

Oregon Humane Society

Oregon Animal Cruelty Laws Handbook



**A Legal Reference to
Oregon Revised Statutes**



**OREGON
HUMANE
SOCIETY**

2011 Edition

Welcome to the 2011 edition of the Oregon Humane Society's Animal Cruelty Laws Handbook.

Welcome to the 2011 edition of the Oregon Humane Society's Animal Cruelty Laws Handbook. This handbook is intended to be a quick reference tool for Oregon Law Enforcement and Animal Control Officers and all significant animal welfare and related statutes are included here. For a complete listing of all Oregon laws, refer to the Oregon revised statutes text. When referring to this handbook, keep in mind that state administrative rules as well as county or city ordinances may also apply. Your District Attorney's office is the best resource for advice on prosecuting animal welfare crimes.

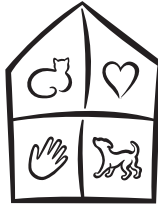
Now OHS has expanded forensics and veterinary reporting services in an effort to assist other agencies in investigating animal crimes. For more information or other possible resources, please contact the Oregon Humane Society's Investigations Department at (503) 285-7722 ext. 214.

Recognizing the link between animal cruelty and human violence, certain animal abuse violations are considered felonies if committed in the presence of minor children. Report the presence or involvement of children in any animal abuse case to the Oregon Services to Children and Families Division of the Oregon Department of Human Services.

The Oregon Humane Society is proud to publish and provide this animal cruelty laws handbook, and hopes that you will find it to be a valuable tool in the course of your daily work.



Sharon Harmon
Executive Director



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503-285-7722

www.oregonhumane.org

Oregon Humane Society.....	503-285-7722
Humane Investigations.....	503-285-7722 x214
Education Department.....	503-416-2986
PR / Marketing.....	503-416-2981
Animal Receiving	503-285-7722 x211

**Copies of this book may be purchased for \$5.00 each
(volume discounts available through the Oregon Humane Society):**

**Oregon Humane Society
PO Box 11364
Portland, OR 97211
ATTN: Investigations Department**

Quick Reference

Duties of Police, Fines, Punishment.....	5
Public Safety Standards and Training.....	10
Theft and Related Offences.....	12
Offences Against Animals.....	16
Offenses Involving Fighting Birds.....	28
Exotic Animals.....	44
Destruction Of Animals.....	46
Animal Dealers.....	47
Penalties.....	50
Miscellaneous Provisions.....	53
Reporting Animal Abuse.....	55
Index.....	58

DUTIES OF POLICE, FINES, PUNISHMENT

40.252 Rule 504-5. Communications revealing intent to commit certain crimes.

(1) In addition to any other limitations on privilege that may be imposed by law, there is no privilege under ORS 40.225, 40.230 or 40.250 for communications if:

(a) In the professional judgment of the person receiving the communications, the communications reveal that the declarant has a clear and serious intent at the time the communications are made to subsequently commit a crime involving physical injury, a threat to the physical safety of any person, sexual abuse or death or involving an act described in ORS 167.322;

(b) In the professional judgment of the person receiving the communications, the declarant poses a danger of committing the crime; and (c) The person receiving the communications makes a report to another person based on the communications.

(2) The provisions of this section do not create a duty to report any communication to any person.

(3) A person who discloses a communication described in subsection (1) of this section, or fails to disclose a communication described in subsection (1) of this section, is not liable to any other person in a civil action for any damage or injury arising out of the disclosure or failure to disclose. [2001 c.640 §2; 2007 c.731 §4]

40.275 Rule 510. Identity of informer.

(1) As used in this section, “unit of government” means the federal government or any state or political subdivision thereof.

(2) A unit of government has a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation of a possible violation of law to a law enforcement officer or member of a legislative committee or its staff conducting an investigation.

(3) The privilege created by this section may be claimed by an appropriate representative of the unit of government if the information was furnished to an officer thereof.

(4) No privilege exists under this section:

(a) If the identity of the informer or the informer’s interest in the subject matter of the communication has been disclosed to those who would have cause to resent the communication by a holder of the privilege or by the informer’s own action, or if the informer appears as a witness for the unit of government.

(b) If it appears from the evidence in the case or from other showing by a party that an informer may be able to give testimony necessary to a fair determination of the issue of guilt or innocence in a criminal case or of a material issue on the merits in a civil case to which the unit of government is a party, and the unit of government invokes the privilege, and the judge gives the unit of government an opportunity to show in camera facts relevant to determining whether the informer can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the judge may direct that testimony be taken if the judge finds that the matter cannot be resolved satisfactorily upon affidavit. If the judge finds that there is a reasonable probability that the informer can give the testimony, and the unit of government elects not to disclose identity of the informer, the judge on motion of the defendant in a criminal case shall dismiss the charges to which the testimony would relate, and the judge may do so on the judge’s own motion. In civil cases, the judge may make any order that justice requires. Evidence submitted to the judge shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without consent of the unit of government. All counsel and parties shall be permitted to be

present at every stage of proceedings under this paragraph except a showing in camera, at which no counsel or party shall be permitted to be present.

(c) If information from an informer is relied upon to establish the legality of the means by which evidence was obtained and the judge is not satisfied that the information was received from an informer reasonably believed to be reliable or credible. The judge may require the identity of the informer to be disclosed. The judge shall, on request of the unit of government, direct that the disclosure be made in camera. All counsel and parties concerned with the issue of legality shall be permitted to be present at every stage of proceedings under this paragraph except a disclosure in camera, at which no counsel or party shall be permitted to be present. If disclosure of the identity of the informer is made in camera, the record thereof shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without consent of the unit of government.

131.805 Authority to employ special agents.

The Governor may employ, at such salaries as the Governor deems reasonable for the services rendered, special agents to effect the apprehension and conviction of criminals, the return of fugitives from justice, the investigation of cases in which the Governor believes the laws of the state are being violated, the supervision of persons paroled or conditionally pardoned from the Department of Corrections or the collection of evidence in any case, civil or criminal, in which the state is interested whenever in the judgment of the Governor it is necessary from the conditions existing in any case, whenever the Governor is convinced that criminals are likely to escape punishment and justice cannot be done by the regularly constituted authorities of any county of the state or of the state or whenever any emergency has arisen which in the judgment of the Governor would justify the Governor so doing.

133.375 Definitions for ORS 133.375 to 133.381.

As used in ORS 133.375 to 133.381 and 156.705:

- (1) "Animal" has the meaning provided in ORS 167.310.
- (2) "Owner" or "person" includes corporations as well as individuals.

133.377 Arrest of persons for cruelty to animals; immunity of peace officer providing care for animal.

(1) Any person violating ORS 167.315 to 167.333 or 167.340 may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

133.379 Duty of peace officer to arrest and prosecute violators of cruelty to animals laws; disposition of fines.

(1) It shall be the duty of any peace officer to arrest and prosecute any violator of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 for any violation which comes to the knowledge or notice of the officer.

(2) All fines and forfeitures collected for violations of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, except for forfeitures of the animal as provided under ORS 167.350 or 167.435, shall be paid into the county treasury of the county in which it is collected, and placed to the credit of the county school fund.

133.545 Issuance and execution of search warrant.

(1) A search warrant may be issued only by a judge. A search warrant issued by a judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. Except as otherwise provided in subsection (2) of this section, a search warrant issued by a judge of a circuit court may be executed only within the judicial district in which the court is located. A search warrant issued by a justice of the peace may be executed only within the county in which the justice court is located. A search warrant issued by a municipal judge authorized to exercise the powers and perform the duties of a justice of the peace may be executed only in the municipality in which the court is located.

