

# D R A F T

## SUMMARY

Establishes certain requirements concerning aquaculture.

Establishes Aquatic Animals Fund, separate and distinct from General Fund. Appropriates moneys in Aquatic Animals Fund to State Department of Agriculture for certain purposes related to aquaculture and aquatic animals.

Provides that violation of requirements may be subject to civil penalties. Punishes first violation by maximum of six months' imprisonment, \$2,500 fine, or both. Punishes second or subsequent violation by maximum of 364 days' imprisonment, \$6,500 fine, or both.

## A BILL FOR AN ACT

Relating to aquaculture; creating new provisions; and amending ORS 497.252, 616.992 and 616.997.

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

## DEFINITIONS

### **SECTION 1. As used in sections 1 to 8 of this 2023 Act:**

**(1) "Aquaculture" means the farming of aquatic animals or aquatic plants for the primary purpose of producing food for humans.**

**(2) "Aquaculture facility":**

**(a) Means a facility that engages in aquaculture by propagating, rearing, holding, harvesting, transporting, receiving the transport of or slaughtering aquatic animals, either on land or in a natural or artificial body of water.**

**(b) Does not include:**

1 (A) A business entity that:

2 (i) Is owned and operated independently from all other businesses;

3 and

4 (ii) Has annual gross revenues of less than \$500,000, as reported on  
5 a tax return submitted to the federal government or the Department  
6 of Revenue; or

7 (B) A fish hatchery, including a facility subject to the provisions  
8 of ORS 497.325, 506.213 or 508.700 to 508.745.

9 (3) “Aquatic animal” means:

10 (a) Finfish belonging to the classes Agnatha (jawless fishes),  
11 Chondrichthyes (cartilaginous fishes) and Osteichthyes (bony fishes);

12 (b) Mollusks belonging to the class Cephalopoda; and

13 (c) Any other game fish or food fish that is used as food for humans  
14 or for industrial purposes, if the State Fish and Wildlife Commission  
15 designates the game fish or food fish as an aquatic animal under this  
16 section.

17 (4) “Enclosure” means an area in which a group of farmed aquatic  
18 animals is held, including a tank, laboratory, pen, net, raceway,  
19 incubator or pond.

20 (5) “Environmental enrichment” means materials or other features  
21 that:

22 (a) Add complexity to the environment;

23 (b) Encourage the expression of natural behaviors such as hiding,  
24 foraging or exploring; and

25 (c) Decrease the expression of abnormal or deleterious behaviors  
26 such as nipping or cannibalism.

27 (6) “Farmed aquatic animal” means an aquatic animal propagated,  
28 reared, held, harvested or slaughtered at, or transported to or from,  
29 an aquaculture facility, including an aquatic animal bred in captivity  
30 or captured in the wild and intended for use in an aquaculture facility.

31 (7) “Food fish” has the meaning given that term in ORS 506.011.

1 (8) “Game fish” has the meaning given that term in ORS 496.009.

2 (9) “Genetically engineered or transgenic”:

3 (a) Means produced through the modification, cloning or manipu-  
4 lation of genes using biotechnology.

5 (b) Does not include simple selective breeding.

6 (10) “Slaughter process” means the period of time from the removal  
7 of a farmed aquatic animal from the habitat of the farmed aquatic  
8 animal through any sedation, stunning and transport and until  
9 slaughter.

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11 **FINDINGS ON AQUACULTURE**

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13 **SECTION 2. The Legislative Assembly finds that:**

14 (1) Aquaculture may be a growing industry.

15 (2) The state has a duty to protect the natural resources and  
16 ecosystems of this state, and a duty to ensure the humane treatment  
17 of animals raised for food.

18 (3) Aquaculture presents risks to the environment and animal wel-  
19 fare, among other risks, and the risks may be mitigated through ap-  
20 propriate regulation.

21 (4) Expert input is required in order to fully understand the risks  
22 associated with aquaculture and establish appropriate regulation.

23 (5) To adequately protect this state’s natural resources, aquaculture  
24 operations must adhere to certain minimum standards related to pre-  
25 venting pollution and protecting water quality.

26 (6) Fish are sentient beings capable of experiencing pain, stress and  
27 fear, but no state or federal law directly addresses the welfare of fish  
28 in aquaculture operations.

