

Requested by SENATE COMMITTEE ON NATURAL RESOURCES

**PROPOSED AMENDMENTS TO
SENATE BILL 89**

1 In line 2 of the printed bill, after “aquaculture” insert “; creating new
2 provisions; and amending ORS 497.252, 616.992 and 616.997”.

3 Delete lines 4 through 8 and insert:
4

5 **“DEFINITIONS**

6
7 **“SECTION 1. As used in sections 1 to 8 of this 2023 Act:**

8 **“(1) ‘Aquaculture’ means the farming of aquatic animals or aquatic
9 plants for the primary purpose of producing food for humans.**

10 **“(2) ‘Aquaculture facility’:**

11 **“(a) Means a facility that engages in aquaculture by propagating,
12 rearing, holding, harvesting, transporting, receiving the transport of
13 or slaughtering aquatic animals, either on land or in a natural or ar-
14 tificial body of water.**

15 **“(b) Does not include:**

16 **“(A) A business entity that:**

17 **“(i) Is owned and operated independently from all other businesses;
18 and**

19 **“(ii) Has annual gross revenues of less than \$500,000, as reported on
20 a tax return submitted to the federal government or the Department
21 of Revenue; or**

1 **“(B) A fish hatchery, including a facility subject to the provisions**
2 **of ORS 497.325, 506.213 or 508.700 to 508.745.**

3 **“(3) ‘Aquatic animal’ means:**

4 **“(a) Finfish belonging to the classes Agnatha (jawless fishes),**
5 **Chondrichthyes (cartilaginous fishes) and Osteichthyes (bony fishes);**

6 **“(b) Mollusks belonging to the class Cephalopoda; and**

7 **“(c) Any other game fish or food fish that is used as food for hu-**
8 **mans or for industrial purposes, if the State Fish and Wildlife Com-**
9 **mission designates the game fish or food fish as an aquatic animal**
10 **under this section.**

11 **“(4) ‘Enclosure’ means an area in which a group of farmed aquatic**
12 **animals is held, including a tank, laboratory, pen, net, raceway,**
13 **incubator or pond.**

14 **“(5) ‘Environmental enrichment’ means materials or other features**
15 **that:**

16 **“(a) Add complexity to the environment;**

17 **“(b) Encourage the expression of natural behaviors such as hiding,**
18 **foraging or exploring; and**

19 **“(c) Decrease the expression of abnormal or deleterious behaviors**
20 **such as nipping or cannibalism.**

21 **“(6) ‘Farmed aquatic animal’ means an aquatic animal propagated,**
22 **reared, held, harvested or slaughtered at, or transported to or from,**
23 **an aquaculture facility, including an aquatic animal bred in captivity**
24 **or captured in the wild and intended for use in an aquaculture facility.**

25 **“(7) ‘Food fish’ has the meaning given that term in ORS 506.011.**

26 **“(8) ‘Game fish’ has the meaning given that term in ORS 496.009.**

27 **“(9) ‘Genetically engineered or transgenic’:**

28 **“(a) Means produced through the modification, cloning or manipu-**
29 **lation of genes using biotechnology.**

30 **“(b) Does not include simple selective breeding.**

1 “(10) ‘Slaughter process’ means the period of time from the removal
2 of a farmed aquatic animal from the habitat of the farmed aquatic
3 animal through any sedation, stunning and transport and until
4 slaughter.

5
6 **“FINDINGS ON AQUACULTURE**

7
8 **“SECTION 2. The Legislative Assembly finds that:**

9 **“(1) Aquaculture may be a growing industry.**

10 **“(2) The state has a duty to protect the natural resources and**
11 **ecosystems of this state, and a duty to ensure the humane treatment**
12 **of animals raised for food.**

13 **“(3) Aquaculture presents risks to the environment and animal**
14 **welfare, among other risks, and the risks may be mitigated through**
15 **appropriate regulation.**

16 **“(4) Expert input is required in order to fully understand the risks**
17 **associated with aquaculture and establish appropriate regulation.**

18 **“(5) To adequately protect this state’s natural resources,**
19 **aquaculture operations must adhere to certain minimum standards**
20 **related to preventing pollution and protecting water quality.**

