

Senate Bill 746

Sponsored by Senator BEYER (at the request of Oregon Aquaculture Association)

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**.

Transfers regulation of food fish propagation from State Department of Fish and Wildlife to State Department of Agriculture.

Allows aquaculture operations to be regulated as confined animal feeding operations for purposes of wastewater permits.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to aquaculture; creating new provisions; amending ORS 183.700, 468B.205 and 497.258; re-
3 pealing ORS 497.252; and prescribing an effective date.

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

5 **SECTION 1. Except as provided in ORS 508.700 to 508.745 and 622.220, a person may not**
6 **engage in the business of propagating food fish for sale unless the person holds a food fish**
7 **propagation license issued by the State Department of Agriculture.**

8 **SECTION 2. (1) The State Department of Agriculture shall establish a food fish propa-**
9 **gation licensing program.**

10 (2) The department, by rule, shall prescribe:

11 (a) Requirements for the care, inspection and transportation of food fish;

12 (b) Requirements for the sale, taking or other disposition of food fish;

13 (c) Procedures for record keeping and reporting that will ensure that food fish propa-
14 gation activities are conducted in a manner that is not harmful to existing game fish or food
15 fish populations; and

16 (d) A procedure for licensing.

17 (3) A person seeking to propagate food fish shall apply to the department, in a form es-
18 tablished by the department, for a food fish propagation license. The department may es-
19 tablish an application fee in an amount not greater than \$25.

20 (4) A person propagating food fish under the program is exempt from the licensing pro-
21 visions of ORS 508.025 and 508.035 if:

22 (a) The food fish are raised entirely in and harvested from facilities that are enclosed or
23 designed to prevent escape; and

24 (b) The fish are not released for natural rearing.

25 (5) As used in this section, "food fish" means any species of fish or shellfish that the
26 State Fish and Wildlife Commission has jurisdiction over pursuant to ORS 506.036.

27 **SECTION 3. ORS 468B.205 is amended to read:**

28 468B.205. (1) [*As used in ORS 468B.200 to 468B.230, "confined animal feeding operation" has the*
29 *meaning given that term in rules adopted by*] The State Department of Agriculture or the Department
30 of Environmental Quality **may define the term "confined animal feeding operation" for pur-**

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 **poses of implementing ORS 468B.200 to 468B.230.** The definition must distinguish between various
2 categories of animal feeding operations, including but not limited to:

3 (a) [those] Animal feeding operations that are subject to regulation under 33 U.S.C. 1342; and

4 (b) **Aquaculture operations that produce food fish.**

5 (2) A rule implementing ORS 468B.200 to 468B.230 may not be adopted using the procedures
6 provided in ORS 183.337 for agency adoption of federal rules.

7 **SECTION 4. The duties, functions and powers of the State Department of Fish and**
8 **Wildlife relating to food fish propagation are imposed upon, transferred to and vested in the**
9 **State Department of Agriculture.**

10 **SECTION 5. (1) The State Fish and Wildlife Director shall:**

11 (a) **Deliver to the State Department of Agriculture all records and property within the**
12 **jurisdiction of the director that relate to the duties, functions and powers transferred by**
13 **section 4 of this 2005 Act; and**

14 (b) **Transfer to the State Department of Agriculture those employees engaged primarily**
15 **in the exercise of the duties, functions and powers transferred by section 4 of this 2005 Act.**

16 (2) **The Director of Agriculture shall take possession of the records and property, and**
17 **shall take charge of the employees and employ them in the exercise of the duties, functions**
18 **and powers transferred by section 4 of this 2005 Act, without reduction of compensation but**
19 **subject to change or termination of employment or compensation as provided by law.**

20 (3) **The Governor shall resolve any dispute between the State Department of Fish and**
21 **Wildlife and the State Department of Agriculture relating to transfers of records, property**
22 **and employees under this section, and the Governor's decision is final.**

23 **SECTION 6. (1) The unexpended balances of amounts authorized to be expended by the**
24 **State Department of Fish and Wildlife for the biennium beginning July 1, 2005, from revenues**
25 **dedicated, continuously appropriated, appropriated or otherwise made available for the pur-**
26 **pose of administering and enforcing the duties, functions and powers transferred by section**
27 **4 of this 2005 Act are appropriated and transferred to and are available for expenditure by**
28 **the State Department of Agriculture for the biennium beginning July 1, 2005, for the purpose**
29 **of administering and enforcing the duties, functions and powers transferred by section 4 of**
30 **this 2005 Act.**

31 (2) **The expenditure classifications, if any, established by Acts authorizing or limiting**
32 **expenditures by the State Department of Fish and Wildlife remain applicable to expenditures**
33 **by the State Department of Agriculture under this section.**

