

House Bill 3478

Sponsored by COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adds gray wolf to definition of game mammal. Allows State Fish and Wildlife Commission to establish special status classification for gray wolf. Allows person to take gray wolf without permit under certain conditions if wolf is causing harm to livestock.

Directs commission to establish program for compensating persons who suffer loss or injury due to wolves.

Directs commission to appoint advisory committee to recommend methods for screening and paying compensation claims.

Creates Wolf Management Compensation Fund. Continuously appropriates fund to commission for payment of compensation claims.

Appropriates moneys to commission to carry out compensation program.

A BILL FOR AN ACT

1
2 Relating to wolves; creating new provisions; amending ORS 496.004, 496.146 and 498.012; and ap-
3 propriating money.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 496.004 is amended to read:

6 496.004. As used in the wildlife laws, unless the context requires otherwise:

7 (1) "Angle" means to take or attempt to take a fish for personal use by means involving hook
8 and line.

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

10 (3) "Compatible" means capable of existing in harmony so as to minimize conflict.

11 (4) "Department" means the State Department of Fish and Wildlife created by ORS 496.080.

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

13 (6) "Endangered species" means:

14 (a) Any native wildlife species determined by the commission to be in danger of extinction
15 throughout any significant portion of its range within this state.

16 (b) Any native wildlife species listed as an endangered species pursuant to the federal Endan-
17 gered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.

18 (7) "Fund" means the State Wildlife Fund created by ORS 496.300.

19 (8) "Fur-bearing mammal" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon,
20 red fox and gray fox.

21 (9) "Game mammal" means antelope, black bear, cougar, deer, elk, moose, mountain goat, **gray**
22 **wolf**, mountain sheep and silver gray squirrel.

23 (10) "Hunt" means to take or attempt to take any wildlife by means involving the use of a
24 weapon or with the assistance of any mammal or bird.

25 (11) "Manage" means to protect, preserve, propagate, promote, utilize and control wildlife.

26 (12) "Optimum level" means wildlife population levels that provide self-sustaining species as well
27 as taking, nonconsumptive and recreational opportunities.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (13) "Person with a disability" means a person who complies with the requirement of ORS
2 496.018.

3 (14) "Shellfish" has the meaning given that term in ORS 506.011.

4 (15) "Species" means any species or subspecies of wildlife.

5 (16) "Take" means to kill or obtain possession or control of any wildlife.

6 (17) "Threatened species" means:

7 (a) Any native wildlife species the commission determines is likely to become an endangered
8 species within the foreseeable future throughout any significant portion of its range within this
9 state.

10 (b) Any native wildlife species listed as a threatened species pursuant to the federal Endangered
11 Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.

12 (18) "Trap" means to take or attempt to take any wildlife by means involving the use of a trap,
13 net, snare or other device used for the purpose of capture.

14 (19) "Wildlife" means fish, shellfish, wild birds, amphibians and reptiles, feral swine as defined
15 by State Department of Agriculture rule and other wild mammals.

16 **SECTION 2.** ORS 496.146 is amended to read:

17 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife
18 Commission:

19 (1) May accept, from whatever source, appropriations, gifts or grants of money or other property
20 for the purposes of wildlife management, and use such money or property for wildlife management
21 purposes.

22 (2) May sell or exchange property owned by the state and used for wildlife management pur-
23 poses when the commission determines that such sale or exchange would be advantageous to the
24 state wildlife policy and management programs.

25 (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-
26 mission determines will carry out the state wildlife policy and management programs.

27 (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,
28 hunting and trapping and may prescribe such tagging and sealing procedures as the commission
29 determines necessary to carry out the provisions of the wildlife laws or to obtain information for
30 use in wildlife management. Permits issued pursuant to this subsection may include special hunting
31 permits for a person and immediate family members of the person to hunt on land owned by that
32 person in areas where permits for deer or elk are limited by quota. As used in this subsection,
33 "immediate family members" means husband, wife, father, mother, brothers, sisters, sons, daughters,
34 stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags
35 from the commission may request two additional tags for providing public access and two additional
36 tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with
37 supporting evidence that the access is significant and the habitat programs benefit wildlife. The
38 board may recommend that the commission grant the request. When a landowner is qualified under
39 landowner preference rules adopted by the commission and receives a controlled hunt tag for that
40 unit or a landowner preference tag for the landowner's property and does not use the tag during the
41 regular season, the landowner may use that tag to take an antlerless animal, when approved by the
42 State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the land-
43 owner's property.

44 (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued
45 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and

1 place of taking wildlife, the quantities taken and such other information as the commission deter-
2 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in
3 wildlife management.