21 **“(6) Fish are sentient beings capable of experiencing pain, stress**
22 **and fear, but no state or federal law directly addresses the welfare of**
23 **fish in aquaculture operations.**

24 **“(7) To adequately ensure the humane treatment of animals used**
25 **in aquaculture, aquaculture operations must adhere to certain mini-**
26 **imum standards concerning enrichment, stocking density, transporta-**
27 **tion and slaughter, among other standards.**

28 **“(8) The humane treatment of animals used in aquaculture may**
29 **benefit producers, workers and consumers.**

30

1 **“FINFISH AND CEPHALOPOD AQUACULTURE**

2
3 **“SECTION 3. (1) An aquaculture facility shall apply for a license**
4 **from the State Department of Fish and Wildlife and submit, as part**
5 **of the application, a plan for:**

6 **“(a) Preventing the spread of disease from the aquatic animals at**
7 **the proposed aquaculture facility to wild species of game fish or food**
8 **fish;**

9 **“(b) Reducing the incidence of disease at the proposed aquaculture**
10 **facility; and**

11 **“(c) Remediating disease that occurs at the proposed aquaculture**
12 **facility.**

13 **“(2) Before issuing a license under this section, the department**
14 **shall:**

15 **“(a) Conduct an environmental review of the proposed aquaculture**
16 **facility that includes assessment of:**

17 **“(A) The effects of the proposed aquaculture facility on the public**
18 **interest;**

19 **“(B) The direct and indirect effects of the proposed aquaculture fa-**
20 **cility on the aquatic habitat and existing populations of game fish or**
21 **food fish, including:**

22 **“(i) The impacts of fish waste and fish feed introduced into the**
23 **aquatic habitat;**

24 **“(ii) Any proposed use of animal drugs, pesticides or other chemi-**
25 **cals; and**

26 **“(iii) The potential for the escape of the aquatic animals from the**
27 **aquaculture facility, other types of pollution or the spread of disease**
28 **to wild species of game fish or food fish; and**

29 **“(C) The cumulative effects of the proposed aquaculture facility and**
30 **any other aquaculture facilities, and businesses subject to the licens-**

1 ing requirements of ORS 497.252, in the vicinity of the proposed
2 aquaculture facility; and

3 “(b) Provide the public with notice and an opportunity to comment
4 on the proposed aquaculture facility and the environmental review.

5 “(3) The department may not issue a license to a proposed
6 aquaculture facility if:

7 “(a) The environmental review indicates that the proposed
8 aquaculture facility will adversely affect the aquatic habitat, existing
9 populations of game fish or food fish or the public interest; or

10 “(b) The proposed aquaculture facility would be located in marine
11 waters, including the ocean, an estuary or a bay.

12 “(4) An aquaculture facility licensed under this section:

13 “(a) May not release an aquatic animal from the aquaculture facil-
14 ity into the waters of this state.

15 “(b) May not propagate or rear a genetically engineered or
16 transgenic aquatic animal.

17 “(c) Shall eliminate plastic pollution to the greatest extent possible,
18 including by:

19 “(A) Avoiding the use of plastics in the waters of this state unless
20 there is no alternative; and

21 “(B) Reducing the use of plastics that may enter the waters of this
22 state as waste or by other means.

23 “(5) The provisions of ORS 468B.025 and 468B.050 apply to an
24 aquaculture facility licensed under this section.

25 “(6) The department may adopt rules to implement this section,
26 including rules establishing license application procedures, fees and
27 license renewal requirements.

