Chapter 498

1969 REPLACEMENT PART

Hunting and Fishing Regulations; Miscellaneous Wildlife Protective Measures

GENERAL REGULATIONS (TIME, MANNER AND PLACE)

498.005 Ownership of wild animals by state
498.015 Wild birds protected; sale of plumage prohibited
498.020 Unprotected birds
498.027 Unlawful to hunt or fish for hire
498.028 Prizes at fishing competitions limited; exception
498.030 Game commission to determine when, where, what and how wildlife may be taken or possessed
498.041 Regulation of use of aircraft and helicopters in hunting
498.045 Lawful hunting weapons, projectiles and attachments
498.050 Hunting from certain vehicles prohibited; exceptions; using lights thereon
498.055 Possession of game birds and animals taken in violation of ORS 498.045 and 498.050
498.085 Disguise of sex or species of carcass of game animal or bird
498.095 Traps; bait used; disturbing or removing; branding; warning signs; seizure and sale
498.100 Use of dogs in hunting certain game animals prohibited; dogs running at large and tracking such animals
498.105 Dogs running game animals as public nuisance
498.110 Competitive field trials for hunting dogs
498.115 Areas where hunting, molesting and trapping prohibited
498.120 Hunting on another's cultivated or inclosed land
498.125 Certain waters as public for angling, hunting and trapping
498.130 Hunting or angling in emergency closed areas prohibited
498.132 Hunting during period closed to hunting by Governor's proclamation prohibited
498.135 When lawful to angle for salmon and other food fish
498.140 Trespassing upon and molesting or taking fish near fishway

LOCAL HUNTING AND FISHING REGULATIONS

498.205 Unlawful to hunt, trap or molest wild birds and animals along Columbia River from Celilo Canal to Messner
498.210 Unlawful to hunt, trap or molest wild birds and animals on islands and sandbars in lower Deschutes River
498.215 Unlawful to hunt, trap or molest migratory waterfowl along lower John Day River
498.220 Hunting ducks from floating contrivances on portions of Whoahink, Siltcoos and Tahkenitch Lakes unlawful
498.225 Hunting within Devils Lake area unlawful
498.230 Coos Bay Sports Area; taking and selling striped bass regulated
498.235 Coos Bay, Coos River and tributaries; taking and selling striped bass regulated
498.240 Forfeiture of illegal gear and fishing license upon violation of ORS 498.230 and 498.235 and angling regulations
498.250 Use of floating craft on part of Deschutes River prohibited
498.272 Persons over 14 years old angling in juvenile areas
498.280 Fishing by persons over 17 years old in Lake Melakwa prohibited
498.285 Fishing by persons over 17 years old in Mill Creek unlawful
498.290 Fishing by persons over 17 years old in Waverly Lake unlawful
498.310 Where and when lawful to take smelt from Sandy River
498.315 Smelt and candle fish bag limit above and below Troutdale bridge on Sandy River

BEAVER REGULATIONS

498.405 Law governing taking, possessing, transporting, selling and purchasing beaver
498.415 Power of commission to issue beaver tags
498.420 Beaver tags to be in possession; inspection
498.430 Refund on unused beaver tags
498.435 Forfeiture of beaver tag privilege
498.445 Possession of untagged beaver pelt evidence of unlawful taking; tags to remain affixed
498.450 Counterfeiting, imitating, altering, transferring or mutilating marks, tags or seals
498.460 Possessor of untagged beaver pelt to notify commission; proof of lawful taking; tagging; seizure
498.465 Taking beaver on certain lands adjacent to the Columbia River

MOLESTING, HUMANE KILLING AND WASTING ANIMALS, BIRDS OR FISH; KILLING PREDATORY ANIMALS, BIRDS OR FISH

498.505 Disturbing migratory waterfowl with aircraft
498.510 Poisoning or placing poison accessible to birds
498.515 Using live birds as targets
498.520 Possession, destruction or sale of nests or eggs of wild birds
498.525 Burning reeds and tules where birds nest
498.530 Destruction or injury of muskrat houses
498.535 Using electrical device or current which disturbs game fish; permit
498.540 Placing substances in water to drive game fish from areas closed to fishing

498.545 Placing substances in water to take or kill game fish; permit
498.550 Possession of game fish taken or killed in violation of ORS 498.540 and 498.545
498.555 Use by commission of substances to eradicate predatory fish or carry out game fish laws not affected
498.560 Diversion of irrigation waters not affected
498.565 Taking and holding captive young game birds and animals
498.570 Killing crippled or helpless game birds and animals for humane purposes
498.575 Killing or capturing and disposing of wild animals and birds damaging property
498.577 Killing muskrats in or near certain areas
498.580 Taking raccoon declared predaceous by commission
498.585 Waste of game
498.590 Smelt or candle fish; waste or use as fertilizer prohibited

POSSESSING, PURCHASING, SELLING, PRESERVING, TRANSPORTING OR RELEASING ANIMALS, BIRDS OR FISH

498.605 Possession of deer meat; restriction on amount
498.610 Buying or possessing fur-bearing animals or hides; burden of proof as to lawful taking
498.615 Sale or trade of game fish
498.620 Sale of bass other than striped bass unlawful
498.625 Sale or trade of nongame birds and game; fur-bearing animals excepted
498.635 Preserving fish taken by angling; records; permit to keep fish after open season
498.640 Shipment of certain game fish into state; regulations
498.641 Importation of game fish into state in excess of bag limits or by person without license prohibited; exceptions
498.646 Permit required to import or transport fish to another body of water or release fish
498.650 Release of birds, animals or fish; permit
498.655 Definitions for ORS 498.655 to 498.665
498.660 Possession or sale of highly dangerous fish prohibited; exception
498.665 Application of ORS 498.655 to 498.665

FISH SCREENING DEVICES AND FISHWAYS

498.705 Power of commission to establish screening devices in artificial watercourses
498.710 Entry upon and use of land for screening devices by commission
498.715 Cost of screening devices established by commission
498.720 Owner or lessee of artificial watercourse to install and maintain screening devices; supervision by commission; removal of inadequate devices
498.725 Unlawful to interfere with screening devices
498.730 Fishways in artificial obstructions across streams; inspection; failure to complete fishway
498.732 Filing protest with State Water Resources Board; review and determination by board as to whether fishway in public interest
498.735 Removal of artificial obstructions by commission
498.740 Neglect of obstruction owner or occupant to maintain fishway
498.745 Power of commission to establish fishways in natural obstacles across streams
498.750 Enjoining violation of ORS 498.720 and 498.730 to 498.745

HUNTING BY PERSONS 17 OR YOUNGER

498.805 Statement of policy
498.810 Certificate of competency required to hunt with firearms when 17 or younger
498.815 Hunter safety training program; cooperation among interested agencies and groups
498.820 Hunting restrictions on children

PENALTIES

498.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183
Compliance with state water resources policy required, 536.300 to 536.400
Definition of:
Game animals, 496.006
Game birds, 496.008
Explosives, use for repelling injurious birds or animals, 480.122
Game law offense procedure, 496.905 to 496.950
Hunting and fishing in municipal watershed areas, 449.327
Jurisdiction of courts over game law violations, 496.630
Klamath River Basin Compact, 542.620
Motorboat speed regulations, 488.610 to 488.625
Submerged and tide lands, easements, 274.760

498.005

Fish in private pools and game in private parks as private property, 497.830

498.030

Definition of "game fish," 496.010
Hunting, proclamation of Governor prohibiting, 447.040

498.095

Definition of "game fish," 496.010
Trapper's license, 497.730

498.115

Hunting on game reservations prohibited, 501.230, 501.260, 501.270
Shooting on highway prohibited, 166.630

