

TITLE 42

COMMERCIAL FISHING AND FISHERIES

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Chapter 506.

1977 REPLACEMENT PART

Application, Administration and Enforcement of Commercial Fishing Laws

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GENERAL PROVISIONS

506.001 Contents of commercial fishing laws. All laws enacted for the protection, propagation and preservation of food fish or for the protection and development of commercial fisheries in this state, including but not limited to ORS chapters 506, 507, 508, 509, 511 and 513, may be cited as the commercial fishing laws.

[1965 c.570 §2]

506.005 [Repealed by 1965 c.570 §152]

506.006 General definitions. As used in the commercial fishing laws, unless the context requires otherwise:

(1) "Angling" means fishing for personal use with one line attached to a pole held in hand while landing the fish, or with a hand-operated line without rod or reel, to which may be attached not to exceed three hooks, except on floating bass plugs.

(2) "Boat" means any vessel, any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish.

(3) "Buy" includes offer to buy, barter, exchange or trade.

(4) "Commercial purposes" means taking food fish with any gear unlawful for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

(5) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.

(6) "Fishing gear" means any appliance or device intended for or capable of being used to take food fish except by angling.

(7) "Director" means the State Fish and Wildlife Director appointed pursuant to ORS 496.112.

(8) "Fixed fishing gear" includes but is not limited to stationary gear operated at a fixed location.

(9) "Personal use" means taking or fishing for food fish by angling or by such other means and with such gear as the commission may authorize for fishing for personal use, or possessing the same for the use of the person fishing for, taking or possessing the same and not for sale or barter.

(10) "Sell" includes offer or possess for sale, barter, exchange or trade.

(11) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(12) "Transport" means transport by any means, and includes offer or receive for transportation.

(13) "Waters of this state" means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state.

[1965 c.570 §3; 1975 c.253 §13]

506.010 [Repealed by 1965 c.570 §152]

506.011 Types of marine life defined.

As used in the commercial fishing laws, unless the context requires otherwise:

(1) "Anadromous fish" includes but is not limited to salmon, as defined in ORS 506.016; *roccus saxatilis*, commonly known as striped bass; *alosa sapidissima*, commonly known as shad; *acipenser medirostris* and *acipenser transmontanus*, commonly known as sturgeon; and *thaleichthys pacificus*, commonly known as smelt.

(2) "Animals living intertidally on the bottom" includes but is not limited to starfish, sea urchins, sea cucumbers, snails, bivalves, worms, coelenterates and shore, hermit and other small crabs not included within subsection (1) or (4) of this section.

(3) "Food fish" means any animal over which the commission has jurisdiction pursuant to ORS 506.036.

(4) "Shellfish" includes but is not limited to abalone, clams, crabs, crayfish or crawfish, mussels, oysters, piddocks, scallops and shrimp.

[1965 c.570 §4]

506.015 [Repealed by 1965 c.570 §152]

506.016 "Salmon" defined. As used in the commercial fishing laws, "salmon" means all anadromous species of salmon, including but not limited to:

(1) *Oncorhynchus gorbuscha*, commonly known as humpback, humpies or pink salmon.

(2) *Oncorhynchus keta*, commonly known as chum or dog salmon.

(3) *Oncorhynchus kisutch*, commonly known as coho or silver salmon.

(4) *Oncorhynchus nerka*, commonly known as sockeye, red or blueback salmon.

(5) *Oncorhynchus tshawytscha*, commonly known as chinook salmon.
[1965 c.570 §5; 1969 c.411 §1]

506.020 [Repealed by 1965 c.570 §152]

506.025 "Unlawful to buy" defined.

Whenever the commercial fishing laws state that it is unlawful to buy any food fish, illegally taken, this prohibition means that it is unlawful to buy, knowing or having reasonable cause to believe that the fish have been illegally taken or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state.

[Amended by 1965 c.570 §6]

506.028 "Conservation" defined. As used in the commercial fishing laws, unless the context requires otherwise, "conservation" means providing for the utilization and management of the food fish of Oregon to protect the ultimate supply for present and future generations, preventing waste and implementing a sound management program for sustained economic, recreational and esthetic benefits.

[1971 c.187 §5; 1973 c.271 §1]

506.030 [Repealed by 1965 c.570 §152]

506.031 Effect of wildlife laws on commercial fishing laws. (1) Nothing in the wildlife laws of this state affects the lawful operation of any fishing gear or the lawful taking of any food fish under the commercial fishing laws.

(2) The commercial fishing laws apply to food fish except as otherwise provided in ORS 506.045 and 506.050, and shall be enforced regardless of any conflicting provisions in the wildlife laws of this state. No act lawfully done under the commercial fishing laws is unlawful in the event that such act conflicts with any provision of the wildlife laws of this state.

[1965 c.570 §7; 1975 c.545 §10; 1977 c.242 §2]

506.035 [Repealed by 1965 c.570 §152]

506.036 Jurisdiction of commission; duty to protect and propagate fish. (1) Except as otherwise provided in ORS 506.045 and 506.050, the commission has exclusive jurisdiction over all fish, shellfish, and all other animals living intertidally on the bottom, within the waters of this state. The commission has joint or other jurisdiction with any other state or government over all such fishes within the waters of the Columbia

River and its tributaries where such waters form the boundaries of this state.