(2) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution of a search warrant outside the judicial district in which the court is located, if the judge finds from the application that one or more of the objects of the search relate to an offense committed or triable within the judicial district in which the court is located. If the warrant authorizes the installation or tracking of a mobile tracking device, the officer may track the device in any county to which it is transported.

(3) Application for a search warrant may be made only by a district attorney, a police officer or a special agent employed under ORS 131.805.

(4) The application shall consist of a proposed warrant in conformance with ORS 133.565, and shall be supported by one or more affidavits particularly setting forth the facts and circumstances tending to show that the objects of the search are in the places, or in the possession of the individuals, to be searched. If an affidavit is based in whole or in part on hearsay, the affiant shall set forth facts bearing on any unnamed informant's reliability and shall disclose, as far as possible, the means by which the information was obtained.

(5) Instead of the written affidavit described in subsection (4) of this section, the judge may take an oral statement under oath. The oral statement shall be recorded and transcribed. The transcribed statement is an affidavit for the purposes of this section. In such cases, the recording of the sworn oral statement and the transcribed statement shall be certified by the judge receiving it and shall be retained as a part of the record of proceedings for the issuance of the warrant.

(6)(a) In addition to the procedure set out in subsection (5) of this section, the proposed warrant and the affidavit may be sent to the court by facsimile transmission or any similar electronic transmission that delivers a complete printable image of the signed affidavit and proposed warrant. The affidavit may have a notarized acknowledgment, or the affiant may swear to the affidavit by telephone. A judge administering an oath telephonically under this subsection must execute a declaration that recites the manner and time of the oath's administration. The declaration must be filed with the return.

(b) When a court issues a warrant upon an application made under paragraph (a) of this subsection:

(A) The court may transmit the signed warrant to the person making application

under subsection (3) of this section by means of facsimile transmission or similar electronic transmission, as described in paragraph (a) of this subsection. The court shall file the original signed warrant and a printed image of the application with the return.

(B) The person making application shall deliver the original signed affidavit to the court with the return. If the affiant swore to the affidavit by telephone, the affiant must so note next to the affiant's signature on the affidavit.

133.555 Hearing.

(1) Before acting on the application, the judge may examine on oath the affiants, and the applicant and any witnesses the applicant may produce, and may call such witnesses as the judge considers necessary to a decision. The judge shall make and keep a record of any testimony taken before the judge. The record shall be admissible as evidence on any motion to suppress.

(2) If the judge finds that the application meets the requirements of ORS 133.545 and that, on the basis of the record made before the judge, there is probable cause to believe that the search will discover things specified in the application and subject to seizure under ORS 133.535, the judge shall issue a search warrant based on the finding of the judge and in accordance with the requirements of ORS 133.545 to 133.615. If the judge does not so find, the judge shall deny the application.

(3) The judge may orally authorize a police officer, a district attorney or a special agent employed under ORS 131.805 to sign the judge's name on a duplicate original warrant. A duplicate original warrant shall be a search warrant for the purposes of ORS 133.535 to 133.615, and it shall be returned to the judge as provided in ORS 133.615. In such cases a judge shall enter on the face of the original warrant the exact time of the issuance of the warrant and shall sign and file the original warrant in the manner provided by law.

(4) Until the warrant is executed, the proceedings upon application for a search warrant shall be conducted with secrecy appropriate to the circumstances.

161.015 General definitions. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Dangerous weapon" means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) "Peace officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office and such other persons as may be designated by law.

(5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

(7) "Physical injury" means impairment of physical condition or substantial pain.

(8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or

protracted loss or impairment of the function of any bodily organ.

(9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.

(10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

161.605 Maximum prison terms for felonies.

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) For a Class C felony, 5 years.
- (4) For an unclassified felony as provided in the statute defining the crime.

161.615 Prison terms for misdemeanors.

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor, 1 year.
- (2) For a Class B misdemeanor, 6 months.
- (3) For a Class C misdemeanor, 30 days.
- (4) For an unclassified misdemeanor, as provided in the statute defining the crime.

161.625 Fines for felonies.

(1) A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) \$500,000 for murder or aggravated murder.
- (b) \$375,000 for a Class A felony.
- (c) \$250,000 for a Class B felony.
- (d) \$125,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation.

161.635 Fines for misdemeanors.

(1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) \$6,250 for a Class A misdemeanor.
- (b) \$2,500 for a Class B misdemeanor.
- (c) \$1,250 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) If a person has gained money or property through the commission of a misdemeanor, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense.

In that event, ORS 161.625 (4) and (5) apply.

(4) This section does not apply to corporations.

PUBLIC SAFETY STANDARDS AND TRAINING

181.610 Definitions for ORS 181.610 to 181.712. In ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given the term in ORS 107.705.

(2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) "Commissioned" means an authorization granting the power to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member of a law enforcement unit who is employed full-time thereby and is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and

Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(12)(a) "Law enforcement unit" means a police force or organization of the state, a city, port, school district, mass transit district, county, county service district authorized to

provide law enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission or common carrier railroad whose primary duty, as prescribed by law, ordinance or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) "Law enforcement unit" also means:

(A) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area whose employees are commissioned by a county sheriff;

(B) A district attorney's office; and

(C) A private, nonprofit animal care agency that has maintained an animal welfare investigation department for at least five years and has had officers commissioned as special agents by the Governor.

(13) "Parole and probation officer" means:

(a) Any officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

(14) "Police officer" means an officer, member or employee of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security or is an investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(15) "Public or private safety agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

(16) "Public safety personnel" and "public safety officer" include corrections officers,

youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators and fire service professionals.

(17) "Reserve officer" means an officer or member of a law enforcement unit:

(a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police;

(b) Who is armed with a firearm; and

(c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(18) "Telecommunicator" means any person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.

(19) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

87.159 Lien for care of animal.

A person who, or governmental agency that, transports, pastures, feeds, cares for or provides treatment to an animal that has been impounded under ORS 167.345 has a lien on the animal in the possession of the person or governmental agency for the reasonable charges for transportation, pasturage, feed, care or treatment provided by the person or governmental agency, and the person or governmental agency may retain possession of the animal until those charges are paid.

THEFT AND RELATED OFFENSES

164.015 "Theft" described.

A person commits theft when, with intent to deprive another of property or to appropriate property to the person or to a third person, the person:

(1) Takes, appropriates, obtains or withholds such property from an owner thereof;

(2) Commits theft of property lost, mislaid or delivered by mistake as provided in ORS 164.065;

(3) Commits theft by extortion as provided in ORS 164.075;

(4) Commits theft by deception as provided in ORS 164.085; or

(5) Commits theft by receiving as provided in ORS 164.095.

164.025 Consolidation of theft offenses; pleading and proof.

(1) Except for the crime of theft by extortion, conduct denominated theft under ORS 164.015 constitutes a single offense.

(2) If it is an element of the crime charged that property was taken by extortion, an accusation of theft must so specify. In all other cases an accusation of theft is sufficient if it alleges that the defendant committed theft of property of the nature or value required for the commission of the crime charged without designating the particular way or manner in which the theft was committed.

(3) Proof that the defendant engaged in conduct constituting theft as defined in ORS 164.015 is sufficient to support any indictment, information or complaint for theft other than

one charging theft by extortion. An accusation of theft by extortion must be supported by proof establishing theft by extortion.

