

House Bill 3204

Sponsored by Representatives HELM, SALINAS, Senator GORSEK; Representatives HUDSON, LIVELY, POWER, PRUSAK, REARDON, SCHOUTEN, SMITH WARNER, WILDE, WITT, Senators DEMBROW, FREDERICK, GOLDEN, PATTERSON

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**.

Directs Oregon Health Authority, Oregon State Police, State Department of Agriculture and State Department of Fish and Wildlife to prepare report concerning Oregon's current framework for preventing, monitoring and responding to zoonotic disease. Directs agencies to present report to committee or interim committee of Legislative Assembly related to public health not later than December 31, 2021.

Directs State Fish and Wildlife Commission to establish and periodically update list of wildlife species and other scientifically recognized categories of wildlife that may not be imported, possessed, sold, purchased, exchanged or transported in this state due to potential for transmission of zoonotic disease that may compromise public health, native wildlife or agricultural interest. Authorizes commission to issue permits to bona fide scientific or educational institutions. Punishes violation by maximum fine of \$6,250.

Authorizes commission to institute civil suit for recovery of damages for violation.

Prohibits person from selling, offering for sale or otherwise participating in sale or offer for sale of wildlife that is not native to Oregon and is sold alive for purpose of human consumption. Provides that prohibition does not apply to sale, offer for sale or other participation in sale or offer for sale of livestock or shellfish. Punishes violation by maximum fine of \$6,250.

Requires commission, when adopting rules authorizing holding of wildlife, to consider public health risks, including risks of zoonotic disease transmission.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to zoonotic disease; creating new provisions; amending ORS 164.115, 496.992 and 497.308;
3 and declaring an emergency.

4 Whereas zoonotic disease can spread from animals to humans, with an estimated three out of
5 four new or emerging diseases being zoonotic; and

6 Whereas evidence indicates that many of the worst epidemics and pandemics in recent decades
7 have been zoonotic in origin, including COVID-19, Ebola virus, avian influenza, swine influenza,
8 Middle East Respiratory Syndrome, human immunodeficiency virus and Severe Acute Respiratory
9 Syndrome; and

10 Whereas wildlife trafficking and trade has been shown to contribute to the transmission and
11 pervasiveness of zoonotic diseases; and

12 Whereas the COVID-19 pandemic has underscored the immense loss of human life and economic
13 disruption that zoonotic disease can cause; and

14 Whereas the COVID-19 pandemic has spurred other states to introduce legislation to ban the
15 importation of wildlife and live animal markets, potentially shifting those activities to Oregon; and

16 Whereas Oregon's existing wildlife laws and rules do not adequately address the evolving risks
17 and novel zoonotic pathogens that threaten public health, food security, biological diversity and
18 economic security; and

19 Whereas greater coordination between public health agencies, wildlife management agencies,
20 research institutions and other entities can improve emergency preparedness, prevention and re-

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 sponse; now, therefore,

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

3 **SECTION 1.** (1) The Oregon Health Authority, the Oregon State Police, the State De-
 4 partment of Agriculture and the State Department of Fish and Wildlife shall prepare a report
 5 that evaluates Oregon’s current framework for preventing, monitoring and responding to
 6 zoonotic diseases and recommends ways to strengthen the framework.

7 (2) At minimum the report shall evaluate:

8 (a) Existing protocols concerning zoonotic disease for proactive prevention, early de-
 9 tection, monitoring during an outbreak, testing, coordination of testing laboratories,
 10 quarantine and data sharing;

11 (b) Existing channels of interagency and intra-agency communication concerning
 12 zoonotic disease outbreaks or a risk of zoonotic disease outbreaks;

13 (c) Staff capacity at relevant state agencies, including capacity needed for addressing
 14 wildlife trafficking, surveilling pathogens and mitigating disease risks;

15 (d) Enforcement practices and agency capacity to deter or address activities that pose a
 16 risk of introducing or transmitting zoonotic disease; and

17 (e) Whether there is a need to bolster or develop a comprehensive state framework for
 18 preventing a zoonotic disease outbreak and planning and coordinating responses to a zoonotic
 19 disease outbreak.

20 (3) To develop the report, the agencies may consult with bona fide scientific or educa-
 21 tional institutions, as defined in ORS 498.022, deputy state veterinarians, other agencies and
 22 any other experts with relevant expertise.

23 (4) The agencies shall present the report to a committee or interim committee of the
 24 Legislative Assembly related to public health, in the manner provided under ORS 192.245, not
 25 later than December 31, 2021.

26 **SECTION 2.** Sections 3, 5 and 9 of this 2021 Act are added to and made a part of ORS
 27 chapter 498.

28 **SECTION 3.** (1) As used in this section, “bona fide scientific or educational institution”
 29 has the meaning given that term in ORS 498.022.