498.205

Oregon-Washington Columbia River Boundary Compact, 186.520

498.520

Collection of birds, nests and eggs for scientific purpose, 497.780

498.565

Permits to keep animals and birds in captivity, 497.810, 497.820

498.605

Deer, elk and special big game tags, use of, 497.650

498.620

Striped bass, sale regulated in Coos Bay and River area, 498.230 to 498.240

498.730

Authority of State Engineer to issue permits to construct dams, 543.050
Rights acquired prior to August 3, 1955, not affected by 1955 amendment, 536.580

498.732

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

498.735

Rights acquired prior to August 3, 1955, not affected by 1955 amendment, 536.580
Splash dams, removal of, 541.460

498.740

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

498.805

Firearms generally, 166.210 to 166.330

GENERAL REGULATIONS (TIME, MANNER AND PLACE)

498.005 Ownership of wild animals by state. No person shall at any time or in any manner acquire any property in, or subject to his dominion or control, any of the wild game animals, fur-bearing animals, game birds, nongame birds or game fish, or any part thereof, of the state, but they shall always and under all circumstances be and remain the property of the state, except that by killing, catching or taking the same in the manner and for the purpose authorized by and during the period not prohibited by law the same may be used by any person at the time, in the manner and for the purpose so expressly provided. Any person hunting or trapping for or having in possession any game animals, fur-bearing animals, game birds, nongame birds or game fish at any time in any manner shall be deemed to consent that the title shall be and remain in the state for the purpose of regulating the use and disposition of the same, and such possession shall be deemed the consent of such person, whether the animals, birds or fish were taken within or without the state. However, any trophy or game animal or bird sold pursuant to a permit of the game commission shall become the property of the person buying same.

498.010 [Repealed by 1957 c.249 §1]

498.015 Wild birds protected; sale of plumage prohibited. (1) All wild birds, other than unprotected nongame birds as defined in ORS 498.020 and game birds during the open season, are protected.

(2) No person shall, within the state, hunt for, kill or take or have in his possession, living or dead, any wild bird, other than game birds or unprotected nongame birds, or purchase or offer or expose for sale, transport or ship within, into or without the state any such wild bird after it has been killed or caught, except as permitted by law. No part of the plumage of any protected bird shall be sold or offered for sale or had in possession except for scientific purposes, as defined in subsection (5) of ORS 497.780.

(3) If any species of protected bird becomes so abundant at any time or place that other wildlife populations, domestic birds or any resources are jeopardized, the game commission may issue permits authorizing persons to kill birds of that species or may declare an open season for hunting, killing and taking birds of that species.

(4) It is lawful for any owner or occupier of lands, the members of his family, his employes and other persons authorized by the owner, to kill great horned owls (Bubo virginianus), falcons (family Falconidae), hawks (family Accipitridae) or golden eagles (Aquila chrysaetos) at any time when such birds are in the act of destroying game birds, poultry or domestic animals on such land.

(5) "Plumage" includes any part of the feathers, head, wing or tail of any bird. As used in this section, "plumage" refers to the plumage of any bird coming from within or without the state, but does not apply to the feathers of the ostrich, domestic fowls or any game bird obtained during the open season for the killing of such bird.
[Amended by 1959 c.529 §1]

498.020 Unprotected birds. The following wild nongame birds are unprotected: Double-crested cormorant (Phalacrocorax auritus), belted kingfisher (megaceryle alcyon), steller jay (Cyanocitta stelleri), scrub jay (Aphelocoma coerulescens), black-billed magpie (Pica pica), crows, raven (Corvus corax), common starling (Sturnus vulgaris), blackbirds (family Icteridae) and house sparrow (Passer domesticus). There is no closed season on any unprotected wild game bird.
[Amended by 1959 c.529 §2]

498.025 [Amended by 1961 c.276 §1; renumbered 498.820]

498.027 Unlawful to hunt or fish for hire. It is unlawful for any person to hunt or take any of the game animals, game birds, nongame birds or game fish of the state for wages or hire or other valuable consideration.

498.028 Prizes at fishing competitions limited; exception. (1) Except as provided in subsection (2) of this section, no person shall conduct, sponsor or participate in any competition, contest, event or meet in which any prize, other than an award of merit of a value of $25 or less in the form of a button, ribbon, emblem, plaque or other trophy, is offered for the amount, quality, size, specie or weight of fish caught.

(2) Subsection (1) of this section does not apply to competitions, contests, events or meets for the catching of Hexagrammidae, commonly known as buffalo cod or ling cod.
[1955 c.506 §1; 1961 c.143 §1]

498.030 Game commission to determine when, where, what and how wildlife may be taken or possessed. It is unlawful for any

person to hunt, trap, pursue, kill or have in possession, either dead or alive, whole or in part, any wild birds or wild animals, or take, catch, angle for or have in possession any game fish or engage in so doing except during the seasons or times of the year and at the places and of the kinds, species, numbers, quantities, sex and bag limits and by the methods and under the regulations as set forth in the finding of the State Game Commission provided for in ORS 496.190 and 496.195. However, this section does not prohibit having in possession at any time any wild birds, wild animals or game fish legally taken and properly tagged at the end of the open season therefor, or for which a permit to hold or raise in captivity has been issued by the game commission.

498.035 [Repealed by 1959 c.352 §5]

498.040 [Repealed by 1959 c.352 §5]

498.041 Regulation of use of aircraft and helicopters in hunting. (1) No person on an aircraft in the air shall send information concerning the location of game animals or game birds to a person not on the aircraft. No person shall operate or permit the use of an aircraft for the purpose prohibited by this subsection.

(2) Except during takeoff and landing, a person shall fly a helicopter at an altitude of not less than 500 feet above the terrain while transporting hunters by helicopter to or from any place to hunt game animals or game birds.

(3) Every airman shall maintain a logbook showing point of departure, point of destination and date of each flight which he makes in a helicopter within this state to transport hunters to or from places to hunt. Upon request of any law enforcement office, an airman shall produce and exhibit his logbook.

(4) This section does not apply to operations of any governmental agency.
[1965 c.507 §§2, 3, 4]

498.045 Lawful hunting weapons, projectiles and attachments. (1) None of the wild animals or birds of the state shall be pursued, taken, wounded or killed with any other weapon than the ordinary shoulder gun, pistol or bow and arrow. No shotgun larger than 10 gauge shall be used in hunting game.

(2) It is unlawful for any person to use any firearm other than a shotgun in hunting for or taking migratory waterfowl. It is unlawful to use pellets, shot or projectiles, in such shotgun, larger than the size of BB or ordinary air rifle shot. Any such shotgun shall not be larger than 10 gauge.

(3) It is unlawful for any person to use any firearm equipped with a Maxim silencer or any other device intended to reduce or capable of reducing or silencing in whole or in part the report of discharge of the firearm. This subsection does not prohibit the use of a Cutts compensator.

498.050 Hunting from certain vehicles prohibited; exceptions; using lights thereon. (1) Except as provided in subsection (2) of this section, no person shall hunt, as defined in ORS 496.015, from any motor vehicle, rail car, aircraft or other power-propelled vehicle, or by aid of any lights carried thereon or attached thereto.

(2) Any person who is permanently disabled from walking may hunt, as defined in ORS 496.015, from a power-propelled vehicle:

(a) At times and in the manner and places provided by law and rules of the game commission; and

(b) While the vehicle is not on any public highway or in motion.
[Amended by 1965 c.507 §5]

498.055 Possession of game birds and animals taken in violation of ORS 498.045 and 498.050. It is unlawful for any person to have in possession at any time any game birds or game animals of the state, or any parts thereof, taken in violation of ORS 498.045 and 498.050.