164.035 Defenses to theft.

(1) In a prosecution for theft it is a defense that the defendant acted under an honest claim of right, in that:

(a) The defendant was unaware that the property was that of another; or

(b) The defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did.

(2) In a prosecution for theft by extortion committed by instilling in the victim a fear that the victim or another person would be charged with a crime, it is a defense that the defendant reasonably believed the threatened charge to be true and that the sole purpose of the defendant was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of the threatened charge.

(3) In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

(4) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as husband and wife and were living in separate abodes at the time of the alleged theft.

164.043 Theft in the third degree.

(1) A person commits the crime of theft in the third degree if:

(a) By means other than extortion, the person commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or an aggregate transaction is less than \$100.

(2) Theft in the third degree is a Class C misdemeanor.

164.045 Theft in the second degree.

(1) A person commits the crime of theft in the second degree if:

(a) By means other than extortion, the person commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or aggregate transaction is \$100 or more and less than \$1,000.

(2) Theft in the second degree is a Class A misdemeanor

164.055 Theft in the first degree.

(1) A person commits the crime of theft in the first degree if, by means other than extortion, the person commits theft as defined in ORS 164.015 and:

(a) The total value of the property in a single or aggregate transaction is \$1,000 or more;

(b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected by the riot, fire, explosion, catastrophe or other emergency;

(c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property;

(d) The subject of the theft is a firearm or explosive;

(e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or

(f) The subject of the theft is a precursor substance.

(2) As used in this section:

(a) "Companion animal" means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.

(b) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.110

(1), black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(c) "Firearm" has the meaning given that term in ORS 166.210.

(d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule, ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

(e) "Precursor substance" has the meaning given that term in ORS 475.940.

(3) Theft in the first degree is a Class C felony

164.057 Aggravated theft in the first degree.

(1) A person commits the crime of aggravated theft in the first degree, if:

(a) The person violates ORS 164.055 with respect to property, other than a motor vehicle used primarily for personal rather than commercial transportation; and

(b) The value of the property in a single or aggregate transaction is \$10,000 or more.

(2) Aggravated theft in the first degree is a Class B felony.

164.065 Theft of lost, mislaid property.

A person who comes into control of property of another that the person knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, the person fails to take reasonable measures to restore the property to the owner.

164.075 Theft by extortion.

(1) A person commits theft by extortion when the person compels or induces another to deliver property to the person or to a third person by instilling in the other a fear that, if the property is not so delivered, the actor or a third person will in the future:

(a) Cause physical injury to some person;

(b) Cause damage to property;

(c) Engage in other conduct constituting a crime;

(d) Accuse some person of a crime or cause criminal charges to be instituted against the person;

(e) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;

(f) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such conduct is not considered extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act;

(g) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;

(h) Use or abuse the position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

(i) Inflict any other harm that would not benefit the actor.

(2) Theft by extortion is a Class B felony.

164.085 Theft by deception.

(1) A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, the person:

(a) Creates or confirms another's false impression of law, value, intention or other state of mind that the actor does not believe to be true;

(b) Fails to correct a false impression that the person previously created or confirmed;

(c) Prevents another from acquiring information pertinent to the disposition of the property involved;

(d) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance that the person does not intend to perform or knows will not be performed.

(2) "Deception" does not include falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed. For purposes of this subsection, the theft of a companion animal, as defined in ORS 164.055, or a captive wild animal is a matter having pecuniary significance.

(3) In a prosecution for theft by deception, the defendant's intention or belief that a promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed.

(4) In a prosecution for theft by deception committed by means of a bad check, it is prima facie evidence of knowledge that the check or order would not be honored if:

(a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or

(b) Payment is refused by the drawee for lack of funds, upon presentation within 30 days after the date of utterance, and the drawer fails to make good within 10 days after receiving notice of refusal.

164.095 Theft by receiving.

(1) A person commits theft by receiving if the person receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.

(2) It is a defense to a charge of violating subsection (1) of this section if:

(a) The person is a scrap metal business as defined in ORS 165.116 or an agent or employee of a scrap metal business;

(b) The person receives or retains metal property as defined in ORS 165.116; and

(c) The person makes a report in accordance with ORS 165.118 (3)(a).

(3) "Receiving" means acquiring possession, control or title, or lending on the security of the property.

164.105 Right of possession.

Right of possession of property is as follows:

(1) A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of another person who takes, obtains or withholds the property from that person by means of theft.

(2) A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.

(3) In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having

only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement.

164.365 Criminal mischief in the first degree.

(1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonable ground to believe that the person has such right:

(a) Damages or destroys property of another:

(A) In an amount exceeding \$1,000;

(B) By means of an explosive;

(C) By starting a fire in an institution while the person is committed to and confined in the institution;

(D) Which is a livestock animal as defined in ORS 164.055;

(E) Which is the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public; or

(F) By intentionally interfering with, obstructing or adulterating in any manner the service of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility; or

(b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public so as to interfere with its efficiency.

(2) As used in subsection (1) of this section:

(a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile detention facilities and state training schools.

(b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed physician's office or anywhere a licensed medical practitioner provides health care services.

(c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any cooperative, people's utility district or other municipal corporation providing an electric, gas, water or other utility service.

(d) "Railroad" has the meaning provided for that term in ORS 824.020.

(e) "Public transportation facility" means any property, structure or equipment used for or in connection with the transportation of persons for hire by rail, air or bus, including any railroad cars, buses or airplanes used to carry out such transportation.

(f) "Telecommunications carrier" has the meaning given that term in ORS 133.721.

(3) Criminal mischief in the first degree is a Class C felony.

OFFENSES AGAINST ANIMALS

167.310 Definitions for ORS 167.310 to 167.351.

As used in ORS 167.310 to 167.351:

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

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

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

(4) "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.

(5) “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 181.610, 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.

(6) “Livestock” has the meaning provided in ORS 609.125.

(7) “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 a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and that has adequate bedding to protect against cold and dampness.

(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.

(8) “Physical injury” means physical trauma, impairment of physical condition or substantial pain.

(9) “Physical trauma” means fractures, cuts, punctures, bruises, burns or other wounds.

(10) “Possess” has the meaning provided in ORS 161.015.

(11) “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.

167.312 Research and animal interference.

(1) A person commits the crime of research and animal interference if the person:

(a) With the intent to interfere with research, releases, steals or otherwise causes the death, injury or loss of any animal at or from an animal research facility.

(b) With the intent to interfere with research, damages, vandalizes or steals any property in or on an animal research facility.

(c) With the intent to interfere with research, obtains access to an animal research facility to perform acts not authorized by that facility.

(d) Obtains or exerts unauthorized control over records, data, materials, equipment or animals of any animal research facility with the intent to interfere with research by concealing, abandoning or destroying such records, data, materials, equipment or animals.

(e) With the intent to interfere with research, possesses or uses equipment or animals that the person reasonably believes have been obtained by theft or deception from an animal

research facility or without the authorization of an animal research facility.

(2) For the purposes of this section, “animal research facility” means any facility engaging in legal scientific research or teaching involving the use of animals.

(3) Research and animal interference is a:

(a) Class C felony if damage to the animal research facility is \$2,500 or more; or

(b) Class A misdemeanor if there is no damage to the facility or if damage to the animal research facility is less than \$2,500.

(4) Determination of damages to an animal research facility shall be made by the court. In making its determination, the court shall consider the reasonable costs of:

(a) Replacing lost, injured or destroyed animals;

(b) Restoring the animal research facility to the approximate condition of the facility before the damage occurred; and

(c) Replacing damaged or missing records, data, material or equipment.