(2) The duty of protection, preservation, propagation, cultivation, development and promotion of all fishes under its jurisdiction within the waters of this state is delegated to and imposed upon the commission.

[1965 c.570 §8; 1975 c.253 §20]

506.040 [1965 c.570 §9; 1969 c.411 §2; 1973 c.723 §120; repealed by 1975 c.253 §40]

506.045 Fishing rights of treaty Indians not affected. There are excluded from the operation of ORS 506.129, 506.136, 507.030, 508.025, 508.285, subsection (1) of 509.025 and ORS 509.216, any Warm Springs, Umatilla, Yakima, Wasco, Tenino, Wyum and other Columbia River Indians affiliated with these tribes and entitled to enjoy fishing rights, who have not severed their tribal relations, in so far as it would conflict with any rights or privileges granted to such Indians under the terms of the treaties made by the United States with the Warm Springs Indians on June 25, 1855, and with the Umatilla and Yakima Indians on June 9, 1855.

[Formerly 506.195; 1975 c.545 §11; 1977 c.242 §3]

506.050 Federal and state fish cultural operations and scientific investigations; commission to propagate fish and to stock waters. (1) The United States Fish and Wildlife Service, the commission and their duly authorized agents may conduct fish cultural operations and scientific investigations in the waters of this state in such manner and at such times as may be considered necessary and proper by the service, the commission or their agents.

(2) The commission shall propagate and stock the waters of this state with such fish as it considers proper.

[1965 c.570 §11]

506.105 [Amended by 1973 c.271 §2; repealed by 1975 c.253 §40]

506.109 Food fish management policy. It is the policy of the State of Oregon that food fish shall be managed to provide the optimum economic, commercial, recreational and aesthetic benefits for present and future generations of the citizens of this state. In furtherance of this policy, the goals of food fish management are:

(1) To maintain all species of food fish at optimum levels in all suitable waters of the state and prevent the extinction of any indigenous species.

(2) To develop and manage the lands and waters of this state in a manner that will optimize the production, utilization and public enjoyment of food fish.

(3) To permit an optimum and equitable utilization of available food fish.

(4) To develop and maintain access to the lands and waters of the state and the food fish resources thereon.

(5) To regulate food fish populations and the utilization and public enjoyment of food fish in a manner that is compatible with other uses of the lands and waters of the state and provides optimum commercial and public recreational benefits.

(6) To preserve the economic contribution of the sports and commercial fishing industries in a manner consistent with sound food fish management practices.

[1975 c.253 §15]

506.110 [Repealed by 1965 c.570 §152]

506.111 [1965 c.570 §12; 1967 c.402 §5; 1969 c.314 §60; repealed by 1975 c.253 §40]

506.115 [Repealed by 1965 c.570 §152]

506.116 [1965 c.570 §13; repealed by 1975 c.253 §40]

506.119 General duties and powers of commission; rulemaking authority. (1) The commission has the authority to formulate and implement the policies and programs of this state for the management of food fish, and may perform all acts necessary to administer and carry out the provisions of the commercial fishing laws.

(2) In accordance with any applicable provision of ORS 183.310 to 183.500, the commission may promulgate rules to carry out the provisions of the commercial fishing laws.
[1975 c.253 §17]

506.120 [Repealed by 1965 c.570 §152]

506.121 [1965 c.570 §14a; repealed by 1975 c.253 §40]

506.125 [Repealed by 1965 c.570 §152]

506.126 [1965 c.570 §15; repealed by 1975 c.253 §40]

506.129 Establishing seasons, amounts and manner of taking food fish.

(1) After investigation of the supply and condition of food fish, the commission, at appropriate times each year, shall by rule:

(a) Prescribe the times, places and manner in which food fish may be taken or sold, except when canned or otherwise processed, and the amount of those food fish species that may be taken or sold.

(b) Prescribe such other restrictions or procedures regarding the taking, selling or possessing of food fish as the commission determines will carry out the provisions of the commercial fishing laws.

(2) In carrying out the provisions of subsection (1) of this section, the power of the commission includes, but is not limited to:

(a) Prescribing the amount of each food fish species that may be taken and possessed in terms of sex, size and other physical characteristics.

(b) Prescribing such regular and special time periods and areas closed to the taking and selling of any food fish species when the commission determines such action is necessary to protect the supply of such food fish.

(c) Prescribing regular and special time periods and areas open to the taking and selling of any food fish species, and prescribing means by which the taking of food fish is permitted.

[1975 c.253 §16]

506.130 [Repealed by 1965 c.570 §152]

506.131 [1965 c.570 §14; repealed by 1975 c.253 §40]

506.135 [Repealed by 1965 c.570 §152]

506.136 Commission to study and classify food fish and fishing gear. The commission shall:

(1) Investigate the habits, supply and economic uses of, and classify all food fish.

(2) Classify all fishing gear and such classification shall be final.

[1965 c.570 §21]

506.140 [Repealed by 1965 c.570 §152]

506.141 [1965 c.570 §22; repealed by 1975 c.253 §40]

506.142 Authority of Fish Division. The Fish Division established pursuant to ORS 496.124 shall be responsible for the management of all fish and other marine life over which the commission has regulatory jurisdiction.

