

Chapter 508

1973 REPLACEMENT PART

Licenses

GENERAL PROVISIONS	
508.006	Definitions
508.011	Activities relating to oysters exempted
WHEN LICENSE REQUIRED	
508.025	License required to take or deal in fish
508.030	License required for fishing gear
508.035	Separate licenses required for certain fishing gear and activities
508.040	Unlawful knowingly to buy or receive fish from unlicensed person
508.045	Exemption of retail fish dealers
PERMITS AND SPECIAL LICENSES	
508.106	Permit to take carp or other nongame fish
508.111	Permit to take food fish for educational and scientific purposes
508.116	Permit to take animals living intertidally on bottom
508.121	Juvenile jig line license
LICENSES AND REGULATION OF LICENSEES	
508.235	Commercial fishing license
508.240	Acts by commercial fishing licensee prohibited
508.260	Boat license; plates; sticker; replacement fees
508.270	Fishing, boat license fees in lieu of other taxes and licenses on crab pots; reports to county assessor
508.285	License fees
508.290	Additional fees for operating fishing gear or cannery
508.300	Albacore tuna landing license in lieu of other licenses
508.306	Fish bait dealer license; authority of commission to designate fish or shellfish bait
508.312	Commercial bait fishing license; license in lieu of commercial fishing and boat licenses
ISSUANCE, APPLICATION, CONTENTS, WHERE VALID, TRANSFERRING, TERM, LOCATION ABANDONMENT, FORFEITURE	
508.406	Director or agent to issue and renew licenses
508.410	Contents of license applications
508.415	Bond, deposit for poundage fees
508.445	Director's certificate evidence as to license issuance
508.450	Contents of license
508.460	Oregon-Washington reciprocity on gillnet licenses
508.465	Licenses nontransferable
508.470	When licenses expire; renewal
508.475	Failure to renew license for fixed fishing gear constitutes abandonment; exception for Armed Forces
508.480	Failure to construct or install fishing gear held to be abandonment
508.485	Revocation of license for violation of commercial fishing laws or rules
508.490	Refusal to issue license within two years after second conviction
508.495	Certificate in lieu of lost or destroyed license
POUNDRAGE FEES	
508.505	Additional fees on poundage; by whom paid; computation of weights; exemptions
508.507	Additional poundage fee for fish bait dealers
508.510	Place where fish caught is immaterial; exemptions; special fee
508.515	Time of paying fees; report; interest on overdue fees; waiver or extension of payment
508.520	Determination of disputes
508.525	Lien for unpaid fee; foreclosure; jurisdiction of courts
508.530	Rules; reports; violation or falsification
508.535	Keeping record of food fish received and bought; inspection
508.540	Failure to keep or submit records or to pay fee
SALMON HATCHERY PERMITS	
508.700	Permits for salmon hatcheries; fees
508.705	Hearing for permits; notice; recommendations of State Wildlife Commission
508.710	Grounds for denial of permit
508.715	Conditions of permits
508.720	Altering terms of permits; findings; hearing; restoration of fish population
508.725	Fish released pursuant to ORS 508.700 to 508.745 are state property
508.730	Disposal of salmon products
508.735	Application of chapter to taking and sale of salmon
508.740	Authority under ORS 508.700 to 508.745
508.745	Disposition of moneys received under ORS 508.700 to 508.745

CROSS REFERENCES

Commercial fishing law offense procedure, 496.905 to 496.950	508.025
Penalty for violation of commercial fishing law or rules thereunder, 506.991	Fishing rights of treaty Indians not affected, 506.045
Special permits:	508.045
Lamprey eels, 509.600	Exemptions from poundage fees, 508.505
Placing explosives and poisons in water, 509.130, 509.140	508.290
Specimens for educational and scientific purposes, 506.211	Seal control moneys, 506.341
Water resources policy, state, compliance with required, 536.300 to 536.400	508.410
508.011	Director to keep license application records, 506.260
Regulation of oysters and oyster beds, 509.425 to 509.510	508.475
	"War veteran" defined, 174.105
	508.485
	Revocation of license for failure to keep records or pay poundage fees, 508.540

GENERAL PROVISIONS

508.005 [Repealed by 1965 c.570 §152]

508.006 Definitions. The definitions prescribed by ORS 506.001 to 506.025 apply to this chapter.
[1965 c.570 §58]

508.010 [Repealed by 1965 c.570 §152]

508.011 Activities relating to oysters exempted. This chapter does not apply to oysters or to any activity of any person relating to oysters.
[1965 c.570 §59b]

508.015 [Amended by 1963 c.246 §3; repealed by 1965 c.570 §152]

508.020 [Amended by 1953 c.656 §6; 1961 c.374 §1; repealed by 1963 c.246 §4 (508.021 enacted in lieu of 508.020)]

508.021 [1963 c.246 §5 (enacted in lieu of 508.020); repealed by 1965 c.570 §152]

WHEN LICENSE REQUIRED

508.025 License required to take or deal in fish. (1) It is unlawful for any person, without first procuring a license from the commission, to:

(a) Take food fish in any of the waters of this state for commercial purposes or land food fish in this state for commercial purposes.