(5) In addition to any other penalty imposed for violation of this section, a person convicted of such violation is liable:

(a) To the owner of the animal for damages, including the costs of restoring the animal to confinement and to its health condition prior to commission of the acts constituting the violation;

(b) For damages to real and personal property caused by acts constituting the violation; and

(c) For the costs of repeating an experiment, including the replacement of the animals, labor and materials, if acts constituting the violation cause the failure of an experiment.

167.315 Animal abuse in the second degree.

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor.

167.320 Animal abuse in the first degree.

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:

(a) The person committing the animal abuse has previously been convicted of two or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction; or

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

167.322 Aggravated animal abuse in the first degree.

- (1) A person commits the crime of aggravated animal abuse in the first degree if the person:
 - (a) Maliciously kills an animal; or
 - (b) Intentionally or knowingly tortures an animal.
 - (2) Aggravated animal abuse in the first degree is a Class C felony.
 - (3) As used in this section:
 - (a) “Maliciously” means intentionally acting with a depravity of mind and reckless and wanton disregard of life.
 - (b) “Torture” means an action taken for the primary purpose of inflicting pain.
-

167.325 Animal neglect in the second degree.

- (1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in such person’s custody or control.
 - (2) Animal neglect in the second degree is a Class B misdemeanor.
-

167.330 Animal neglect in the first degree.

- (1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal.
 - (2) Animal neglect in the first degree is a Class A misdemeanor.
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167.332 Prohibition against possession of domestic animal.

- (1) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.325, 167.330 or 167.340 or of a misdemeanor under ORS 167.320, may not possess a domestic animal for a period of five years following entry of the conviction. An offense under this subsection is an unclassified misdemeanor punishable by a fine not exceeding \$1,000 and forfeiture of the animal as provided in ORS 167.350.
 - (2) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322 or of a felony under ORS 167.320, may not possess a domestic animal for a period of 15 years following entry of the conviction. An offense under this subsection is an unclassified misdemeanor punishable by a fine not exceeding \$5,000 and forfeiture of the animal as provided under ORS 167.350.
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167.333 Sexual assault of animal.

- (1) A person commits the crime of sexual assault of an animal if the person:
 - (a) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or
 - (b) Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.
 - (2) Subsection (1) of this section does not apply to the use of products derived from animals.
 - (3) Sexual assault of an animal is a Class A misdemeanor.
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167.334 Evaluation of person convicted of violating ORS 167.333.

Upon the conviction of a defendant for violation of ORS 167.333, the court may order a psychiatric or psychological evaluation of the defendant for inclusion in the presentence report as described in ORS 137.077.

167.335 Exemption from ORS 167.315 to 167.333.

Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:

- (1) The treatment of livestock being transported by owner or common carrier;
- (2) Animals involved in rodeos or similar exhibitions;
- (3) Commercially grown poultry;
- (4) Animals subject to good animal husbandry practices;
- (5) The killing of livestock according to the provisions of ORS 603.065;
- (6) Animals subject to good veterinary practices as described in ORS 686.030;
- (7) Lawful fishing, hunting and trapping activities;
- (8) Wildlife management practices under color of law;
- (9) Lawful scientific or agricultural research or teaching that involves the use of animals;
- (10) Reasonable activities undertaken in connection with the control of vermin or pests; and
- (11) Reasonable handling and training techniques.

167.337 Interfering with law enforcement animal.

(1) A person commits the crime of interfering with a law enforcement animal if the person intentionally or knowingly injures or attempts to injure an animal the person knows or reasonably should know is a law enforcement animal while the law enforcement animal is being used in the lawful discharge of its duty.

(2) Interfering with a law enforcement animal is a Class A misdemeanor.

(3) When a person is convicted of interfering with a law enforcement animal, in addition to any other sentence the court may impose, the court shall impose a fine in the amount of \$500.

167.339 Assaulting law enforcement animal.

(1) A person commits the crime of assaulting a law enforcement animal if:

(a) The person knowingly causes serious physical injury to or the death of a law enforcement animal, knowing that the animal is a law enforcement animal; and

(b) The injury or death occurs while the law enforcement animal is being used in the lawful discharge of the animal's duties.

(2) Assaulting a law enforcement animal is a Class C felony.

(3) When a person is convicted of assaulting a law enforcement animal, in addition to any other sentence the court may impose, the court shall impose a fine in the amount of \$1,000.

167.340 Animal abandonment.

(1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal or an equine at a location without providing minimum care.

(2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class B misdemeanor.

167.345 Authority to enter premises; search warrant; notice of impoundment of animal; damage resulting from entry.

(1) As used in this section, "peace officer" has the meaning given that term in ORS 161.015.

(2) If there is probable cause to believe that any animal is being subjected to treatment

in violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the animal is located to provide the animal with food, water and emergency medical treatment and may impound the animal. If after reasonable effort the owner or person having custody of the animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted on the premises and within 72 hours after the impoundment the notice shall be sent by certified mail to the address, if any, where the animal was impounded.

(3) A peace officer is not liable for any damages for an entry under subsection (2) of this section, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.

(4)(a) A court may order an animal impounded under subsection (2) of this section to be held at any animal care facility in the state. A facility receiving the animal shall provide adequate food and water and may provide veterinary care.

(b) A court may order a fighting bird impounded under subsection (2) of this section to be held on the property of the owner, possessor or keeper of the fighting bird in accordance with ORS 167.433.

167.347 Forfeiture of animal to animal care agency prior to disposition of criminal charge.

(1) If any animal is impounded pursuant to ORS 167.345 and is being held by a county animal shelter or other animal care agency pending outcome of criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to final disposition of the criminal charge, the county or other animal care agency may file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the county or other animal care agency prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney.

(2) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.

(3)(a) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the date of trial.

(b) Notwithstanding paragraph (a) of this subsection, a court may waive for good cause shown the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3) of this section, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new date of trial.

(5) If a security deposit or bond has been posted in accordance with subsection (4) of this section, the petitioner may draw from that security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the impounded animal from the date of initial impoundment to the date of final disposition of the animal in the criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350 and 167.435.

167.348 Placement of forfeited animal.

(1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the agency to which the animal was forfeited may place the animal with a new owner. The agency shall give placement preference to any person or persons who had prior contact with the animal, including but not limited to family members and friends of the former owner whom the agency determines are capable of providing necessary, adequate and appropriate levels of care for the animal. As a condition of placement, the agency shall require the new owner to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the former owner to possess the animal constitutes a crime.

(2) Notwithstanding subsection (1) of this section, the agency may not place the animal with any person who resides with the former owner.

167.349 Encouraging animal abuse.

(1) A person commits the crime of encouraging animal abuse if the person:

- (a) Obtains a previously abused, neglected or abandoned animal from an animal care agency under ORS 167.348 or the court under ORS 167.350; and
 - (b) Knowingly allows the person from whom the animal was forfeited to possess the animal.
- (2) Encouraging animal abuse is a Class C misdemeanor

167.350 Forfeiture of rights in mistreated animal; costs; disposition of animal.

(1) 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 person or agency prior to judgment in caring for each animal subjected to the violation.

(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 reasonable costs incurred by any person or agency in providing minimum care to the animal.

(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.

167.351 Trading in nonambulatory livestock.

(1) As used in this section:

(a) “Nonambulatory” means unable to stand or walk unassisted.

(b) “Livestock auction market” has the meaning given that term in ORS 599.205.