[1975 c.253 §18]

506.145 [Repealed by 1965 c.570 §152]

506.146 [1965 c.570 §23; repealed by 1975 c.253 §40]

506.150 [Repealed by 1965 c.570 §152]

506.151 [1965 c.570 §24; 1971 c.187 §1; repealed by 1975 c.253 §40]

506.153 [1963 c.259 §1; repealed by 1965 c.570 §152]

506.154 Duties of director. The director shall:

(1) Be responsible to the commission for

the administration and enforcement of the commercial fishing laws.

(2) Be responsible for the collection, application and dissemination of information pertinent to the management of food fish resources and to the regulation of the uses of such resources.

[1975 c.253 §19]

506.155 [Amended by 1961 c.275 §1; repealed by 1965 c.570 §152]

506.156 [1965 c.570 §25; repealed by 1971 c.187 §3]

506.160 [Repealed by 1965 c.570 §152]

506.161 [1965 c.570 §26; repealed by 1971 c.187 §3]

506.165 [Repealed by 1965 c.570 §152]

506.170 [Repealed by 1965 c.570 §152]

506.173 [1961 c.463 §1; repealed by 1965 c.570 §152]

506.175 [Repealed by 1965 c.570 §152]

506.180 [Repealed by 1965 c.570 §152]

506.185 [Repealed by 1965 c.570 §152]

506.190 [Repealed by 1965 c.570 §152]

506.192 [1957 c.461 §1; 1959 c.60 §1; repealed by 1965 c.570 §152]

506.195 [Amended by 1965 c.570 §10; renumbered 506.045]

506.200 [Repealed by 1965 c.570 §152]

506.201 Powers of commission in regard to real property. The commission may:

(1) Acquire by purchase, lease, gift, agreement or donation, real property, or any right or interest therein, including any easement or right of access, necessary:

(a) To construct or maintain fish hatcheries, fishways or research facilities;

(b) To remove log jams; or

(c) Otherwise to carry out the duties imposed on the commission by law.

(2) Acquire by exercise of the power of eminent domain any easement or right of access necessary to construct or maintain fishways or remove log jams. Proceedings instituted by the commission under this subsection shall be conducted in accordance with ORS chapter 35.

(3) Lease, dispose of or grant easements upon any property owned by the state and used for the protection, propagation or preservation of food fish, which is found to be of no further use or value to the state. The commission shall turn over the proceeds arising from

such disposition to the State Treasurer to be credited to the General Fund.

[1965 c.570 §16; 1971 c.741 §34]

Note: Section 2, chapter 278, Oregon Laws 1971, provides:

Sec. 2. (1) Notwithstanding any other provision of law, the State Fish and Wildlife Commission may sell its Metolius hatchery property located near Camp Sherman in Jefferson County for any public recreational use to any agency of this state or other public agency. In making the sale, the commission shall give first preference to buyers that are agencies of this state, but if the commission finds no such buyer within 90 days after the date of the commission's decision to sell the property, the property may be sold to any other public agency.

(2) All moneys received by the commission under subsection (1) of this section shall be deposited in the Fish Commission Account and may only be used by the commission to purchase property or construct facilities for salmon propagation.

506.205 [Repealed by 1965 c.570 §152]

506.210 [Repealed by 1965 c.570 §152]

506.211 Acquisition of fish, eggs and larvae for certain purposes; returning salmon to Rogue River. (1) Subject to subsection (2) of this section, the commission may acquire by gift or purchase, and may acquire by capture or otherwise in this state, any fish, eggs or larvae thereof for propagation, experimental or scientific purposes.

(2) The commission or any other person authorized by it who takes salmon eggs from the waters of the Rogue River for the purpose of supplying the various hatcheries of this state, shall return at least 40 percent of the fish hatched from the eggs to the Rogue River. [1965 c.570 §28]

506.213 Coho and chinook salmon hatchery on Oregon coast. (1) The commission shall cause to be commenced and shall supervise the construction of a fish hatchery on the Oregon coast for the purpose of rearing coho and chinook salmon. The location for the site of the hatchery shall be at the discretion of the commission. Selection of the site shall be based upon the most recent research data available to the commission.

(2) The hatchery constructed pursuant to subsection (1) of this section shall be maintained and operated by the fish commission. [1967 c.360 §§1, 4]

506.215 Maintaining hatcheries in adjoining states. The commission may construct, maintain or operate hatcheries in an adjoining state, but no hatchery shall be constructed or operated on any stream in an adjoining state that is not a tributary of the

Columbia River, or whose waters do not flow into the Columbia River.

506.220 Erecting markers of closed waters; interference with markers.

Whenever deadlines are established on any of the waters of this state, either by legislative enactment or by order of the commission, the commission shall, within a reasonable time, erect suitable monuments or markers in the water or on the banks of the water designating the closed portion of the water. It is unlawful to remove, destroy, alter or mutilate any of these monuments or markers.