(b) Buy, sell or otherwise deal in food fish for commercial purposes.

(c) Process or can food fish for commercial purposes.

(2) In a prosecution under this section, it is no defense that a person did take his own food fish for commercial purposes.
[1965 c.570 §60]

508.030 License required for fishing gear. It is unlawful for any individual to operate, or leave in a condition to take food fish in any of the waters of this state, any fishing gear used in taking food fish, without first obtaining from the director or his authorized agent such license as may be prescribed by this chapter. The license must be in the possession of such individual at the time the fishing gear is being used.
[1965 c.570 §61]

508.035 Separate licenses required for certain fishing gear and activities. (1) Separate licenses are required for each:

(a) Person other than an employe operating as a canner of food fish.

(b) Person other than an employe oper-

ating as a wholesale fish dealer, for each separate place of business.

(c) Individual acting or engaged as a fish buyer by a person licensed under paragraph (a) or (b) of this subsection.

(d) Person licensed under paragraph (a) or (b) of this subsection, for each permanent site or location operated by such person as a fish-buying station.

(e) Individual taking or assisting in the taking of food fish for commercial purposes as described in ORS 508.235.

(f) Boat, used in taking food fish for commercial purposes, as described in ORS 508.260.

(g) Single delivery of food fish from the Pacific Ocean for commercial purposes in the absence of licenses under paragraphs (e) and (f) of this subsection.

(h) Person other than an employe operating as a fish bait dealer, for each separate place of business.

(i) Individual taking or assisting in the taking of food fish for sale to a fish bait dealer.

(2) The commission shall classify and define the various licenses provided for in this section and shall direct the director to issue licenses accordingly and the classification shall be final.

[1965 c.570 §62; 1969 c.172 §1; 1971 c.540 §4; 1973 c.768 §19]

508.040 Unlawful knowingly to buy or receive fish from unlicensed person. It is unlawful for a wholesaler, canner or buyer to buy or receive food fish from a person who he does not have reasonable cause to believe is licensed as required under ORS 508.035, unless such person is exempt from the requirements of ORS 508.035.
[1965 c.570 §62a]

508.045 Exemption of retail fish dealers. Notwithstanding ORS 508.025 and 508.035, no license is required to handle or deal in food fish and shellfish for human consumption as a retail fish dealer.
[1965 c.570 §63; 1969 c.172 §2; 1971 c.540 §5]

PERMITS AND SPECIAL LICENSES

508.105 [Amended by 1955 c.176 §1; 1963 c.246 §6; repealed by 1965 c.570 §152]

508.106 Permit to take carp or other nongame fish. (1) Upon receiving a written application therefor, accompanied by a fee of \$3, either the commission or the State

Wildlife Commission may issue to any person a permit to take carp or other nongame fish.

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

(3) After having obtained a permit as provided for in subsection (1) of this section, and subject to any rules of the commission or State Wildlife Commission, any person may take carp or nongame fish from any of the waters of this state described in the permit.

(4) It is unlawful to:

(a) Retain any fish other than described in the permit in connection with the use of any permit issued under subsection (1) of this section, and any other fish taken shall at once be set free; or

(b) Take any fish for commercial purposes by a permit issued under subsection (1) of this section without first having obtained a license under ORS 508.035.

[1965 c.570 §64; 1973 c.768 §12]

508.110 [Amended by 1963 c.246 §7; repealed by 1965 c.570 §152]

508.111 Permit to take food fish for educational and scientific purposes. The director may issue to any person a permit to take food fish solely for educational and scientific purposes.

[1965 c.570 §64a]

508.115 [Repealed by 1961 c.156 §1]

508.116 Permit to take animals living intertidally on bottom. (1) The director may issue to any person a permit to take animals living intertidally on the bottom.

(2) It is unlawful to take animals living intertidally on the bottom for commercial purposes by a permit issued under subsection (1) of this section without first having obtained a license under ORS 508.035.

[1965 c.570 §64b]

508.120 [Amended by 1963 c.246 §8; repealed by 1965 c.570 §152]

508.121 Juvenile jig line license. (1) Any juvenile may secure from the fish commission free of charge a juvenile jig line license to take herring, pilchard, perch, anchovies and candlefish by a hand or jig line and to sell such fish so taken by him to a wholesale fish dealer or a fish bait dealer.

