Chapter 509

1959 REPLACEMENT PART

General Protective Regulations

TAKING, PURCHASING, POSSESSING, TRANSPORTING, INJURING, MOLESTING, WASTING, SELLING AND PRESERVING REGULATIONS

509.005 When, where and how fish may be taken; possessing or handling fish unlawfully taken
509.010 Taking, purchasing, possessing and transporting fish and using, possessing and leaving fishing gear during closed season
509.015 Forfeiture of gear unlawfully used; confiscation and sale of fish unlawfully taken
509.020 Taking fish for propagation or scientific purposes
509.025 Taking fish by angling
509.030 Incidental taking of steelhead trout
509.035 Injuring or taking fish near fishway
509.040 Salmon protected
509.045 Sturgeon protected
509.050 Where angling permitted means natural person holding game commission license
509.055 Steelhead trout; when commercial and when game fish
509.060 Sea lions protected
509.065 Wasting food fish or shellfish
509.070 Selling or preserving fish out of water over 60 hours
509.075 Selling or preserving fish unfit for human consumption
509.080 Possessing, selling or transporting fish taken during closed season
509.090 Sale or transportation for sale of fish taken by angling
509.105 Transporting or possessing fish taken or transported unlawfully under laws of other states
509.110 Fish transporters to require statement of shipper and forward to commission; examination of records
509.115 Placing in waters fish harmful to other fish
509.120 Using electricity which disturbs fish; permit
509.125 Placing substances in water to drive fish from closed areas
509.130 Placing substances in water to take or kill fish
509.135 Placing explosives and poisons in water and taking or killing fish by means thereof; permit
509.140 Placing explosives and poisons in waters in course of construction work and other businesses; permit
509.145 Aiding or abetting violation of ORS 509.125 to 509.140
509.150 Use by commission of substances to eradicate predatory fish or carry out fish laws not affected
509.155 Possession of fish killed by explosive or poison justifies arrest; burden of proof on possessor

FISHING GEAR REGULATIONS

509.205 Areas closed to fixed gear and seines for salmon, shad or sturgeon
509.210 Using purse seines prohibited
509.215 Possessing, purchasing or selling fish taken by purse seine prohibited
509.220 Seizing and selling fish and unlawful gear; disposing of proceeds
509.225 Bringing purse seines used in Pacific Ocean outside Oregon jurisdiction into state waters
509.230 Possession of fish taken by any gear from Pacific Ocean outside Oregon jurisdiction; taking salmon only by troll within Oregon jurisdiction
509.235 Chinese sturgeon lines prohibited; destruction of lines and arrest of user
509.240 Snagging nets during closed season allowed
509.245 Notice to director of use of snagging nets; duration of notice
509.250 Fixed gear not to interfere with prior fishing rights
509.252 Marking boats and vessels
509.255 Marking poundnets, traps or weirs and location thereof
509.260 Marking fishwheels
509.265 Marking setnets and location thereof
509.270 Marking location of set lines
509.275 Marking seines and location thereof
509.280 Marking gillnets
509.285 Marking seine or net boats
509.290 Appliances or boats to be marked within five days after license issued
509.295 Fixed gear unlawfully constructed to be sold and piling removed; disposition of proceeds
509.300 Gear and appliances subject to execution for payment of fines and costs

NET FISHING FOR SALMON IN PACIFIC OCEAN

509.355 Definitions for ORS 509.355 to 509.390
509.360 Period during which ORS 509.355 to 509.390 are operative
509.365 Taking salmon by net in waters of Pacific Ocean over which Oregon has jurisdiction prohibited
509.370 Taking of salmon by net in international waters of Pacific Ocean by Oregon citizen prohibited
509.375 Transporting or possessing salmon unlawfully taken by net in certain waters prohibited
509.380 Seizure, forfeiture and disposition of boats, nets and salmon unlawfully taken
509.385 Exceptions
509.390 Rules and regulations

CRABS, OYSTERS AND OTHER SHELLFISH

509.415 Gear used in taking crabs; selling crabs unlawfully taken
509.420 Possession and sale of Dungeness crabs taken with unlawful gear
509.425 Natural oyster beds; control and regulation by commission
509.430 Oyster regulation enforcement officers
509.435 Who may take or sell oysters or own beds
509.440 When oysters may be taken
509.445 Manner of taking oysters from natural beds
509.450 Waste of oysters prohibited
509.455 Artificial oyster beds as private property; size and locations; local regulations
509.460 Placing in water matter injurious to oysters and other shellfish
509.465 Permit to transplant oysters; leasing oyster beds
509.470 Private oyster beds acquired under prior law not affected
509.475 Taking oysters or other shellfish from marked beds without permission or disturbing beds
509.480 Filing plats of claims to oyster plantations; requirements of plat
509.485 Place of filing oyster plats; record book
509.490 Oyster plat filing fee
509.495 Transfer by reference to filed oyster plat
509.500 Prior claims, plats, transfers or debts unaffected

FISHWAYS AND FISH SCREENING DEVICES; HATCHERIES FOR DAMS

509.605 Fishways in artificial stream obstructions; inspection by director; failure to complete fishway
509.610 Neglect of obstruction owner or occupant to maintain fishway
509.615 Owner or lessee to screen artificial watercourse; removing inadequate devices
509.620 Condemning inadequate and ordering new fishways
509.625 Power of commission to inspect artificial obstructions and have fishways constructed
509.630 Power of commission to establish fishways in natural stream obstructions
509.635 Oregon City fishway under control of commission; obstructing and fishing prohibited; removal of obstructions
509.640 When dams to be provided with hatchery facilities
509.645 Filing protest with State Water Resources Board; review and determination by board as to whether fishway or hatchery facilities in public interest

PENALTIES

509.990 Penalties

CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.510
Definitions and other provisions applicable to certain sections in this chapter, 506.020, and sections listed in ORS 506.020
Fishing competitions, prizes limited, 498.028
Importation, transportation or release of fish, permit for, 498.646
Water resources policy, state, compliance with required, 536.300 to 536.400

509.005

Pacific Ocean, net fishing, 509.355 to 509.390
Regulation of taking of fish by fish commission, 506.170

509.105

Transporting salmon unlawfully taken in certain waters, 509.375

509.125

Polluting water with waste and refuse harmful to fish, 449.110, 449.115

509.205

Whip seines prohibited, 508.407

509.225

Regulatory power of commission, 513.100

509.230

Pacific Ocean, net fishing, 509.355 to 509.390
Regulatory power of commission, 513.100

NET FISHING FOR SALMON IN PACIFIC OCEAN

See preamble to 1957 c.152

509.415

Taking crabs in Nehalem Bay and River, 511.610

509.425

Oyster beds in Netarts Bay, 511.625
Oyster beds in Tillamook Bay, 511.640

509.435

Standards for oysters to be sold, 618.540

509.605

Hydroelectric commission, authority to issue permits to construct dams, 543.050
Injuring or taking fish near fishway, 509.035
Rights acquired prior to August 3, 1955, not affected by 1955 amendment, 536.580

509.610

Rights acquired prior to August 3, 1955, not affected by 1955 amendment, 536.580

509.625

Rights acquired prior to August 3, 1955, not affected by 1955 amendment, 536.580

509.640

Rights acquired prior to August 3, 1955, not affected by 1955 amendment, 536.580

509.645

Rights prior to August 3, 1955, not affected, 536.580

509.990

Penalties applicable to violation of commercial fishing laws, 506.990(5), 506.990(6)

TAKING, PURCHASING, POSSESSING, TRANSPORTING, INJURING, MOLESTING, WASTING, SELLING AND PRESERVING REGULATIONS

509.005 When, where and how fish may be taken; possessing or handling fish unlawfully taken. (1) It is unlawful for any person to take, catch or fish for salmon, shad, striped bass, sturgeon or other anadromous or food fish in any of the rivers, bays, streams, lakes, inlets, sloughs or other waters or tributaries thereof in the state, or any 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, except only during the open seasons and times as by law are specifically stated, authorized, limited, described and provided for each respective river, bay, stream, lake, inlet, slough or water or portion thereof described, and only in the manner by law specifically stated, authorized, permitted, described and provided, and by means of the nets, gear, device or appliances by law specifically authorized, stated, permitted and described.