498.060 [Amended by 1961 c.269 §1; repealed by 1969 c.60 §1]

498.065 [Amended by 1953 c.196 §2; 1961 c.269 §2; repealed by 1969 c.60 §1]

498.070 [Repealed by 1969 c.60 §1]

498.075 [Repealed by 1969 c.60 §1]

498.080 [Repealed by 1969 c.60 §1]

498.085 Disguise of sex or species of carcass of game animal or bird. It is unlawful at any time for any person within the state to mutilate or have in possession the carcass or skin of any game animal in any manner so as to disguise the sex. It is unlawful for any person to have in possession the plucked carcass in any manner so as to disguise the species or kind of any game bird while in the field or forest, or while upon any highway, train, car, boat or other conveyance when returning from any hunting trip with gun or other hunting equipment.

498.090 [Repealed by 1955 c.162 §1]

498.095 Traps; bait used; disturbing or removing; branding; warning signs; seizure and sale. (1) No flesh of any game bird, game fish or game animal shall be used for trap bait in trapping fur-bearing or other animals.

(2) It is unlawful to disturb or remove the traps of any licensed trapper while he is trapping on the public domain or on land where he has permission to trap.

(3) All traps, whether set for fur-bearing or other wild animals that may be trapped lawfully, shall be marked with a brand approved by and registered with the game commission, but unbranded traps may be set for unprotected nongame animals by any person upon land of which he is the lawful owner or lessee. No such branded trap may be sold unless accompanied by a uniform bill of sale.

(4) Warning signs shall be posted in conspicuous places within 50 feet of all traps larger than No. 5 or with a jaw spread of more than 10 inches.

(5) The traps of any person found trapping contrary to ORS 496.185, 497.010 to 497.060, 497.510 to 497.550, 497.730, 498.030 or 498.095 shall be seized by the State Game Director or any other officer charged with the enforcement of the game laws, and may be sold. The money derived from the sale shall be deposited in the State Game Fund and used as are other moneys belonging to such fund.

(6) This section does not apply to the trapping of gophers, moles, ground squirrels and weasels.

(7) As used in this section, "game birds" means:

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

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

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

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

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

(f) Rallidae, commonly known as rails and coots or mudhens.

(8) As used in this section, "game animals" means antelope, deer, elk, mountain sheep, mountain goat and silver grey squirrels.

(9) As used in this section, "fur-bearing animals" means beaver, fisher, mink, marten, muskrat, otter, wolverine, raccoon and ringtail cat.

[Amended by 1967 c.166 §2]

498.100 Use of dogs in hunting certain game animals prohibited; dogs running at large and tracking such animals. (1) No person shall make use of a dog in hunting, pursuing or killing any deer, elk, antelope, mountain sheep or mountain goats.

(2) The owner of any dog found running at large and tracking or pursuing deer, elk, antelope, mountain sheep or mountain goats within this state is guilty of a misdemeanor. The defendant may be confined in the county jail for not to exceed one day for each $5 of any unpaid fine, or portion thereof, under this section.

[Amended by 1967 c.523 §12; 1967 c.594 §4]

498.105 Dogs running game animals as public nuisance. (1) Any dog running deer or other game animals in any of the fields, woodlands, brushland or other territory inhabited by deer, or following upon the track of any game animals of the state, is a public nuisance if such dog is not wearing a leather collar with a license number thereon in compliance with ORS 609.100, and may be killed at such time by any person entrusted with the enforcement of the game laws of Oregon.

(2) If such dog is wearing a leather collar and a license number in compliance with ORS 609.100, the owner shall be notified in writing by any officer entrusted with the enforcement of the game laws of the state. If the owner or reputed owner disclaims ownership of the dog, the dog is a public nuisance and may be killed at such time by any person entrusted with the enforcement of the game laws of Oregon.

(3) If the owner of such dog is notified in writing that the dog has been found running or tracking deer or other game animals and thereafter fails to prevent such dog from running or tracking deer or other game animals, such dog is a public nuisance and may be killed by any person charged with the enforcement of the game laws of Oregon.

498.110 Competitive field trials for hunting dogs. Competitive field trials for hunting dogs, with or without the shooting

or use of privately owned birds, may be held only in such months and under such rules and regulations as shall be prescribed by the game commission.
[Amended by 1953 c.157 §2]

498.115 Areas where hunting, molesting and trapping prohibited. (1) It is unlawful at any time within the state for any person to hunt, pursue, molest or trap any wild animal or wild bird:

(a) Within the corporate limits of any city or town or within any public park or cemetery.

(b) On any campus or grounds of any public school, college or university.

(c) Within the boundaries of any watershed reservation set aside by the United States Government to supply water for domestic use to any city, town or community.

(d) On any lands within the boundaries of any national bird or game reservation or state or national park.

(2) This section does not apply:

(a) To any fur-bearing animal or predatory animal or bird doing damage to public or private property, or any bird or animal which is taken for scientific purposes, as defined in subsection (5) of ORS 497.780, where such animal or bird is hunted or trapped under rules and regulations provided by law.

(b) In any city or town which by ordinance so declares.
[Amended by 1953 c.178 §2]

498.120 Hunting on another's cultivated or inclosed land. No person shall hunt with a dog or gun upon the cultivated or inclosed land of another without first obtaining permission from the owner, occupant or lessee thereof, or the agent of such owner, occupant or lessee. No prosecution shall be commenced under this section except upon complaint of the owner, occupant or lessee of the cultivated or inclosed land, or the agent of such owner, occupant or lessee.
[Amended by 1959 c.318 §1]

498.125 Certain waters as public for angling, hunting and trapping. Navigable rivers, sloughs or streams between the lines of ordinary high water thereof, of the state, and all rivers, sloughs and streams flowing through any public lands of the state, are public highways for the purpose of angling, hunting or trapping thereon. Any rights or title to such streams, or the land between the high water flowlines or within the meander lines of navigable streams, are subject to the right of any person owning an angler's, hunter's or trapper's license of this state to go upon and angle, hunt or trap therein or along their banks.

498.130 Hunting or angling in emergency closed areas prohibited. No person shall knowingly hunt or angle in any area or stream closed by any order adopted in accordance with ORS 496.215 or 496.220, and before the order is rescinded.

498.132 Hunting during period closed to hunting by Governor's proclamation prohibited. No person shall hunt any game bird or game animal referred to in ORS 496.040 in this state during the period closed to said hunting by the proclamation provided for in ORS 496.040.
[1953 c.184 §3]

498.135 When lawful to angle for salmon and other food fish. It is lawful at any time to take, catch or fish for salmon, striped bass, shad, sturgeon or other anadromous or food fish, in any of the waters of the state or over which it has jurisdiction, concurrent or otherwise, with hook and line, commonly called angling, if such fishing by hook and line is done in full conformance with all existing laws, rules and regulations governing hook and line fishing.

498.140 Trespassing upon and molesting or taking fish near fishway. It is unlawful for any person to trespass upon any fishway, as defined in subsection (2) of ORS 498.745, or destroy, injure, molest or take from any such fishway any fish or to attempt to take or angle for any fish in those portions of a stream or other body of water bounded by lines extending across the stream or other body of water located 200 feet below and 200 feet above the lower end of any fishway and by lines extending in a similar fashion 200 feet below and 200 feet above the upper end of any fishway.
[Amended by 1955 c.64 §1; 1961 c.122 §1]

498.145 [Renumbered 498.272]

LOCAL HUNTING AND FISHING REGULATIONS

498.205 Unlawful to hunt, trap or molest wild birds and animals along Columbia River from Celilo Canal to Messner. It is unlawful for any person to hunt, trap, molest or disturb any wild goose or other wild bird or wild animal within the following described

area: Beginning at a point on the Union Pacific Railroad right of way at the east entrance of the Celilo Canal in Wasco County; thence easterly along the Union Pacific Railroad right of way to Messner; thence due north to the center of the Columbia River (Washington State Line); thence westerly down the center of the Columbia River to a point due north of the point of beginning; thence south to the point of beginning.

