing in this section precludes the making public of the grand totals in pounds or dollars from tabulation of the records and reports, or the fisheries director from disclosing pertinent information taken from such records when in his judgment such information is an aid to law enforcement.

508.355 Smelt poundage fee; by whom paid. Every person, firm or corporation operating within the state as a canner, packer, receiver, buyer, retail dealer, fish peddler or wholesaler of fish, shall pay, in addition to all other license taxes or fees provided by law, three-tenths of a cent per pound on smelt received or purchased by such canner, packer, receiver, buyer, retail dealer, fish peddler or wholesaler.

508.360 Time of payment of smelt poundage fee; accompanying report; disposition; effect of Washington license; determination of disputes. (1) The poundage fee

required by ORS 508.355 shall be paid to the fisheries director on or before the fifteenth day of each calendar month for the preceding calendar month, or at such other times as the fish commission may order and direct.

(2) The fee shall be accompanied by a report showing the total number of pounds of smelt purchased or received.

(3) The poundage fees received shall be paid to the State Treasurer to be deposited in the General Fund in the State Treasury.

(4) The poundage fee required by ORS 508.355 shall be paid by every person, firm or corporation mentioned therein, irrespective of whether the fish are taken under a Washington license or an Oregon license, it being the intention that every person, firm or corporation operating as a canner, receiver, buyer, retail dealer, fish peddler or wholesaler of fish within the state shall pay the poundage fee, irrespective of whether the fish were caught under a Washington license or an Oregon license.

(5) It is the intention of ORS 508.355 and 508.360 that only one poundage fee shall be collected for each pound of smelt purchased or received, that such poundage fee is the poundage fee provided by ORS 508.355, and in order that this end may be accomplished the fish commission and the fisheries director may determine finally any dispute arising out of the operation and enforcement of ORS 508.355 and 508.360.

508.365 to 508.400 [Reserved for expansion]

ISSUANCE, APPLICATION, CONTENTS, WHERE VALID, TRANSFERRING, TERM, LOCATION ABANDONMENT, FORFEITURE

508.405 Director to issue licenses. All licenses required by ORS chapters 506, 507, 508, 509, 511 and 513 shall be issued to any qualified person, firm or corporation by the State Fisheries Director, upon proper application and payment of the license fees provided for by ORS 508.105 to 508.160, 508.170 to 508.190 and 508.200 to 508.220.

508.407 Whip seine licensing prohibited. No license shall be granted to any person, firm or corporation to operate a whip seine within any of the waters of the state or within any of the waters over which the state has concurrent jurisdiction.

508.410 License application; form; affidavit and bond. (1) All applications for licenses under ORS 508.405 shall be made on blanks furnished by the fisheries director and accompanied by a sworn affidavit and bond, as provided in this section and ORS 508.415, specifying in detail the location of any fixed fishing appliance or seine, and such other information as will enable the fisheries director to determine the correctness of the application. Every application for a license to take food or shellfish, to operate or assist in the operation of a commercial fishing gear, or of a boat used in the operation thereof, shall contain a statement of the applicant's age, height, weight, color of hair and eyes and a description of complexion; and such physical description shall be shown on and made a part of any license issued by the State Fisheries Director pursuant thereto.

(2) Any person, firm or corporation making application to the fisheries director for a license to operate a setnet in any waters over which the state has concurrent jurisdiction, if anchored on private property, shall submit with the application a sworn statement certifying that the applicant is the owner or part owner of the private property or that the owner has granted the applicant the right to go upon the property for such purpose. [Amended by 1957 c.208 §1]

508.415 License application bond for poundage fees. In case of license applications by retail dealers or peddlers, or wholesale dealers, or persons engaged in freezing, salting, smoking, kippering, preserving or otherwise dealing in food fish, or persons engaged in canning salmon, shell or other food fish, the fisheries director shall, in addition to license fees provided by law, exact from the applicant a good and sufficient bond, guaranteeing the payment of poundage fees provided in ORS 508.305 to 508.350. The minimum bond in case of retail dealers is $100; in case of peddlers, $250; in case of wholesale dealers, $500, and in case of all other applicants for license covered by this section and ORS 508.410, the minimum bond required is $750. If in the judgment of the fish commission a higher bond than the minimum provided in this section shall be exacted, the fisheries director shall be instructed to fix the amount of the bond.