(2) It is unlawful for any person to have in his possession or custody, or to deal in or handle, any of the fish mentioned in subsection (1) of this section which are fished, taken, caught or removed from any of the waters referred to by law during any closed season thereon, or fished, taken, caught or removed in any manner or by means of any device, appliance, gear, or nets, except such as is by law specifically authorized, permitted and described, with reference to the particular river, bay, stream, lake, inlet, slough or other waters of the state wherein such fish are fished, taken, caught or removed.

(3) It is unlawful to take, catch, fish for, deal in or handle any salmon, shad, sturgeon or other anadromous, food or shellfish in this state, in any waters of this state or in any waters over which this state has concurrent jurisdiction, except during the times, in the manner and by means of the appliances provided by law.

509.010 Taking, purchasing, possessing and transporting fish and using, possessing and leaving fishing gear during closed season. (1) No person, during any closed season upon any of the waters of this state or over which this state has concurrent or other jurisdiction, shall:

(a) Fish for, take, catch or transport salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish in such waters.

(b) Make use of any boat, vessel or any fish trap, weir, poundnet, gillnet, setnet, fish wheel, seine or any other device intended for or capable of being used to catch or transport salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish in such waters.

(c) Have, in such waters, leave or cause to be left in a condition to take or catch salmon, shad, sturgeon, striped bass or other anadromous, food or shellfish in such waters, any fish trap, weir, poundnet, gillnet, setnet, fish wheel, seine or any other device intended for or capable of being used to catch such fish.

(2) No person shall:

(a) Purchase salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish, or have in possession such fish, unlawfully caught during any closed season.

(b) Make use of any truck, automobile, motor vehicle or other vehicle of any kind whatsoever for hauling or transporting or intended to be used for hauling or transporting upon any public road, street, highway, alley or over any private property any salmon, sturgeon, shad, striped bass or other anadromous, food or shellfish unlawfully caught or taken during any closed season, or unlawfully imported, hauled, transported or brought into the state.

509.015 Forfeiture of gear unlawfully used; confiscation and sale of fish unlawfully taken. (1) In addition to the penalty prescribed by subsections (5) and (6) of ORS 506.990, any person convicted of violating ORS 509.010 shall forfeit the boat, vessel, truck, automobile, motor vehicle or other vehicle, fish trap, weir, poundnet, gillnet, setnet, fish wheel, seine or any other device so unlawfully used.

(2) All salmon, sturgeon, shad, striped bass or other anadromous, food or shellfish, either alive or dead, fished for, taken, caught, transported or possessed in violation of ORS 509.010 are declared to be contraband and are subject to seizure and confiscation by the State Fisheries Director or a deputy fish or game warden or State Police, either with or without arrest. Upon such seizure, the seizing officer may file an action

in rem before any justice of the peace or magistrate of any district court. If satisfied by an examination of the seizing officer at a hearing to be held at any time after such action is filed, that the fish were taken, caught, sold, transported or possessed in violation of ORS 509.010, the justice of the peace or magistrate forthwith may order the confiscation of the fish by the fisheries director or game director of the State of Oregon and shall adjudge the same to be condemned or sold by the fisheries director or game director. The proceeds of the sale of any such fish shall be applied first, to the payment of the expenses of seizure, condemnation and preservation of the property, and the balance to be paid to the State Treasurer, to be placed in the General Fund in the State Treasury. [Amended by 1957 c.133 §1]

509.020 Taking fish for propagation or scientific purposes. Nothing in any of the laws of this state prevents the taking of salmon, shad, sturgeon or other anadromous, food or shellfish at any time of the year by the fish commission or the accredited officers of the United States Fish and Wildlife Service for propagation or scientific purposes.

509.025 Taking fish by angling. Except as otherwise provided in ORS 506.170 and 508.005, it is lawful to take with hook and line, commonly called angling, any salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish, except trout of all species including steelhead trout, at any time in waters over which the state has jurisdiction, concurrent or otherwise.

509.030 Incidental taking of steelhead trout. Any steelhead trout taken as an incidental catch in the operation of any lawful gear during any lawful open fishing season, by any person, firm or corporation having in possession a legal commercial fishing license issued by the fish commission, is regarded as having been lawfully taken. Steelhead trout so taken may be bought, sold, disposed of or otherwise dealt in, and canned, cured, processed, manufactured or otherwise converted into fish products or by-products, as provided for in ORS 508.005 in relation to the various species of fish over which the fish commission has exclusive jurisdiction.

509.035 Injuring or taking fish near fishway. It is unlawful for any person to wilfully or knowingly destroy, injure or abstract from a fishway mentioned in ORS 509.605, or to take or catch any salmon or other food fish within 600 feet below any fishway; provided, that fishing with hook and line only is permitted 200 feet below any fishway.

509.040 Salmon protected. (1) (a) Any person who catches or takes any salmon of any variety less than 20 inches in length by any means other than hook and line, commonly called angling, shall immediately return such salmon alive to the water.

(b) No person shall buy, sell, offer for sale, have in his possession or custody any such salmon.

(c) However, this subsection does not prevent the taking of mature salmon between 15 and 20 inches in length.

(2) It is unlawful to:

(a) Take, fish for or have in possession or custody the young of salmon, under 20 inches in length, taken or caught in any waters of the state or in the waters of any of the rivers or bays over which the state has concurrent jurisdiction, at any time or in any manner except with hook and line, commonly called angling.

(b) Take, fish for, stone, club, shoot with any description of firearm, spear, foul-hook or any other device, or in any manner whatsoever, or molest, wound, kill or injure, in any manner at any time, or expose for sale or have in possession, except for the purpose of propagation, any gravid or spawning salmon.

509.045 Sturgeon protected. (1) It is unlawful at any time to take or kill any sturgeon under four feet in length, or fish for the same with any device or appliance whatever in the waters of the state, or in the waters of the Columbia River or its tributaries.

(2) Any person fishing with a trap, weir, poundnet, gillnet, setnet, fish wheel, seine or any other fishing apparatus in the waters of the state or in the waters of the Columbia River or its tributaries, who, on lifting, drawing, taking up or removing any trap, weir, poundnet, gillnet, setnet, fish wheel, seine or other fishing apparatus, finds sturgeon under four feet in length entangled or caught therein shall immediately, with care and the least possible injury to the fish, disentangle, release and transfer the fish to the water without violence.

