

**Enrolled**  
**House Bill 3283**

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER .....

AN ACT

Relating to animals; creating new provisions; amending ORS 167.305, 167.310, 167.332, 167.350 and 731.102; and declaring an emergency.

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

**SECTION 1.** ORS 167.305 is amended to read:

167.305. The Legislative Assembly finds and declares that:

- (1) Animals are sentient beings capable of experiencing pain, stress and fear;
- (2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;
- (3) The suffering of animals can be mitigated by expediting the disposition of abused animals that would otherwise languish in cages while their defendant owners await trial;
- (4) The suffering of animals at the hands of unlicensed animal rescue organizations that are unable to provide sufficient food and care for the animals can be reduced by requiring such organizations to comply with regulations;

(5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred by *[persons and government agencies that provide]* **a government agency, a humane investigation agency or its agent or a person that provides** treatment for impounded animals;

**(6) A government agency, a humane investigation agency or its agent or a person that provides care and treatment for impounded or seized animals:**

**(a) Has an interest in mitigating the costs of the care and treatment in order to ensure the swift and thorough rehabilitation of the animals; and**

**(b) May mitigate the costs of the care and treatment through funding that is separate from, and in addition to, any recovery of reasonable costs that a court orders a defendant to pay while a forfeiture proceeding is pending or subsequent to a conviction;**

~~[(6)]~~ (7) Use of preconviction civil remedies is not an affront to the presumption of innocence; and

~~[(7)]~~ (8) Amendments to current law are needed to ensure that interested parties are afforded adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien foreclosure and preconviction forfeiture processes through unfounded due process claims.

**SECTION 2.** ORS 167.310 is amended to read:

167.310. As used in ORS 167.310 to 167.351:

(1) "Adequate bedding" means bedding of sufficient quantity and quality to permit a domestic animal to remain dry and reasonably clean and maintain a normal body temperature.

(2)(a) "Adequate shelter" includes a barn, doghouse or other enclosed structure sufficient to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect

against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury.

(b) "Adequate shelter" does not include:

- (A) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;
- (B) The space under a vehicle;
- (C) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the domestic animal's health or safety;
- (D) Shelters made from cardboard or other materials that are easily degraded by the elements;
- (E) Animal carriers or crates that are designed to provide temporary housing;
- (F) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or
- (G) Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.

(3) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.

(4) "Domestic animal" means an animal, other than livestock or equines, that is owned or possessed by a person.

(5) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.

(6) "Good animal husbandry" includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

(7) "Law enforcement animal" means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181A.355, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.

(8)(a) "Livestock," **except as provided in paragraph (b) of this subsection**, has the meaning provided in ORS 609.125.

**(b) "Livestock" does not include psittacines.**

(9) "Minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Access to snow or ice is not adequate access to potable water.

(c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to adequate shelter.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

(e) For a domestic animal, continuous access to an area:

(A) With adequate space for exercise necessary for the health of the animal;

(B) With air temperature suitable for the animal; and

(C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.

(f) For a livestock animal that cannot walk or stand without assistance:

(A) Humane euthanasia; or

(B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

(10) "Physical injury" means physical trauma, impairment of physical condition or substantial pain.

(11) "Physical trauma" means fractures, cuts, punctures, bruises, burns or other wounds.

(12) "Possess" has the meaning provided in ORS 161.015.

(13) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

(14)(a) "Tethering" means to restrain a domestic animal by tying the domestic animal to any object or structure by any means.

(b) "Tethering" does not include using a handheld leash for the purpose of walking a domestic animal.

**SECTION 3.** ORS 167.332 is amended to read:

167.332. (1) Except as provided in subsections (3) and (4) of this section:

(a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, [167.325, 167.330,] 167.340 or 167.355 or of a misdemeanor under ORS 167.320, **167.325 or 167.330** may not possess [*a domestic animal or*] any animal of the same genus against which the crime was committed **or any domestic animal** for a period of five years following entry of the conviction.

(b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, **167.325 or 167.330** may not possess [*a domestic animal or*] any animal of the same genus against which the crime was committed **or any domestic animal** for a period of 15 years following entry of the conviction. **However, the sentencing court may reduce the prohibition period if the person successfully completes mental health treatment approved by the court.**

(2) A person who possesses an animal in violation of this section commits a Class C misdemeanor. When a person is convicted of possessing an animal in violation of this section, as part of the sentence the court may order the removal of that animal from the person's residence and **as a condition of the person's probation** may prohibit the person from possessing any animal of the same genus that the person unlawfully possessed under this section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed.