(2) A person commits the crime of trading in nonambulatory livestock if the person knowingly delivers or accepts delivery of a nonambulatory livestock animal at a livestock auction market. This subsection does not apply to the delivery to, or acceptance by, a licensed veterinarian at a livestock auction market for the purpose of humanely euthanizing or providing appropriate medical care to the animal.

(3) The crime of trading in nonambulatory livestock is a Class A misdemeanor.

167.352 Interfering with assistance, search and rescue or therapy animal.

(1) A person commits the crime of interfering with an assistance, a search and rescue or a therapy animal if the person intentionally or knowingly:

(a) Injures or attempts to injure an animal the person knows or reasonably should know is an assistance animal, a search and rescue animal or a therapy animal;

(b) Interferes with an assistance animal while the assistance animal is being used to provide assistance to a person with a physical impairment; or

(c) Interferes with a search and rescue animal or a therapy animal while the animal is being used for search and rescue or therapy purposes.

(2) As used in this section, “assistance animal” and “person with a physical impairment” have the meanings given those terms in ORS 346.680.

(3) As used in this section and ORS 30.822:

(a) “Search and rescue animal” means that the animal has been professionally trained for, and is actively used for, search and rescue purposes.

(b) “Therapy animal” means that the animal has been professionally trained for, and is actively used for, therapy purposes.

(4) Interfering with an assistance, a search and rescue or a therapy animal is a Class A misdemeanor.

167.355 Involvement in animal fighting.

(1) A person commits the crime of involvement in animal fighting if the person:

(a) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting;

(b) Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto;

(c) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or

(d) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(2) For purposes of this section:

(a) “Animal” means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog or a fighting bird as defined in ORS 167.426.

(b) “Exhibition of fighting” means a public or private display of combat between two

or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. “Exhibition of fighting” does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(3) Involvement in animal fighting is a Class C felony

167.360 Definitions for ORS 167.360 to 167.372. As used in ORS 167.360 to 167.372:

(1) “Breaking stick” means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog’s grip on another animal or object.

(2) “Cat mill” means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.

(3) “Dogfight” means a fight, arranged by any person, between two or more dogs the purpose or probable result of which fight is the infliction of injury by one dog upon another.

(4) “Dogfighting paraphernalia” means:

(a) A breaking stick;

(b) A springpole;

(c) A cat mill;

(d) A treadmill;

(e) A fighting pit;

(f) A leather or mesh collar with a strap more than two inches in width;

(g) A weighted or unweighted chain collar weighing 10 pounds or more; or

(h) An unapproved veterinary medicine that is a prescription drug as defined in

ORS 689.005.

(5) “Fighting dog” means a dog that is intentionally bred or trained to be used in, or that is actually used in, a dogfight. A dog does not constitute a fighting dog solely on account of its breed.

(6) “Fighting pit” means a walled area designed to contain a dogfight.

(7) “Springpole” means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.

(8) “Treadmill” means:

(a) A carpet mill made of narrow sections of carpet;

(b) A modified electric treadmill for the purpose of conditioning dogs; or

(c) A slat mill with a running surface constructed of slats made of wood, fiberglass, plastic or other similar material.

167.365 Dogfighting.

(1) A person commits the crime of dogfighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells or offers to sell a fighting dog, including but not limited to any advertisement by the person to sell such a dog.

(b) Promotes, conducts or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to refereeing of a dogfight, handling of dogs at a dogfight, transportation of spectators to a dogfight, organizing a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.

(c) Keeps, uses or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of dogfighting.

(2) Dogfighting is a Class C felony.

167.370 Participation in dogfighting.

- (1) A person commits the crime of participation in dogfighting if the person knowingly:
 - (a) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.
 - (b) Advertises or otherwise offers to sell equipment that the person knows or reasonably should know will be used for the purpose of training and handling a fighting dog.
- (2) Participation in dogfighting is a Class C felony.

167.372 Possessing dogfighting paraphernalia.

- (1) A person commits the crime of possessing dogfighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.
- (2) Possessing dogfighting paraphernalia is a Class C felony.

167.374 Possession of dogs for purpose of breeding; records; exceptions.

- (1) As used in this section:
 - (a) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at the facility an average of less than 30 days.
 - (b) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.
 - (c) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.
- (2) A person may not possess, control or otherwise have charge of at the same time more than 50 sexually intact dogs that are two years of age or older for the primary purpose of reproduction. It is prima facie evidence that a person possesses dogs for the primary purpose of reproduction if during a 12-month period the person sells, offers for sale, barter or exchanges more than three litters of dogs that are less than eight months of age.
- (3) A person that possesses, controls or otherwise has charge of 50 or more sexually intact dogs that are eight months of age or older shall maintain a record for each of those dogs that identifies:
 - (a) The date of birth for the dog or, if the date of birth is unknown, the date the person acquired possession, control or charge of the dog and the source of the dog;
 - (b) The dates on which the dog has been bred;
 - (c) For a female, the number of dogs in each litter produced; and
 - (d) The disposition the person makes of each dog possessed by, controlled by or in the charge of the person, including the date of disposition, manner of disposition and the name and address information for any person taking possession, control or charge of a dog.
- (4) A person shall retain a record required under subsection (3) of this section for a period of three years following the death of the dog or a date on which the person permanently ceased to have possession, control or charge of the dog.
- (5) Subsections (2) to (4) of this section do not apply to:
 - (a) An animal control agency, humane society or animal shelter;
 - (b) A person who provides care for dogs at the request of a unit of government, government agency, humane society or animal shelter;
 - (c) A veterinary facility;
 - (d) A person that is transporting dogs; or
 - (e) A boarding kennel.
- (6) A violation of this section is a Class B misdemeanor. However, a court shall suspend sentence under this subsection for a violation of subsection (2) of this section if the

person agrees to have a sufficient number of dogs spayed or neutered to remedy the violation.

167.376 Standards of care applicable to dog breeders; records; exceptions.

(1) As used in this section:

(a) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at the facility an average of less than 30 days.

(b) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.

(c) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.

(d) "Regular exercise" means the removal of the dog from the dog's primary enclosure and:

(A) Walking the dog on a leash;

(B) Allowing the dog to move about freely within a building or an outdoor space at least one hour per day; or

(C) Allowing the dog to walk on a treadmill, jenny mill, slat mill or similar device, if use of the device is prescribed for the dog by a veterinarian to accommodate a specific medical condition.

(2) A person that possesses, controls or otherwise has charge of at the same time 10 or more sexually intact dogs that are eight months of age or older shall, in addition to providing minimum care as defined in ORS 167.310:

(a) Provide each dog with sufficient space to turn about freely, stand and sit and to lie down without the head, face, tail, legs or feet of the dog touching the sides of the enclosure or touching any other dog.

(b) Provide each dog with an enclosure that:

(A) Has a solid floor without slats or gaps;

(B) Is six inches higher than the head of the tallest dog in that enclosure when the tallest dog is in a normal standing position;

(C) If elevated above the floor of a room, is placed so that the floor of the enclosure is no more than 42 inches above the floor of the room; and

(D) Is not stacked or otherwise placed above or below any other dog enclosure.

(c) Provide each dog that is more than four months of age with at least one hour of regular exercise each day, unless a veterinarian has certified that the dog is medically precluded from exercise.

(d) Remove waste and contaminants from the enclosure at least once each day.

(e) Remove the dog from the enclosure when cleaning the enclosure of waste and contaminants.