(2) As used in this section, "juvenile" means any individual 17 years of age or younger as of January 1 of the year for which the license is issued.

(3) The license, for the purposes authorized in this section, is in lieu of the commercial fisherman and boat licenses required under ORS 508.235 and 508.260.

[1965 c.103 §2; 1971 c.540 §8]

508.125 [Amended by 1963 c.246 §9; repealed by 1965 c.570 §152]

508.130 [Amended by 1959 c.128 §1; repealed by 1963 c.246 §12]

508.135 [Amended by 1963 c.246 §10; repealed by 1965 c.570 §152]

508.140 [Repealed by 1963 c.246 §12]

508.145 [Repealed by 1963 c.246 §12]

508.147 [1955 c.238 §2; repealed by 1963 c.246 §12]

508.150 [Repealed by 1963 c.246 §12]

508.152 [1955 c.238 §3; repealed by 1963 c.246 §12]

508.155 [Amended by 1953 c.656 §6; repealed by 1963 c.246 §12]

508.160 [Amended by 1955 c.167 §1; repealed by 1963 c.246 §12]

508.165 [Repealed by 1963 c.246 §12]

508.170 [Repealed by 1963 c.246 §12]

508.175 [Repealed by 1963 c.224 §7]

508.180 [Amended by 1953 c.656 §6; 1959 c.401 §1; 1961 c.374 §2; 1963 c.224 §1; repealed by 1965 c.570 §152]

508.185 [Repealed by 1963 c.224 §7]

508.190 [Amended by 1963 c.224 §2; repealed by 1965 c.570 §152]

508.195 [Amended by 1953 c.656 §6; repealed by 1961 c.374 §4]

508.200 [Amended by 1963 c.224 §3; repealed by 1965 c.570 §152]

508.205 [Repealed by 1963 c.224 §7]

508.210 [Repealed by 1963 c.224 §7]

508.215 [Amended by 1963 c.224 §4; repealed by 1965 c.570 §152]

508.220 [Amended by 1955 c.177 §1; repealed by 1963 c.224 §7]

508.223 [1963 c.246 §2; repealed by 1965 c.570 §152]

508.225 [Amended by 1955 c.279 §1; 1957 c.134 §1; repealed by 1965 c.570 §152]

508.230 [Amended by 1963 c.224 §5; 1965 c.570 §83; renumbered 508.290]

LICENSES AND REGULATION OF LICENSEES

508.235 Commercial fishing license. (1) A commercial fishing license must be obtained by each individual who, for commercial purposes:

(a) Takes or assists in the taking of any food fish from the waters or land of this state;

(b) Operates or assists in the operation of any boat or fishing gear for the taking of food fish in the waters of this state; or

(c) Lands food fish from the waters of the Pacific Ocean at any point in this state.

(2) A commercial fishing license must be in the possession of the licensee, when engaged in the taking or landing of commercial fish, and is required in addition to any other license under this chapter.

[1965 c.570 §77]

508.240 Acts by commercial fishing licensee prohibited. It is unlawful for any person licensed to take food fish for commercial purposes, as required under ORS 508.035, to:

(1) Keep any food fish he takes under such license for personal use; or

(2) Sell any food fish he takes under such license to other than a wholesaler, canner, fish bait dealer or buyer licensed as required under ORS 508.035.

[1965 c.570 §77a; 1971 c.540 §6]

508.245 [1965 c.570 §78; repealed by 1973 c.768 §20]

508.250 [1965 c.570 §79; repealed by 1973 c.768 §20]

508.255 [1965 c.570 §80; repealed by 1973 c.768 §20]

508.257 [1969 c.172 §7; repealed by 1973 c.768 §20]

508.260 Boat license; plates; sticker; replacement fees. (1) A set of two license plates shall be issued with each new boat license. One license plate must be displayed conspicuously at all times on each side of the licensed boat as nearly amidships as is practicable.

(2) The fee for replacement of lost plates is \$3.

(3) In accordance with rules promulgated by it, the commission may upon the renewal of a boat license issue a sticker bearing the last two numbers of the year for which the license is renewed. In this event the boat license plates issued in accordance with subsection (1) of this section shall remain with the boat as long as the boat is licensed in this state, and the sticker shall remain attached to the boat license plates for the period of renewal specified in the application therefor.