29 (7) To adequately ensure the humane treatment of animals used in  
30 aquaculture, aquaculture operations must adhere to certain minimum  
31 standards concerning enrichment, stocking density, transportation

1 and slaughter, among other standards.

2 (8) The humane treatment of animals used in aquaculture may  
3 benefit producers, workers and consumers.

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5 **FINFISH AND CEPHALOPOD AQUACULTURE**

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

10 (a) Preventing the spread of disease from the aquatic animals at the  
11 proposed aquaculture facility to wild species of game fish or food fish;

12 (b) Reducing the incidence of disease at the proposed aquaculture  
13 facility; and

14 (c) Remediating disease that occurs at the proposed aquaculture  
15 facility.

16 (2) Before issuing a license under this section, the department shall:

17 (a) Conduct an environmental review of the proposed aquaculture  
18 facility that includes assessment of:

19 (A) The effects of the proposed aquaculture facility on the public  
20 interest;

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

24 (i) The impacts of fish waste and fish feed introduced into the  
25 aquatic habitat;

26 (ii) Any proposed use of animal drugs, pesticides or other chemi-  
27 cals; and

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

31 (C) The cumulative effects of the proposed aquaculture facility and

1 any other aquaculture facilities, and businesses subject to the licens-  
2 ing requirements of ORS 497.252, in the vicinity of the proposed  
3 aquaculture facility; and

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

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

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

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

13 (4) An aquaculture facility licensed under this section:

14 (a) May not release an aquatic animal from the aquaculture facility  
15 into the waters of this state.

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

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

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

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

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

26 (6) The department may adopt rules to implement this section, in-  
27 cluding rules establishing license application procedures, fees and li-  
28 cense renewal requirements.

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

31 (a) Must address water quality at the aquaculture facility, including

1 by:

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

3 (B) Removing or filtering water so water parameters remain within  
4 tolerable limits for specific species of aquatic animals and the char-  
5 acteristics 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 optimal  
9 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 encourage  
14 use of the environmental enrichment.

15 (d) Must provide the aquatic animals with an appropriate environ-  
16 ment that includes a total swimmable volume of water acceptable for  
17 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  
31 animals, such as fishing nets or holding containers, only if the equip-

1 **ment is designed to minimize the risk of injury to the aquatic animals.**

2 **(i) Must tailor feed to:**

3 **(A) The stages of development of specific species of aquatic animals;**  
4 **and**

5 **(B) The nutrient requirements of specific species of aquatic animals**  
6 **to promote growth, the development of a good immune system and**  
7 **stable health.**

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

10 **(k) May breed aquatic animals only through appropriate breeding**  
11 **practices.**

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

14 **(m) May only transport live aquatic animals:**

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

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

20 **(i) For durations as short as possible; and**

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

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

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

29 **(A) Establish a quality assurance system to improve the transport;**

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

31 **(C) Regularly evaluate the quality of the transport.**

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

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

8 SECTION 5. (1) To ensure that the slaughter, and any handling re-  
9 lated to the slaughter, of farmed aquatic animals is humane, an  
10 aquaculture facility that slaughters aquatic animals:

11 (a) Must stun the aquatic animals fully and irreversibly before or  
12 during slaughter.

13 (b) May stun and slaughter aquatic animals simultaneously only if  
14 the stunning occurs instantly, so the aquatic animals do not experi-  
15 ence pain, fear or sensation.

16 (c) Must sedate or immobilize aquatic animals in a humane manner  
17 before stunning, if necessary to maximize the welfare of the aquatic  
18 animals.

19 (d) Must slaughter aquatic animals promptly after stunning and  
20 before the aquatic animals regain consciousness.

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

25 (f) Must provide water quality in the slaughter environment, during  
26 the slaughter process, that is similar to that of the environment in  
27 which the aquatic animals have been living, or that is optimized for  
28 the specific species of aquatic animals.

29 (g) May only use methods, devices and equipment for stunning and  
30 slaughter that:

31 (A) Are humane;

1 (B) Are specific to the species and life stages of the aquatic animals;

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

3 (D) Are properly calibrated for the species and size of the aquatic  
4 animals;

5 (E) Are checked regularly; and

6 (F) Are safe, effective and properly maintained to ensure each ani-  
7 mal is receiving an effective stun.