28 **“SECTION 4. (1) To ensure the humane treatment of farmed
29 aquatic animals, an aquaculture facility:**

30 **“(a) Must address water quality at the aquaculture facility, includ-**

1 **ing by:**

2 **“(A) Providing adequate fresh water, aeration and oxygen.**

3 **“(B) Removing or filtering water so water parameters remain**
4 **within tolerable limits for specific species of aquatic animals and the**
5 **characteristics of the aquaculture facility.**

6 **“(C) Remediating the effects of feed in the water or densely stocked**
7 **aquatic animals.**

8 **“(b) May not stock aquatic animals at levels that exceed the opti-**
9 **mal density for specific species of aquatic animals.**

10 **“(c) Must provide the aquatic animals with environmental**
11 **enrichment that is:**

12 **“(A) Easily accessible by all aquatic animals in an enclosure.**

13 **“(B) Cleaned and maintained to protect water quality and encour-**
14 **age use of the environmental enrichment.**

15 **“(d) Must provide the aquatic animals with an appropriate envi-**
16 **ronment that includes a total swimmable volume of water acceptable**
17 **for specific species of aquatic animals.**

18 **“(e) May not physically alter an aquatic animal.**

19 **“(f) May not operate in a manner that results in average monthly**
20 **mortality of aquatic animals exceeding 1 percent.**

21 **“(g) Must require agents of the aquaculture facility to:**

22 **“(A) Handle aquatic animals as quickly and gently as possible, in a**
23 **manner that reduces stress and injury;**

24 **“(B) Promptly treat or humanely euthanize sick or injured aquatic**
25 **animals;**

26 **“(C) Promptly and humanely euthanize physically deformed aquatic**
27 **animals; and**

28 **“(D) Undertake euthanasia in a manner that causes rapid insensi-**
29 **bility immediately followed by, or contemporaneous with, death.**

30 **“(h) May use equipment that comes into direct contact with aquatic**

1 animals, such as fishing nets or holding containers, only if the equip-
2 ment is designed to minimize the risk of injury to the aquatic animals.

3 “(i) Must tailor feed to:

4 “(A) The stages of development of specific species of aquatic ani-
5 mals; and

6 “(B) The nutrient requirements of specific species of aquatic ani-
7 mals to promote growth, the development of a good immune system
8 and stable health.

9 “(j) Must adjust the amount of feed and feeding frequency as needed
10 to prevent stress caused by oxygen depletion.

11 “(k) May breed aquatic animals only through appropriate breeding
12 practices.

13 “(L) Notwithstanding ORS 498.012 and 610.105, may not take lethal
14 action against a predator.

15 “(m) May only transport live aquatic animals:

16 “(A) In containers that are suitable for the specific species of the
17 aquatic animals, easy to clean, able to be disinfected and designed to
18 prevent injuries and reduce stress; and

19 “(B) To minimize water quality deterioration and injury and stress
20 to the aquatic animals:

21 “(i) For durations as short as possible; and

22 “(ii) With as low a density of aquatic animals as is professionally
23 justifiable.

24 “(n) Must provide persons that transport aquatic animals from the
25 aquaculture facility with training and encourage the persons to regu-
26 larly check water quality during transport, to prevent injury or stress
27 to the aquatic animals as much as practicable.

28 “(o) Must require persons that transport aquatic animals from the
29 aquaculture facility to:

30 “(A) Establish a quality assurance system to improve the transport;

1 **“(B) Record the death of aquatic animals during transport; and**

2 **“(C) Regularly evaluate the quality of the transport.**

3 **“(p) Must comply with any other requirements for humane treat-**
4 **ment of aquatic animals that are established in rule by the State De-**
5 **partment of Agriculture.**

6 **“(2) In consultation with scientific experts, representatives of the**
7 **aquaculture industry and advocates of the environment and animal**
8 **welfare, the department shall adopt rules to implement this section**
9 **that ensure the humane treatment of farmed aquatic animals.**

10 **“SECTION 5. (1) To ensure that the slaughter, and any handling**
11 **related to the slaughter, of farmed aquatic animals is humane, an**
12 **aquaculture facility that slaughters aquatic animals:**

13 **“(a) Must stun the aquatic animals fully and irreversibly before or**
14 **during slaughter.**

15 **“(b) May stun and slaughter aquatic animals simultaneously only**
16 **if the stunning occurs instantly, so the aquatic animals do not expe-**
17 **rience pain, fear or sensation.**

18 **“(c) Must sedate or immobilize aquatic animals in a humane man-**
19 **ner before stunning, if necessary to maximize the welfare of the**
20 **aquatic animals.**