498.210 Unlawful to hunt, trap or molest wild birds and animals on islands and sandbars in lower Deschutes River. It is unlawful for any person to hunt, trap, molest or disturb any wild goose or other wild bird or wild animal on any island or sandbar along or in the Deschutes River from the Columbia River to a point one-half mile south of the Oregon Trail highway bridge where it crosses the Deschutes River.

498.215 Unlawful to hunt, trap or molest migratory waterfowl along lower John Day River. It is unlawful for any person to hunt, trap, molest or disturb any migratory waterfowl within one-fourth mile from the highwater flowline along the John Day River from the Columbia River south to its junction with Thirty Mile Creek.

498.220 Hunting ducks from floating contrivances on portions of Whoahink, Siltcoos and Tahkenitch Lakes unlawful. It is unlawful for any person to hunt, pursue, shoot at or kill ducks on the waters of Whoahink, Siltcoos or Tahkenitch Lakes, situated in Lane and Douglas Counties:

(1) From any boat or any floating contrivance at a distance greater than 100 yards from the shores of such lakes.

(2) Upon any portion of such lakes from any boat or contrivance propelled by mechanical power.

498.225 Hunting within Devils Lake area unlawful. It is unlawful for any person to hunt, pursue, shoot at or kill any game animal or bird within the Devils Lake area as described in ORS 166.340.

[Amended by 1965 c.20 §1]

498.230 Coos Bay Sports Area; taking and selling striped bass regulated. (1) There is created a sports area, designated as Coos Bay Sports Area, consisting of all the waters of Isthmus Inlet, Catching Inlet and Coalbank Slough, in Coos County.

(2) It is unlawful at any time to fish for, catch or take any striped bass in the sports area by any means whatsoever except, subject to regulations of the game commission, by angling, and with a bag limit of not more than five such fish to any one person in any one day.

(3) It is unlawful at any time to offer for sale or sell any striped bass caught or taken in the sports area.

(4) As used in this section, "angling" means the taking or fishing for fish by the use of pole or rod with hook and line attached, or line with hook attached held in the hands, and does not include what is commonly called a setline.

498.235 Coos Bay, Coos River and tributaries; taking and selling striped bass regulated. Except as provided in ORS 511.510, it is unlawful at any time to fish for, catch or take any striped bass in the waters of Coos Bay, Coos River or any of the tributaries thereof, by any means whatsoever except angling, as defined in subsection (4) of ORS 498.230, or to offer for sale or sell any such fish caught or taken in said waters; and the daily bag limit for angling shall be five of such fish per person.

498.240 Forfeiture of illegal gear and fishing license upon violation of ORS 498.230 and 498.235 and angling regulations. Upon violation of any of the provisions of ORS 498.230 and 498.235 or any of the rules, orders or regulations promulgated by the game commission pertaining to angling in any of the waters described in ORS 498.230 and 498.235, any illegal gear used shall be confiscated and forfeited, and in addition to or in lieu of any of the penalties provided by ORS 498.990, any court having jurisdiction may revoke or cancel any fishing license held by the violator and prohibit the issuance of any similar license for not more than one year.

[Amended by 1967 c.523 §13]

498.245 [Repealed by 1959 c.352 §5]

498.250 Use of floating craft on part of Deschutes River prohibited. The use of a boat, raft or any type of floating craft specifically is prohibited on that portion of the Deschutes River in Deschutes County extending from the headwaters of the river at Little Lava Lake, downstream to the first bridge across the river in section 4, township 20 south, range 8 east of the Willamette Meridian.

498.255 [Amended by 1957 c.253 §1; repealed by 1959 c.352 §5]

498.260 [Repealed by 1959 c.352 §5]

498.265 [Repealed by 1955 c.160 §1]

498.270 [Repealed by 1959 c.352 §5]

498.272 Persons over 14 years old angling in juvenile areas. It is unlawful for any person over the age of 14 years to take, catch or angle for fish at any of the juvenile areas established, created or set aside by the game commission under ORS 496.235.
[Formerly 498.145]

498.275 [Repealed by 1959 c.352 §5]

498.280 Fishing by persons over 17 years old in Lake Melakwa prohibited. No person who is 18 years of age or older shall fish in the waters of Lake Melakwa, located in section 1, township 16 south, range 7 east, Lane County. No right arising out of the ownership of real property shall be affected by this section.

498.285 Fishing by persons over 17 years old in Mill Creek unlawful. It is unlawful for any person 18 years of age or older to fish in the waters of Mill Creek, located in Marion County. No right arising out of the ownership of real property shall be affected by this section.

498.290 Fishing by persons over 17 years old in Waverly Lake unlawful. It is unlawful for any person 18 years of age or older to fish in the waters of Waverly Lake, located in Linn County. No right arising out of the ownership of real property shall be affected by this section.
[1961 c.129 §1]

498.295 [Repealed by 1957 c.235 §1]

498.300 [Repealed by 1959 c.352 §5]

498.305 [Repealed by 1959 c.352 §5]

498.310 Where and when lawful to take smelt from Sandy River. It is lawful to take smelt from the Sandy River with dipnets or otherwise only below and west of the highway bridge crossing the Sandy River, which is on a continuation of the Base Line Road near Viking Park, and between the hours of 12 midnight Monday and 12 midnight Sunday. It is unlawful to take smelt from the Sandy River by any means at any other time or place.

498.315 Smelt and candle fish bag limit above and below Troutdale bridge on Sandy River. It is unlawful for any person not the holder of a commercial fishing license to take more than 25 pounds of smelt or candle fish (eulachan) in any one day from the Sandy River below and west of the highway bridge at Troutdale, Oregon. It is unlawful for any person, pursuant to any license or otherwise, to take more than 25 pounds of smelt or candle fish (eulachan) in any one day from the Sandy River above and east of the highway bridge at Troutdale, Oregon.

BEAVER REGULATIONS

498.405 Law governing taking, possessing, transporting, selling and purchasing beaver. It is unlawful at any time to take, possess, transport, sell, offer for sale or purchase beaver pelts or any beaver or part or parts thereof, except as provided in ORS 498.410 to 498.450 or by other lawful means.

498.410 [Repealed by 1961 c.113 §2]

498.415 Power of commission to issue beaver tags. (1) Whenever the game commission finds that the taking, trapping or killing of a limited number of beaver will not injuriously affect the supply thereof, the commission may make a regulation providing for the issuance of special beaver tags to resident licensed trappers in the order in which they apply for such tags and provide the price to be paid therefor and the maximum number to be issued to any one person, but the price for any such tag shall not exceed $2.

(2) Every such regulation shall provide the area and season in which beaver may be taken, trapped or killed, and the terms and conditions under which beaver may be taken, trapped or killed.

(3) Every such tag shall authorize the holder thereof to take and to sell only one beaver.

498.420 Beaver tags to be in possession; inspection. (1) In the event the game commission makes a regulation directing the issuance of special beaver tags, no person shall take, trap or kill any beaver for which a tag is required by ORS 498.415 unless he has the tag on his person.

(2) Any such tag issued to any person shall at all times be subject to the inspection of any peace officer of the State of Oregon or any other person charged with the enforcement of the game laws of the state.