(4) The fee for replacement of lost or destroyed boat license renewal stickers is \$2. [1965 c.570 §81; 1973 c.768 §13]

508.270 Fishing, boat license fees in lieu of other taxes and licenses on crab pots; reports to county assessor. (1) Either the commercial fishing license required by ORS 508.235 or the boat license required by ORS 508.260 is in lieu of all taxes and licenses on crab pots used by a person so licensed or used in connection with a boat so licensed.

(2) Crab pots shall be reported to the county assessor by each owner and listed for ad valorem taxation, but if the owner of such crab pots furnishes documentary proof to the assessor, not later than May 15 of each year, that he possesses a current commercial fishing license under ORS 508.235 or that his boat is currently licensed under ORS 508.260, the assessor shall cancel any assessment made by him of crab pots used by such person or used in connection with such person's licensed boat.

[1969 c.649 §2]

508.285 License fees. (1) The fee for each license required by ORS 508.025 to 508.035, 508.306 and 508.312 is as follows:

Boat license for resident, \$170

Boat license for nonresident, \$250

Commercial fishing license for resident, \$40

Commercial fishing license for resident persons 18 years of age or younger, \$25

Commercial fishing license for nonresident, \$75

Commercial bait fishing license, \$25

Fish buyer license, \$50

Fish bait dealer license, \$25

Food fish canner license, \$300

Shellfish canner license, \$200

Single delivery license, \$75

Albacore tuna landing license, \$10

Wholesale fish dealer license, \$100

(2) As used in this section:

(a) "Resident" means an actual bona fide resident of this state for at least one year prior to application for a license.

(b) "Nonresident" means any person not described in paragraph (a) of this subsection.

[1965 c.570 §82; 1969 c.172 §3; 1971 c.540 §7; 1973 c.768 §14]

508.290 Additional fees for operating fishing gear or cannery. (1) For the purpose of controlling and taking seals in the waters of the Columbia River there shall be paid to the director by each applicant for operating on food fish within the waters of the Columbia River, at the time the application is made, \$2.50 for each gillnet license and

\$50 for each fish canner license. These fees are in addition to all other fees provided by law for the operation of such fishing gear or cannery. An entry shall be made on each such license indicating payment of the fees required by this subsection.

(2) It is unlawful for any person to operate under a gillnet license or a fish canner license as provided in this section without first paying the fees specified in subsection (1) of this section.

[Formerly 508.230; 1967 c.322 §2]

508.300 Albacore tuna landing license in lieu of other licenses. Notwithstanding any other provision of this chapter, the only license required for landing albacore tuna from the waters of the Pacific Ocean at any point in this state is an albacore tuna landing license.

[1973 c.768 §17]

508.305 [Amended by 1957 (s.s.) c.9 §1; 1963 c.197 §1; 1965 c.310 §1; renumbered 508.505]

508.306 Fish bait dealer license; authority of commission to designate fish or shellfish bait. (1) Any person may obtain a fish bait dealer license to purchase food fish directly from a commercial fisherman licensed under ORS 508.235 or commercial bait fisherman licensed under ORS 508.312, for retail sale as fish or shellfish bait.

(2) The commission by regulation may designate those species of food fish or parts thereof which may not be used for fish or shellfish bait.

[1971 c.540 §2]

508.310 [Amended by 1965 c.570 §86; renumbered 508.515]

508.312 Commercial bait fishing license; license in lieu of commercial fishing and boat licenses. (1) Any individual may obtain a commercial bait fishing license to take food fish for sale to a fish bait dealer licensed under ORS 508.306.

(2) The license for the purpose authorized in this section is in lieu of the commercial fishing and boat licenses required under ORS 508.235 and 508.260.

[1971 c.540 §3]

508.315 [Repealed by 1965 c.570 §152]

508.320 [Amended by 1963 c.197 §2; 1965 c.310 §2; renumbered 508.510]

508.325 [Renumbered 508.520]

508.330 [Renumbered 508.525]

508.335 [Amended by 1965 c.570 §87; renumbered 508.530]

508.340 [Amended by 1961 c.373 §1; 1963 c.197 §3; 1965 c.570 §88; renumbered 508.535]

508.345 [Amended by 1961 c.373 §2; 1965 c.570 §89; renumbered 508.540]

508.350 [Renumbered 508.545]

508.355 [Repealed by 1963 c.197 §4]

508.360 [Repealed by 1963 c.197 §4]

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

508.405 [Amended by 1963 c.196 §1; repealed by 1965 c.570 §65 (508.406 enacted in lieu of 508.405)]

508.406 Director or agent to issue and renew licenses. The director or his authorized agent shall issue or renew any license required by the commercial fishing laws to a qualified person upon proper application and payment of the license fee required by ORS 508.285.