(f) Maintain a record for each sexually intact dog that is eight months of age or older that identifies:

(A) The date of birth for the dog or, if the date of birth is unknown, the date on which the person acquired possession, control or charge of the dog and the source of the dog;

(B) Any veterinary care provided for the dog; and

(C) The disposition the person makes of each dog possessed by, controlled by or in the charge of the person, including the date of disposition, manner of disposition and the name and address information for any person taking possession, control or charge of a dog.

(3) A person shall retain a record required under subsection (2) of this section for a period of three years following the death of the dog or a date on which the person permanently ceased to have possession, control or charge of the dog.

(4) Subsections (2) and (3) of this section do not apply to:

(a) An animal control agency, humane society or animal shelter;

- (b) A person who provides care for dogs at the request of a unit of government, government agency, humane society or animal shelter;
 - (c) A veterinary facility;
 - (d) A person that is transporting dogs; or
 - (e) A boarding kennel.
- (5) A violation of this section is a Class B misdemeanor.
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167.385 Unauthorized use of livestock animal.

(1) A person commits the crime of unauthorized use of a livestock animal when the person knowingly:

(a) Takes, appropriates, obtains or withholds a livestock animal from the owner thereof or derives benefit from a livestock animal without the consent of the owner of the animal; or

(b) Takes or holds a livestock animal and thereby obtains the use of the animal to breed, bear or raise offspring without the consent of the owner of the animal.

(2) Except as otherwise provided by law, offspring born to a female livestock animal or hatched from the egg of a female livestock animal belong to the owner of the female livestock animal until the owner transfers ownership of the offspring.

(3) As used in this section, “livestock animal” has the same meaning given that term in ORS 164.055.

(4) Unauthorized use of a livestock animal is a Class A misdemeanor.

(5) In addition to any criminal sanctions, if a defendant is convicted of the crime of unauthorized use of a livestock animal under this section, the court shall order the defendant to pay restitution to the owner of the animal.

167.387 Definitions for ORS 167.387 and 167.388. As used in this section and ORS 167.388:

(1) “Livestock” has the meaning given in ORS 609.125.

(2) “Livestock production facility” means:

(a) Any facility or organization engaged in animal breeding, production or processing; or

(b) Any facility or institution whose primary purpose is to impound stray animals, as that term is defined in ORS 607.007.

167.388 Interference with livestock production.

(1) A person commits the crime of interference with livestock production when the person, with the intent to interfere with livestock production:

(a) Takes, appropriates, obtains or withholds livestock from the owner thereof, or causes the loss, death or injury of any livestock maintained at a livestock production facility;

(b) Damages, vandalizes or steals any property located on a livestock production facility; or

(c) Obtains access to a livestock production facility to perform any act contained in this subsection or any other act not authorized by the livestock production facility.

(2) The crime of interference with livestock production is:

(a) A Class C felony if damage to the livestock production facility is \$2,500 or more; or

(b) A Class A misdemeanor if there is no damage to the livestock production facility or if damage to the facility is less than \$2,500.

(3) Determination of damages to a livestock production facility shall be made by the court. In making its determination, the court shall consider the reasonable costs of:

(a) Replacing lost, injured or destroyed livestock;

(b) Restoring the livestock production facility to the approximate condition of the facility before the damage occurred; and

(c) Replacing damaged or missing records, data, material, equipment or substances used in the breeding and production of livestock.

(4) In addition to any criminal sanctions, if a defendant is convicted of the crime of interference with livestock production under subsection (1) of this section, the court shall order the defendant to pay restitution to the owner of the animal or the owner of the livestock production facility.

167.390 Commerce in fur of domestic cats and dogs prohibited; exception.

(1) A person may not take, buy, sell, barter or otherwise exchange for commerce in fur purposes the raw fur or products that include the fur of a domestic cat or dog if the fur is obtained through a process that kills or maims the cat or dog. As used in this section, “domestic cat or dog” does not include coyote, fox, lynx, bobcat or any other wild or commercially raised wild feline or wild canine species or a hybrid thereof that is not recognized as an endangered species by the United States Fish and Wildlife Service.

(2) Violation of subsection (1) of this section, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state as defined in ORS 161.085.

OFFENSES INVOLVING FIGHTING BIRDS

167.426 Definitions for ORS 167.426 to 167.439. As used in ORS 167.426 to 167.439:

(1) “Cockfight” means a fight between two or more birds that is arranged by a person and that has the purpose or probable result of one bird inflicting injury to another bird.

(2) “Constructive possession” means an exercise of dominion and control over the location and treatment of property without taking physical possession of the property.

(3) “Fighting bird” means a bird that is intentionally reared or trained for use in, or that actually is used in, a cockfight.

(4) “Gaff” means an artificial steel spur designed for attachment to the leg of a fighting bird in replacement of the bird’s natural spurs.

(5) “Slasher” means a steel weapon resembling a curved knife blade designed for attachment to the foot of a fighting bird.

167.428 Cockfighting.

(1) A person commits the crime of cockfighting if the person knowingly:

(a) Owns, possesses, keeps, rears, trains, buys, sells or advertises or otherwise offers to sell a fighting bird.

(b) Promotes or participates in, or performs services in furtherance of, the conducting of a cockfight. As used in this paragraph, “services in furtherance” includes, but is not limited to, transporting spectators to a cockfight, handling fighting birds, organizing, advertising or refereeing a cockfight and providing, or acting as stakeholder for, money wagered on a cockfight.

(c) Keeps, uses or manages, or accepts payment of admission to, a place for the conducting of a cockfight.

(d) Suffers or permits a place in the possession or control of the person to be occupied, kept or used for the conducting of a cockfight.

(e) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell a gaff, slasher or other sharp implement designed for attachment to a fighting bird with the intent that the gaff, slasher or other sharp implement be used in cockfighting.

(2) Subsection (1)(a) of this section does not apply to the owning, possessing, keeping, rearing, buying, selling, advertising or otherwise offering for sale of a bird for purposes other than training the bird as a fighting bird, using or intending to use the bird in cockfighting or supplying the bird knowing that the bird is intended to be used in cockfighting.

(3) Cockfighting is a Class C felony.

167.431 Participation in cockfighting.

(1) A person commits the crime of participation in cockfighting if the person knowingly:

(a) Attends a cockfight or pays admission at any location to view or bet on a cockfight; or

(b) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell equipment with the intent that the equipment be used in training or handling a fighting bird or for enhancing the fighting ability of a fighting bird. This paragraph does not apply to a gaff, slasher or other sharp implement designed for attachment to a fighting bird.

(2) Participation in cockfighting is a Class C felony.

167.433 Seizure of fighting birds; procedure.

(1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of an alleged fighting bird owned, possessed or kept by any person.

(2) A judge ordering the seizure of an alleged fighting bird under subsection (1) of this section may order that the bird be impounded on the property of the owner, possessor or keeper of the bird. If a judge orders an alleged fighting bird impounded on the property of the owner, possessor or keeper of the bird, the court shall order the owner, possessor or keeper to provide all necessary care for the bird and to allow regular and continuing inspection of the bird by a person designated by the court, or the agent of a person designated by the court. The owner, possessor or keeper shall pay the costs of conducting the inspections. The court shall further order the owner, possessor or keeper not to sell or otherwise dispose of the bird unless the court authorizes the sale or disposition, or until the seized bird is forfeited pursuant to an order under ORS 167.435 or restored to the person pursuant to an order under ORS 133.643.

167.435 Forfeiture of rights in fighting birds or property.

(1) In addition to and not in lieu of any other penalty the court may impose upon a person convicted of cockfighting under ORS 167.428 or participation in cockfighting under ORS 167.431, the court shall include in the judgment an order for forfeiture to the city or county where the crime occurred of the person's rights in any property proved to have been used by the person as an instrumentality in the commission of the crime, including any fighting bird. This subsection does not limit the ability of the court to dispose of a fighting bird as provided under subsection (2) of this section.