21 **“(d) Must slaughter aquatic animals promptly after stunning and**
22 **before the aquatic animals regain consciousness.**

23 **“(e) Must provide a quiet and nonstimulatory environment during**
24 **the slaughter process, including by reducing sound and light intensity**
25 **for the aquatic animals while maintaining adequate lighting for per-**
26 **sons involved in the slaughter.**

27 **“(f) Must provide water quality in the slaughter environment, dur-**
28 **ing the slaughter process, that is similar to that of the environment**
29 **in which the aquatic animals have been living, or that is optimized for**
30 **the specific species of aquatic animals.**

1 “(g) May only use methods, devices and equipment for stunning and
2 slaughter that:

3 “(A) Are humane;

4 “(B) Are specific to the species and life stages of the aquatic ani-
5 mals;

6 “(C) Are tested and proven to be effective before being used;

7 “(D) Are properly calibrated for the species and size of the aquatic
8 animals;

9 “(E) Are checked regularly; and

10 “(F) Are safe, effective and properly maintained to ensure each
11 animal is receiving an effective stun.

12 “(h) May not:

13 “(A) Use gas, including carbon dioxide or another method that
14 blocks oxygen uptake, for sedation or stunning of aquatic animals;

15 “(B) Use salt, ammonia or another chemical with a similar effect
16 for sedation or stunning of aquatic animals;

17 “(C) Thermically shock, by boiling or rapid chilling, a conscious
18 aquatic animal;

19 “(D) Slaughter more aquatic animals per unit of time than is jus-
20 tifiable with regard to the welfare of the aquatic animals and worker
21 health and safety; or

22 “(E) Engage in any practice prohibited by rule by the State De-
23 partment of Agriculture.

24 “(i) Must stun and slaughter an aquatic animal that is transported
25 to the aquaculture facility for the purpose of slaughter as soon as
26 possible after the aquatic animal arrives at the aquaculture facility.

27 “(j) Must require that agents of the aquaculture facility that
28 slaughter aquatic animals or operate slaughter equipment:

29 “(A) Have species-specific knowledge of aquatic animals at the
30 aquaculture facility;

1 **“(B) Are trained to use the equipment;**
2 **“(C) Are present during the slaughter process in numbers sufficient**
3 **to protect the welfare of the aquatic animals; and**

4 **“(D) Undertake a documented training program provided by the**
5 **aquaculture facility.**

6 **“(2) In consultation with scientific experts, representatives of the**
7 **aquaculture industry and advocates of the environment and animal**
8 **welfare, the department:**

9 **“(a) Shall adopt rules to implement this section that ensure the**
10 **humane treatment of farmed aquatic animals during the slaughter**
11 **process.**

12 **“(b) May adopt rules that set an upper limit on the slaughter speed**
13 **for different slaughter methods and species of aquatic animals.**

14 **“SECTION 6. (1) An aquaculture facility shall keep detailed records**
15 **of:**

16 **“(a) Veterinary review or treatment of aquatic animals.**

17 **“(b) Medications or vaccinations administered to aquatic animals.**

18 **“(c) Any outbreaks of infectious disease.**

19 **“(d) Water quality tests.**

20 **“(e) Equipment checks.**

21 **“(f) Equipment servicing and maintenance.**

22 **“(g) Staff trainings related to aquatic animals and worker health**
23 **and safety, including information on which staff members are compe-**
24 **tent to perform a vaccination, sedation, stunning or slaughter.**

25 **“(h) Any violations of sections 1 to 8 of this 2023 Act.**

26 **“(i) Any slaughter performed at the aquaculture facility, including**
27 **records of:**

28 **“(A) The numbers of aquatic animals slaughtered per day, week,**
29 **month and year;**

30 **“(B) Slaughter broken down by species;**

1 **“(C) Methods of slaughter;**
2 **“(D) The effectiveness of stunning methods; and**
3 **“(E) Any problems with stunning methods and any efforts to re-**
4 **mediate the problems.**

5 **“(2) The aquaculture facility shall:**

6 **“(a) Immediately report any outbreak of infectious disease to the**
7 **Department of Environmental Quality, the State Department of Agri-**
8 **culture and the State Department of Fish and Wildlife, as well as any**
9 **other relevant health and safety entities;**

