

# House Bill 3072

Sponsored by Representative LEVY B, Senator HANSELL; Representatives CATE, SCHARF, WRIGHT, Senator THATCHER

## 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**.

Prohibits State Fish and Wildlife Commission from designating private property as essential, important, probable or possible habitat without verifiable evidence of sensitive species, threatened species or endangered species on property.

## A BILL FOR AN ACT

1  
2 Relating to habitat designations on private property; amending ORS 496.171 and 496.172.

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

4 **SECTION 1.** ORS 496.171 is amended to read:

5 496.171. Notwithstanding ORS 496.004, with respect to state agency actions taken under ORS  
6 496.171 to 496.182 after July 17, 1995, as used in ORS 496.171 to 496.182:

7 (1) **“Commission” means the State Fish and Wildlife Commission created by ORS 496.090.**

8 [(1)] (2) **“Conservation” means the use of methods and procedures necessary to bring a species**  
9 **to the point at which the measures provided under ORS 496.171 to 496.182 are no longer necessary.**  
10 **Such methods and procedures include, but are not limited to, activities associated with scientific**  
11 **resource management such as research, census taking, law enforcement, habitat acquisition and**  
12 **maintenance, propagation and transplantation.**

13 (3) **“Essential habitat” has the meaning given that term by the commission by rule.**

14 (4) **“Important habitat” has the meaning given that term by the commission by rule.**

15 [(2)] (5) **“Native” means indigenous to Oregon, not introduced.**

16 (6) **“Possible habitat” means habitat designated by rule by the commission as having low**  
17 **potential to become either essential habitat or important habitat.**

18 (7) **“Probable habitat” means habitat designated by rule by the commission as having**  
19 **high potential to become either essential habitat or important habitat.**

20 (8) **“Sensitive species” has the meaning given that term by the commission by rule.**

21 [(3)] (9) **“Species” means any group or population of wildlife that interbreeds and is substantially**  
22 **reproductively isolated.**

23 [(4)] (10) **“Verifiable” means scientific information reviewed by a scientific peer review panel**  
24 **of outside experts who do not otherwise have a vested interest in the process.**

25 **SECTION 2.** ORS 496.172 is amended to read:

26 496.172. In carrying out the provisions of the wildlife laws with regard to the management of  
27 wildlife that is a threatened species or an endangered species, the State Fish and Wildlife Commis-  
28 sion:

29 (1) Shall conduct investigations of wildlife species native to this state and shall determine  
30 whether any such species is a threatened species or an endangered species.

**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 (2) By rule, shall establish and publish, and from time to time may revise, a list of wildlife spe-  
2 cies that are threatened species or endangered species. Listed threatened species or endangered  
3 species shall be protected as provided in ORS 496.182.

4 **(3) May not designate private property as essential habitat, important habitat, probable**  
5 **habitat or possible habitat without verifiable evidence demonstrating the presence of a sen-**  
6 **sitive species, threatened species or an endangered species on the private property.**

7 [(3)] (4) Shall work cooperatively with state agencies that have land management authority or  
8 regulatory authority to determine their roles within their statutory obligations in the conservation  
9 of endangered species, as described in ORS 496.182 (8).

10 [(4)] (5) By rule, shall establish a system of permits for scientific taking of threatened species  
11 and endangered species and shall establish a system of state permits for incidental taking of state-  
12 designated threatened species and endangered species not listed by the federal government under  
13 such terms and conditions as the commission determines will minimize the impact on the species  
14 taken. An incidental taking permit or statement issued by a federal agency for a species listed under  
15 the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended, shall be re-  
16 cognized by the state as a waiver of any state protection measures or requirements otherwise ap-  
17 plicable to the actions allowed under the federal permit.

18 [(5)] (6) Shall cooperate with the State Department of Agriculture in carrying out the provisions  
19 of ORS 564.105.

20 [(6)] (7) Shall adopt administrative rules to carry out the provisions of ORS 496.171 to 496.182  
21 and 498.026.

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