(3) The animal possession prohibition described in subsection (1) of this section does not apply to a person's first conviction if the person is the owner of a commercial livestock operation and the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed against livestock.

(4)(a) A person subject to an animal possession prohibition described in subsection (1) of this section may file a motion with the sentencing court requesting a waiver of the prohibition. The person must file a sworn affidavit in support of the motion stating that:

(A) The person's conviction leading to the possession prohibition involved only livestock;

(B) During the two years before the conviction triggering the prohibition, the person was the owner of a commercial livestock operation;

(C) The person has not been convicted, in the previous five years, of a crime involving animals or domestic violence or a crime where the victim was under 18 years of age; and

(D) The person's conviction was the result of:

(i) Criminal liability for the conduct of another person under ORS 161.155 (2)(c);

(ii) Criminal liability of a corporation as described in ORS 161.170, and the person is a corporation; or

(iii) Animal neglect as described in ORS 167.325 or 167.330 and the person's criminal conduct was not knowing or intentional.

(b) When a person files a motion and affidavit described in paragraph (a) of this subsection, the sentencing court shall hold a hearing. At the hearing, the sentencing court shall grant the motion if the person proves by clear and convincing evidence that:

(A) Continued enforcement of the prohibition against possessing livestock would result in substantial economic hardship that cannot otherwise be mitigated;

(B) The person no longer poses any risk to animals; and

(C) The person is capable of providing and willing to provide necessary, adequate and appropriate levels of care for all livestock that would come within the person's custody or control if the petition is granted.

(c) When deciding a motion filed under this subsection, the sentencing court may consider the person's financial circumstances and mental health in determining whether the person is capable of adequately caring for livestock.

(d) If the sentencing court grants the motion described in this subsection, the waiver of the prohibition against possessing animals shall apply only to livestock. The sentencing court shall further order that for five years the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of the livestock under the person's custody or control. A refusal to consent to a reasonable inspection described in this paragraph is contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the waiver of the possession prohibition.

(e) As used in this subsection, "commercial livestock operation" means a business engaged in the raising, breeding or selling of livestock for profit.

**SECTION 4.** ORS 167.350 is amended to read:

167.350. (1)(a) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by *[any]* **a government agency, a humane investigation agency or its agent or a person** *[or agency]* prior to judgment in caring for each animal *[subjected to the violation]* **associated with the criminal proceeding.**

**(b) If a government agency or a humane investigation agency or its agent provides care and treatment for impounded or seized animals, a court that orders a defendant to repay reasonable costs of care under paragraph (a) of this subsection may not reduce the incurred cost amount based on the agency having received donations or other funding for the care.**

(2)(a) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay *[the]* **any** reasonable costs incurred by *[any]* **a government agency, a humane investigation agency or its agent or a person** *[or agency]* in providing minimum care to the animal **that are not included in a repayment order under subsection (1) of this section.**

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

**SECTION 5.** ORS 731.102 is amended to read:

731.102. (1) "Insurance" means a contract whereby one undertakes to indemnify another or pay or allow a specified or ascertainable amount or benefit upon determinable risk contingencies.

(2) "Insurance" so defined includes annuities.

(3) "Insurance" so defined includes a contract under which one other than a manufacturer, builder, seller or lessor of the subject property undertakes to perform or provide, for a fixed term and consideration, repair or replacement service or indemnification therefor for the operational or structural failure of specified real or personal property or property components. Insurance does not include contracts with a telecommunications utility as defined in ORS 759.005, for repair, replacement or maintenance of customer-owned inside wiring.

(4) "Insurance" so defined does not include a contract under which an owner rents or leases an animal to a person or to a public body, as defined in ORS 174.109, if the owner retains an obligation to provide for veterinary care or other needs of the animal.

**SECTION 6.** The amendments to ORS 167.332 by section 3 of this 2017 Act apply to crimes committed on or after the effective date of this 2017 Act.

**SECTION 7.** The amendments to ORS 167.350 by section 4 of this 2017 Act apply to repayment orders issued by a court on or after the effective date of this 2017 Act.

**SECTION 8.** The amendments to ORS 731.102 by section 5 of this 2017 Act apply to contracts entered into before, on or after the effective date of this 2017 Act.

**SECTION 9.** This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by House May 4, 2017

Received by Governor:

Repassed by House June 29, 2017

.....M.,....., 2017

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2017

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate May 30, 2017

Filed in Office of Secretary of State:

Repassed by Senate June 30, 2017

.....M.,....., 2017

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Peter Courtney, President of Senate

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Dennis Richardson, Secretary of State