[Amended by 1965 c.570 §27]

506.225 [Repealed by 1965 c.570 §152]

506.230 [Repealed by 1965 c.570 §152]

506.235 [1957 c.141 §1; renumbered 506.321]

506.255 [1965 c.570 §17; repealed by 1975 c.253 §40]

506.260 [1965 c.570 §18; 1969 c.234 §1; 1973 c.271 §3; repealed by 1975 c.253 §40]

506.265 [1965 c.570 §19; repealed by 1975 c.253 §40]

506.270 [1965 c.570 §20; repealed by 1975 c.253 §40]

**COMMERCIAL FISH MONEYS;
RECEIPTS AND
EXPENDITURES**

506.305 [Repealed by 1965 c.570 §152]

506.306 Collecting moneys under commercial fishing laws; deposit of receipts and fines to credit of General Fund.

(1) The commission shall collect all moneys to be paid to this state for the protection, preservation, propagation and development of the commercial fishing industry and arising under the commercial fishing laws.

(2) On or about the first day of the next succeeding calendar month after the receipt of any moneys described in subsection (1) of this section, the commission shall pay the moneys to the State Treasurer, who shall deposit the moneys in the State Treasury to the credit of the General Fund.

(3) Except as provided in ORS 506.630, all fines collected for violation of the commercial fishing laws shall be paid to the State Treasurer, who shall deposit the fines in the State Treasury to the credit of the General Fund.

[1965 c.570 §29]

506.310 [Repealed by 1965 c.570 §152]

506.315 [Repealed by 1965 c.570 §152]

506.316 Payment of commission expenditures. Except as otherwise provided in ORS 506.321 and 506.331, all expenditures of

the commission pursuant to the commercial fishing laws shall be made from moneys appropriate for the purposes for which such moneys are used, upon claims presented and warrants drawn pursuant to law.

[1965 c.570 §30; 1967 c.454 §108]

506.320 [Repealed by 1965 c.570 §152]

506.321 Acceptance and use of gifts of money and property to commission. The commission may accept gifts of money, lands or other property and use the same for the protection, preservation, propagation and development of the fishery resource, subject to the terms of the gift. Subject to such terms the gifts may be used or exchanged for the acquisition of other lands, waters, rights, easements or other property. Any moneys received under this section not otherwise appropriated hereby are appropriated for such purposes.

[Formerly 506.235]

506.325 [Repealed by 1965 c.570 §152]

506.330 [Repealed by 1965 c.570 §152]

506.331 Petty cash fund; bond of disbursing officer. (1) The petty cash fund of the commission consists of \$5,000 and is for the purpose of providing funds to pay its ordinary and current expenses incurred under the commercial fishing laws where it is necessary to make immediate cash payments. Disbursements from the fund may be made only in payment of claims authorized by law, and approved by a disbursing officer designated in writing by the commission, in the manner prescribed by subsections (3) and (4) of ORS 293.180.

(2) The petty cash fund shall be secured by a surety bond, executed by a surety company authorized to do business in this state, in the penal sum of \$5,000 and furnished by the disbursing officer. The premiums on the bond shall be paid by the commission.

[1965 c.570 §32]

506.335 [Repealed by 1965 c.570 §152]

506.340 [Amended by 1953 c.83 §2; repealed by 1965 c.570 §152]

506.341 [1965 c.570 §31; 1967 c.322 §1; repealed by 1975 c.130 §2 and 1975 c.253 §40]

506.345 [Formerly part of 496.345; 1971 c.446 §9; repealed by 1973 c.723 §130]

FEDERAL AID AND PROJECTS

506.405 Powers of commission regarding federal aid for fish and fisheries. The commission may:

(1) Enter into such contracts, appoint such officers and do any other act or thing necessary fully to meet the requirements of the United States and the officers acting under federal statute in aid of the conservation and preservation of fish and fisheries in this state or concerning any federal project wherein the conservation and preservation of such fish and fisheries are involved.

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

506.410 Disposition of federal aid moneys. Any funds accepted pursuant to ORS 506.405 by the commission shall be deposited in the State Treasury to the credit of a special fund separate and distinct from the General Fund to be designated the State Fish and Wildlife Commission Federal Aid Fund. Such funds are appropriated for the purposes of ORS 506.405 and shall not be expended for any other purpose than that for which contributed.

[Amended by 1975 c.545 §12]

506.415 Account for maintenance of fisheries stations and for research. (1) There is appropriated out of the General Fund in the State Treasury, \$124,000 for the purpose of providing funds to pay current expenses in accordance with the terms of agreements entered into by and between any person, municipal corporation, political subdivision or the United States and the State of Oregon acting by and through the commission for the conduct of scientific or biological research studies and investigations and the operation and maintenance of fisheries stations or facilities operated and maintained by the commission.

(2) The money appropriated by subsection (1) of this section shall be transferred to an account in the General Fund in the State Treasury to be known as the State Fish and Wildlife Commission Account.

(3) Notwithstanding ORS 506.410, all reimbursements or repayments by the Federal Government, as provided by agreement or agreements mentioned in subsection (1) of this section, shall, upon receipt, be credited to the State Fish and Wildlife Commission Account.

(4) All moneys in such account are appropriated and constitute a continuous appropria-

tion out of the General Fund for the purposes of this section.

(5) Whenever it is determined by the commission and the Executive Department that such account is no longer needed for the purposes of this section, the balance thereof shall be returned to the General Fund in the State Treasury.