30 (2) The State Fish and Wildlife Commission shall establish and periodically update a list
 31 of wildlife species and other scientifically recognized categories of wildlife that may not be
 32 imported, possessed, sold, purchased, exchanged or transported in this state due to a poten-
 33 tial for transmission of zoonotic disease that may compromise public health, native wildlife
 34 or an agricultural interest.

35 (3) In deciding when to update the list and whether to include on the list a wildlife species
 36 or other scientifically recognized category of wildlife, the commission:

37 (a) Shall use the best available science;

38 (b) Shall consult with the Oregon Health Authority and the State Department of Agri-
 39 culture; and

40 (c) May consult with bona fide scientific or educational institutions and any other experts
 41 with relevant expertise.

42 (4) Notwithstanding subsection (2) of this section, the commission:

43 (a) May issue a permit to a bona fide scientific or educational institution that authorizes
 44 the import, possession, sale, purchase, exchange or transport of a wildlife species or scien-
 45 tifically recognized category of wildlife on the list.

1 **(b) Shall adopt rules governing issuance of the permits.**

2 **(5) In addition to the actions described in subsection (3) of this section, the commission**
 3 **may take any actions the commission deems necessary to protect the public from a potential**
 4 **for transmission of zoonotic disease, including inspection of premises and records to ensure**
 5 **compliance with rules adopted pursuant to this section.**

6 **(6) Import, possession, sale, purchase, exchange or transport of a member of a wildlife**
 7 **species or other scientifically recognized category of wildlife on the list, without a permit,**
 8 **constitutes a violation.**

9 **SECTION 4.** The State Fish and Wildlife Commission shall establish an initial version of
 10 **the list described in section 3 (2) of this 2021 Act not later than December 31, 2021.**

11 **SECTION 5.** (1) The State Fish and Wildlife Commission may institute suit for recovery
 12 **of damages in the amount of \$2,500 for a violation of section 3 (6) of this 2021 Act.**

13 **(2) Each action in violation of section 3 (6) of this 2021 Act that pertains to an individual**
 14 **animal constitutes a separate violation for purposes of this section.**

15 **(3) The amount recoverable under this section shall be reduced by any amount paid to**
 16 **the commission under ORS 496.992 (15).**

17 **(4) In a suit brought under this section, the court shall award to the prevailing party, in**
 18 **addition to costs and disbursements, reasonable attorney fees.**

19 **(5) Civil damages awarded pursuant to this section are in addition to other penalties**
 20 **prescribed by the wildlife laws.**

21 **(6) Any circuit or justice court has jurisdiction to try a case for recovery of damages for**
 22 **violation of section 3 of this 2021 Act.**

23 **SECTION 6.** ORS 496.992 is amended to read:

24 496.992. (1) Except as otherwise provided by this section or other law, a violation of any pro-
 25 **vision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A**
 26 **misconduct if the offense is committed with a culpable mental state.**

27 (2) Except as otherwise provided by this section or other law, a violation of a provision of the
 28 **wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of**
 29 **wildlife is a Class D violation if the offense is committed without a culpable mental state.**

30 (3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,
 31 **that involves the taking of wildlife, other than nongame mammals and game birds, is a Class A vi-**
 32 **olation if the offense is committed without a culpable mental state.**

33 (4) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,
 34 **that involves the taking of nongame mammals or game birds is a Class C violation if the offense is**
 35 **committed without a culpable mental state.**

36 (5) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,
 37 **that involves the size or quantity limits for salmon, steelhead trout and sturgeon is a Class A vi-**
 38 **olation if the offense is committed without a culpable mental state.**

39 (6) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,
 40 **relating to the size or quantity limits for fish or shellfish, other than size and quantity limits for**
 41 **salmon, steelhead trout and sturgeon, is a Class C violation if the offense is committed without a**
 42 **culpable mental state.**

43 (7) A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class A
 44 **violation if the offense is committed without a culpable mental state.**

45 (8) A violation of ORS 496.994 is a Class A violation if the offense is committed without a cul-

1 culpable mental state.

2 (9) A violation of ORS 498.136, 498.142 or 498.146 is a Class A violation if the offense is com-
3 mitted without a culpable mental state.

4 (10) The second and each subsequent conviction within a 10-year period for the taking of a
5 raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black
6 bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of any provision of the
7 wildlife laws, or any rule adopted pursuant thereto, that occurs more than one hour prior to, or
8 more than one hour subsequent to, a season established for the lawful taking of such game mammals
9 or game fish is a Class C felony if the offense is committed with a culpable mental state.

10 (11) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife
11 laws, is a Class C felony if the offense involves any of the following and is committed intentionally,
12 knowingly or recklessly:

13 (a) The unlawful taking of wildlife with the intent to sell or to barter, trade, import, export or
14 otherwise exchange the wildlife or a part of the wildlife.