[1965 c.570 §66 (enacted in lieu of 508.405)]

508.407 [Repealed by 1965 c.570 §152]

508.410 Contents of license applications. All applications for licenses under ORS 508.406 shall be made on blanks furnished by the director and shall contain such information as the commission determines to be necessary for proper administration and enforcement of the commercial fishing laws.

[Amended by 1957 c.208 §1; 1963 c.196 §2; 1965 c.570 §67]

508.413 [1963 c.246 §1; repealed by 1965 c.67 §4]

508.415 Bond, deposit for poundage fees. In case of license applications by canners or wholesalers, the director, in addition to license fees provided by law, may exact from the applicant a bond from a corporate surety, authorized to do business in this state, guaranteeing the payment of poundage fees, if the director considers such action is necessary to insure compliance with ORS 508.505 to 508.540.

(2) In lieu of any bond that may be required under subsection (1) of this section, any applicant may deposit with the commission, under such terms and conditions as the director may prescribe, a like amount of lawful money of the United States. The commission shall turn over to the State

Treasurer for safekeeping all such deposits so received.

[Amended by 1963 c.196 §3; 1965 c.570 §68; 1969 c.52 §1]

508.420 [Amended by 1955 c.168 §1; 1963 c.196 §4; repealed by 1965 c.570 §152]

508.425 [Amended by 1961 c.168 §1; repealed by 1965 c.570 §152]

508.430 [Amended by 1963 c.196 §5; repealed by 1965 c.570 §152]

508.435 [Amended by 1961 c.181 §1; repealed by 1965 c.570 §152]

508.440 [Repealed by 1961 c.233 §1]

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

508.450 Contents of license. Each license issued under ORS 508.406 shall be numbered and dated by the fisheries director or an authorized agent and contain the site or address where the appliance or business is located and the name of the person to whom the license is granted.

[Amended by 1957 c.132 §1; 1963 c.196 §6]

508.455 [Amended by 1955 c.122 §1; repealed by 1965 c.570 §152]

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

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

508.470 When licenses expire; renewal. All licenses for which fees are provided for under ORS 508.285 expire as of midnight, December 31, following the dates of their

issuance, and shall be renewed annually thereafter upon application and payment of fees required therefor.

[Amended by 1959 c.123 §1; 1961 c.374 §3; 1963 c.196 §7; 1965 c.570 §71]

508.475 Failure to renew license for fixed fishing gear constitutes abandonment; exception for Armed Forces. The failure to renew the license, or make application therefor, for any location for a fixed fishing gear in any of the waters of this state, on January 1 of any year, constitutes abandonment of the location. However, any licensee entering the Armed Forces of the United States during any period which would qualify him under the laws of this state as a war veteran is not deemed to have abandoned such location or gear so licensed, either by reason of absence from the location during such service or by failure to renew his license as required. Such licensee may file application for renewal of his license at any time following the date of his release from the Armed Forces of the United States, until January 1 of the following year, and shall have preference over other persons therefor.

[Amended by 1965 c.570 §72]

508.480 Failure to construct or install fishing gear held to be abandonment. Should the holder of any license neglect to construct or install at the site the fishing gear called for by the license during two consecutive years covered by his license, the location shall be deemed abandoned.

[Amended by 1965 c.570 §73]

508.485 Revocation of license for violation of commercial fishing laws or rules. Upon conviction within this state of any person of violation of any of the commercial fishing laws or rules or upon forfeiture of bail on account of one of such offenses, the commission may, in its discretion, revoke for the remainder of the license year any license issued to such person under the authority of the commission or the director, and in its discretion may refuse the issuance of any license issued under the authority of the commission or director during any period not to exceed one year from the date of the conviction or forfeiture of bail.

[Amended by 1965 c.570 §74; 1971 c.569 §1]

508.490 Refusal to issue license within two years after second conviction. Upon conviction within this state of any person of violation of any of the commercial fishing

laws or rules after such person has once been convicted and penalized under ORS 508.485, the commission may, in its discretion, refuse the issuance of any license issued under the authority of the commission or the director during any period not to exceed two years from the date of the most recent conviction. [Amended by 1965 c.570 §75]

508.495 Certificate in lieu of lost or destroyed license. Upon the receipt of a fee of \$2 and the filing of an affidavit that a license issued under authority of ORS 508.406 has been lost or destroyed, the director or his authorized agent shall issue a certificate that such license has been issued and has been lost or destroyed. Except as provided in ORS 508.260, the certificate may be used in lieu of the lost or destroyed license. [1957 c.140 §1; 1965 c.570 §76; 1973 c.768 §18]