[Amended by 1959 c.347 §1; 1967 c.322 §3; 1975 c.545 §13]

506.420 [Repealed by 1965 c.570 §152]

506.430 [1963 c.635 §5; repealed by 1967 c.322 §4]

COMMERCIAL FISHING LAW ENFORCEMENT (General Provisions)

506.501 Jurisdiction and authority to enforce commercial fishing laws. The commission has jurisdiction and authority to enforce the commercial fishing laws, except as provided in ORS 506.506 to 506.516.

[1965 c.570 §34]

506.505 [Repealed by 1965 c.570 §152]

506.506 Intent of ORS 506.511 and 506.516. It is the intent of ORS 506.511 and 506.516 to permit the commission to employ only such deputy fish wardens as are agreed necessary or expedient among the commission, the Governor and the Superintendent of State Police, and that the duties of enforcing criminal provisions of the commercial fishing laws, so far as is economical and practicable, be performed by the Department of State Police.

[1965 c.570 §35]

506.510 [Repealed by 1965 c.570 §152]

506.511 State police to enforce commercial fishing laws; selection of deputy fish wardens by state police. The Department of State Police shall employ a sufficient number of state police to perform the duties required in the enforcement of criminal provisions of the commercial fishing laws. The members of the state police assigned to perform the duties of deputy fish wardens shall be selected from names suggested by the commission. If the commission fails to submit sufficient qualified nominees for such positions, the Department of State Police shall make its own selections.

[1965 c.570 §36]

506.515 [Repealed by 1965 c.570 §152]

506.516 Employment of deputy fish wardens by commission. The commission, with the approval of the Governor and the

Superintendent of State Police, may employ deputy fish wardens to the extent necessary or expedient.

[1965 c.570 §37]

506.518 Appointment of special deputy fish wardens. The commission may appoint special deputy fish wardens who shall serve without compensation except for what the commission may allow for special services.

[Amended by 1965 c.570 §38]

506.520 [Repealed by 1965 c.570 §152]

506.521 Enforcement of commercial fishing laws; officers subject to commission or director. Each member of the commission, the director and every inspector, deputy fish warden, special deputy fish warden, and all peace officers of this state or any political subdivision therein, shall enforce the commercial fishing laws within their respective jurisdictions. In the performance of these duties such officers are subject to the direction and control of the commission or director.

[1965 c.570 §39]

506.525 [Repealed by 1965 c.570 §152]

506.526 Peace officer powers of director, inspectors and deputies; reporting arrests. (1) The director or any inspector, deputy fish warden or special deputy fish warden may arrest any person the officer has probable cause to believe is in the act of committing a violation of the commercial fishing laws. Such officers are peace officers of the state for this purpose and may execute all criminal process issued for the arrest or detention of any person complained against for violation of the commercial fishing laws. It is unlawful knowingly or wilfully to resist or oppose such officers in the discharge of their duties.

(2) Any officer described in subsection (1) of this section who makes an arrest must report it, together with the disposition of the case, to the director within 30 days after the date of the arrest. Failure so to report subjects the officer to removal from office by the authority that appointed him.

(3) The officers described in subsection (1) of this section have all the powers and authority of a peace officer in serving warrants, subpoenas and other legal process in the enforcement of the commercial fishing laws.

[1965 c.570 §40; 1973 c.836 §356]

506.530 [Repealed by 1965 c.570 §152]

506.531 Arrests, searches and seizures made on Sunday. The arrests, searches and seizures provided for in the commercial fishing laws may be made on Sunday. In this event the persons arrested shall be taken before any justice of the peace or judge having jurisdiction, who shall bind over the persons arrested to appear and be proceeded against as soon as may be on a week day following the arrest.

[1965 c.570 §41]

506.535 Jurisdiction of courts over commercial fishing law violations; commencement of prosecutions. (1) Unless otherwise specifically provided, justice and district courts have concurrent jurisdiction in the first instance with circuit courts of all offenses under the commercial fishing laws.

(2) Any action or proceedings under the commercial fishing laws shall be commenced on order of the commission or a person duly authorized to enforce such laws, or by any district attorney, in the county in which the offense is alleged to have been committed.

[Amended by 1965 c.570 §43]

506.540 Payment of rewards. The commission may offer and authorize payment of rewards for the arrest and conviction of any person who has violated any of the commercial fishing laws, but no reward of more than \$100 shall be offered or paid for any one arrest or conviction.

[Amended by 1965 c.570 §48]

506.545 [Repealed by 1965 c.570 §152]

506.550 Search by peace officers to enforce commercial fishing laws. The officers mentioned in ORS 506.521 may search and examine all places where food fish may be kept, sold or secreted and examine all packages, boxes and bundles held either for storage or shipment which they have reason to believe contain evidence of violation of the commercial fishing laws.

[Amended by 1965 c.570 §50]

506.555 Issuance of search warrants. Any court having jurisdiction of any offense against the commercial fishing laws, upon receiving proof or probable cause for believing in the concealment of any food fish taken or possessed contrary to law, shall issue a search warrant and cause a search to be made in any place, and to that end cause any place where concealment may be effected, to be opened and the contents examined by any officer charged with the enforcement of the commercial fishing laws.