498.425 [Repealed by 1961 c.113 §2]

498.430 Refund on unused beaver tags. The game commission shall, after the close of the limited season provided by ORS 498.415, refund the fee paid by the licensed holders of all unused special beaver tags, provided the holder has theretofore reported the tags used in the manner provided in ORS 498.425. No refunds shall be made to any person who applies for a refund later than 60 days after the close of the limited season provided by ORS 498.415; provided, however, that this section shall apply only to those persons who purchase beaver tags on or after July 1, 1959.
[Amended by 1959 c.372 §1]

498.435 Forfeiture of beaver tag privilege. In addition to any criminal penalty provided by law, every person convicted of violating ORS 498.405 to 498.450 shall forfeit his right to obtain a beaver tag for the period of two years following such conviction.

498.440 [Repealed by 1961 c.113 §2]

498.445 Possession of untagged beaver pelt evidence of unlawful taking; tags to remain affixed. Except as otherwise provided by law, possession of any beaver pelt is prima facie evidence that the same has been unlawfully taken, unless same has been marked and tagged with a mark, tag or seal obtained from the game commission and affixed in a manner prescribed by the game commission. The mark, tag or seal shall remain affixed as aforesaid during the time such beaver pelt is held in possession, offered for transportation or transported within the state.
[Amended by 1961 c.113 §1]

498.450 Counterfeiting, imitating, altering, transferring or mutilating marks, tags or seals. The counterfeiting, imitation, alteration, transfer or mutilation of such mark, tag or seal as aforesaid is prima facie evidence of a violation of ORS 498.405 to 498.445.

498.455 [Repealed by 1961 c.113 §2]

498.460 Possessor of untagged beaver pelt to notify commission; proof of lawful taking; tagging; seizure. (1) Every person shall, within 24 hours after coming into possession in this state of any beaver hide or pelt which does not have affixed thereto the tag or seal provided for in this section, notify the game commission of the fact. It thereupon is the duty of such person to prove to the satisfaction of the game commission that the beaver hide or pelt was taken lawfully. When so satisfied the game commission shall affix to the beaver hide or pelt its tag or seal, upon payment of five cents for the benefit of the State Game Fund.

(2) No beaver hide or pelt shall be sold, delivered or otherwise disposed of within this state, unless and until the seal or tag provided for in this section has been affixed thereto.

(3) Whenever any person is in possession of any beaver hide or pelt within this state for at least two weeks without having proven to the satisfaction of the game commission that the same was lawfully taken, the game commission shall seize the beaver hide or pelt and sell the same for the benefit of the State Game Fund.

(4) As used in this section, "game commission" includes the State Game Commission and its duly authorized agents.

498.465 Taking beaver on certain lands adjacent to the Columbia River. It is lawful at all times in the year for any person to hunt, trap or kill beaver without a trapper's license or a beaver tag on any lands adjacent to the Columbia River west of the mouth of the Sandy River and within 100 feet of the highwater mark of the Columbia River or on any lands within the boundaries of drainage districts adjacent to the Columbia River west of the mouth of the Sandy River and on or within 100 feet of the canals, ditches and dikes of such districts; provided that such beaver or parts thereof may not be taken into possession or disposed of commercially except as provided in ORS 498.405.
[1957 c.251 §1]

MOLESTING, HUMANE KILLING AND WASTING ANIMALS, BIRDS OR FISH; KILLING PREDATORY ANIMALS, BIRDS OR FISH

498.505 Disturbing migratory waterfowl with aircraft. It is unlawful for any person to molest, disturb or annoy any migratory waterfowl by firing from, piloting or operating any airplane or other aircraft near to or toward the migratory waterfowl, whether the waterfowl are at rest upon any of the waters of the state, any of the waters over which this state exercises concurrent jurisdiction with any

other state, in any of the islands in such waters or in flight.

498.510 Poisoning or placing poison accessible to birds. (1) It is unlawful for any person to place any poisoned wheat or other grain, or any poison substance on which birds may feed, anywhere within the state for the purpose of poisoning any birds other than unprotected birds specified in ORS 498.020.

(2) It is unlawful for any person to place any poisoned grain or other bait, used for the purpose of destroying rodents, anywhere in the state where such poison bait will be accessible to birds other than unprotected birds specified in ORS 498.020, unless the poison employed and its method of application is that recommended by the United States Fish and Wildlife Service for purposes of rodent control and as being the least hazardous to the birds.
[Amended by 1965 c.73 §1]

498.515 Using live birds as targets. No person shall:

(1) Keep or use any live pigeons or other live birds for the purpose of a target or to be shot at for amusement or as a test of skill in marksmanship.

(2) Shoot at a pigeon or other wild bird kept or used as mentioned in subsection (1) of this section, or be a party to such shooting.

(3) Let or knowingly permit the use of any building, room, field or premises for the purpose of the shooting mentioned in subsection (1) of this section.

498.520 Possession, destruction or sale of nests or eggs of wild birds. No person shall take or needlessly destroy, sell or offer for sale the nest or eggs of any wild bird, except nongame birds not protected by law, or have such nest or eggs in his possession, except for scientific purposes, as defined in subsection (5) of ORS 497.780.

498.525 Burning reeds and tules where birds nest. (1) It is unlawful at any time between February 15 and September 15 to burn, cause to be burned, set fire to or destroy by fire any reeds or tules in the tule lands or swamps where ducks, geese or other birds are accustomed to nest, but any freeholder may burn tules on his own land by first notifying any deputy game warden, who shall make such regulations as he may see fit in order to prevent the spread of such tule fires to adjacent property.

(2) No person shall neglect or refuse to observe the regulations made by deputy game wardens as provided in subsection (1) of this section.

(3) No person shall at any time of the year set fire to any tules or reeds in any marshes on land not his own or set any such fire which is likely to spread off his own lands to any public lands or lands of another.

498.530 Destruction or injury of muskrat houses. It is unlawful for any person to destroy or injure any muskrat house at any time except where the muskrat house is an obstruction to a private or public ditch or watercourse.

498.535 Using electrical device or current which disturbs game fish; permit. No person shall use or permit to be used in any of the waters of this state any electrical device, appliance or current which in any manner has a tendency to retard, scare, frighten or obstruct any game fish in their migration or movements in such waters, without first having obtained the consent of and a permit from the game commission.

498.540 Placing substances in water to drive game fish from areas closed to fishing. No person shall cause to be placed in any water of this state or water over which this state has concurrent jurisdiction, where game fish run or exist, within the distance from any dam, fishway or object in which fishing for game fish is prohibited by law, any blood or offal of any fish, or any other substance, matter or contrivance that will frighten or drive game fish, or with intent to drive or frighten, from or out of that part of the waters in which it is unlawful to fish for or take the same.

498.545 Placing substances in water to take or kill game fish; permit. No person, except one who has first obtained an order of the game commission permitting it to be done, shall cause or permit to be thrown, cast or passed, in any waters of the state or waters over which this state has concurrent jurisdiction, in which game fish are wont to be, any lime, drug, powder, medicated bait, gas or cocculus indicus, or any other substance deleterious to fish, or cause to be exploded in any such waters any substance whatever, for the purpose of taking or killing any game fish.

498.550 Possession of game fish taken or killed in violation of ORS 498.540 and 498.545. No person shall have in his possession or custody any game fish which he knows, or under the circumstances reasonably should know, have been taken or killed by any means prohibited by ORS 498.540 or 498.545.

498.555 Use by commission of substances to eradicate predatory fish or carry out game fish laws not affected. ORS 498.540 to 498.560 do not prevent the game commission from using any explosive, gas or other substance for the purpose of getting rid of, destroying or eradicating any predatory fish inimical to game fish, or from carrying out any of the laws for the protection, preservation or propagation of game fish.