34 **SECTION 7. The transfer of duties, functions and powers to the State Department of**
35 **Agriculture by section 4 of this 2005 Act does not affect any action, proceeding or prose-**
36 **cution involving or with respect to such duties, functions and powers begun before and**
37 **pending at the time of the transfer, except that the State Department of Agriculture is**
38 **substituted for the State Department of Fish and Wildlife in the action, proceeding or pros-**
39 **ecution.**

40 **SECTION 8. (1) Nothing in sections 4 to 10 of this 2005 Act relieves a person of a liability,**
41 **duty or obligation accruing under or with respect to the duties, functions and powers**
42 **transferred by section 4 of this 2005 Act. The State Department of Agriculture may under-**
43 **take the collection or enforcement of any such liability, duty or obligation.**

44 (2) **The rights and obligations of the State Department of Fish and Wildlife legally in-**
45 **curred under contracts, leases and business transactions executed, entered into or begun**

1 before the operative date of section 4 of this 2005 Act accruing under or with respect to the
 2 duties, functions and powers transferred by section 4 of this 2005 Act are transferred to the
 3 State Department of Agriculture. For the purpose of succession to these rights and obli-
 4 gations, the State Department of Agriculture is a continuation of the State Department of
 5 Fish and Wildlife and not a new authority.

6 **SECTION 9.** Notwithstanding the transfer of duties, functions and powers by section 4
 7 of this 2005 Act, the rules of the State Department of Fish and Wildlife with respect to such
 8 duties, functions or powers that are in effect on the operative date of section 4 of this 2005
 9 Act continue in effect until superseded or repealed by rules of the State Department of Ag-
 10 riculture. References in such rules of the State Department of Fish and Wildlife to the State
 11 Department of Fish and Wildlife or an officer or employee of the State Department of Fish
 12 and Wildlife are considered to be references to the State Department of Agriculture or an
 13 officer or employee of the State Department of Agriculture.

14 **SECTION 10.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 15 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 16 the context of the duties, functions and powers transferred by section 4 of this 2005 Act,
 17 reference is made to the State Department of Fish and Wildlife or an officer or employee of
 18 the State Department of Fish and Wildlife, whose duties, functions or powers are transferred
 19 by section 4 of this 2005 Act, the reference is considered to be a reference to the State De-
 20 partment of Agriculture or an officer or employee of the State Department of Agriculture
 21 who by this 2005 Act is charged with carrying out such duties, functions and powers.

22 **SECTION 11.** Sections 1 and 2 of this 2005 Act, the amendments to ORS 183.700, 468B.205
 23 and 497.258 by sections 3, 12 and 13 of this 2005 Act and the repeal of ORS 497.252 by section
 24 14 of this 2005 Act become operative on January 1, 2006.

25 **SECTION 12.** ORS 497.258 is amended to read:

26 497.258. The State Department of Fish and Wildlife is authorized to issue, upon application, to
 27 persons desiring to engage in the following occupations the following licenses and shall charge
 28 therefor the following fees:

- 29 (1) Resident annual fur dealer license, \$10.
- 30 (2) Resident annual taxidermist license, \$5.
- 31 (3) Resident annual wildlife propagation license, \$5.
- 32 [(4) Resident annual fish propagation license, \$25.]
- 33 [(5)] (4) Resident annual private hunting preserve license, \$100.

34 **SECTION 13.** ORS 183.700 is amended to read:

35 183.700. (1) As used in this section and ORS 183.702, "permit" means an individual and
 36 particularized license, permit, certificate, approval, registration or similar form of permission re-
 37 quired by law to pursue any activity specified in this section, for which an agency must weigh in-
 38 formation, make specific findings and make determinations on a case-by-case basis for each
 39 applicant.

40 (2) The requirements of this section and ORS 183.702 apply to the following permits granted by:

41 (a) The Department of Environmental Quality under ORS 448.415, 454.655, 454.695, 454.790,
 42 454.800, 459.205, 465.315, 465.325, 466.140, 466.145, 466.706 to 466.882, 468A.040, 468A.310, 468B.035,
 43 468B.040, 468B.045, 468B.050 and 468B.095.

44 (b) The Department of State Lands under ORS 196.800 to 196.900 and 390.805 to 390.925.

45 (c) The Water Resources Department under ORS chapters 537 and 540, except those permits is-

1 sued under ORS 537.747 to 537.765.

2 (d) The State Department of Agriculture pursuant to ORS 468B.200 to 468B.230 and 622.250.

3 (e) The State Department of Fish and Wildlife pursuant to ORS 497.142, 497.218, 497.228, 497.238,
4 497.248, [497.252,] 497.298, 497.308, 498.019, 498.279, 508.106, 508.300, 508.760, 508.775, 508.801,
5 508.840, 508.880, 508.926 and 509.140.

6 (f) The Department of Transportation pursuant to ORS 374.312.

7 **SECTION 14. ORS 497.252 is repealed.**

8 **SECTION 15. This 2005 Act takes effect on the 91st day after the date on which the**
9 **regular session of the Seventy-third Legislative Assembly adjourns sine die.**

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