10 **“(b) Immediately report to the State Department of Agriculture any**
11 **technical failure or other condition at the aquaculture facility that has**
12 **the potential to cause significant negative effects on the welfare of**
13 **aquatic animals;**

14 **“(c) Annually submit the records required under subsection (1) of**
15 **this section to the department; and**

16 **“(d) Make the records publicly available.**

17 **“(3) The department shall post the records on a department website.**

18 **“(4) In consultation with scientific experts, representatives of the**
19 **aquaculture industry and advocates of the environment and animal**
20 **welfare, the department shall adopt rules to implement this section.**

21 **“SECTION 7. (1) The Aquatic Animals Fund is established in the**
22 **State Treasury, separate and distinct from the General Fund. All**
23 **moneys in the Aquatic Animals Fund are continuously appropriated**
24 **to the State Department of Agriculture for:**

25 **“(a) Carrying out the provisions of sections 1 to 8 of this 2023 Act;**

26 **“(b) Actions and activities benefiting aquatic animals, including**
27 **conducting education regarding the humane treatment of aquatic an-**
28 **imals; and**

29 **“(c) Making grants available to aquaculture facilities seeking to**
30 **transition to more humane methods of operation, or to aquaculture**

1 related to aquatic plants instead of aquatic animals.

2 “(2) The fund shall consist of any moneys:

3 “(a) Transferred to the fund by the Legislative Assembly or from
4 any other source; and

5 “(b) Received under ORS 616.997 (7).

6 “(3) Interest earnings on moneys in the fund shall be credited to the
7 fund.

8
9 **“ENFORCEMENT**

10
11 **“SECTION 8. (1) The Attorney General, a state agency, a county**
12 **attorney, a district attorney, a city attorney or a person residing or**
13 **doing business in the county where an aquaculture facility is located**
14 **may apply to the circuit court for the county in which the aquaculture**
15 **facility is located for a temporary or permanent injunction requiring**
16 **the aquaculture facility to:**

17 “(a) Refrain from any activity or inactivity constituting a violation
18 of sections 1 to 8 of this 2023 Act or another applicable law; and

19 “(b) Take any actions necessary to remedy the violation.

20 “(2) The circuit court may award reasonable attorney fees to a
21 plaintiff prevailing under this section.

22 **“SECTION 9.** ORS 616.992 is amended to read:

23 “616.992. The violation of any provisions of this chapter or of any rule
24 adopted under this chapter, **or of any provision of sections 1 to 8 of this**
25 **2023 Act,** is a Class B misdemeanor for a first offense, and a Class A
26 misdemeanor for a second or subsequent offense.

27 **“SECTION 10.** ORS 616.997 is amended to read:

28 “616.997. (1) In addition to any penalty available under ORS 561.190,
29 616.992 or 616.994, the State Department of Agriculture may impose a civil
30 penalty for a violation of this chapter, of rules, regulations or standards

1 adopted [*under this chapter*] **thereunder, of sections 1 to 8 of this 2023**
2 **Act or a rule adopted thereunder** or of an order issued under ORS 616.713.
3 For the purposes of this section, each day a violation continues after the
4 period of time established for compliance shall be considered a separate vi-
5 olation unless the department finds that a different period of time is more
6 appropriate to describe a specific violation event.

7 “(2) The department may adopt rules establishing a schedule of civil
8 penalties that may be imposed under this section. Civil penalties imposed
9 under this section, **other than civil penalties imposed for a violation of**
10 **sections 1 to 8 of this 2023 Act or rules adopted thereunder,** may not
11 exceed \$10,000 for each violation.