(2) A fighting bird is a public nuisance, regardless of whether a person has been convicted of cockfighting or participation in cockfighting. If a bird is ordered forfeited under subsection (1) of this section or is proved by a preponderance of the evidence in a forfeiture proceeding to be a fighting bird, the court shall order that the bird be destroyed or be otherwise disposed of. Upon the conviction of the person charged, the court shall adjudge all of the seized property of the person to be forfeited and shall order that the property be destroyed or otherwise disposed of.

167.437 Constructive possession of fighting birds; procedure.

(1) A peace officer having jurisdiction may, upon probable cause to believe that a bird is a fighting bird, take constructive possession of the bird on behalf of the law enforcement agency employing the officer.

(2) A peace officer who takes constructive possession of an alleged fighting bird pursuant to this section must do the following:

(a) Place a tag or other device approved by the law enforcement agency on the cage or other enclosure where the fighting bird is located. The tag or other device must clearly state that it is unlawful to conceal, remove or release the bird for purposes of interfering with law enforcement agency control over the bird.

(b) Notify the owner, possessor or keeper of the bird that the bird has been seized by the law enforcement agency and may not be concealed, removed or released until authorized by a court or as provided in this section.

(c) Promptly apply to an appropriate court for an order described in ORS 167.433.

(3) If a law enforcement agency takes constructive possession of a fighting bird under this section, the owner, possessor or keeper of the bird shall provide all necessary care for the bird.

(4) Constructive possession of an alleged fighting bird pursuant to this section terminates when a court order described in ORS 167.433 is served on the owner, possessor or keeper of the bird, or after 24 hours, whichever occurs first.

167.439 Forcible recovery of fighting bird.

(1) A person commits the crime of forcible recovery of a fighting bird if the person knowingly dispossesses, or knowingly attempts to dispossess, a law enforcement agency of constructive possession of a fighting bird.

(2) Forcible recovery of a fighting bird is a Class C felony.

480.122 Use for repelling birds or animals allowed; permit; rules.

(1) Notwithstanding the provisions of ORS 480.110 to 480.124 and 480.130 to 480.150, an owner or lessee of property located outside of an incorporated city may purchase, maintain, use and explode fireworks on the owned or leased property for the purpose of scaring away or repelling birds or animals which are or may be injurious or destructive to forest or agricultural products or crops.

(2) Any person described in subsection (1) of this section desiring to use and explode fireworks to scare or repel birds or animals shall first secure a permit from the State Fire Marshal for that purpose. The State Fire Marshal, upon receipt of application for such permit, shall determine if the proposed purchase and use conforms to law and any rules or regulations promulgated by the office of the fire marshal. If the fire marshal finds that the applicant is qualified to use the fireworks and the proposed use is in accordance with the law and rules and regulations, the fire marshal shall issue a permit; otherwise the fire marshal shall refuse to issue it.

(3) Such permit may be revoked by the State Fire Marshal at any time fire marshal verifies there is a violation of the provisions of the permit or the rules and regulations under which it is issued.

(4) The State Fire Marshal is authorized to promulgate rules and regulations relating to the use of fireworks to scare or repel birds or animals which are injurious to or destructive to forest or agricultural crops or products.

480.124 Use for control of predatory animals allowed.

Notwithstanding the provisions of ORS 480.110 to 480.165, fireworks may be purchased, maintained, used and exploded by federal or state agencies authorized and required by ORS 610.002 to 610.020 to eradicate and control predatory animals. Such purchase and use shall be in compliance with rules and regulations promulgated by the State Fire Marshal, with the approval of the state agencies authorized and required by ORS 610.002 to 610.020 to

eradicate and control predatory animals.

498.036 Possession in field of skinned or plucked wildlife prohibited.

Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall possess in the field or forest, or in transit from the field or forest, the carcass of any wildlife that has been skinned, plucked or mutilated in any manner so that the sex, size or species of the wildlife cannot be determined.

498.042 Removal of parts of wildlife and waste of wildlife prohibited.

(1) No person shall remove from the carcass of any game mammal or game bird, the head, antlers, horns, hide or plumage, and utilize only those parts so removed, except:

(a) When engaged in lawful trapping activities.

(b) When utilizing those game mammals or game birds that the State Fish and Wildlife Commission by rule declares to be inedible.

(2) No person shall waste any edible portion of any game mammal, game bird or game fish or the pelt of any fur-bearing mammal.

498.046 Making toxic substances accessible to wildlife prohibited.

No person shall place any toxic substance where it is accessible to wildlife unless the substance used and the method of application is approved by the state governmental agencies having authority to prescribe or implement environmental control programs.

498.052 Releasing domestically raised or imported wildlife without permit prohibited.

No person shall release within this state any domestically raised wildlife or wildlife brought to this state from any place outside this state unless the person first obtains a permit therefor from the State Fish and Wildlife Commission.

498.242 Possession of walking catfish and piranha restricted.

(1) Except as provided in subsections (2) and (3) of this section, no person shall possess any live fish of the various species:

(a) Of the family Clariidae, commonly known as walking catfish; or

(b) Of the subfamily Serrasalminae of the family Characidae, commonly known as caribe or piranha.

(2) A public park, zoo, museum or educational institution may possess any of the fish referred to in subsection (1) of this section for educational, medical, scientific or exhibition purposes if the organization first obtains a permit from the State Fish and Wildlife Commission. The commission may refuse to issue the permit if the commission finds that the organization requesting the permit has physical facilities for holding the fish that are inadequate to prevent their escape from confinement.

(3) Subsections (1) and (2) of this section do not prohibit the possession or require a permit for the possession of live fish that are of the genera *Pygocentrus*, *Serrasalmus* or *Pristobrycon* that are carnivorous fish in the subfamily Serrasalminae, from the family Characidae, commonly known as piranha or caribe.

596.331 Prohibition against disposing of diseased livestock, parts of quarantined livestock or unvaccinated female cattle; exceptions.

(1) A person may not sell, offer to sell or dispose of any livestock that the person knows to be exposed to, a carrier of or infected with any disease required to be reported under ORS

596.321, except:

- (a) To a slaughterer or to a rendering plant; or
- (b) Pursuant to, and as authorized by, a quarantine order.

(2) A person may not sell, offer to sell or dispose of the meat, milk or other parts of any livestock, quarantined by the State Department of Agriculture, for food or other purposes, except as authorized by the quarantine order.

(3) A person may not sell or offer for sale, for any purpose other than slaughter or to a feedlot or other normal and usual feeding facility for slaughter within 12 months of sale, any female cattle of a beef breed that have not been vaccinated against brucellosis as evidenced by an official vaccination tattoo in the right ear of each animal.

(4) A person may not sell or offer for sale, for any purpose other than slaughter, any female cattle of a dairy breed that have not been vaccinated against brucellosis as evidenced by an official vaccination tattoo in the right ear of each animal.

596.341 Examination, testing or treatment of livestock before entry into state; permit requirements; conditions and exemptions.

(1) In addition to the permit required by subsection (2) of this section, the State Department of Agriculture may cause livestock to be tested, treated or examined as a condition of entry into this state and may, as evidence of that test, treatment or examination, require the presentation of a certificate of an official of the state of origin designated by the department or of a veterinary inspector of the federal government.