[Amended by 1965 c.570 §51]

506.560 Nonliability of peace officers enforcing commercial fishing laws. The officers described in ORS 506.521 shall not suffer civil or criminal liability for any arrest, seizure or search as provided under the commercial fishing laws.

[Amended by 1965 c.570 §52]

506.565 [Repealed by 1965 c.570 §152]

506.570 [Repealed by 1965 c.570 §152]

506.575 [Amended by 1965 c.570 §54a; renumbered 506.655]

506.580 [Amended by 1965 c.570 §54b; renumbered 506.660]

506.585 [Amended by 1953 c.636 §2; 1965 c.570 §54c; renumbered 506.665]

506.590 [Amended by 1965 c.570 §54d; renumbered 506.670]

506.595 [Renumbered 506.675]

506.600 [Renumbered 506.680]

506.602 [1957 c.298 §1; 1965 c.570 §53; renumbered 506.690]

506.603 [1957 c.298 §2; 1965 c.570 §54; renumbered 506.695]

506.605 Naming place of offense in complaint, information or indictment. In any criminal prosecution under the commercial fishing laws, it is not necessary in the complaint, information or indictment to name the particular waters of the state if they are unknown to the person signing or filing the complaint or information or to the grand jury returning the indictment. It is sufficient if it is stated in such cases in the complaint, information or indictment that the particular waters of the state are to such person, or to the grand jury, unknown.

[Amended by 1965 c.570 §44]

506.610 When possession prima facie evidence of taking fish unlawfully. (1) The possession or custody of food fish on, near, adjacent to or in the vicinity of any waters of this state, during the closed season on such waters, is prima facie evidence that such fish were unlawfully taken during the closed season on such waters.

(2) In all cases where such possession or custody by accused persons on, near, adjacent to or in the vicinity of any of such closed waters is proven, the burden of proof is shifted to the persons found having such possession or custody, to establish that the fish were lawfully taken during an open season and from waters from which it was at such time lawful to take such fish.

[Amended by 1965 c.570 §45]

506.615 [Repealed by 1965 c.570 §152]

506.620 Inspections by director or his agent. The director or his authorized agent may enter and inspect all canneries, cold storage houses, packing establishments, business places, boats, fishing gear, and all property used in the taking, processing and packing of food fish, for the purpose of enforcing the commercial fishing laws.

[Amended by 1965 c.570 §49]

506.625 Compelling testimony in commercial fishing law enforcement proceedings. In any action or proceeding for the enforcement of any of the provisions of the commercial fishing laws, or in any investigation before a grand jury, district attorney or other officer, or any criminal proceeding, no person shall be excused from testifying concerning any offense committed by another or by himself on the ground that his testimony may incriminate him. However, such testimony shall not be used against him in any prosecution for any crime or misdemeanor under the laws of the state, nor shall he be subjected to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he has been compelled to testify or to produce evidence, documentary or otherwise.

[Amended by 1965 c.570 §46]

506.630 Disposition of fines. (1) One-half of all fines imposed in justice or district courts for the violation of any of the commercial fishing laws and collected in money shall be paid to the treasurer of the county in which the action or proceeding is commenced and credited to the general fund of the county. The district attorney of the county, upon payment of any judgment, shall satisfy it of record as attorney for the state. The other one-half of such moneys shall be paid by the justice or district courts to the Department of Revenue, who shall apply the moneys to the credit of the General Fund.

(2) Payment of fines under this section shall be made within the first 20 days of the month following the month in which collected.

[Amended by 1961 c.346 §1; 1965 c.570 §47; 1971 c.186 §6]

506.635 Execution for payment of fines and costs. Any fishing gear used in violation of the commercial fishing laws, including boats or vehicles of any kind and other appliances, is subject to execution for the payment of fines and costs provided for in the commercial fishing laws.

[1965 c.570 §55]

**(Seizure and Sale of Unlawful
Equipment and Fish Unlawfully
Taken)**

506.655 Commencement of proceeding to confiscate, condemn and sell unlawful fishing gear or equipment; petition. (1) Immediately upon the seizure mentioned in ORS 506.695 the district attorney for the district in which the gear or equipment is seized shall institute an action in the circuit court for that county to have the gear or equipment confiscated, condemned and sold.

(2) The petition shall:

(a) Contain a true description of the gear or equipment sought to be confiscated, condemned and sold, as nearly as practicable, together with all marks, brands or any special features calculated to designate the gear or equipment from other gear or equipment of like nature, and if a fixed fishing gear, the number.

(b) Allege facts showing that the gear or equipment was used in violation of the commercial fishing laws.

(c) Be verified by the oath of the director or one of his deputies, or the district attorney or any deputy district attorney.

[Formerly 506.575]

506.660 Parties. In the action commenced as provided in ORS 506.655 the State of Oregon is the plaintiff, and the owner of the gear or equipment, if known, is the defendant. If the owner of the gear or equipment is unknown, he shall be designated as "John Doe," whose true name is unknown.