POUNDAGE FEES

508.505 Additional fees on poundage; by whom paid; computation of weights; exemptions. (1) Additional fees shall be collected by the fisheries director in the amount prescribed by this section, except as provided in ORS 508.510. Every person operating within the state as a canner, buyer or wholesaler of any food fish or shellfish shall pay, in addition to all other licenses or fees provided by law:

(a) 1.8 cents per pound on each species of salmon or incidental catch of steelhead trout except chum salmon;

(b) 0.8 cent per pound on striped bass and sturgeon;

(c) 0.4 cent per pound on chum salmon, crabs and clams gross weight in the shell;

(d) 0.3 cent per pound on shad and smelt;

(e) 0.25 cent per pound on albacore tuna;

(f) 0.3 cent per pound on halibut and shrimp; and

(g) For all other food fish and shellfish, 0.1 cent per pound, received or purchased by such canner, buyer or wholesaler.

(2) All weights for computing poundage fees under this section shall be whole or round weights unless otherwise specified.

(3) Only fresh or frozen in the round or dressed food fish or shellfish are subject to the poundage fees provided in this section. "Dressed" includes but is not limited to beheaded, gutted, filleted, loined or shucked. However, frozen food fish or frozen shellfish

received in a wrapped package to which a legible label is stamped or printed showing the name, address, brand or trade name of the original processor or wholesale distributor under which the package is marketed and the kind of frozen food fish or frozen shellfish contained therein, for distribution and ultimate sale in the original package are not subject to poundage fees.

[Formerly 508.305; 1969 c.172 §4; 1971 c.243 §1; 1973 c.768 §15]

508.507 Additional poundage fee for fish bait dealers. (1) Notwithstanding the provisions of subsection (1) of ORS 508.505, an additional fee of one cent per pound shall be paid on all species of food fish received or purchased by a fish bait dealer.

(2) The provisions of ORS 508.510, 508.515, 508.520, and 508.525 shall apply to the poundage fee required under subsection (1) of this section.

[1971 c.540 §10]

508.510 Place where fish caught is immaterial; exceptions; special fee. (1) The poundage fee provided for in ORS 508.505 shall be paid irrespective of where the fish were caught. However, poundage fees shall not be paid on any food fish or shellfish brought into this state after having been landed:

(a) In another state, territory or possession of the United States, and upon or in regard to which a tax or fee has been levied and collected in the other state, territory or possession; or

(b) In another country.

(2) Notwithstanding ORS 508.505, there shall be paid a poundage fee of 0.05 cent per pound on all food fish or shellfish brought into this state after having been landed in another state, territory or possession of the United States, and upon or in regard to which a tax or fee has not been levied and collected in the other state, territory or possession.

[Formerly 508.320]

508.515 Time of paying fees; report; interest on overdue fees; waiver or extension of payment. (1) The poundage fee required by ORS 508.505 shall be paid to the director on or before the 20th day of each calendar month for the preceding calendar month.

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

(3) In the event that such poundage fee is not paid within the time for payment provided in subsection (1) of this section, there shall be added as a late payment charge a sum equal to five percent of the unpaid poundage fees or \$5, whichever is greater, and there shall be charged an interest rate of one percent per month until the principal and interest is paid.

(4) Notwithstanding subsection (1), (2) or (3) of this section, the commission may waive or extend payment of any poundage fees required by ORS 508.505 amounting to less than \$2 during any calendar year.

[Formerly 508.310; 1971 c.243 §2]

508.520 Determination of disputes. It is the intention that only one poundage fee shall be collected for each pound of fish purchased or received, and in order that this end may be accomplished the commission and the director may determine finally any dispute arising out of the operation and enforcement of ORS 508.505.

[Formerly 508.325]

508.525 Lien for unpaid fee; foreclosure; jurisdiction of courts. The poundage fee required by ORS 508.505 constitutes a first lien upon the cannery, packing plant, scow, boat and its equipment used in the canning, receiving or transporting of the fish. This lien may be foreclosed by the commission in the name of the state by a suit in equity in the circuit court of the county in which the property upon which a lien is given by this section is situated. If situated in two or more counties the court first acquiring jurisdiction of a part of the property shall have jurisdiction of all the property described in such foreclosure suit.

[Formerly 508.330]

508.530 Rules; reports; violation or falsification. (1) The commission may make such rules and require such reports to be made as, in its judgment, are necessary to insure the collection and payment of the poundage fee required by ORS 508.505.

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

[Formerly 508.335]

508.535 Keeping record of food fish received and bought; inspection. (1) Every fish canner, fish buyer, retail fish dealer, fish bait dealer or wholesale fish dealer shall keep

a record, of all food fish received and bought, in accordance with rules promulgated by the commission. Such information may be required as is necessary to enable the commission to carry out its duties of conservation, protection, administration or enforcement under the commercial fishing laws without imposing undue hardship on the licensees.