(3) No person shall receive or have possession for consumption, sale or transportation, or sell or offer for sale or for transportation, or transport sturgeon under four feet in length, or dressed sturgeon under 32 inches in length exclusive of head and tail.

(4) In all prosecutions under this section the possession by any person, of sturgeon under four feet in length, or dressed sturgeon under 32 inches in length exclusive of head and tail, is prima facie evidence that the sturgeon were taken from the waters of the state or from the waters of the Columbia River or its tributaries.

(5) However, this section does not prohibit the taking or catching of sturgeon under four feet in length from any of the waters of the state over which it has jurisdiction, concurrent or otherwise, by means of hook and line commonly called angling. However, it is unlawful for any person to have in his possession or custody at any one time more than three sturgeon under four feet in length, or more than three dressed sturgeon under 32 inches in length, taken by means of hook and line.

509.050 Where angling permitted means natural person holding game commission license. Wherever in ORS 509.035 to 509.045 or 509.090 it is provided that salmon, shad, striped bass, sturgeon or other anadromous or food fish may be taken, caught or fished with hook and line, commonly called angling, such provision means a natural person holding an angler's license issued by the State Game Commission; and the term angling as applied to striped bass, includes the taking, catching or fishing of such bass with bass plugs.

509.055 Steelhead trout; when commercial and when game fish. In the Columbia River, and other tidewater streams of the state, steelhead trout of more than 15 inches may be taken as a commercial fish, except that in all waters of the Rogue River and its tributaries and within a radius of three miles from the center of the mouth of the Rogue River, the steelhead trout, regardless of age or size, is a game fish and may not be taken as a commercial fish.

509.060 Sea lions protected. No person shall shoot or otherwise kill, destroy, wound, maim, take, capture, cripple or molest any sea lion; provided, that the fish commission may grant permission to any person whom it deems fit, to kill, trap, net or capture alive, sea lions for scientific or exhibition purposes, the number allowed to be killed or captured to be specified in the permit, or may designate specific areas wherein sea lions may be killed whenever the fish commission deems the killing of sea lions necessary for the protection and preservation of fish. However, no such permission shall be granted so as to permit the killing of any sea lions on the coast of Lane County.

509.065 Wasting food fish or shellfish. It is unlawful for any person wantonly to waste or destroy any salmon, striped bass, shad, sturgeon or other anadromous food fish or shellfish taken or caught in any of the waters of the state or over which the state has concurrent jurisdiction. [Amended by 1959 c.254 §1]

509.070 Selling or preserving fish out of water over 60 hours. It is unlawful to sell or offer for sale, can or preserve for food any salmon, striped bass, shad, sturgeon or other anadromous, food or shellfish that have been removed from the water for a longer period than 60 hours, unless such fish have been artificially chilled.

509.075 Selling or preserving fish unfit for human consumption. The fish commission, or its authorized representatives, whenever it or they find that salmon, shad or sturgeon about to be packed, canned, preserved in ice or sold in the open market are unfit for human consumption, shall notify the packer or possessor of such fish of the fact. If, in spite of any warning which may be given to such packer or possessor, such fish are packed, demand shall be made upon the packer to keep such fish separate and apart from the balance of his output or pack, and a full report shall be made of the matter to both the state and the federal health authorities.

509.080 Possessing, selling or transporting fish taken during closed season. It is unlawful for any person to receive, have in his possession or custody, sell or offer for sale or transportation, or transport, during the closed season on or of any stream, river, bay, inlet or other waters of the state or over which it has jurisdiction, concurrent or otherwise, any salmon, striped bass, shad, sturgeon or other anadromous, food or shellfish caught or taken during such closed season.

509.085 [Reserved for expansion]

509.090 Sale or transportation for sale of fish taken by angling. It is unlawful to sell or offer for sale within the state, or ship, haul or otherwise transport out of the state for the purpose of sale, barter or exchange, any salmon, shad or other anadromous or food fish except striped bass taken from any stream, river, lake, bay, inlet, slough or other waters of the state or any waters over which the state has jurisdiction, concurrent or otherwise, by means of hook and line, commonly called angling.

509.095 [Repealed by 1953 c.364 §3]

509.100 [Repealed by 1953 c.364 §3]

509.105 Transporting or possessing fish taken or transported unlawfully under laws of other states. It is unlawful for any person to import into the state or carry or transport by common carrier or by any boat, vessel, truck, automobile or other motor vehicle of any kind or any vehicle within the state or have in possession or custody, any salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish, which have been unlawfully taken, caught or fished for, or unlawfully carried, hauled or transported by any such means under or by virtue of the laws of another state. [Amended by 1957 c.291 §1]

509.110 Fish transporters to require statement of shipper and forward to commission; examination of records. (1) All transportation companies, common carriers or other agencies handling, transporting or shipping salmon, shad, striped bass, sturgeon or other anadromous, food or shellfish, fresh, frozen, salted, smoked, kippered or preserved in ice, and any person, firm or corporation hauling by boat, vessel, truck, automobile or other motor vehicle, or any vehicle whatsoever, shall require of the shipper, before accepting such shipments, a signed statement in writing showing:

(a) The name of the consignor or shipper.

(b) The name of the consignee.

(c) The net weight in the whole or round, or dressed, in pounds.

(d) The variety of the fish contained in said shipment or shipments.

(2) Such statement shall be forwarded to the office of the fish commission at least once each month.

(3) The fisheries director, State Game Director or any deputy fish or game warden may at any time examine the records of any such transportation companies, common carriers or other agencies, for the purpose of enforcing this section.

509.115 Placing in waters fish harmful to other fish. It is unlawful for any person, without written authority from the fish commission, to place in any of the waters of this state any species or variety of fish whatsoever which are inimical to or destructive of salmon, shad, sturgeon or other anadromous or food fish.

509.120 Using electricity which disturbs fish; permit. No person shall use or permit to be used in any of the waters of the state any electrical device, appliance or current which in any manner has a tendency to retard, scare, frighten or obstruct any salmon or food fish in their migrations or movements in such waters without first having obtained the consent of and a permit from the fisheries director.

509.125 Placing substances in water to drive fish from closed areas. It is unlawful for any person to place in any stream of this state where salmon or other food fish run or exist, within the distance from any dam, fishway or object in which the taking of salmon is prohibited by law, any blood or offal of salmon or fish, or any other substance, matter or contrivance that will frighten or drive salmon or other food fish, or with intent to drive or frighten, out of that part of the waters of any stream in which it is unlawful to fish for or take such fish.

509.130 Placing substances in water to take or kill fish. It is unlawful for any person to throw, cast or pass, or cause or permit to be thrown, cast or passed, in any waters of the state in which salmon of any kind or other food fishes are wont to be, any lime, drug, powder, medicated bait, gas or cocculus indicus, or any other substance deleterious to fish, or to explode or cause to be exploded in any waters of this state, any powder, hercules powder, giant powder, dynamite, nitroglycerine or any other explosive substance whatever, for the purpose of catching, killing or destroying any salmon or other food fish.

509.135 Placing explosives and poisons in water and taking or killing fish by means thereof; permit. It is unlawful to explode or cause to be exploded any dynamite or other explosives, or to place, cast or pass, or allow

to be cast, thrown or passed any gas, lime, cocculus indicus or extract therefrom, or any other substance poisonous to salmon, shad, sturgeon or other anadromous, food or shellfish, or to take, kill or injure any such fish by means of dynamite or other explosives or by means of lime, cocculus indicus or extract therefrom, or other poison within any lake, river, stream, pond, bay or other waters within the boundaries of the state, without first obtaining an order permitting it to be done from the fish commission or its authorized representatives.