[Formerly 506.580]

506.665 Summons and answer. (1) Like proceedings shall be had and the action mentioned in ORS 506.655 shall be prosecuted to final determination as in actions at law. The district attorney filing the action shall prepare the summons requiring the defendant, if known, to appear and answer within 15 days after the service of the summons upon him, and containing a brief description of the gear or equipment sought to be confiscated. The summons shall be served upon the defendant, if known personally, in any county in this state. If such defendant is unknown or cannot be found, the district attorney shall file with the court an affidavit to such effect and the county shall forthwith post written notices, one in the courthouse and one each in three conspicuous public places in the county, requiring the defendant to appear within four weeks from the date of said notice. Such

notice shall contain a brief description of the gear or equipment sought to be forfeited and the date when and the place where such gear or equipment was seized. If the defendant fails to appear and answer, judgment of confiscation shall be entered as prayed for in the petition.

(2) All persons owning or claiming any interest in the fishing gear or equipment sought to be confiscated shall be permitted to answer, setting forth their various interests.

[Formerly 506.585; 1977 c.272 §1]

506.670 Matter to be determined; judgment; sale or return of property. (1)

Upon the trial of the cause mentioned in ORS 506.655 the matter to be determined shall be whether or not the gear or equipment seized was unlawfully employed, or suffered or permitted to be unlawfully employed, in violation of the commercial fishing laws, or used or operated without a license or by one not licensed.

(2) If judgment is entered that the gear or equipment was used or employed, or suffered or permitted to be used or employed, in violation of the commercial fishing laws, a judgment shall be rendered confiscating all gear or equipment and ordering it to be turned over to the commission and disposed of as provided in subsection (3) of ORS 506.695.

(3) In addition to the requirements of subsection (2) of this section, the commission shall cause a notice of the intended sale of property to be published in such publications, including newspapers of general or limited circulation, as are likely to inform all groups of persons who take fish for commercial purposes.

(4) If judgment is entered in a proceeding commenced under ORS 506.655 or upon a finding of the court mentioned in ORS 506.695 that the gear or equipment was not used or employed, or not suffered or permitted to be used or employed, in violation of the commercial fishing laws, such property shall be returned to the owner. If the owner has proved at trial any damage or loss to such property caused by the seizure, a judgment shall be entered against the plaintiff for an amount equal to the reasonable value of such damage or loss.

(5) The judgment against the plaintiff under subsection (4) of this section shall be paid from the General Fund in the manner provided by law for the payment of claims against the state.

[Formerly 506.590; 1977 c.340 §1; 1977 c.652 §1]

506.675 No fees or costs to be charged public officials on enforcement proceedings. No fee shall be charged or collected from the State Fish and Wildlife Commission, fisheries director, game warden, deputy game warden, district attorney or deputy district attorney at the institution or during the prosecution of the action mentioned in ORS 506.655. No judgment shall be awarded against any of the officers signing the petition mentioned in ORS 506.655 or instituting the proceeding, for costs and disbursements.

[Formerly 506.595; 1977 c.652 §2]

506.680 Appeal. Any party to the action mentioned in ORS 506.655 or subsection (2) of 506.695 shall have the right of appeal from the court's final judgment of confiscation entered pursuant to ORS 506.670, or forfeiture ordered pursuant to ORS 506.695, to be prosecuted in the same manner as appeals in ordinary civil actions, except that no fee shall be charged the state and no bond shall be required on appeal.

[Formerly 506.600; 1977 c.652 §3]

506.690 Seizure, forfeiture and disposition of fish unlawfully taken. (1) All fish taken by or in the possession of any person in violation of the commercial fishing laws or the rules of the commission shall be seized by any member of the commission or any officer described in ORS 506.521.

(2) Any fish seized under the provisions of subsection (1) of this section may be disposed of, sold, preserved or used for food purposes, under the rules of the commission, to prevent loss or spoilage. At the time the court passes sentence or orders bail forfeited in the criminal prosecution for violation of the commercial fishing laws, the court may order that any fish seized under subsection (1) of this section or the proceeds from the sale of such fish shall be forfeited. Any moneys derived from the sale of any forfeited fish shall be deposited with the State Treasurer to be placed in the General Fund in the State Treasury.

(3) If the fish seized under subsection (1) of this section are not subsequently forfeited, the commission shall pay to the person from whom the fish were seized an amount equal to the market value of the fish at the time of seizure.

(4) The commission shall approve the amount to be paid under subsection (3) of this section, and the claim shall be paid from the General Fund in the manner provided by law for the payment of claims against the state. There is appropriated continuously from the

General Fund an amount equal to the amounts approved by the commission under this subsection.

[Formerly 506.602; 1975 c.253 §27; 1977 c.652 §4]

506.695 Seizure, forfeiture and disposition of fishing gear and vehicles unlawfully used; removal of unlawful piling. (1) All boats, fishing gear and vehicles used in violation of the commercial fishing laws or the rules of the commission may be seized, and piling driven for the sole or primary purposes of violation of such laws may be removed, by any member of the commission or any officer described in ORS 506.521. Following the seizure the boats, gear and vehicles shall be delivered to the sheriff of the county in which the seizure occurred. The sheriff shall retain custody of the seized property until it is ordered returned to the owner or confiscation is adjudged pursuant to subsection (2) of ORS 506.670, or forfeiture is ordered pursuant to this section.

(2) Upon the order of the court at the time of passing sentence or for forfeiture of bail for the violation, the property seized under subsection (1) of this section may be forfeited. If forfeited, such property shall be turned over to the commission.