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

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

(b) By the canner, buyer, retailer, fish bait dealer or wholesaler.

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

(4) Every person shall always keep open to inspection by the commission or its agent any books, records, papers or memoranda which are pertinent to the administration of ORS 508.505 to 508.545. For the purpose of ascertaining the correctness of any poundage fee record or report or the number of pounds of fish upon which the additional poundage fee is based or such other information as may be necessary to the administration of ORS 508.505 to 508.540, the commission or its agent may inspect such books, records, papers or memoranda.

(5) Restaurants licensed under ORS 624.020 shall keep a record of all fresh or frozen fish received or bought while such fish are in the restaurant's possession. This record shall be subject to inspection by the commissioners, the director, his authorized agent, or any duly authorized police officer. An invoice or receipt shall be adequate for the purposes of this subsection.

[Formerly 508.340; 1969 c.172 §5; 1971 c.540 §11; 1973 c.437 §1]

508.540 Failure to keep or submit records or to pay fee. (1) In addition to the penalty prescribed by ORS 506.991, failure on the part of any person to keep the record required by ORS 508.535 or failure of such person to submit his books, records, papers or memoranda for inspection, pursuant to subsection (4) of ORS 508.535, to any member of the commission or any of its represen-

tatives presenting written authority from the commission is good and sufficient reason for the commission to order the director to suspend or revoke the license granted to such person.

(2) Any person failing to pay the poundage fee required shall be denied a renewal of such license or the issuance of any other license which may be issued by the director. [Formerly 508.345]

508.545 [Formerly 508.350; repealed by 1973 c.794 §34]

508.605 [Repealed by 1961 c.232 §1]

508.610 [Repealed by 1961 c.232 §1]

508.615 [Repealed by 1961 c.232 §1]

508.620 [Repealed by 1961 c.232 §1]

508.625 [Repealed by 1961 c.232 §1]

508.630 [Repealed by 1961 c.232 §1]

508.635 [Amended by 1957 c.462 §1; repealed by 1961 c.232 §1]

508.640 [Repealed by 1961 c.232 §1]

508.645 [Amended by 1957 c.462 §2; repealed by 1961 c.232 §1]

508.650 [Repealed by 1961 c.232 §1]

508.655 [Repealed by 1961 c.232 §1]

SALMON HATCHERY PERMITS

508.700 Permits for salmon hatcheries; fees. (1) The commission may issue a permit, subject to such restrictions and regulations as the commission deems desirable, to any person to construct and operate a hatchery for:

(a) Chinook salmon, also known as *Oncorhynchus tshawytscha*; or

(b) Chum salmon, also known as *Oncorhynchus keta* or dog salmon; or

(c) Silver salmon, also known as *Oncorhynchus kisutch* or coho salmon.

(2) The application for a permit to construct and operate a chum salmon, chinook salmon or silver salmon hatchery shall include an application fee of \$100.

[1971 c.203 §1; 1973 c.356 §1]

Note: 508.700 to 508.745 were not added to and made a part of ORS chapter 508 by legislative action.

Note: Section 5, chapter 356, Oregon Laws 1973, provides:

Sec. 5. Notwithstanding ORS 508.700, for the biennium beginning July 1, 1973, the Fish Commission of the State of Oregon shall not issue more than four permits to construct and operate either chinook salmon or silver salmon hatcheries.

508.705 Hearing for permits; notice; recommendations of State Wildlife Commission. (1) Prior to issuance of any permit by the commission, a public hearing shall be held. Notice of the hearing shall be published at least once and at least 10 days prior to the hearing in a newspaper of general circulation in each of the counties in which the hearing is to be held, or if no such newspaper is published in that county or counties, then such a newspaper in an adjoining county.

(2) The hearing shall be conducted by either the commission or a representative designated by the commission.

(3) The commission shall notify the State Wildlife Commission prior to any public hearing and shall obtain their recommendation on the proposed private hatchery. [1971 c.203 §2]

Note: See note under 508.700.

508.710 Grounds for denial of permit. No permit shall be issued:

(1) Which may tend to deplete any natural run of anadromous fish or any population of resident game fish.

(2) Which may result in waste or deterioration of fish.

(3) If the proposed operation is to be located on the same stream or river or tributary thereof on which a state or federal fish culture facility is established or is planned to be established.

(4) If the proposed operation is not consistent with sound resource management and is not in close proximity to the ocean.

(5) If the commission determines the applicant does not have the financial capability to successfully construct and operate the hatchery or may not properly conduct the operation authorized under the permit. [1971 c.203 §3]

Note: See note under 508.700.