509.140 Placing explosives and poisons in waters in course of construction work and other businesses; permit. (1) Whenever in the course of removing any obstruction in any waters within the boundaries of the state, or in constructing any foundations for dams, bridges or other structures, or in carrying on any trade or business, any person desires to use explosives or gas, lime, cocculus indicus or extract therefrom, or other poison, such person shall make application to the fish commission for a permit to use same in such waters.

(2) If the fish commission approves the necessity for using the same it may make an order granting such person the right to use the explosives, gas, lime, cocculus indicus or extract therefrom, or poison, and shall designate the places and period within which the explosives, gas, lime, cocculus indicus or extract therefrom, or poison may be used, and shall prescribe such precautions as will save such fish from injury.

(3) No person shall disregard such order or fail to obtain such order or permit.

509.145 Aiding or abetting violation of ORS 509.125 to 509.140. No person shall aid or abet any person, firm or corporation guilty of violating any provision of ORS 509.125 to 509.140.

509.150 Use by commission of substances to eradicate predatory fish or carry out fish laws not affected. Nothing in ORS 509.125 to 509.155 prevents the fish commission from using any such explosives or gas, or other substances for the purpose of getting rid of, destroying or eradicating German carp or any other predatory fish inimical or salmon, shad, sturgeon or other anadromous, food or shellfish, or from carrying out any of the laws for the protection, preservation and propagation of salmon, shad, sturgeon or other anadromous, food or shellfish.

509.155 Possession of fish killed by explosive or poison justifies arrest; burden of proof on possessor. Having in possession or custody any salmon or other food or shellfish under circumstances which make it reasonable to believe that they were taken or killed by means of lime, cocculus indicus or extract therefrom, or other poison, or by giant powder, dynamite or other explosives, justifies the arrest of the person having the fish in his possession. It is then incumbent upon such person to prove and show that the fish were taken or killed by lawful means.

509.160 to 509.200 [Reserved for expansion]

FISHING GEAR REGULATIONS

509.205 Areas closed to fixed gear and seines for salmon, shad or sturgeon. It is unlawful for any person to construct, maintain or operate any trap, weir, fishing dam or fish wheel, or to operate any drag seine or seine of any kind or description for salmon, shad or sturgeon in any of the following named streams or waters within the state: Alsea Bay and its tributaries, Beaver Creek, Chetco River, Coos Bay and its tributaries, Coquille River and its tributaries, Elk River, Elk Creek, Floras Creek, Klamath River and tributaries, Lower Tenmile Creek, Necanicum River, Nehalem River and tributaries, Nestucca Bay and tributaries, New River and Lake, Pistol River, Salmon River, Siletz River, Sixes River, Tillamook Bay and its tributaries, Umpqua River and its tributaries, Upper Tenmile Creek, Willamette River and its tributaries, Winchuck River, Yaquina Bay and its tributaries, or in any other rivers, streams or creeks emptying into the Pacific Ocean south of the Columbia River. This section does not prohibit the operation of drag seines for the purpose of catching perch, herring, sardine or pilchard, smelt or candle fish, but all salmon, shad, sturgeon or trout, caught or taken by any drag seine while the same is being so operated, shall be at once set free.

509.210 Using purse seines prohibited. It is unlawful for any person to fish for salmon, shad, sturgeon or other food or shellfish, by means of devices known as purse seines, or to have any devices known as purse seines, whether fishing or not, in any of the waters of the state, or in any of the waters over which the state has concurrent

jurisdiction, or in any of the waters of the Pacific Ocean over which the state has jurisdiction.

509.215 Possessing, purchasing or selling fish taken by purse seine prohibited. It is unlawful for any person to possess, purchase, sell or offer for sale, at any time within the state, any salmon, shad, sturgeon or other food or shellfish taken or caught by means of purse seines in any of the waters of the Pacific Ocean.

509.220 Seizing and selling fish and unlawful gear; disposing of proceeds. All fish found in the possession of any person or vessel or gear or apparatus used in any violation of ORS 509.210 or 509.215 immediately shall become the property of the state and shall be sold by the fisheries director. The proceeds of this sale shall be paid to the State Treasurer to be deposited in the General Fund in the State Treasury.

509.225 Bringing purse seines used in Pacific Ocean outside Oregon jurisdiction into state waters. The fish commission, by rule or regulation, may permit purse seines used under ORS 509.225, 509.230 or ORS chapter 513 to come into any of the waters of the state, or any of the waters over which the state has concurrent jurisdiction, or any of the waters of the Pacific Ocean over which the state has jurisdiction, but no order or regulation shall be made permitting the use or operation of such purse seines for fishing purposes within any of such waters.

509.230 Possession of fish taken by any gear from Pacific Ocean outside Oregon jurisdiction; taking salmon only by troll within Oregon jurisdiction. (1) Subject to the conditions provided in ORS 509.225, 509.230 and ORS chapter 513, it is lawful to have in possession any species of fish other than salmon taken in the waters of the Pacific Ocean outside the territorial jurisdiction of the state by means of nets and other fishing gear for:

(a) The purpose of commercially packing, canning or preserving same.

(b) The manufacture of fish meal, fish oil or other fish products or by-products.

(c) Sale as fresh fish for general consumption.

(d) Bait.

(2) However, it is unlawful to take any salmon for commercial purposes in any of the waters of the Pacific Ocean within the jurisdiction of the state or over which this state has concurrent jurisdiction by means of any fishing gear, appliance or device other than by "troll." [Amended by 1955 c.178 §1]

509.235 Chinese sturgeon lines prohibited; destruction of lines and arrest of user. It is unlawful to cast, extend, set, use or continue or assist in casting, extending or using, any Chinese sturgeon line, or lines of a similar character, in the waters of the state or in the waters of the Columbia River or its tributaries. The fisheries director and any of his deputies or sheriffs, deputy sheriffs, constables or other peace officers may seize and destroy any such lines found in such waters, and may arrest, without warrant, any person detected in setting or using any Chinese sturgeon line or lines of a similar character in such waters.

509.240 Snagging nets during closed season allowed. It is lawful to operate or use a net consisting of a single cotton web of a mesh not less than 14 inches, taut measure, hung or attached to not to exceed two lead lines combined and used as a single line and a single cork line, in any of the waters or streams of the state or in the Columbia River, during any season or period closed to commercial fishing by law or by order of the fish commission, for the purpose of clearing away or removing snags or similar obstructions from gillnet drifts and other suitable or desirable fishing areas.

509.245 Notice to director of use of snagging nets; duration of notice. Any person, firm or corporation desiring to operate a snagging net as provided in ORS 509.240 shall, before operating or attempting to so operate such net, notify the fisheries director by letter forwarded by registered mail to the office of the fish commission, specifically as to the particular gillnet drift, fishing ground or other area to be cleared, the river or waters in which located, the mesh size of the snagging net to be used and the dates on which or within which the proposed snagging operations will be carried on. In specifying any such dates, no one notice is valid for a period of more than 30 days from the date thereof.