508.420 Qualifications of applicants for licenses. (1) No license for taking or catching salmon or other food or shellfish for

commercial purposes, as required by the laws of this state, shall be issued to any person who is not a citizen of the United States.

(2) No license to fish for commercial purposes in the waters of the Columbia River shall be issued to any person who is not a bona fide resident of either the State of Oregon or the State of Washington.

(3) No license shall be issued to any person to fish for commercial purposes in any waters of the State of Oregon, except the waters of the Columbia River and the waters of the Pacific Ocean, who has not been a resident of the state for one year immediately preceding the application for the license. However, a license to fish for commercial purposes in the waters of the Pacific Ocean under jurisdiction of the State of Oregon or to operate a seine or other net for the purpose of taking or catching fish for bait, as provided for by law, may be issued to any applicant possessing qualification of citizenship, irrespective of the requirement in this subsection of one year's residency.

(4) Nothing contained in this section prevents:

(a) The issuance of licenses for the taking of anchovies, herring or such other fishes, the use or taking of which for bait is authorized or permitted by law.

(b) The issuance of licenses to Indians, providing such applicants possess the qualifications of residence required by this section.

(c) The renewal of licenses for fixed appliances by citizens now holding the same. [Amended by 1955 c.168 §1]

508.425 Aliens prohibited from fishing in concurrent jurisdictional waters; boat pullers excepted. It is unlawful for any person to fish for or take for sale or profit any salmon, shad, sturgeon, striped bass or other anadromous, food or shellfish in any of the rivers or waters over which the States of Oregon and Washington have concurrent rights and concurrent jurisdiction, unless such person is a citizen of the United States. However, boat puller's licenses may be issued to aliens who have resided less than five years in the United States and who have declared their intention to become citizens thereof.

508.430 Proof of citizenship to fish; procedure; evidence in prosecutions. (1) When required by the fisheries director, any person desiring to fish for salmon, sturgeon or any food or shellfish in any of the waters of this state, or waters over which the state has concurrent jurisdiction, may go before a county clerk of any county of this state or the fisheries director, and furnish satisfactory proof of his citizenship and file his own affidavit and the affidavit of two or more persons to the effect that he now is, and for a year prior thereto has been, an actual bona fide resident of this state. Thereupon the county clerk shall issue to him a certificate briefly reciting those facts.

(2) Thereafter in any prosecution against such person for a violation of the provisions of this Act, as defined in ORS 506.020, such certificate or a duly authenticated copy of the records in the office of the county clerk, relative thereto, is prima facie evidence of his citizenship and residence, as in this Act, as defined in ORS 506.020, required, but in all prosecutions under this Act, as defined in ORS 506.020, the burden of proof shall be upon the defendant to establish the fact of his citizenship and residence.

(3) Nothing contained in this section shall delay the issuance to any applicant of a license for a fish trap, fish wheel, setnet or poundnet, which is required to be issued on April 1 of each year.

508.435 Director to keep license application records; inspection to verify application information. (1) The fisheries director shall keep and preserve a record of all applications for license filed.

(2) The fisheries director is not bound by statements made in license applications as to the amount of salmon, shad, sturgeon or other anadromous, food or shellfish canned packed, caught or handled. For the purpose of ascertaining the true amount thereof which any canner, packer, taker or dealer in such fish has canned, packed, caught or handled, the fisheries director or any of his deputies may inspect the cannery, cold storage plant, packing establishment and places of business of such parties, and the books of such parties showing the amount of their pack or the amount handled or caught, but the information derived therefrom shall not be made public.

508.440 Canceling license for untrue affidavit and improper fee; appeal. (1) If in the opinion of the fisheries director the facts set forth in the affidavit of the applicant for a license are untrue, and the canner,

packer, taker or dealer has not tendered or paid the proper fee, the fisheries director shall immediately cancel the license already issued and demand from such canner, packer, taker or dealer a new license fee in a sufficient sum to cover the amount of such fish canned, packed, caught or handled.