15 (b) Except as provided in this paragraph, the second and each subsequent unlawful taking of a
16 game mammal during a 12-month period. This paragraph does not apply to the taking of silver gray
17 squirrel.

18 (c) The unlawful taking of a moose, mountain sheep, Rocky Mountain goat or wolf.

19 (d) The third and each subsequent taking of a game fish in excess of a bag limit during a
20 12-month period.

21 (e) The second and each subsequent unlawful taking of nonadipose clipped steelhead during a
22 12-month period.

23 (f) The unlawful taking of members of the family Acipenseridae that are commonly known as
24 green sturgeon or that are oversized and commonly known as white sturgeon.

25 (g) The unlawful taking of wildlife that is a threatened species or endangered species.

26 (12) If a person is convicted of a Class A misdemeanor under subsection (1) of this section, in
27 addition to any other penalty authorized by law, the court shall impose a fine that is:

28 (a) Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or more
29 previous convictions for a Class A misdemeanor under subsection (1) of this section or if the offense
30 involves taking three or more times the daily bag limit of any wildlife.

31 (b) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the offense
32 involves:

33 (A) Failing to release a sturgeon more than six feet in length;

34 (B) Unlawfully taking wildlife to sell, barter, trade, import or export the wildlife, or parts
35 thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts
36 thereof; or

37 (C) Taking a raptor and the person has a previous conviction for taking a raptor.

38 (c) Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the offense
39 involves taking a raptor and the person does not have a previous conviction for taking a raptor.

40 (13) If more than one minimum fine described in subsection (12) of this section applies, the court
41 shall impose a fine in an amount that is not less than the highest of the applicable minimum fines.

42 (14)(a) If a court imposes a fine as penalty for an offense under the wildlife laws that involves
43 the unlawful taking or killing of wildlife listed under ORS 496.705 (2), the court shall order that the
44 defendant pay all or a portion of the fine separately to the clerk of the court for paying over to the
45 State Fish and Wildlife Commission. The clerk shall pay over to the commission the amount that the

1 court ordered the defendant to pay separately for that purpose. The amount that the court orders
 2 to be paid separately to the clerk for paying over to the commission shall be the lesser of:

3 (A) The amount of the fine imposed; or

4 (B) The amount that the commission could recover under ORS 496.705 (2) as damages for the
 5 unlawful taking or killing.

6 (b) If the amount that the commission could recover under ORS 496.705 (2) as damages for the
 7 unlawful taking or killing of wildlife is more than the maximum fine established for the offense un-
 8 der ORS 153.018, 161.625 or 161.635 or a specific fine statute, notwithstanding ORS 153.018, 161.625
 9 or 161.635 or any specific fine statute, the maximum fine for the offense is the amount that the
 10 commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing.

11 (c) If an amount paid over to the commission under this subsection is less than the amount that
 12 the commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing
 13 of wildlife, payment of the amount does not prevent the commission from bringing an action under
 14 ORS 496.705 (2) to recover damages for the unlawful taking or killing. However, notwithstanding
 15 ORS 496.705, the amount recoverable under ORS 496.705 (2) by the commission as damages for the
 16 unlawful taking or killing shall be reduced by the amount paid to the commission under this sub-
 17 section from a fine imposed for the unlawful taking or killing.

18 **(15)(a) If a court imposes a fine as penalty for an offense under the wildlife laws that**
 19 **involves a violation of section 3 of this 2021 Act, the court shall order that the defendant pay**
 20 **all or a portion of the fine separately to the clerk of the court for paying over to the com-**
 21 **mission. The clerk shall pay over to the commission the amount that the court ordered the**
 22 **defendant to pay separately for that purpose, which shall be the lesser of:**

23 **(A) The amount of the fine imposed; or**

24 **(B) The amount that the commission could recover under section 5 of this 2021 Act as**
 25 **civil damages.**

26 **(b) The amount recoverable under section 5 of this 2021 Act shall be reduced by the**
 27 **amount paid to the commission under this subsection.**

28 *[(15)(a)]* **(16)(a)** In addition to any other penalty authorized by law, the court shall order the
 29 *[State Fish and Wildlife Commission]* **commission** to revoke all licenses, tags and permits issued to
 30 a person in the manner provided for in ORS 497.415 (3), (5) and (6) if the person is convicted of:

31 (A) A Class A misdemeanor under subsection (1) of this section if the offense involves:

32 (i) A violation of ORS 498.042; or

33 (ii) The unlawful taking of wildlife to sell, barter, trade, import or export the wildlife, or parts
 34 thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts
 35 thereof; or

36 (B) A Class C felony under subsection (10) of this section.

37 (b) Notwithstanding ORS 497.415 (5), upon having a license, tag or permit revoked under para-
 38 graph (a)(A)(i) of this subsection for the second time in a 10-year period, a person is prohibited from
 39 applying for or obtaining another such license, tag or permit.