509.250 Fixed gear not to interfere with prior fishing rights. It is unlawful for the fisheries director or the fish commission to grant a license to any person, firm, partner-

ship or corporation, to build or set up fish traps or any other fixed fishing appliance, or drive piles therefor, in any locality in or on the Columbia River and its tributaries in this state, when in the judgment of the fisheries director or the fish commission the same interferes with a prior right of fishing.

509.252 Marking boats and vessels. (1) Any person licensed to fish for commercial purposes shall cause to be durably painted or stamped on any boat or vessel used by such person to fish for commercial purposes, the number designated in such license followed by the appropriate letter prescribed in subsection (2) of this section. Such number and letter shall be painted or stamped in black figures not less than six inches in length on light background or white figures not less than six inches in length on dark background and shall be conspicuously placed as nearly amidships as practicable:

(a) On the right or starboard side of the boat or vessel;

(b) On the deck or roof of the house or cabin of the vessel; and

(c) On the left or port side of the vessel.

(2) The following letters indicate the type of license held by a person fishing for commercial purposes from a boat or vessel:

(a) For a license to take crabs under ORS 508.155, "C".

(b) For a license to troll for salmon under ORS 508.130, "T".

(c) For a license to deliver or transport salmon or other food or shellfish under ORS 508.220, "D".

(d) For a baitnet license under ORS 508.145, "B".

(e) For a longline license under ORS 508.147, "L".

(f) For an otter or beam trawl license under ORS 508.152, "G".

(g) For a license to take clams, scallops and mussels under ORS 508.160, "P".

(h) For a license to take shrimp under ORS 508.155, "S".

(3) No person shall display any license number or letter required in subsection (1) of this section on a boat or vessel without first obtaining and having in his possession the corresponding current license.

(4) As used in this section, "fishing for commercial purposes" means the taking, catching or fishing for food or shellfish for commercial purposes in waters of the Pacific Ocean over which this state has jurisdiction or the 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 waters of the Pacific Ocean. [1955 c.477 §1; 1957 c.130 §1]

509.255 Marking poundnets, traps or weirs and location thereof. Any person, after first obtaining a license from the fisheries director to operate a poundnet, trap or weir, shall indicate the location for the poundnet, trap or weir by erecting a permanent and conspicuous monument on the bank of the river or channel. Upon this monument such person shall cause to be placed and maintained the license number, preceded by an "O," designated by the fisheries director at the time of issuing the license. This number shall consist of black figures not less than six inches in length painted on white ground. After any such poundnet, trap or weir has been located and constructed, the owner shall file a map with the fisheries director, giving the exact description and location. During the fishing season, between sunset and sunrise, a bright and conspicuous white light shall be maintained on each poundnet, trap or weir.

509.260 Marking fish wheels. Any person having obtained a license from the fisheries director to operate a fish wheel, shall cause to be placed and maintained in a conspicuous place on the fish wheel or on a permanent monument erected for that purpose, the number, preceded by an "O," designated by the fisheries director at the time of issuing the license. This number shall consist of black figures not less than six inches in length painted on white ground.

509.265 Marking setnets and location thereof. Any person having obtained a license from the fisheries director to operate a setnet shall cause to be placed and maintained on a substantial post or monument erected for that purpose on the bank of the river or channel, or upon a buoy securely anchored on the location claimed, the number, preceded by an "O," designated by the fisheries director at the time of issuing the license. This number shall consist of black figures not less than six inches in length painted on white ground. In addition, such person shall cause to be branded on the corks of each end of the setnet and upon the cork nearest the center thereof, the number designated in the license, which numbr shall consist of figures not less than one inch in length.

509.270 Marking location of set lines. Any person having obtained a license from the fisheries director to operate a set line shall cause to be placed and maintained on a substantial post or monument erected for that purpose on the bank of the river or channel, or upon a buoy securely anchored on the location claimed, the number preceded by an "O," designated by the fisheries director at the time of issuing the license. This number shall consist of black figures not less than six inches in length painted on white ground.

509.275 Marking seines and location thereof. Any person having obtained a license from the fisheries director to operate a seine shall cause to be placed and maintained in a conspicuous place on the wharf, scow or float maintained at the seining ground claimed, the number, preceded by an "O," designated by the fisheries director at the time of issuing the license. This number shall consist of black figures not less than six inches in length painted on white ground. In addition, such person shall cause to be branded on the corks of each end of the seine and upon the cork nearest the center thereof, the number designated in the license, which number shall consist of figures not less than one inch in length.

509.280 Marking gillnets. Any person having obtained a license from the fisheries director to operate a gillnet in any of the waters of this state or the Columbia River, or from a like official of the State of Washington, such state having concurrent jurisdiction on the Columbia River with this state as to gillnets and as to gillnet fishermen, shall cause to be placed upon the corks of each end of such net, and upon the cork nearest the center thereof, the number designated in the license. This number shall consist of figures not less than one-half inch in length.

509.285 Marking seine or net boats. Each boat or vessel used to operate any seine or net for food fish shall have displayed upon the house or amidships in a conspicuous place and easily discernible, the number designated in the license, preceded by "O," if issued by the fisheries director, State of Oregon, or the number designated in the license preceded by a "W," if issued by a like official of the State of Washington. This number shall consist of black figures not less than six inches in length painted on light ground, or white figures not less than six inches in length painted on dark ground.

509.290 Appliances or boats to be marked within five days after license issued. No owner or operator of any fishing appliance or boat specified in ORS 509.255 to 509.285 shall fail to comply with any of the provisions of ORS 509.255 to 509.285 within five days from the date of license issued for the appliance.

509.295 Fixed gear unlawfully constructed to be sold and piling removed; disposition of proceeds. Whenever any fish trap or any other fixed fishing appliance is built or set up in violation of this Act, as defined in ORS 506.020, the fisheries director shall confiscate and sell the fish trap, and remove all the piling driven for such purposes immediately. The fisheries director shall pay the proceeds of the sale to the State Treasurer, by whom they shall be deposited in the General Fund in the State Treasury.

509.300 Gear and appliances subject to execution for payment of fines and costs. Any gear and appliances used in violation of this Act, as defined in ORS 506.020, including boats, traps, nets, weirs, fish wheels, trucks, automobiles, motor vehicles or other vehicles of any kind whatsoever or other appliances, are subject to execution for the payment of fines and costs herein provided for.

509.305 to 509.350 [Reserved for expansion]

NET FISHING FOR SALMON IN PACIFIC OCEAN

509.355 Definitions for ORS 509.355 to 509.390. As used in ORS 509.355 to 509.390:

(1) "Citizen of this state" means a person who maintains his usual place of abode within this state or who otherwise qualifies as a citizen of this state under the laws of this state.

(2) "International waters" means waters outside the territorial boundaries of any state, territory or country. [1957 c.152 §1]

509.360 Period during which ORS 509.355 to 509.390 are operative. (1) ORS 509.355 to 509.390 shall be operative and in full force and effect only while such laws or rules or regulations referred to in subsection (2) of this section are operative and in full force and effect in Washington, California and Canada.