(3) The commission may dispose of such forfeited property in any manner it deems proper, but any moneys derived from the sale of any forfeited property shall be deposited with the State Treasurer to be placed in the General Fund in the State Treasury.

[Formerly 506.603; 1977 c.652 §5]

506.700 Return of seized property; undertaking; effect of judgment ordering forfeiture or confiscation. (1) At any time after the seizure mentioned in ORS 506.695, but before the entry of judgment pursuant to ORS 506.670 or 506.695, the owner of the seized property may require the return thereof upon giving to the sheriff a written undertaking, executed by sufficient surety, to be approved by the court described in ORS 506.695, to the effect that such surety is bound in double the value of the property as determined by the court, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the owner. The owner shall file such written undertaking with the clerk of the court for the county in which the seizure occurred and shall serve a true copy thereof upon the district attorney for the same county.

(2) If confiscation or forfeiture of such property is required by a judgment of the court under ORS 506.670 or 506.695, the owner shall return the property to the plaintiff. If the owner fails to return the property, any officer described under ORS 506.521 may maintain an action upon such undertaking.

[1977 c.652 §7]

FISHERIES CONSERVATION ZONE

506.750 Policy for ORS 506.755. The Legislative Assembly finds and declares that:

(1) The preservation of complex interrelationships of marine environment within the continental shelf of the Pacific Ocean off the coast of the State of Oregon is necessary to conserve coastal species of fish and to guarantee the well-being of the economy and welfare of the state and its people.

(2) The uncontrolled use of the marine commercial fisheries to harvest coastal species of fish and other marine fisheries resources by foreign nationals is of public concern and constitutes an immediate threat to the marine environment and its ultimate survival.

(3) The State of Oregon has a special interest in the maintenance of the productivity of the living resources in the area of the high seas adjacent to its territorial sea.

[1974 s.s. c.3 §1]

Note: 506.750 and 506.755 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 506 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

506.755 Fisheries Conservation Zone; jurisdiction over zone; penalty; construction. (1) The State of Oregon adopts a Fisheries Conservation Zone for the maintenance, preservation and protection of all coastal species of fish and other marine fisheries resources between the mean high water mark of the state and a straight line extension of the lateral boundaries of the state drawn seaward to a distance of 50 statute miles.

(2) Activities of marine commercial fishing within the limits and boundaries of the Fisheries Conservation Zone shall be under the jurisdiction and regulation of the commission.

(3) The commission shall study the fishery within the zone and when appropriate adopt, amend or repeal all rules and regulations, according to the provisions of ORS 506.141 and 506.151 necessary for the maintenance,

preservation and protection of all coastal species of fish and other marine fisheries resources.

(4) The jurisdiction within the Fisheries Conservation Zone shall include, but not be limited to, provisions for inspection of catch, particularly regarding anadromous fish; regulations relating to methods of fishing, size and kind of gear and nets; regulations designating seasons, closures and restricted areas.

(5) ORS 506.501 to 506.695 shall provide the authority for enforcing rules and regulations promulgated by the commission as specified in this section.

(6) Any person convicted of violating any rule or regulation authorized under the provisions of this section shall be punished by a fine not to exceed \$10,000.

(7) Nothing contained within this section is intended to abrogate a nation's right of free passage or navigation of the high seas.

(8) Nothing contained within this section is intended to abrogate international fish compacts, agreements or treaties providing for the management of anadromous or pelagic fish species.

[1974 s.s. c.3 §2]

Note: See note under 506.750.

PENALTIES

506.990 [Repealed by 1965 c.570 §152]

506.991 Penalties. (1) Except as provided in this section, violation of any provision of the commercial fishing laws, or of any rule promulgated by the commission in carrying out the commercial fishing laws, is a Class A misdemeanor.

(2) In lieu of the fine provided in ORS 161.635, and in addition to the imprisonment provided in ORS 161.615, any violation of this section is punishable as follows:

(a) For the first conviction, a fine not to exceed \$1,000.

(b) For the second conviction within a 10-year period, a fine not to exceed \$2,500.

(c) For the third conviction within a 10-year period, a fine not to exceed \$10,000.

(d) For the fourth and subsequent convictions within a 10-year period, a fine not to exceed \$25,000.

(3) *Violation of any provision of ORS 509.011 which occurs more than 12 hours prior to or more than 12 hours subsequent to a*

season established under ORS 506.129 by the commission for the lawful taking of food fish when the total value of the food fish is \$200 or more is a Class C felony.

(4) In addition to the penalties of this section and notwithstanding the provisions of ORS 506.690, all fish or sexual products therefrom taken by or in the possession of any person sentenced under this section shall be seized and confiscated, condemned, and sold pursuant to a proceeding authorized by ORS 506.655.

(5) In addition to the penalties of this section and notwithstanding the provisions of ORS 506.695, all boats, fishing gear and vehicles illegally used by any person sentenced under paragraphs (b), (c) and (d) of subsection (2) of this section shall be seized and confiscated, condemned, and sold pursuant to a proceeding authorized by ORS 506.655.

[1965 c.570 §56; 1975 c.517 §1; 1977 c.242 §4; 1977 c.353 §2]

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,
October 1, 1977.

Thomas G. Clifford
Legislative Counsel