12 “(3) **Rules establishing a schedule of penalties for violation of**
13 **sections 1 to 8 of this 2023 Act or rules adopted thereunder must pri-**
14 **oritize the welfare of farmed aquatic animals, as defined in section 1**
15 **of this 2023 Act, and the water quality of waters of this state.**

16 “(4) **To establish liability of an aquaculture facility, as defined in**
17 **section 1 of this 2023 Act, for a violation of sections 1 to 8 of this 2023**
18 **Act or rules adopted thereunder, the department shall demonstrate**
19 **that the owner or operator of the aquaculture facility knew or should**
20 **have known of the violation.**

21 “[3] (5) When the department imposes a civil penalty under subsection
22 (1) of this section, the department shall impose the penalty in the manner
23 provided by ORS 183.745, except that the written application for a hearing
24 must be received by the department no later than 10 days after the date of
25 mailing or personal service of the notice of civil penalty.

26 “[4] (6) Moneys received by the department from civil penalties imposed
27 under this section shall be deposited in the General Fund to the credit of the
28 Department of Agriculture Account.

29 “(7) **Notwithstanding subsection (6) of this section, moneys received**
30 **by the department from civil penalties imposed under this section for**

1 **violation of sections 1 to 8 of this 2023 Act or rules adopted thereunder**
2 **shall be deposited in the Aquatic Animals Fund established by section**
3 **7 of this 2023 Act.**

4
5 **“RELATED AMENDMENTS**

6
7 **“SECTION 11.** ORS 497.252 is amended to read:

8 “497.252. (1) Except as provided in ORS 508.700 to 508.745 and 622.220,
9 [no] a person [shall] **may not** engage in the business of propagating game
10 fish or food fish for sale, **other than the business of operating an**
11 **aquaculture facility subject to the provisions of section 3 of this 2023**
12 **Act**, unless a fish propagation license is first obtained from the State De-
13 partment of Fish and Wildlife.

14 “(2) The [*State Fish and Wildlife Commission*] **department** may refuse to
15 issue a license to an applicant if the [*commission*] **department** finds that the
16 conduct of the fish propagation business would tend to be harmful to existing
17 game fish or food fish populations.

18 “(3) The [*commission*] **State Fish and Wildlife Commission**, by rule,
19 may prescribe requirements for the care, inspection, transportation and the
20 sale, taking or other disposition of the game fish or food fish, and for such
21 record keeping and reporting procedures as will insure that the propagation
22 activities are conducted in such manner as will not be harmful to existing
23 game fish or food fish populations.

24 “(4) Persons propagating the following food fish under the license pre-
25 scribed in subsection (1) of this section are exempt from the licensing pro-
26 visions of ORS 508.025 and 508.035:

27 “(a) Food fish raised entirely in, then harvested from facilities which are
28 enclosed or designed to prevent escape and from which the fish are not re-
29 leased for natural rearing.

30 “(b) Food fish harvested from the wild under licenses prescribed in ORS

1 508.025 and 508.035 and on which the appropriate fee has been paid at the
2 time holding or rearing commences in the licensed fish propagation facility.

3 “(5) As used in this section, food fish has the meaning [*as defined*] **given**
4 **that term** in ORS 506.011.

5

6 “SHELLFISH AQUACULTURE

7

8 “SECTION 12. Section 13 of this 2023 Act is added to and made a
9 part of ORS chapter 622.

10 “SECTION 13. (1) Before approving an application for shellfish cul-
11 tivation under this chapter, the State Department of Agriculture shall
12 evaluate the cumulative impact of all existing shellfish cultivation in
13 the vicinity of the proposed shellfish cultivation.

14 “(2) The department shall adopt rules to implement this chapter
15 that:

16 “(a) Prohibit the use of pesticides in shellfish cultivation.

17 “(b) Require shellfish cultivators to minimize the use of plastics in
18 shellfish cultivation, to the maximum extent feasible.

19 “(3) The provisions of subsection (1) of this section and rules
20 adopted under subsection (2) of this section do not apply to a business
21 entity that:

22 “(a) Is owned and operated independently from all other businesses;
23 and

24 “(b) Has annual gross revenues of less than \$500,000, as reported on
25 a tax return submitted to the federal government or the Department
26 of Revenue.

27

28 “CAPTIONS

29

30 “SECTION 14. The unit captions used in this 2023 Act are provided

1 **for the convenience of the reader and do not become part of the stat-**
2 **utory law of this state or express any legislative intent in the**
3 **enactment of this 2023 Act.”.**

4