(2) ORS 509.355 to 509.390 shall not be operative after April 18, 1958, unless laws or rules or regulations of California, Washington and Canada are effective which, in substance or effect, either contain provisions similar to and which accomplish the purposes of ORS 509.355 to 509.390 or provisions which prohibit the possession or transportation within their respective territorial waters of the Pacific Ocean of salmon taken by any type of net within the international waters of the Pacific Ocean or within their respective territorial waters of the Pacific Ocean and not accompanied by a certificate issued under the authority of this state or of another state, territory or country showing that such salmon were lawfully taken. Such laws or rules or regulations of California, Washington and Canada shall be considered effective upon receipt by the Secretary of State of this state of certified written statements from the respective secretaries of state of California and Washington and from the Department of State of the United States on behalf of Canada setting forth such laws or rules or regulations and the date on which they are effective. Such certified written statements, together with a written statement of the Attorney General of this state that the provisions of this subsection are satisfied by such laws or rules or regulations, are conclusive proof that the provisions of this subsection are so satisfied. In any prosecution for violation of any provision of ORS 509.365, 509.370 or 509.375, proof of the existence of such certified written statements and written statement of the Attorney General of this state need not be made unless demanded by the defendant prior to the commencement of trial. [1957 c.152 §§9, 10]

Note: ORS 509.355 to 509 390 are operative and in full force and effect. A written statement of the Attorney General of the State of Oregon, dated October 16, 1957, states that the provisions of subsection (2) of ORS 509.360 are satisfied.

509.365 Taking salmon by net in waters of Pacific Ocean over which Oregon has jurisdiction prohibited. No person shall fish for or take, by the use of any type of net, any salmon within the waters of the Pacific Ocean, over which this state has jurisdiction, lying westerly of the following described line: Commencing at the point of intersection of the California-Oregon state boundary with the Pacific Ocean high water mark shoreline; thence northerly along such high water mark shoreline, including extensions thereof across the waters of the bays or tidal areas of streams emptying into the Pacific Ocean, to the mouth of the Columbia River; thence northerly across the waters of the Columbia River along the line designating and defining the mouth of such river under ORS 511.130 to the point of intersection of such line with the Oregon-Washington state boundary. [1957 c.152 §2]

509.370 Taking of salmon by net in international waters of Pacific Ocean by Oregon citizen prohibited. No citizen of this state shall fish for or take, by the use of any type of net, any salmon within the international waters of the Pacific Ocean. [1957 c.152 §3]

509.375 Transporting or possessing salmon unlawfully taken by net in certain waters prohibited. No person shall transport through the waters of this state wherein net fishing for salmon is prohibited or have in his possession anywhere within this state any salmon which were taken by any type of net within the international waters of the Pacific Ocean or within the territorial waters of this state or of another state, territory or country wherein such fishing is prohibited and which are not accompanied by a certificate issued under the authority of this state or of another state, territory or country showing that such salmon were lawfully taken. [1957 c.152 §4]

509.380 Seizure, forfeiture and disposition of boats, nets and salmon unlawfully taken. Any boat or vessel within this state which has been used to fish for or take any salmon in violation of ORS 509.355 to 509.390, any type of net which has been used in violation of ORS 509.355 to 509.390 and which is on any boat or vessel within this state and any salmon which has been taken in violation of ORS 509.355 to 509.390 and which is on any boat or vessel within this state shall be seized by any officer charged with the enforcement of the commercial fishing laws of this state, and may be forfeited. If forfeited, such property shall be turned over to the Fish Commission of the State of Oregon by order of the court. The fish commission may dispose of such property in any manner it considers proper, but any moneys derived from the sale of such property shall be deposited in the General Fund in the State Treasury. Any salmon so seized and forfeited may be disposed of immediately or

used for food purposes, under rules and regulations of the fish commission, to prevent spoilage. [1957 c.152 §5]

509.385 Exceptions. ORS 509.355 to 509.390 do not apply to:

(1) Those species of salmon in those areas within the international waters of the Pacific Ocean which are regulated by the International Pacific Salmon Fisheries Commission or by United States laws or rules or regulations promulgated pursuant to such laws.

(2) The use of nets for fishing for or taking salmon for purposes of scientific investigation authorized by the laws of this state. [1957 c.152 §6]

509.390 Rules and regulations. The Fish Commission of the State of Oregon from time to time may promulgate, modify or rescind such reasonable rules and regulations not inconsistent with the laws of this state as it considers necessary to administer and carry out the provisions and purposes of ORS 509.355 to 509.390. [1957 c.152 §7]

509.395 to 509.400 [Reserved for expansion]

CRABS, OYSTERS AND OTHER SHELLFISH

509.405 [Repealed by 1955 c.274 §1]

509.410 [Repealed by 1955 c.274 §1]

509.415 Gear used in taking crab; selling crabs unlawfully taken. (1) No person shall take a crab from any of the waters of the state for commercial purposes, with or by the use of any other gear than that specifically known as crab ring or crab pot, or sell or offer for sale crabs unlawfully caught.

(2) The taking of Dungeness crab (cancer magister) for commercial purposes from any of the waters of this state, by the use of any gear except that commonly known as crab ring or crab pot, is prohibited.

509.420 Possession and sale of Dungeness crabs taken with unlawful gear. (1) It is unlawful for any person to possess for sale, offer for sale or sell any Dungeness crab (cancer magister) in this state, that has been taken by the use of gear other than that provided by subsection (2) of ORS 509.415, whether taken from the waters of this state or not.

(2) This section and subsection (2) of ORS 509.415 do not apply to any crab or crab meat brought into this state after having been canned or otherwise preserved, which includes preservation by freezing.

509.425 Natural oyster beds; control and regulation by commission. The fish commission has control of all the natural oyster beds in the waters of this state, and shall prescribe such rules and regulations for the protection of oysters therein and for the taking of oysters and oyster spat shells therefrom as in the judgment of the commission is for the best interests of the industry, but no person shall be allowed to take oysters, spat or shells from such natural beds unless he has been a citizen of the state for one year next preceding the taking of such oysters, spat or shells. It is unlawful for any person to take oysters from such natural beds unless they comply strictly with all of the regulations made by the fish commission covering the same.

509.430 Oyster regulation enforcement officers. The fisheries director and deputy fish wardens have authority to carry out and enforce the rules and regulations of the fish commission in relation to the oyster beds.

509.435 Who may take or sell oysters or own beds. No person not a citizen of the United States and of the State of Oregon as provided in ORS 509.425, shall gather oysters in natural beds, for sale or transportation or for replanting, nor shall own any artificial oyster bed or any interest therein. No person shall purchase oysters for transportation or replanting except from persons so qualified.

509.440 When oysters may be taken. No person shall remove oysters from natural beds between June 15 and September 10 in any year. Nothing in this Act, as defined in ORS 506.020, prevents any person owning artificial beds from taking oysters from such beds at any time.

509.445 Manner of taking oysters from natural beds. No person shall gather or take oysters from natural beds within the waters of this state, with a scoop, scrape, drag or dredge where the water is of less depth than 24 feet at low tide.

509.450 Waste of oysters prohibited. No person gathering oysters from natural or artifical beds shall commit or permit waste by casting young oysters or shells on shore

or in places unfavorable to their growth or increase.

509.455 Artificial oyster beds as private property; size and locations; local regulations. Artificial plantations of oysters belonging to citizens of this state, if distinctly marked out by means which do not obstruct navigation, and not exceeding the extent allowed by local regulations, shall be deemed and protected as private property. The following portions of Yaquina Bay, in Lincoln County, are designated and set apart for artificial plantations of oysters: Brown's Flat, Pool's Slough, Lyman's Eddy and Green Point. The size and dimensions of such oyster beds shall remain as they have been fixed by the local regulations of the oystermen's association, not exceeding two acres in any one plantation. Every person holding a claim for the cultivation of oysters shall in all respects comply with the local regulations applicable thereto.