4 (6) May establish special hunting and angling areas or seasons in which only persons less than
5 18 years of age or over 65 years of age are permitted to hunt or angle.

6 (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests
7 therein for wildlife management and wildlife-oriented recreation purposes.

8 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise
9 real property and all interests therein and establish, operate and maintain thereon public hunting
10 areas.

11 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-
12 erning the use of such areas and the use of wildlife refuge and management areas established and
13 developed pursuant to any other provision of law.

14 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required
15 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of
16 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-
17 scribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user
18 charge prescribed by the commission pursuant to this subsection shall exceed \$100.

19 (11) May enter into contracts with any person or governmental agency for the development and
20 encouragement of wildlife research and management programs and projects.

21 (12) May perform such acts as may be necessary for the establishment and implementation of
22 cooperative wildlife management programs with agencies of the federal government.

23 (13) May offer and pay rewards for the arrest and conviction of any person who has violated
24 any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

25 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless
26 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-
27 section shall be based on actual or projected costs of administering falconry regulations and shall
28 not exceed \$250.

29 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons
30 with disabilities.

31 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-
32 lation levels shall be reviewed at least once every five years.

33 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled
34 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those
35 drawings in subsequent years.

36 (18) May sell advertising in State Department of Fish and Wildlife publications, including annual
37 hunting and angling regulation publications.

38 **(19) May establish a special status classification for the gray wolf.**

39 **SECTION 3. The rules adopted under ORS 496.172 by the State Fish and Wildlife Com-**
40 **mission to establish a system of permits for the incidental taking of threatened species and**
41 **endangered species shall allow the commission to issue a permit for the incidental taking of**
42 **gray wolves if the person issued the permit is attempting, pursuant to ORS 498.012, to take**
43 **another species by trapping because of damage the species is causing to livestock.**
44 **Notwithstanding ORS 496.172, the commission may issue an incidental take permit under**
45 **rules adopted pursuant to this section whether or not the gray wolf is designated as a**

1 **threatened or endangered species by the federal government pursuant to the federal Endan-**
 2 **gered Species Act of 1973 (P.L. 93-205).**

3 **SECTION 4.** ORS 498.012 is amended to read:

4 498.012. (1) Nothing in the wildlife laws is intended to prevent any person from taking any
 5 wildlife that is causing damage, is a public nuisance or poses a public health risk on land that the
 6 person owns or lawfully occupies. However, *[no]* a person *[shall]* **may not** take, pursuant to this
 7 subsection, at a time or under circumstances when such taking is prohibited by the State Fish and
 8 Wildlife Commission, any game mammal or game bird, fur-bearing mammal or nongame wildlife spe-
 9 cies, unless the person *[first obtains]* **holds** a permit for such taking from the commission.

10 *[(2)(a) Nothing in subsection (1) of this section requires a permit for the taking of cougar, bobcat,*
 11 *red fox or bear pursuant to that subsection. However, any person who takes a cougar, bobcat, red fox*
 12 *or bear must have in possession written authority therefor from the landowner or lawful occupant of*
 13 *the land that complies with subsection (4) of this section.]*

14 *[(b) Nothing in subsection (1) of this section requires the commission to issue a permit for the*
 15 *taking of any wildlife species for which a U. S. Fish and Wildlife Service permit is required pursuant*
 16 *to the Migratory Bird Treaty Act (16 U.S.C. §§703 to 711), as amended.]*

17 **(2) Notwithstanding the permit requirement in subsection (1) of this section, a person**
 18 **without a permit may take:**

19 **(a) A cougar, bobcat, red fox or bear, if the person has, in the person's possession,**
 20 **written authority from the landowner or lawful occupant of the land that complies with**
 21 **subsection (4) of this section;**

22 **(b) Any wildlife species for which a United States Fish and Wildlife Service permit is re-**
 23 **quired pursuant to the Migratory Bird Treaty Act (16 U.S.C. 703 to 711); or**

24 **(c) A gray wolf that is causing harm to livestock if the commission has waived the permit**
 25 **requirement by rule and if the person has, in the person's possession, written authority from**
 26 **the landowner or lawful occupant of the land that complies with subsection (4) of this sec-**
 27 **tion.**

28 (3) Any person who takes, pursuant to subsection (1) of this section, any cougar, bobcat, red fox,
 29 bear, **gray wolf**, game mammal, game bird, fur-bearing mammal or wildlife species whose survival
 30 the commission determines is endangered, shall immediately report the taking to a person authorized
 31 to enforce the wildlife laws[,] and shall dispose of the wildlife in such manner as the commission
 32 directs. In determining procedures for disposal of bear and cougar, the commission shall direct the
 33 State Department of Fish and Wildlife to first offer the animal to the landowner incurring the
 34 damage.