40 *[(16)]* **(17)** Upon the third conviction within a 10-year period for violation of a provision of the
 41 wildlife laws, or a rule adopted pursuant to the wildlife laws, the court shall order all guns, boats,
 42 vehicles, traps, fishing apparatus, electronic devices and other implements used in committing the
 43 third or subsequent offense to be seized and forfeited to the State of Oregon, to be turned over to
 44 the *[State Fish and Wildlife Commission]* **commission** for disposal in the manner provided for in
 45 ORS 496.680.

1 [(17)] (18) As used in this section:

2 (a) "Culpable mental state" has the meaning given that term in ORS 161.085.

3 (b) "Previous conviction" includes a conviction entered in the same sentencing proceeding if the
4 conviction is for a separate criminal episode as defined in ORS 131.505.

5 (c) "Raptor" means a member of the order Falconiformes or Strigiformes and includes owls,
6 hawks, falcons, eagles, osprey and harriers.

7 **SECTION 7. Section 5 of this 2021 Act and the amendments to ORS 496.992 by section 6**
8 **of this 2021 Act apply to offenses committed on or after the effective date of this 2021 Act.**

9 **SECTION 8.** ORS 164.115 is amended to read:

10 164.115. For the purposes of chapter 743, Oregon Laws 1971, the value of property shall be as-
11 certained as follows:

12 (1) Except as otherwise specified in this section, value means the market value of the property
13 at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of re-
14 placement of the property within a reasonable time after the crime.

15 (2) Whether or not they have been issued or delivered, certain written instruments, not including
16 those having a readily ascertainable market value, shall be evaluated as follows:

17 (a) The value of an instrument constituting an evidence of debt, including, but not limited to, a
18 check, draft or promissory note, shall be considered the amount due or collectible thereon or
19 thereby.

20 (b) The value of any other instrument which creates, releases, discharges or otherwise affects
21 any valuable legal right, privilege or obligation shall be considered the greatest amount of economic
22 loss which the owner might reasonably suffer because of the loss of the instrument.

23 (3) The value of a gambling chip, token, imitation currency or similar device is its face value.

24 (4)(a) The value of the wildlife listed in ORS 496.705 is the amount of damages as specified in
25 ORS 496.705.

26 **(b) The value of the wildlife required to be listed by the State Fish and Wildlife Com-**
27 **mission pursuant to section 3 of this 2021 Act is the amount of damages as specified in sec-**
28 **tion 5 of this 2021 Act.**

29 (5) When the value of property cannot reasonably be ascertained, it shall be presumed to be an
30 amount less than \$100 in a case of theft, and less than \$500 in any other case.

31 (6) The value of single theft transactions may be added together if the thefts were committed:

32 (a) Against multiple victims by similar means within a 30-day period; or

33 (b) Against the same victim, or two or more persons who are joint owners, within a 180-day
34 period.

35 **SECTION 9. (1) In this state a person may not sell, offer for sale or otherwise participate**
36 **in the sale or offer for sale of wildlife that is not native to Oregon and is sold alive for the**
37 **purpose of human consumption.**

38 **(2) This section does not apply to the sale, offer for sale or other participation in the sale**
39 **or offer for sale of livestock, as defined in ORS 596.010, or of shellfish.**

40 **(3) The State Department of Fish and Wildlife may inspect premises and records to en-**
41 **sure compliance with this section.**

42 **SECTION 10.** ORS 497.308 is amended to read:

43 497.308. (1) No person shall remove from its natural habitat or acquire and hold in captivity any
44 live wildlife in violation of the wildlife laws or [of] any rule [promulgated pursuant thereto] **adopted**
45 **under the wildlife laws.**

1 (2) The State Fish and Wildlife Commission may [*promulgate*] **adopt** rules to carry out the pro-
2 visions of subsection (1) of this section that include but are not limited to:

3 (a) Providing for the issuance and form of permits for the holding or removal from habitat of
4 wildlife.

5 (b) Prescribing the wildlife species for which holding or habitat removal permits are required.

6 (c) Prescribing the terms and conditions of holding wildlife and removing wildlife from habitat
7 to [*insure*] **ensure** the humane care and treatment of the wildlife.

8 **(3) In adopting rules authorized by subsection (2) of this section, the commission shall:**

9 **(a) Strive to protect public health;**

10 **(b) Consider any public health risks related to holding wildlife or transmitting zoonotic**
11 **disease, including any public health risks identified by the Oregon Health Authority; and**

12 **(c) Consult with the authority.**

13 [(3)] (4) No person to whom a wildlife holding or removal from habitat permit has been issued
14 shall violate any of the terms or conditions thereof.

15 **SECTION 11. This 2021 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
17 **on its passage.**

18