509.460 Placing in water matter injurious to oysters and other shellfish. It is unlawful for any person to deposit or allow to escape into, or cause or permit to be deposited or escape into any public waters of this state, any substance of any kind which will or shall in any manner injuriously affect the life, growth or flavor of oysters or other shellfish in or under such waters.

509.465 Permit to transplant oysters; leasing oyster beds. (1) The fish commission may grant permits to any person to transplant or plant eastern or other oysters in any of the waters of the state wherein are located natural oyster beds, and may lease to such person the exclusive privilege of taking oysters from such natural oyster beds or any portion thereof for a period not to exceed 10 years.

(2) The fish commission may enter into leases with local oystermen on subdivisions of the natural public oyster beds of Yaquina Bay, Lincoln County, known as the Oysterville Flats and the Lewis Flats, of not over three acres in area to each oysterman. All other public beds on Yaquina Bay may also be leased in larger areas to persons who are willing and able to bring such beds into early and large production.

(3) All leases under this section shall contain provisions which subject the lessees to rules and regulations to be made by the fish commission along lines recommended by the Oregon Agricultural Experiment Station.

509.470 Private oyster beds acquired under prior law not affected. Nothing in ORS 509.425 to 509.465 and 511.625 interferes with any rights in, or ownership of, any private plantations of oysters or oyster beds acquired or held under law existing on February 17, 1921.

509.475 Taking oysters or other shellfish from marked beds without permission or disturbing beds. No person shall, without the permission of the legal occupants, take up oysters or other shellfish from natural or artificially planted oyster or shellfish beds, which beds have been lawfully and plainly marked. No person shall wilfully disturb the oysters or shellfish in such beds, or the surfaces of such beds, or the markers.

509.480 Filing plats of claims to oyster plantations; requirements of plat. (1) The holders and owners of claims of oyster plantations and claims thereto in any county of the state may file plats of such claims.

(2) All such plats, diagrams or drawings of the claims or subdivisions thereof offered for record shall:

(a) Be made in black India ink upon a good quality of white coldpressed, double mounted drawing paper 18 inches by 24 inches in size, with the muslin extending three inches at one end for binding purposes.

(b) Have attached thereto an affidavit of a surveyor, having surveyed the claims represented on such plat, to the effect that he has surveyed correctly the same.

(c) Indicate thereon the initial point of the survey with reference to some known corner established by the United States survey.

(d) Accurately describe the claims included in the diagram, drawings and subdivisions of the claims.

509.485 Place of filing oyster plats; record book. (1) All of the maps, plats and diagrams and subdivisions thereof made as provided in ORS 509.480 may be filed with the county clerk or recorder of conveyances.

(2) Such filing with the date thereof shall be indorsed thereon, and the maps, plats and diagrams and subdivisions thereof shall then be bound securely with other maps and plats of a like character in a book especially made and kept for that purpose, which book shall be known and designated as Record of Oyster Plantation Plats.

(3) Such record book shall be provided in the front part with indices, in which shall

be entered in alphabetical order all maps, plats and diagrams recorded therein.

(4) When so filed, bound and indexed, the recorded items are the legal record of all such maps, plats, diagrams and other writings.

509.490 Oyster plat filing fee. The filing fee for filing the plat mentioned in ORS 509.485 is $10.

509.495 Transfer by reference to filed oyster plat. Sales, leases, assignments, conveyances, relinquishments and other transfers of oyster plantations and claims, or parts thereof, may be made by reference to the plat filed as provided in ORS 509.480 to 509.490.

509.500 Prior claims, plats, transfers or debts unaffected. Nothing in ORS 509.480 to 509.495 invalidates any claim or plat filed prior to June 14, 1939, or invalidates in any manner any transfers, debts or conveyances made prior to June 14, 1939, of oyster claims or lands made by reference to any filed claims or plats.

509.505 to 509.600 [Reserved for expansion]

FISHWAYS AND FISH SCREENING DEVICES; HATCHERIES FOR DAMS

509.605 Fishways in artificial stream obstructions; inspection by director; failure to complete fishway. (1) Except as otherwise provided in ORS 498.732 or 509.640 or 509.645 or the state water resources policy formulated under ORS 536.300 to 536.350, it is unlawful for any person to construct or maintain any dam or artificial obstruction across any stream in this state frequented by salmon or other food fish without providing a passageway for such fish over the dam or artificial obstruction as near the main channel as practicable.

(2) The fisheries director shall examine, from time to time, all dams and artificial obstructions in all rivers and streams in the state frequented by salmon or other food fish. If in his opinion there is not a free passage for such fish over any dam or artificial obstruction, and except as otherwise provided in ORS 509.640, the fisheries director may notify the owner or occupant thereof to provide the same within a reasonable time with a durable and efficient fishway, of such form and capacity and in such location as shall be determined by the fisheries director. Except as otherwise provided in ORS 509.645, no owner or occupant of such dam or artificial obstruction shall fail to complete such fishway to the satisfaction of the fisheries director within the time specified. [Amended by 1955 c.707 §49]

509.610 Neglect of obstruction owner or occupant to maintain fishway. It is incumbent upon the owners and occupants of all dams or artificial obstructions, where, subject to ORS 509.645, the fisheries director requires a fishway to be provided pursuant to ORS 509.605, to keep the same in repair and open and free from obstruction to the passage of salmon or other food fish at all times. No owner or occupant of any dam or artificial obstruction shall neglect or refuse to keep such fishway in repair and open and free from obstruction to the passage of said fish. The continuance from day to day of the neglect or refusal, after notification in writing by the fisheries director, constitutes a separate offense for each day. [Amended by 1955 c.707 §52]

509.615 Owner or lessee to screen artificial watercourse; removing inadequate devices. (1) Any person owning in whole or in part, or leasing, operating or having in charge any irrigating ditch, canal, millrace or other artificial watercourse, taking or receiving its waters from any river, creek or lake in which fish have been placed or may exist, shall, upon order of the fish commission, place or cause to be placed, and shall maintain, to the satisfaction of the fish commission, over the inlet of the ditch, canal, millrace or watercourse, a reasonable grating, screen or other device, either stationary or operated mechanically, of such construction, fineness, strength and quality as shall reasonably prevent any fish from entering the ditch, canal, millrace or watercourse, to the satisfaction of the fish commission.

(2) Inadequate screening devices may be ordered removed and new screens ordered installed, when, upon investigation after full hearing upon which all interested parties have had the right to be heard, it is determined that any screen, grating or other device, either by construction, operation or otherwise, is found to be inadequate by the fish commission. [Amended by 1957 c.135 §1]

509.620 Condemning inadequate and ordering new fishways. Where in the judgment of the fish commission, any fishway is

inadequate, as constructed under ORS 509.605 or otherwise, the fish commission may condemn the fishway and order a new fishway installed in accordance with plans and specifications determined by the fish commission.