35 (4) The written authority from the landowner or lawful occupant of the land required by sub-
 36 section (2) of this section for the taking of cougar, bobcat, red fox, *[or]* bear **or gray wolf** must set
 37 forth all of the following:

38 (a) The date of issuance of the authorization;

39 (b) The name, address, telephone number and signature of the person granting the authorization;

40 (c) The name, address and telephone number of the person to whom the authorization is granted;

41 (d) The wildlife damage control activities to be conducted, whether for *[bear, cougar, red fox or*
 42 *bobcat]* **cougar, bobcat, red fox, bear or gray wolf**; and

43 (e) The expiration date of the authorization, which shall be not later than one year from the
 44 date of issuance of the authorization.

45 (5) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an

1 animal under subsection (3) of this section shall file a report with the State Fish and Wildlife Di-
 2 rector within 30 days after the disposal. The report shall include but need not be limited to the loss
 3 incurred, the financial impact and the disposition of the animal. The director shall compile all re-
 4 ports received under this subsection on a bimonthly basis. The reports compiled by the director shall
 5 be available to the public upon request.

6 (6) As used in this section:

7 (a) "Damage" means loss of or harm inflicted on land, livestock or agricultural or forest crops.

8 (b) "Nongame wildlife" has the meaning given that term in ORS 496.375.

9 (c) "Public nuisance" means loss of or harm inflicted on gardens, ornamental plants, ornamental
 10 trees, pets, vehicles, boats, structures or other personal property.

11 **SECTION 5. (1) The State Fish and Wildlife Commission shall develop a compensation and**
 12 **cost-sharing program to provide financial assistance to persons who suffer losses or injuries**
 13 **due to wolf depredation and to persons who work to implement livestock management tech-**
 14 **niques or nonlethal wolf control techniques designed to discourage wolf depredation of live-**
 15 **stock.**

16 (2) A person may apply to the commission, in a form established by the commission by
 17 rule, for compensation under the program if one of the following has occurred:

18 (a) The person has suffered, through wolf activity, a confirmed loss or injury of livestock
 19 located on private land or on public land under a legal grazing right. A confirmed loss or
 20 injury exists when there is physical evidence that livestock was actually attacked or killed
 21 by a wolf.

22 (b) The person has suffered the loss or injury of a working or sporting dog due to wolf
 23 activity.

24 (c) The person, after consultation with the commission, has proposed to implement live-
 25 stock management techniques or nonlethal wolf control techniques designed to discourage
 26 wolf depredation and the commission has approved the implementation.

27 (3) A person applying for compensation under this section shall provide:

28 (a) Evidence of the loss or injury. Evidence of the loss or injury may include a finding,
 29 after investigation, by the State Department of Fish and Wildlife, the United States Depart-
 30 ment of Agriculture Wildlife Services or the United States Fish and Wildlife Service that the
 31 probable cause of injury or death was wolf related.

32 (b) Estimates of the potential costs of the livestock management techniques or nonlethal
 33 wolf control techniques designed to discourage wolf depredation.

34 (4) Compensation paid to a person applying under this section shall be determined in the
 35 following manner:

36 (a) Confirmed losses shall be paid at 100 percent of the market value of the livestock lost.

37 (b) Probable losses, those losses where evidence exists that the loss was more likely than
 38 not caused by wolf depredation, shall be paid at a rate determined by the commission, but
 39 in no case less than 50 percent of the market value of the livestock lost.

40 (c) Missing livestock may be compensated as determined by the commission.

41 (d) If livestock are injured, compensation shall be made for veterinary treatments and
 42 for the reduction in market value of the livestock that are, as a result of the injury, unable
 43 to reproduce or that have to be destroyed or sold.

44 (e) Payments for losses or injuries shall be reduced by any amount that the person re-
 45 ceives from any other source.

1 (f) Working dogs and sporting dogs shall be compensated for at the market value of
 2 similar dogs, including age and gender, not to exceed \$2,500 per dog.

3 (g) Compensation may be paid for sporting dogs only if the injury or loss occurs during
 4 an authorized hunting or pursuit season.

5 (h) Compensation for employing livestock management techniques and nonlethal wolf
 6 control techniques designed to discourage wolf depredation may be paid to persons at a rate
 7 established by the commission. However, the commission may not reduce the amount paid
 8 based on moneys that the person implementing the techniques or methods receives for
 9 habitat improvement or habitat protection.