508.715 Conditions of permits. Any permit granted by the commission pursuant to ORS 508.700 to 508.745 shall contain at least the following conditions:

(1) All propagated fish released into state waters shall as far as the commission determines practical be marked.

(2) Prior to release into state waters, the fish must be subject to examination by a qualified fish pathologist approved by the commission to determine that they are not diseased or infected with any disease which in the opinion of the commission may be detrimental to the state fishery resources. Cost of

such examination shall be paid by the permittee. No fish shall be released without written approval from the commission. The commission may require diseased fish to be destroyed. The commission shall not suffer civil or criminal liability for any fish destroyed under this section.

(3) The permittee may be authorized by the commission to divert all fish returning to the stream to an inspection area, the location of such area to be approved by the commission, to examine all fish for the purpose of identifying propagated fish.

(4) Notwithstanding the provisions of ORS chapters 509 and 511, the permittee shall have the right to take for commercial purposes, only those fish the commission determines were propagated by the permittee, and the commission's decision is final.

(5) It shall be unlawful for the permittee to conduct any activity not authorized by the permit or fail to conduct activities required by the permit without approval of the commission.

(6) The permittee shall pay all reasonable costs incurred by the commission as a result of the operation of the private hatchery.

[1971 c.203 §5]

Note: See note under 508.700.

508.720 Altering terms of permits; findings; hearing; restoration of fish population.

(1) If the commission finds that the operation described in the permit is not in the best public interest, it may alter the conditions of the permit to mitigate such adverse effects or may cause an orderly termination of the operation under the permit. Proceedings to cause such alteration or termination shall be conducted in accordance with ORS chapter 183. An orderly termination shall not exceed a four-year period and shall culminate in the revocation of the permit in its entirety. During this period the permittee may continue to examine and take specified propagated chum salmon, chinook salmon or silver salmon according to the provisions of the permit but may not release additional fish.

(2) If the commission finds the operation has caused deterioration of the natural run of anadromous fish or any population of resident game fish in the waters covered by the permit, it may require the permittee to return the fish populations to the same condition that existed prior to issuance of the permit.

The State Wildlife Commission may require the permittee to return the resident game fish population to the same condition that existed prior to issuance of the permit. If the permittee fails to take appropriate action, the Fish Commission of the State of Oregon or the State Wildlife Commission may take such action and the permittee shall bear any cost incurred by either commission.

[1971 c.203 §6; 1973 c.356 §2]

Note: See note under 508.700.

508.725 Fish released pursuant to ORS 508.700 to 508.745 are state property. All fish released under ORS 508.700 to 508.745 during the time they are in the wild will be the property of the state and may be taken under angling or commercial fishing laws of this state until they return to the private hatchery.

[1971 c.203 §4]

Note: See note under 508.700.

508.730 Disposal of salmon products. The commission, after first assuring all natural and artificial fish production needs of this state have been met, including the needs of all federal and other state fish culture facilities located on the Columbia River and its tributaries, may provide at a reasonable fee chum salmon, chinook salmon or silver salmon or the sexual products therefrom to any person granted a permit by the commission pursuant to ORS 508.700 to 508.745.

[1971 c.203 §7; 1973 c.356 §3]

Note: See note under 508.700.

508.735 Application of chapter to taking and sale of salmon. The provisions of ORS chapter 508 shall apply to the taking and sale of chum salmon, chinook salmon or silver salmon artificially reared under any permit granted by the commission pursuant to ORS 508.700 to 508.745.

[1971 c.203 §8; 1973 c.356 §4]

Note: See note under 508.700.

508.740 Authority under ORS 508.700 to 508.745. (1) Nothing in ORS 508.700 to 508.745 is intended to give the permittee any equity in any of the waters or fish of the state.

(2) Nothing in ORS 508.700 to 508.745 shall imply an intent to permit commercial fishing in any rivers south of the mouth of the Columbia River except as provided in subsection (4) of ORS 508.715.

[1971 c.203 §§9, 10]

Note: See note under 508.700.

508.745 Disposition of moneys received under ORS 508.700 to 508.745. All moneys received by the commission under ORS 508.700 to 508.745 except those under ORS 508.735 shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of costs of administration incurred by the commission in carrying out the provisions of ORS 508.700

to 508.745, that portion of the balance of the moneys in this suspense account as of the end of each fiscal year shall be deposited to the General Fund for general governmental purposes.

[1971 c.203 §11]

Note: See note under ORS 508.700.

508.990 [Amended by 1961 c.231 §1; repealed by 1965 c.570 §152]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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, 1973.

Thomas G. Clifford
Legislative Counsel