509.625 Power of commission to inspect artificial obstructions and have fishways constructed. The fish commission may determine or ascertain by inspection of any dam or artificial obstruction whether it would be advisable to construct, or order the construction, pursuant to ORS 509.605, by the owners thereof, of fishways over the dam or obstruction. The fish commission shall construct or order the construction, pursuant to ORS 509.605, of such number of fishways in any stream inhabited by salmon or other food fish as is deemed adequate to provide a good and sufficient passageway for such fish. [Amended by 1955 c.707 §53]

509.630 Power of commission to establish fishways in natural stream obstructions. The fish commission may determine or ascertain by inspection of any natural obstruction whether it would be advisable to construct fishways over or around such natural obstruction. If it is deemed advisable the fish commission shall construct fishways in any stream inhabited by salmon or other food fish adequate to provide a good and sufficient passageway for such fish.

509.635 Oregon City fishway under control of commission; obstructing and fishing prohibited; removal of obstructions. (1) The fishways constructed prior to February 18, 1921, over the falls in the Willamette River, near Oregon City, are under the care and control of the fish commission, which may make any extensions, additions, alterations or repairs to the same that become necessary.

(2) It is unlawful for anyone to:

(a) Hinder, annoy or disturb the fish entering, passing through, resting in or leaving such fishway, or obstruct the passage of fish through the fishway at any time or in any manner.

(b) Place anything in the fishway.

(c) Use any device for catching fish, or any wheel, net, hooks or lines in the fishway or anywhere within 200 feet thereof.

(d) Catch fish at any time anywhere within 200 feet of the fishway.

(e) Do any injury to the fishway.

(3) The fish commission, or its duly authorized representatives, may remove any artificial obstructions placed in the Willamette River above said falls which would prevent the free passage of fish up the river.

509.640 When dams to be provided with hatchery facilities. (1) If in its opinion the height of a dam in any of the rivers or streams of this state will make a fish ladder or fishway thereover impracticable, the fish commission, in lieu of the requirement of a fishway under subsection (2) of ORS 509.605 and subject to ORS 509.645, may require that the owner of the dam:

(a) Convey to the state a site of the size and dimensions satisfactory to the fish commission, at such place as may be selected by the fish commission.

(b) Erect thereon a hatchery and hatchery residence, according to plans and specifications to be furnished by the fish commission.

(c) Enter into an agreement with the fish commission, secured by a good and sufficient bond, to furnish all water and light, without expense, to operate the proposed hatchery.

(2) Except as otherwise provided in ORS 509.645, no owner of the dam shall fail to comply with subsection (1) of this section to the satisfaction of the fish commission within a reasonable time specified.

(3) This section does not apply to:

(a) Dams constructed prior to February 18, 1921, in streams to a height where the construction of a fish ladder is impracticable, provided an agreement has been entered into and executed with reference to the construction and maintenance of such dam between the fish commission and the owners thereof.

(b) Dams, for the construction of which permits have been granted by the fish commission under this section as it existed prior to the 1955 amendment of this section. Such dams are subject to and governed by this section as it existed prior to the 1955 amendment of this section. [Amended by 1955 c.707 §54]

509.645 Filing protest with State Water Resources Board; review and determination by board as to whether fishway or hatchery facilities in public interest. (1) Any owner or occupant of a dam or artificial obstruction may file a protest with the State Water

Resources Board within 10 days after receipt of notification from the fisheries director as provided in subsection (2) of ORS 509.605, or within 10 days after receiving notice of the requirement by the fish commission under ORS 509.640, on the ground that providing the dam or artificial obstruction with a fishway or providing the dam with hatchery facilities as required by the fish commission, as the case may be, would impair or be detrimental to the public interest.

(2) Within a reasonable time after the filing of the protest under subsection (1) of this section, the board shall hold a public hearing thereon. The board shall give written notice of the hearing to each owner or occupant of the dam or artificial obstruction, who is known to or can be reasonably ascertained by the board, and to the fish commission at least 10 days prior to the hearing.

(3) The board, after the hearing, shall make a determination as to whether providing the dam or artificial obstruction with a fishway or providing the dam with hatchery facilities as required by the fish commission, as the case may be, would impair or be detrimental to the public interest. The determination shall be binding upon each owner or occupant of the dam or artificial obstruction and the fish commission. The determination shall approve the requirement of the fishway or the hatchery facilities, as the case may be, approve the requirement subject to conditions specified in the determination or disapprove the requirement. If each owner or occupant of the dam or artificial obstruction complies with the determination, such owner or occupant shall be deemed not in violation of ORS 509.605 or 509.640, as the case may be.

(4) In determining whether providing the dam or artificial obstruction with a fishway or providing the dam with hatchery facilities as required by the fish commission, as the case may be, would impair or be detrimental to the public interest, the board shall have due regard for:

(a) The state water resources policy formulated under ORS 536.300 to 536.350.

(b) The considerations set forth in ORS 536.310.

(5) In the event protests are filed with the board under both subsection (1) of this section and subsection (1) of ORS 498.732, the board may consider and determine the protests in a combined proceeding under this section and ORS 498.732. [1955 c.707 §51]

509.650 to 509.985 [Reserved for expansion]

PENALTIES

509.990 Penalties. (1) Violation of ORS 509.025 or 509.030, or of any rule, order or regulation promulgated and adopted by the fish commission in carrying out any provision of ORS 509.025 or 509.030, 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 this subsection.

(2) Violation of subsection (1) of ORS 509.040 is a misdemeanor.

(3) Violation of ORS 509.060 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 60 days, or both.

(4) Violation of any provision of ORS 509.105, or of any rule or regulation adopted or promulgated by the fish commission under authority of ORS 509.105, is punishable, upon conviction, by a fine of not less than $100 nor more than $500 and the costs of the prosecution, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both. In the case of fine only, the violator shall be imprisoned in the county jail until the fine and costs of prosecution are paid, and he shall be credited $2 on such fine and costs for each day of imprisonment. A person who, after having been convicted within this state of a violation of any provision of ORS 509.060 or 509.105, or of any attempt to so violate, violates any provision of ORS 509.060 or 509.105, is punishable, upon conviction of such second offense, by a fine of not less than $250 nor more than $500, or by imprisonment for not less than 60 days nor more than six months, or both.

(5) Violation of ORS 509.210 or 509.215 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 509.225 or 509.230, or any rule, regulation or order of the fish

commission authorized by ORS 509.225, is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than 90 days, or both.

(7) Violation of ORS 509.240 or 509.245, 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 less than 10 days nor more than 30 days, or both.

(8) Failure to display the designated license number as required in ORS 509.252 is declared a misdemeanor and upon conviction is punishable by a fine of not more than $100, and the costs of the action. A failure from day to day to comply with the requirement constitutes a separate offense for each day and subjects the owner or operator of the vessel or boat to additional punishment by such fine.

(9) Violation of ORS 509.290 is punishable, upon conviction, by a fine of not less than $10 nor more than $50, and the costs of the action. A failure from day to day to comply with ORS 509.290 constitutes a separate offense for each day and subjects the owner or operator of the appliance or boat to additional punishment by such fine.

(10) Violation of any provision of ORS 509.365 to 509.375 is a misdemeanor.

(11) Violation of ORS 509.415 or 509.420 is a misdemeanor. Justice courts and circuit courts have concurrent jurisdiction of prosecutions of violations of subsection (2) of ORS 509.415 and ORS 509.420.

(12) Violation of ORS 509.475 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 90 days, or both.

(13) Violation of ORS 509.615 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 more than 30 days, or both. [Subsection (8) enacted as 1955 c.477 §2; subsection (10) enacted as 1957 c.152 §8]

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

CHAPTER 510

[Reserved for expansion]