8 (h) May not:

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

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

13 (C) Thermically shock, by boiling or rapid chilling, a conscious  
14 aquatic animal;

15 (D) Slaughter more aquatic animals per unit of time than is justi-  
16 fiable with regard to the welfare of the aquatic animals and worker  
17 health and safety; or

18 (E) Engage in any practice prohibited by rule by the State Depart-  
19 ment of Agriculture.

20 (i) Must stun and slaughter an aquatic animal that is transported  
21 to the aquaculture facility for the purpose of slaughter as soon as  
22 possible after the aquatic animal arrives at the aquaculture facility.

23 (j) Must require that agents of the aquaculture facility that  
24 slaughter aquatic animals or operate slaughter equipment:

25 (A) Have species-specific knowledge of aquatic animals at the  
26 aquaculture facility;

27 (B) Are trained to use the equipment;

28 (C) Are present during the slaughter process in numbers sufficient  
29 to protect the welfare of the aquatic animals; and

30 (D) Undertake a documented training program provided by the  
31 aquaculture facility.

1       **(2) In consultation with scientific experts, representatives of the**  
2 **aquaculture industry and advocates of the environment and animal**  
3 **welfare, the department:**

4       **(a) Shall adopt rules to implement this section that ensure the hu-**  
5 **mane treatment of farmed aquatic animals during the slaughter pro-**  
6 **cess.**

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

9       **SECTION 6.** **(1) An aquaculture facility shall keep detailed records**  
10 **of:**

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

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

13       **(c) Any outbreaks of infectious disease.**

14       **(d) Water quality tests.**

15       **(e) Equipment checks.**

16       **(f) Equipment servicing and maintenance.**

17       **(g) Staff trainings related to aquatic animals and worker health and**  
18 **safety, including information on which staff members are competent**  
19 **to perform a vaccination, sedation, stunning or slaughter.**

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

21       **(i) Any slaughter performed at the aquaculture facility, including**  
22 **records of:**

23       **(A) The numbers of aquatic animals slaughtered per day, week,**  
24 **month and year;**

25       **(B) Slaughter broken down by species;**

26       **(C) Methods of slaughter;**

27       **(D) The effectiveness of stunning methods; and**

28       **(E) Any problems with stunning methods and any efforts to reme-**  
29 **diate the problems.**

30       **(2) The aquaculture facility shall:**

31       **(a) Immediately report any outbreak of infectious disease to the**

1 Department of Environmental Quality, the State Department of Agri-  
2 culture and the State Department of Fish and Wildlife, as well as any  
3 other relevant health and safety entities;

4 (b) Immediately report to the State Department of Agriculture any  
5 technical failure or other condition at the aquaculture facility that has  
6 the potential to cause significant negative effects on the welfare of  
7 aquatic animals;

8 (c) Annually submit the records required under subsection (1) of  
9 this section to the department; and

10 (d) Make the records publicly available.

11 (3) The department shall post the records on a department website.

12 (4) In consultation with scientific experts, representatives of the  
13 aquaculture industry and advocates of the environment and animal  
14 welfare, the department shall adopt rules to implement this section.

15 SECTION 7. (1) The Aquatic Animals Fund is established in the  
16 State Treasury, separate and distinct from the General Fund. All  
17 moneys in the Aquatic Animals Fund are continuously appropriated  
18 to the State Department of Agriculture for:

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

20 (b) Actions and activities benefiting aquatic animals, including  
21 conducting education regarding the humane treatment of aquatic an-  
22 imals; and

23 (c) Making grants available to aquaculture facilities seeking to  
24 transition to more humane methods of operation, or to aquaculture  
25 related to aquatic plants instead of aquatic animals.

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

27 (a) Transferred to the fund by the Legislative Assembly or from any  
28 other source; and

29 (b) Received under ORS 616.997 (7).

30 (3) Interest earnings on moneys in the fund shall be credited to the  
31 fund.