498.560 Diversion of irrigation waters not affected. ORS 498.540 to 498.560 do not prevent the normal, lawful diversion of waters for irrigation purposes.

498.565 Taking and holding captive young game birds and animals. It is unlawful for any person except the game commission to take, carry or remove from its natural habitat and to hold in captivity, the young of any game bird or game animal of this state.

498.570 Killing crippled or helpless game birds and animals for humane purposes. Any crippled or helpless game bird or game animal may be killed by any person, where it can be shown that such killing was for humane purposes. The game commission or any state police officer shall be immediately notified of such killing. This section does not prevent a prosecution from being undertaken against any person unless the game commission is satisfied that the killing was done in good faith for humane purposes. Any game animal or game bird killed under this section shall, if suitable for food, be turned over to the game commission.

498.575 Killing or capturing and disposing of wild animals and birds damaging property. (1) On complaint of any freeholder or person in possession and having charge of any land in the state that any wild animals or birds of the state are doing damage to his property, upon written permission from the game commission first obtained, such freeholder or person in charge may kill or capture such animals or birds upon the land, or any officer may be instructed to kill or capture such animals or birds, under such regulations as the game commission provides. Any animals or birds killed or captured under this section are the property of the state and shall be disposed of in such manner as the game commission directs.

(2) Notwithstanding subsection (1) of this section, it is lawful for any owner or occupier of lands, the members of his family, his employes and other persons authorized by the owner to kill bear or cougar at any time such animals are causing damage on such land. Such animals causing damage may be pursued on lands other than those on which the damage occurred provided the rights of private property are not violated.
[Amended by 1967 c.594 §5]

498.577 Killing muskrats in or near certain areas. It is lawful at all times to hunt or kill muskrats on any lands within the boundaries of irrigation districts, district improvement companies or improvement districts and on or within 100 feet of the canals, ditches and dikes of such irrigation districts, district improvement companies or improvement districts. However, except for land owned by irrigation districts, district improvement companies or improvement districts, a person must secure permission to hunt or kill muskrats on privately owned land from the owner or other persons in lawful possession thereof.
[1959 c.341 §1; 1963 c.295 §1]

498.580 Taking raccoon declared predaceous by commission. Whenever it appears to the game commission that raccoon have committed depredations by preying on domestic animals or game birds, or that they are destroying, damaging or consuming crops, or that they have in any other respect become predaceous, the game commission may, by order, declare such raccoon to be a predatory animal and fix and determine a time when such raccoon may be hunted. During such time it is lawful for any person holding a hunting license, including landowners or their lessees who may hunt on such land without licenses, to hunt, pursue, take and capture such raccoon. It is unlawful at any other time for any person to hunt, take, pursue or capture such raccoon except by trapping.

498.585 Waste of game. (1) No person shall at any time capture or destroy any

game animal, except fur-bearing animals, of this state and detach or remove from the carcass only the head, hide, antlers, horns, tusks or any or all of these parts.

(2) No person shall at any time, leave through carelessness, neglect or otherwise, any game bird, game animal or game fish or an edible portion thereof to needlessly go to waste.

498.590 Smelt or candle fish; waste or use as fertilizer prohibited. It is unlawful for any person to use any smelt or candle fish (eulachan) for fertilizer or to wantonly waste such fish.

POSSESSING, PURCHASING, SELLING, PRESERVING, TRANSPORTING OR RELEASING ANIMALS, BIRDS OR FISH

498.605 Possession of deer meat; restriction on amount. It is unlawful for any person, at any time, to have in possession more than 40 pounds of any dried, smoked, evaporated or jerked venison or deer meat or more than 60 quarts of canned deer meat, within this state.

498.610 Buying or possessing fur-bearing animals or hides; burden of proof as to lawful taking. ORS 497.730 or 498.030 do not prohibit the buying or having in possession at any time of fur-bearing animals, as defined in subsection (9) of ORS 498.095, or hides taken or killed within or without the state, but burden of proof is with the trapper or dealer to prove that the hide was taken at such time as the killing or taking was lawful.

498.615 Sale or trade of game fish. It is unlawful to sell, barter or trade within the state any game fish except as specifically provided by law.

498.620 Sale of bass other than striped bass unlawful. It is unlawful for any person to sell or attempt to sell within the state any species of bass, except striped bass, at any time. It is no defense to a prosecution under this section that any of such species of bass, except striped bass, were taken from waters outside of the state.

498.625 Sale or trade of nongame birds and game; fur-bearing animals excepted. (1) No person shall at any time hunt, catch or have in possession any game fish, game animal, game bird or nongame bird, except-ing fur-bearing animals, for the purpose of obtaining the skin, hide, horns, hams, plumage, as defined in subsection (5) of ORS 498.015, or flesh, in whole or in part, of such animal, bird or fish, for the purpose of sale; or shall sell, barter, exchange or trade same except as provided by law.

(2) It is unlawful at any time for any person or common carrier to buy, sell, offer for sale, have in possession for sale or transport or carry for the purpose of trade, sale, barter or exchange, the skin, hide, horns, hams, plumage, flesh, carcass or portion of carcass of any such game animal, game bird, nongame bird or game fish, except as specifically authorized by statute.

(3) The game commission may, in its discretion, at such times and under such regulations as it may adopt, permit the sale of any game animal, game bird, nongame bird or game fish or any part thereof, or any trophies thereof, the sale of which is otherwise prohibited by this section. [Amended by 1959 c.529 §3]

498.630 [Repealed by 1969 c.15 §1]

498.635 Preserving fish taken by angling; records; permit to keep fish after open season. (1) Any person canning or processing any fish taken by hook and line, commonly called angling, for compensation, shall keep a record book which shall be open to inspection by any officer charged with the enforcement of the game laws or any employe or representative of the game commission, upon request at any reasonable time. In this record book shall be entered a chronological record of all fish processed or canned, stating the date processed or canned, the number and species of fish processed or canned, the name, address and fishing license number of the person for whom the fish were processed or canned.

(2) It is unlawful for any processor or canner to have in his possession, after 90 days from the close of any open season, any fish, canned fish or processed fish which were taken by hook and line, commonly called angling, except that the processor or canner may retain possession by making application to the game commission for a possession permit, which application shall be in such form and contain such information as the commission may prescribe, and the commission shall grant its permit for such possession by the applicant.
[Amended by 1955 c.78 §1]

498.640 Shipment of certain game fish into state; regulations. (1) Except as provided in ORS 498.620, it is lawful within this state to buy, sell, offer for sale, have in possession for sale or transport or carry for the purpose of trade or sale, bass, crappies, catfish, sunfish, yellow perch and trout, if such game fish are legally taken from waters outside of the boundaries of this state and shipped or transported into this state in accordance with this section.

(2) All parcels, packages, boxes or other receptacles containing any of the game fish allowed to be shipped into this state shall be labeled in plain letters on the address side of the package so as to disclose the fact that such parcel, package or box contains game fish, specifying the kind contained, the lot or quantity and the name and address of the shipper or consignor.

(3) Every such shipment of game fish into this state shall be accompanied by a written inventory mailed on the day of shipment in due course and addressed to the consignee or person receiving the shipment in this state. This inventory shall set forth the date, name and address of the purchaser or consignee to whom shipment is made, the number of parcels or boxes and the kind and quantity of fish contained in each parcel or box.

(4) The bill of lading or shipping receipt, in addition to the usual written and printed matter, shall contain the same information as prescribed in subsection (3) of this section.

(5) It is unlawful for any common carrier, its officers, agents or employes to receive such parcels, packages, boxes or other receptacles for transportation into this state or for transportation within this state unless such packages have been labeled as required in this section and the bill of lading or shipping receipt contains the information required by subsection (3) of this section.