(2) Any person, firm or corporation feeling aggrieved by the decision of the fisheries director may appeal from his decision to the circuit court for the county in which his or its business is situated. This appeal is taken by a written notice of appeal on the fisheries director or his deputy residing in the county, and filing such notice with proof of service indorsed thereon within 10 days from receiving notice of such cancelation of the license, together with a bond with one or more sufficient sureties, to be approved by the clerk of the circuit court, conditioned to pay whatever judgment may be rendered against him on the appeal, in the office of the clerk of the circuit court for the county in which the business is located. The case shall be tried in the circuit court as a suit in equity, and judgment entered by the court accordingly. The decision shall be final. The judgment of the circuit court shall be enforced as are other judgments, and shall have like force and effect. No costs shall be taxed against the fisheries director in any event.

(3) Nothing in ORS 508.435 and 508.440 prevents the fish commission, fisheries director, or any of the deputies, from giving in evidence at the trial of such appeal any fact or information derived by them from inspection of the books or papers of any canner, packer, taker or dealer in fish, or from offering in evidence in any court the affidavit of any person required by ORS 508.410 and 508.430.

508.445 Certificate of director evidence as to license issuance. In all prosecutions requiring proof as to the issuance or nonissuance of a license by the fisheries director under any of the laws of this state, the certificate of the fisheries director as to the issuance or nonissuance of the license by him shall be sufficient proof on that question to establish the fact. This certificate shall be admitted in evidence as to the issuance or nonissuance of the license in any such prosecution.

508.450 Contents of license. Each license issued under ORS 508.405 shall be numbered and dated by the fisheries director. The license shall contain the number of cannery, dealer, poundnet, gillnet, fish wheel, seine, trap or other appliance or business licensed, the site or address where the appliance or business is located and the name of the person to whom the license is granted. [Amended by 1957 c.132 §1]

508.455 Area where licenses valid. No license for a drag seine, setnet, or other fixed gear shall be transferred to any other location from the location for which it was issued and as originally located and marked under the license, during any license year. [Amended by 1955 c.122 §1]

508.460 Oregon-Washington reciprocity on gillnet licenses. All gillnet licenses issued by the States of Oregon and Washington are valid as to the waters of the Columbia River in Oregon and Washington, as though issued by the department of fisheries of either state. The department of fisheries of each state or the officials who have charge of issuing licenses shall furnish to each other the names of licensees and the number of the licenses, without cost or expense to either state.

508.465 Licenses nontransferable. Licenses may not be transferred from one licensee to another.

508.470 When licenses expire; renewal. All licenses for which fees are provided for under ORS 508.105 to 508.160, 508.170 to 508.190, 508.195 and 508.200 to 508.220 shall expire as of midnight, March 31 following the dates of their issuance, and shall be renewed annually thereafter upon application and payment of fees required therefor. [Amended by 1959 c.123 §1]

508.475 Failure to obtain fixed appliance license as location abandonment; war veterans excepted. The failure to renew the license, or make application therefor, for any fish traps, poundnet or location for other fixed appliance, in any of the waters of this state, on April 1 of any year, constitutes abandonment of the location. However, any licensee entering the armed services during any period which would qualify him as a war veteran is not deemed to have abandoned such location, gear or equipment so licensed, either by reason of absence from the location during such service or by failure to renew his license as required; and any such licensee may file application for renewal of any such license at any time following the date of his release from military or

naval service, until April 1 of the following year, and shall have preference over other persons therefor.

508.480 Failure to construct appliance as location abandonment. Should the holder of any license neglect to construct the appliance called for by the license during two consecutive years covered by his license, the location shall be deemed abandoned.

508.485 Revocation of license for fish law violation. (1) Upon conviction within this state of any person, firm or corporation of actually having taken or caught salmon or other food fish in violation of any of the provisions of the laws relating thereto, the fish commission may, in its discretion, revoke and cancel for the remainder of the license year any license to take or catch salmon or other food fish which may have been issued to such person, firm or corporation by the fish commission or the fisheries director.

(2) Upon a second or subsequent conviction under subsection (6) of ORS 506.990, subsection (4) of ORS 509.990 or subsection (3) of ORS 511.990, in addition to the penalties provided therein, any license held by such convicted person issued by the fish commission shall be revoked and canceled and no new license shall be issued to such person during the remainder of the license year in which he was convicted.