**ENFORCEMENT**

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

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

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

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

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

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

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

616.997. (1) In addition to any penalty available under ORS 561.190, 616.992 or 616.994, the State Department of Agriculture may impose a civil penalty for a violation of this chapter, of rules, regulations or standards adopted [*under this chapter*] **thereunder, of sections 1 to 8 of this 2023 Act or a rule adopted thereunder** or of an order issued under ORS 616.713. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section, **other than civil penalties imposed for a violation of**

1 **sections 1 to 8 of this 2023 Act or rules adopted thereunder**, may not  
2 exceed \$10,000 for each violation.

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

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

12 [(3)] **(5)** When the department imposes a civil penalty under subsection (1)  
13 of this section, the department shall impose the penalty in the manner pro-  
14 vided by ORS 183.745, except that the written application for a hearing must  
15 be received by the department no later than 10 days after the date of mailing  
16 or personal service of the notice of civil penalty.

17 [(4)] **(6)** Moneys received by the department from civil penalties imposed  
18 under this section shall be deposited in the General Fund to the credit of the  
19 Department of Agriculture Account.

20 **(7) Notwithstanding subsection (6) of this section, moneys received**  
21 **by the department from civil penalties imposed under this section for**  
22 **violation of sections 1 to 8 of this 2023 Act or rules adopted thereunder**  
23 **shall be deposited in the Aquatic Animals Fund established by section**  
24 **7 of this 2023 Act.**

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## RELATED AMENDMENTS

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28 **SECTION 11.** ORS 497.252 is amended to read:

29 497.252. (1) Except as provided in ORS 508.700 to 508.745 and 622.220,  
30 [no] a person [shall] **may not** engage in the business of propagating game  
31 fish or food fish for sale, **other than the business of operating an**

1 **aquaculture facility subject to the provisions of section 3 of this 2023**  
2 **Act**, unless a fish propagation license is first obtained from the State De-  
3 partment of Fish and Wildlife.

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

8 (3) The [*commission*] **State Fish and Wildlife Commission**, by rule, may  
9 prescribe requirements for the care, inspection, transportation and the sale,  
10 taking or other disposition of the game fish or food fish, and for such record  
11 keeping and reporting procedures as will insure that the propagation activ-  
12 ities are conducted in such manner as will not be harmful to existing game  
13 fish or food fish populations.

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

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

20 (b) Food fish harvested from the wild under licenses prescribed in ORS  
21 508.025 and 508.035 and on which the appropriate fee has been paid at the  
22 time holding or rearing commences in the licensed fish propagation facility.

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

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## SHELLFISH AQUACULTURE

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28 **SECTION 12. Section 13 of this 2023 Act is added to and made a part**  
29 **of ORS chapter 622.**

30 **SECTION 13. (1) Before approving an application for shellfish cul-**  
31 **tivation under this chapter, the State Department of Agriculture shall**

1 evaluate the cumulative impact of all existing shellfish cultivation in  
2 the vicinity of the proposed shellfish cultivation.

3 (2) The department shall adopt rules to implement this chapter  
4 that:

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

6 (b) Require shellfish cultivators to minimize the use of plastics in  
7 shellfish cultivation, to the maximum extent feasible.

8 (3) The provisions of subsection (1) of this section and rules adopted  
9 under subsection (2) of this section do not apply to a business entity  
10 that:

11 (a) Is owned and operated independently from all other businesses;  
12 and

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

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#### CAPTIONS

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19 SECTION 14. The unit captions used in this 2023 Act are provided  
20 for the convenience of the reader and do not become part of the stat-  
21 utory law of this state or express any legislative intent in the  
22 enactment of this 2023 Act.

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#### OPERATIVE DATE

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26 SECTION 15. (1) Sections 1 to 8 and 13 of this 2023 Act and the  
27 amendments to ORS 497.252, 616.992 and 616.997 by sections 9 to 11 of  
28 this 2023 Act become operative on January 1, 2024.

29 (2) Notwithstanding subsection (1) of this section, the Department  
30 of Environmental Quality, the State Department of Agriculture and  
31 the State Department of Fish and Wildlife may take any actions, on

1 **or after the effective date of this 2023 Act, that are necessary to pre-**  
2 **pare for implementation of sections 1 to 8 and 13 of this 2023 Act and**  
3 **the amendments to ORS 497.252, 616.992 and 616.997 by sections 9 to 11**  
4 **of this 2023 Act.**

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