(6) Every common carrier within the state shall keep and retain for 60 days a separate and complete list of every such shipment into this state or of shipments within this state and shall upon request exhibit the list to the game commission or to any of its deputies for inspection.

(7) Every person receiving such shipment within this state shall, for 60 days, retain the invoice of the game fish which he has purchased or received on consignment, and shall upon request exhibit the invoice to the game commission or to its deputies for inspection.

[Amended by 1955 c.62 §1]

498.641 Importation of game fish into state in excess of bag limits or by person without license prohibited; exceptions. (1) Except as provided in subsections (3) and (4) of this section, no person required by ORS 497.010 to have a license to take, catch or angle for any fish shall import into this state by any means or have in possession any species of game fish taken, lawfully or otherwise, from waters beyond the boundaries of this state, including the Pacific Ocean, unless he has a valid license referred to in ORS 497.120 and 497.130 to 497.170 to angle for or take fish.

(2) Except as provided in subsections (3) and (4) of this section, no person shall import into this state by any means or have in possession any game fish taken, lawfully or otherwise, from waters beyond the boundaries of this state, including the Pacific Ocean, in excess of the bag limits determined and fixed by the State Game Commission.

(3) This section is not applicable to game fish lawfully taken in the waters of another state, any territory of the United States or any foreign country in conformity with the bag limits prescribed by the law of such other state, territory of the United States or foreign country.

(4) This section is applicable only to game fish taken by hook and line, commonly called angling, and is not applicable to commercial fishing and commercial fisheries.

[1955 c.507 §1; 1959 c.235 §1]

498.645 [Repealed by 1955 c.65 §2]

498.646 Permit required to import or transport fish to another body of water or release fish. It is unlawful for any person to import into the state any fish, other than for aquaria use or for any person to transport within the state any fish from any stream, lake or body of water in the state to another stream, lake or body of water within the state or for any person to release any fish into private or public waters of the state, other than for aquaria use, without in any case first having obtained a permit from the State Game Commission that such may be done.

[1955 c.65 §1]

498.650 Release of birds, animals or fish; permit. It is unlawful for any person to release within the state any species of birds, animals or fish brought from another state or country, or raised in captivity or in a domestic state in this state, without first obtaining a permit from the game commission that this may be done.

498.655 Definitions for ORS 498.655 to 498.665. As used in ORS 498.655 to 498.665, unless the context requires otherwise, "highly dangerous fish" means a living fish of the various species of the subfamily Serrasalminae of the family Characinidae, commonly known as caribe or piranha.
[1965 c.201 §1]

Note: ORS 498.655 to 498.665 were not added to and made a part of ORS chapter 498 by legislative action.

498.660 Possession or sale of highly dangerous fish prohibited; exception. (1) Except as provided in subsection (2) of this section, it is unlawful to bring into this state, or to possess, sell or offer to sell or otherwise transfer ownership or possession of, any highly dangerous fish, or the eggs thereof.

(2) A public park, zoo, museum or educational institution may bring into this state or otherwise acquire and possess any highly dangerous fish for educational, medical, scientific or exhibition purposes, upon first securing a permit from the State Game Commission. The commission may adopt such rules and regulations as it finds necessary to carry out the purposes of ORS 498.655 to 498.665.
[1965 c.201 §§2, 3]

Note: See note under ORS 498.655.

498.665 Application of ORS 498.655 to 498.665. ORS 498.655 to 498.665 does not apply in the case of any highly dangerous fish that was brought into this state or otherwise acquired before April 14, 1965. However, a person possessing such a fish shall notify the State Game Commission thereof within 90 days after April 14, 1965. The commission shall without charge, in accordance with its rules and regulations, issue to the person a certificate indicating compliance with this section.
[1965 c.201 §4]

Note: See note under ORS 498.655.

FISH SCREENING DEVICES AND FISHWAYS

498.705 Power of commission to establish screening devices in artificial watercourses. The game commission may establish and maintain screens, gratings and other devices, or cause the same to be established and maintained, in all ditches, canals, millraces, channels, waterpipes or other artificial watercourses taking or receiving their water from any river, creek or lake in which fish may exist or are placed or planted, to prevent any fish from entering such ditch, canal, millrace, channel, waterpipe or other artificial watercourse and to permit the fish to return to the river, creek or lake. For such purposes the game commission shall install, maintain, repair, relocate or reinstall all such screens, gratings or other devices, up to and including screens, gratings or other devices less than eight feet in length or width, or smaller, and all by-passes thereto. No screen or other device shall be installed which will materially diminish the flow of water in the ditch, canal, waterpipe or other watercourse.

498.710 Entry upon and use of land for screening devices by commission. The State, through the game commission, has the right to enter upon the land at the point where the game commission determines that the grating, screen or other device and by-pass mentioned in ORS 498.705 shall be installed, the right to enter upon and use such land as is necessary for the installation, maintenance, repair, relocation or reinstallation of the screen, grating or other device and by-pass, and the right of ingress and egress to such place for the purpose of installation, maintenance, repair and relocation or reinstallation of all such screens, gratings or other devices and by-passes.

498.715 Cost of screening devices established by commission. The cost of installation, maintenance, repair, relocation or reinstallation of all gratings, screens or other devices mentioned in ORS 498.705 shall be paid from funds under the control of the game commission or from any other source available.

498.720 Owner or lessee of artificial watercourse to install and maintain screening devices; supervision by commission; removal of inadequate devices. (1) Any public or private corporation, person, party,

firm or association owning, in whole or in part, or leasing, operating or having in charge any irrigation ditch, canal, millrace, channel, waterpipe or any other artificial watercourse taking or receiving its water from any river, creek or lake in the state in which fish may exist or are placed or planted, which require a grating, screen or other device eight feet in length or width, or larger, to prevent any fish from entering the ditch, canal, millrace, channel, waterpipe or other artificial watercourse, and by-pass thereto, to permit the fish to return to the river, creek or lake, shall, upon the direction and order of the game commission, place and maintain, at the expense of said public or private corporation, person, party, firm or association, with the approval of the game commission and in accordance with its specifications at such place chosen by it in the artificial watercourse, the grating, screening or other device, either stationary or operated mechanically, and a by-pass thereto of such size, construction, fineness, strength and quality as shall prevent any fish from entering the artificial watercourse and which will permit fish to return to the river, creek or lake.

(2) The size, fineness, construction, strength or quality of such grating, screen or other device and by-pass to be constructed, installed and maintained shall be determined by and be according to specifications established by the game commission.

(3) Any inadequate screen, grating, other device or by-pass may be ordered removed and a new screen, grating, other device and by-pass ordered installed when the game commission determines that any screen, grating or other device or by-pass is, by construction, operation, location or otherwise, inadequate.

498.725 Unlawful to interfere with screening devices. It is unlawful for any public or private corporation, person, party, firm or association, except the game commission, the watermaster or their authorized representatives, to put out of running order, tamper with, remove, interfere with, injure, destroy or damage any of the screens, gratings or other devices and by-passes, or any part thereof, provided for in ORS 498.705 to 498.720.

498.730 Fishways in artificial obstructions across streams; inspection; failure to complete fishway. (1) Except as otherwise provided in ORS 498.732, 509.640, 509.645, subsection (3) of this section, 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 game fish, without providing a passageway for such fish over the dam or artificial obstruction as near the main channel as practicable.

(2) The game commission shall examine or have examined, from time to time, all dams and artificial obstructions in all rivers and streams in the state frequented by game fish. If in its opinion there is not a free passage for such fish over any dam or artificial obstruction, the game commission may notify the owner or occupant thereof to provide the same within a reasonable time with a durable and efficient fishway, as defined in subsection (2) of ORS 498.745, of such form and capacity and in such location as shall be determined by the game commission. Except as otherwise provided in ORS 498.732, no owner or occupant of such dam or artificial obstruction shall fail to complete such fishway to the satisfaction of the game commission within the time specified.