508.490 Refusal to issue license within two years after second conviction. Upon conviction within this state of any person, firm or corporation of actually having taken or caught salmon or other food fish in violation of any of the provisions of the laws relating thereto after such person, firm or corporation has once been convicted and penalized under subsection (1) of ORS 508.485, the fish commission may, in its discretion, deny or refuse the issuance of any license to take or catch salmon or other food fish, through the fish commission or the fisheries director for any period of time up to two years from the date of the conviction.

508.495 Certificate in lieu of lost or destroyed license. Upon the receipt of a fee of $1 and the filing of an affidavit that a license issued under authority of ORS 508.405 has been lost or destroyed, the State Fisheries Director shall issue a certificate that such license has been issued and has been lost or destroyed. The certificate may be used in lieu of the lost or destroyed license. [1957 c.140 §1]

508.500 to 508.600 [Reserved for expansion]

RECORD OF SALE AND OTHER DISTRIBUTION OF COMMERCIAL FISH

508.605 Commission to furnish pass book. The fish commission shall design and have printed in appropriate form a sales record book for commercial fishermen which shall be known as a pass book.

508.610 Licensees to have pass book. Each person, firm or corporation holding any license to use particular gear in taking or catching, or any license to deliver into the state from the waters of the Pacific Ocean, any fish for commercial purposes, shall be furnished and charged with the possession of one copy of the pass book mentioned in ORS 508.605.

508.615 Pass book as state property and subject to inspection. The pass book shall at all times remain the property of the fish commission, and it shall be made available to any duly authorized officer or agent of the state for inspection upon request.

508.620 Entry in pass book by purchaser from licensee. (1) Every person, firm or corporation who takes or catches fish, or delivers fish in the state from the waters of the Pacific Ocean, for commercial purposes pursuant to any license issued by the fisheries director shall, at the time of every sale or disposition of any fish so taken, caught or delivered, or within 48 hours thereafter, require the purchaser or person, firm or corporation to whom any fish so taken, caught or delivered are sold, transferred or delivered to enter and sign the following specific record in the pass book:

(a) Date of purchase or delivery.

(b) The number of pounds of each species of fish purchased or delivered, in whole or in the round, or dressed weight.

(c) The number of the license, if any, by which such person, firm or corporation is authorized to purchase, receive, handle or otherwise deal in such fishes.

(d) The name of the person, firm or corporation so purchasing or receiving such fishes.

(2) No person, firm or corporation shall sell, dispose of, purchase or receive any fish without full compliance with this section.

508.625 Unlawful to purchase or receive fish without entry in pass book. It is unlawful for any person, firm or corporation to purchase or receive from any licensee mentioned in ORS 508.610 any fish without entering in the pass book and subscribing to the record required by ORS 508.620.

508.630 Entry in pass book by licensee-processor. Every person, firm or corporation mentioned in ORS 508.610 that cans, packs or processes fish taken, caught or delivered pursuant to his or its own license, shall enter in the pass book and subscribe the record required by ORS 508.620. For the purposes of ORS 508.605 to 508.655 such fish are deemed disposed of at the time they are delivered to such licensee's plant.

508.635 Affidavit of licensee that pass book is complete and accurate; deposit of pass book, fees and affidavit. On or before April 1 following the expiration of his license, every licensee mentioned in ORS 508.610 shall execute an affidavit that the record of sales or other disposition of fish appearing in his pass book is a full, complete and accurate record of every sale or disposition of fish that the licensee has made during the license year, including fish consumed or used by the licensee personally, his family or guests. The licensee shall deposit this affidavit, together with the pass book and sufficient moneys to pay poundage or other fees at rates specified by law for fish consumed or used by the licensee personally, his family or guests, with the fisheries director at the office of the fish commission on or before April 1 following the expiration of his license. [Amended by 1957 c.462 §1]

508.640 Substitute for lost or destroyed pass book. If any pass book is lost or destroyed during the license year, the licensee may obtain a substitute pass book by furnishing to the fish commission an affidavit setting forth the circumstances under which the pass book was lost or destroyed, accompanied by a signed report from each person, firm or corporation to whom the licensee has sold or disposed of fish, showing the total amount of each species purchased or received from the licensee during that license year.