10 (i) Compensation for subsequent losses or injuries may be reduced by the commission if
 11 the person applying for compensation has failed to implement livestock management tech-
 12 niques or nonlethal wolf control techniques designed to discourage wolf depredation.

13 (5) The commission shall compute the market value of livestock using the following
 14 guidelines:

15 (a) Males, other than young of the year, have a market value equal to the purchase price
 16 of the animal or the average price paid for other males, whichever is higher. If sales receipts
 17 are unavailable to determine purchase price, the market value shall be the average local
 18 market value for animals of the same breed and age.

19 (b) Females, other than young of the year, have a market value equal to the average
 20 available recorded sales of females of the same age and quality as females from the same
 21 herd.

22 (c) Young of the year have a market value equal to the average amount received for
 23 other young of the year for the same gender and same age.

24 (d) Disputes involving the market value of an animal may be resolved by using a third-
 25 party appraiser to determine market value.

26 (6) A person who has suffered losses or injuries due to wolf depredation may request that
 27 the State Department of Fish and Wildlife investigate the claim of loss. Within 24 hours of
 28 receiving a request, the department shall investigate the claim of loss. A person's ability to
 29 make a claim for compensation is unaffected by the decision whether or not to request an
 30 investigation of the loss.

31 (7) Compensation paid under the program shall be paid from the Wolf Management
 32 Compensation Fund established under section 7 of this 2005 Act.

33 (8) As used in this section:

34 (a) "Livestock" means ratites, psittacines, horses, mules, jackasses, cattle, llamas,
 35 alpacas, sheep, goats, swine, bison, domesticated fowl and any fur-bearing animal bred and
 36 maintained commercially or otherwise, within pens, cages or hutches.

37 (b) "Sporting dog" means any animal of the species *Canis familiaris* used to aid a person
 38 in legally authorized hunting.

39 (c) "Working dog" means any animal of the species *Canis familiaris* used to actively aid
 40 in the herding or protection of livestock.

41 **SECTION 6.** (1) The State Fish and Wildlife Commission shall appoint an advisory com-
 42 mittee to recommend to the commission a process for screening claims and for developing
 43 a method for resolving compensation claims made under section 5 of this 2005 Act. The
 44 committee shall also recommend:

45 (a) Whether the commission should compensate persons for missing livestock, if the

1 number or amount of missing livestock exceeds historic losses;

2 (b) A procedure to ensure that compensation is paid in a timely manner, including an
3 opportunity for discussion between a livestock producer and the commission to arrive at a
4 timing for the payment; and

5 (c) A alternative dispute resolution mechanism for resolving disputes regarding compen-
6 sation.

7 (2) The advisory committee shall be made up of five persons knowledgeable about wolf
8 depredation and livestock management techniques and nonlethal wolf control techniques de-
9 signed to discourage wolf depredation. The commission shall appoint:

10 (a) One person to represent cattle producers;

11 (b) One person to represent sheep producers;

12 (c) One person to represent the State Department of Agriculture;

13 (d) One person to represent hunters; and

14 (e) One person to represent the wolf conservation community.

15 (3) The members of the advisory committee are not entitled to compensation or re-
16 imbursement for expenses and serve as volunteers on the advisory committee.

17 (4) The advisory committee shall provide its recommendations to the commission no later
18 than January 1, 2007.

19 SECTION 7. (1) The Wolf Management Compensation Fund is established separate and
20 distinct from the General Fund. Interest earned on the moneys in the fund shall be credited
21 to the fund. All moneys in the fund are continuously appropriated to the State Fish and
22 Wildlife Commission for use in paying compensation under section 5 of this 2005 Act.

23 (2) The fund shall consist of all moneys appropriated by the Legislative Assembly and any
24 gifts, grants, donations, endowments or bequests from any public or private source. The
25 commission may seek out and receive any gifts, grants, donations, endowments or bequests
26 for the purpose of paying compensation to persons who suffer losses or injuries due to wolf
27 depredation or who implement livestock management techniques or nonlethal wolf control
28 techniques designed to discourage wolf depredation. The commission shall deposit such
29 moneys into the fund.

30 SECTION 8. In addition to and not in lieu of any other appropriation, there is appropri-
31 ated to the State Fish and Wildlife Commission, for the biennium beginning July 1, 2005, out
32 of the General Fund, the amount of \$200,000, which may be expended for the purpose of
33 carrying out sections 5 and 6 of this 2005 Act.

34 SECTION 9. Section 6 of this 2005 Act is repealed on January 2, 2008.

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