(3) Prior to construction of any dam or artificial obstruction, the game commission may within a reasonable time examine or have examined the area to be affected and the plans and specifications of such dam or artificial obstruction and within a reasonable time make a determination whether passageway for such fish is required.

[Amended by 1955 c.707 §44; 1965 c.167 §1]

498.732 Filing protest with State Water Resources Board; review and determination by board as to whether fishway in public interest. (1) Any owner or occupant of a milldam or artificial obstruction may file a protest with the State Water Resources Board within 10 days after receipt of notification from the game director as provided in subsection (2) of ORS 498.730, on the ground that providing the milldam or artificial obstruction with a fishway as required by the game commission 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 milldam or artificial obstruction, who is known to or can be reasonably ascertained by the board, and to the game commission at least 10 days prior to the hearing.

(3) The board, after the hearing, shall make a determination as to whether providing the milldam or artificial obstruction with a fishway as required by the game commission would impair or be detrimental to the public interest. The determination shall be binding upon each owner or occupant of the milldam or artificial obstruction and the game commission. The determination shall approve the requirement of the fishway, approve the requirement subject to conditions specified in the determination or disapprove the requirement. If each owner or occupant of the milldam or artificial obstruction complies with the determination, such owner or occupant shall be deemed not in violation of ORS 498.730.

(4) In determining whether providing the milldam or artificial obstruction with a fishway as required by the game commission 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 509.645, the board may consider and determine the protests in a combined proceeding under this section and ORS 509.645.
[1955 c.707 §46]

498.735 Removal of artificial obstructions by commission. Except as otherwise provided in ORS 498.732, in the event the owner of any milldam or artificial obstruction fails to comply with instructions of the game commission pursuant to ORS 498.730 with respect to the construction or repair of fishways over or around such milldam or artificial obstruction within such reasonable time as may be specified by the game commission, the game commission may forthwith remove the milldam or artificial obstruction or any part thereof.
[Amended by 1955 c.707 §47]

498.740 Neglect of obstruction owner or occupant to maintain fishway. It is incumbent upon the owners and occupants of all milldams or artificial obstructions, where, subject to ORS 498.732, the game commission requires a fishway to be provided pursuant to ORS 498.730, to keep the same in repair and open and free from obstruction to the passage of fish at all times. No owner or occupant of any milldam or artificial obstruction shall neglect or refuse to keep such fishway in repair and open and free from obstruction to the passage of fish. The continuance from day to day of the neglect or refusal, after notification in writing by the State Game Director or game commission, constitutes a separate offense.
[Amended by 1955 c.707 §48]

498.745 Power of commission to establish fishways in natural obstacles across streams. (1) The game commission may, whenever it deems such action necessary to the protection, as defined in ORS 496.620, preservation, promotion and propagation of game fish, construct, erect, install and maintain over or around any natural barriers or natural obstacles across any stream in this state, a fishway or fish ladder adequate to provide a good and sufficient passageway for such fish.

(2) As used in this section, "fishway" or "fish ladder" means any improvement, structure or facility made to facilitate or provide passage for fish over a natural or artificial barrier or obstruction in any stream of water in this state.

498.750 Enjoining violation of ORS 498.720 and 498.730 to 498.745. The game commission, in the name of and on behalf of the State of Oregon, may maintain a suit in equity for an injunction to enjoin and restrain any person, including any municipal corporation or body politic and corporate of this state, from violating any of the provisions of ORS 498.720 and 498.730 to 498.745. The circuit court of the county in which any violation occurs has jurisdiction to entertain such suit. In the event the waters in which such violations occur flow in or through, or are situated in two or more counties, the circuit court of any of said counties in which suit is brought has jurisdiction of such suit. Service of summons may be made on any defendant who is found or whose residence or principal place of business is in another county. If the defendant is a corporation with its principal office and place of business in a county other than in which the waters flow or are situated, such suit shall be deemed a suit

of a local nature and service of summons may be made on the corporation in any county where the corporation has its principal office and place of business. If it is a foreign corporation, service may be made upon the statutory agent, but if there is no such statutory agent, then upon the Corporation Commissioner, as in other cases provided by law.

HUNTING BY PERSONS 17 OR YOUNGER

498.805 Statement of policy. It shall be the public policy of the State of Oregon to promote safe hunting practices and training in the handling of firearms.
[1961 c.663 §1]

498.810 Certificate of competency required to hunt with firearms when 17 or younger. (1) No person 17 years of age or younger shall hunt, except on his own premises or that of a parent or legal guardian, with firearms without first obtaining from the Oregon State Game Commission and having on his person a certificate of competency in the safe handling of firearms.

(2) A person 17 years of age or younger who desires to obtain a certificate of competency shall:

(a) Satisfactorily complete a course in safe handling of firearms approved by the game commission; or

(b) Display a document duly issued to the applicant by an appropriate authority of another state which certifies that he has satisfactorily completed a course in the safe handling of firearms, which course is approved by the game commission.
[1961 c.663 §§2, 3]

498.815 Hunter safety training program; cooperation among interested agencies and groups. (1) The game commission shall, under such rules and regulations as it deems necessary and expedient, create and administer a hunter safety training program for the purpose of training those persons covered by subsection (1) of ORS 498.810 in the proper method of hunting with firearms. The game commission shall prescribe a course of instruction for qualifications of instructors and the individual standards which must be met by applicants and shall issue certificates of competency to those persons who satisfactorily complete the training.

(2) The game commission may cooperate and enter into agreements with other public and private agencies, groups and individuals, including but not limited to the Superintendent of Public Instruction, and the National Rifle Association in carrying out the provisions of this section and ORS 498.805 and 498.810.

(3) The Department of State Police shall cooperate with the game commission in carrying out the provisions of this section and ORS 498.805 and 498.810.
[1961 c.663 §§4, 5, 6]

498.820 Hunting restrictions on children. Notwithstanding the provisions of subsection (1) of ORS 497.040, no person under 12 years of age shall be issued a big game tag. No person under 14 years of age shall be permitted to hunt with a gun or bow and arrow on lands, other than his own premises, or those of a parent or legal guardian, unless accompanied by an adult.
[Formerly 498.025]

PENALTIES

498.990 Penalties. Violation of any provision of this chapter, or any rule promulgated pursuant thereto, unless otherwise provided, is a misdemeanor. The defendant may be confined in the county jail for not to exceed one day for each $5 of an unpaid fine, or portion thereof, under this section.

[Subsection (5) of 1965 Replacement Part enacted as 1953 c.184 §4; subsection (1) of 1965 Replacement Part enacted as 1955 c.506 §2; 1959 c.352 §3; 1967 c.523 §3]

498.992 [Amended by 1959 c.352 §4; repealed by 1967 c.523 §14]

498.994 [Repealed by 1967 c.523 §14]

498.996 [Repealed by 1967 c.523 §14]

498.997 [1955 c.507 §2; 1959 c.235 §2; subsection (2) of 1965 Replacement Part enacted as 1965 c.201 §5; repealed by 1967 c.523 §14]

498.998 [Repealed by 1967 c.523 §14]

498.999 [1961 c.663 §7; repealed by 1967 c.523 §14]

CERTIFICATE OF LEGISLATIVE COUNSEL

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

Done at Salem, Oregon, on December 1, 1969.

Robert W. Lundy
Legislative Counsel

CHAPTERS 499 AND 500

[Reserved for expansion]