508.645 Renewal of license upon deposit of pass book and affidavit and fee payment. No person, firm or corporation required by ORS 508.635 to deposit a pass book and affidavit with the fisheries director shall be issued a renewal of his or its license, or any other license, under the commercial fisheries law of this state unless the pass book and affidavit have been so deposited and all fees paid; provided, however, that the deposit of such pass book and affidavit is not required upon payment to the fish commission of a fee of $25 accompanied by an affidavit to the effect that the pass book has been lost and that it is not possible to obtain the substitute records required by ORS 508.640. [Amended by 1957 c.462 §2]

508.650 Seizure of fish unlawfully disposed of or acquired; hearing; disposition of fish. (1) All fish sold, disposed of, purchased or received by any person, firm or corporation in violation of ORS 508.605 to 508.655 shall be seized by an officer or authorized agent of the fish commission and shall be held subject to order of the court.

(2) Fish so held shall be released to the owner, upon his filing a written undertaking, executed by two sureties to be approved by the court, or by surety company bond, in a principal sum equal to the then market value of such fish, in favor of the State of Oregon, in the event such fish are declared forfeited.

(3) Upon application of the fisheries director or deputy, supported by affidavit showing the fact of such violation and describing the fish involved, the court shall set a day certain when any person, firm or corporation may appear, prove ownership of such fish and be heard in opposition to the forfeiture thereof. At the conclusion of the hearing if the court finds that the fish have been purchased or received in violation of ORS 508.605 to 508.655, it shall order the fish forfeited to the state, otherwise it shall order the fish delivered to the owner.

(4) Fish forfeited by the court shall be sold by the fisheries director or his deputy.

508.655 Disposition of fines and forfeiture moneys; jurisdiction of courts. (1) All funds received pursuant to ORS 508.605 to 508.655 and subsection (7) of 508.990 shall be applied to the payment of all the expenses incident to the seizure, condemnation, preservation and sale of fish pursuant to ORS 508.650. The balance shall be paid to

the State Treasurer and by him credited as provided by ORS 506.305.

(2) Justice and district courts shall have concurrent jurisdiction with circuit courts in all cases arising under the provisions of ORS 508.605 to 508.655 and subsection (7) of ORS 508.990.

508.660 to 508.985 [Reserved for expansion]

PENALTIES

508.990 Penalties. (1) Violation of any provision of ORS 508.005, or any rule, order or regulation promulgated and adopted by the fish commission in carrying out any provision of ORS 508.005, 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 508.165 is punishable, upon conviction, by a fine of not less than $50 nor more than $100, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

(3) Violation of subsection (4) of ORS 508.225 is punishable, upon conviction, by a fine of not less than $25 nor more than $500, or by imprisonment in the county jail not more than six months, or both. Circuit courts, district courts and justice courts have concurrent jurisdiction over prosecutions under this subsection.

(4) Violation of subsection (4) of ORS 508.230 is punishable, upon conviction, by a fine of not less than $50 nor more than $500. All fines received under this subsection shall be paid to the fisheries director and by him deposited to the Seal Fund mentioned in ORS 506.335.

(5) Violation of ORS 508.305 to 508.350 is punishable, upon conviction, by a fine of not less than $250 nor more than $1,000, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

(6) Violation of ORS 508.355 or 508.360 is punishable, upon conviction, by a fine of not more than $100.

(7) Violation of subsection (2) of ORS 508.620 is punishable, upon conviction, by a fine of not less than $25 nor more than $100, or by imprisonment in the county jail for not more than 30 days, or both, for each offense.

(8) Violation of subsection (2) of ORS 508.015, ORS 508.020, 508.105 to 508.160, 508.170 to 508.220, 508.405 or 508.470, or any rule or regulation promulgated and adopted by the fish commission in the administration of those statutes, is punishable, upon conviction, by a fine of not less than $50 nor more than $100, or by imprisonment in the county jail for not less than 30 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 November 1, 1959.

Sam R. Haley
Legislative Counsel