(2) The department shall require a written permit authorizing entry into this state of any livestock or other animals subject to the disease control law and not exempt under subsection (3) of this section. The permit shall be issued upon condition that:

(a) The consignee, owner or purchaser hold the imported livestock upon the arrival of the livestock in this state subject to direction of the department pending completion of the testing, treatment or examination of the livestock;

(b) The livestock be disposed of in accordance with the laws of this state and the rules of the department, if the livestock is found to be infected with, exposed to, or a carrier of, a disease;

(c) The consignee, owner or purchaser complies with the rules promulgated by the department to enforce the intent of this chapter; and

(d) If the imported livestock are female cattle that are being imported for any purpose other than slaughter or to a registered dry feedlot, the animals have been vaccinated against brucellosis as evidenced by an official vaccination tattoo in the right ear of each animal.

(3) The department may exempt the following classes of livestock or other animals subject to the disease control law from the requirements of this section:

(a) Livestock that is consigned to and will be slaughtered by a licensed slaughterer within eight days after entry into this state.

(b) Livestock in uninterrupted transit through the state, provided that stops may be made for feed, water and rest.

(c) Except for the requirements of subsection (2)(d) of this section, livestock consigned to an Oregon auction market licensed under ORS chapter 599 where approved veterinary inspection is in force.

(d) Brucellosis nonvaccinated female cattle of proven genetic advantage for purposes of preserving or developing breeding improvements. Those cattle may be admitted on a case by case basis with specific approval of, and under conditions deemed appropriate by, the State Veterinarian. Breed registration papers or other documentation of improved genetics may be required for the approval. The cattle shall be exempt from ORS 596.331 (3) and (4) and 596.460 (2) and (3) and subsection (2)(d) of this section.

(e) Dogs, cats or small caged birds traveling in a family vehicle as part of that social entity.

(f) Any animals that the department determines do not pose a disease threat.

(4) As used in subsection (2)(d) of this section, “registered dry feedlot” means a cattle feeding operation that is approved and registered by the department and that has facilities surrounded by permanent fencing wherein all feed and water are artificially supplied.

601.140 Carcass of domestic animal to be buried or destroyed.

No person shall knowingly leave the carcass of any domestic animal, which the person has owned or had in charge, within one-half mile of any dwelling or within one-fourth mile of any running stream of water for longer than 15 hours without burying or burning it.

609.015 Application of ORS 609.030 and 609.035 to 609.110.

(1) ORS 609.030 and 609.035 to 609.110 apply in every county except as otherwise provided by county charter or ordinance. ORS 609.030 and 609.035 to 609.110 do not limit the powers of cities and counties to adopt ordinances and regulations relating to the control of dogs.

(2) A county dog licensing and control program shall not apply within the limits of a city that has its own dog licensing and control program.

609.020 Dogs as personal property.

Dogs are hereby declared to be personal property.

609.030 Establishing dog control district; appointment of supervisors; enforcement; county governing body as supervisors; dog control officer.

(1) The governing body of any county may declare the county a dog control district.

(2) Upon declaration of the dog control district the county governing body may appoint a board of supervisors, and provide for the terms, compensation and other aspects of service by board members, at least two of whom shall be connected directly or indirectly with the livestock industry.

(3) The board may issue licenses and enforce all of the county and state laws relating to the control of dogs within the county, including that of making arrests and shall perform such other duties as the county governing body may assign to it.

(4) The county governing body may elect to act as the board of supervisors of the dog control district.

(5) The county governing body may provide for appointment of a dog control officer and otherwise provide for administration and enforcement of a dog control program.

609.035 Definitions for ORS 609.035 to 609.110 and 609.990. As used in ORS 609.035 to 609.110 and 609.990:

(1) “Dog control board” means a group of persons whose duties include, but need not be limited to, fulfilling the duties of a dog control district board of supervisors as described in ORS 609.030.

(2) “Dog control officer” means a person whose duties include, but need not be limited to, enforcing the dog control laws for a dog control district.

(3) “Keeper” means a person who owns, possesses, controls or otherwise has charge of a dog, other than:

(a) A licensed business primarily intended to obtain a profit from the kenneling of dogs;

(b) A humane society or other nonprofit animal shelter;

(c) A facility impounding dogs on behalf of a city or county; or

(d) A veterinary facility.

(4) “Menaces” means lunging, growling, snarling or other behavior by a dog that would cause a reasonable person to fear for the person’s safety.

(5) “Potentially dangerous dog” means a dog that:

(a) Without provocation and while not on premises from which the keeper may lawfully exclude others, menaces a person;

(b) Without provocation, inflicts physical injury on a person that is less severe than a serious physical injury; or

(c) Without provocation and while not on premises from which the keeper may lawfully exclude others, inflicts physical injury on or kills a domestic animal as defined in ORS 167.310.

(6) “Running at large” means that a dog is off or outside of the premises from which the keeper of the dog may lawfully exclude others, or is not in the company of and under the control of its keeper, except if the dog is:

(a) Being used to legally hunt, chase or tree wildlife while under the supervision of the keeper;

(b) Being used to control or protect livestock or for other activities related to agriculture; or

(c) Within any part of a vehicle.

(7) “Serious physical injury” has the meaning given that term in ORS 161.015.

609.040 Election to determine whether dogs may run at large.

(1) When the petition of 100 or more electors of any county is filed with the county clerk 45 days before the general or special election in any year, the county clerk shall cause notice to be given that at the election a vote will be taken for and against permitting dogs to run at large in the county.

(2) On the petition of 15 or more electors of an election precinct in any county being filed with the county clerk 45 days before the general or special election in any year, the county clerk shall cause notice to be given that at the election a vote will be taken for and against permitting dogs to run at large in that precinct.

(3) On the petition of 20 or more electors of any incorporated city or precinct being filed with the county clerk before the time of giving notice of the general or special election in any year, the county clerk shall cause notice to be given that at the election a vote will be taken for and against permitting dogs to run at large in the city.

(4) The provisions of this section shall not apply to areas in the county inside a city that has an established dog licensing program.

609.060 Notice of election result; dogs running at large prohibited; deposit of fees and fines.

(1) If a majority of all votes cast in the election provided for by ORS 609.040 is against permitting dogs to run at large, or if the governing body of the county by ordinance prohibits dogs from running at large, the county shall give notice, by publication in some newspaper having a general circulation in the county, and in the election precinct if the prohibition of dogs running at large affects any one precinct only, for three consecutive weeks.

(2) After 60 days from the date of the notice, every person keeping a dog shall prevent the dog from running at large in any county, city or precinct where prohibited. A person who is the keeper of a dog is guilty of a violation if the dog runs at large in a county, city or precinct where prohibited.

(3) County license fees and the penalty for violation of subsection (2) of this section or ORS 609.100, when collected, shall be paid into the county treasury, and kept in a special fund.

609.090 Impounding certain dogs; procedure for county disposition of impounded dogs; impoundment fees and costs; release of dog.

(1) A law enforcement officer or dog control officer may cite a keeper, impound a dog, or both if:

(a) The dog is found running at large in violation of ORS 609.060;

(b) The dog is a public nuisance as described by ORS 609.095; or

(c) The officer has probable cause to believe that the dog is a dangerous dog as defined in ORS 609.098.

(2) All dogs impounded under this section and ORS 609.030 shall be held in an adequate and sanitary pound to be provided by the county governing body from the general fund or out of funds obtained from dog licenses and from the redemption of dogs so impounded. However, in lieu of the establishment of a dog pound, the county governing body may contract for the care of the dogs. Unless claimed by its keeper, a dog shall be impounded for at least three days if the dog is without a license or identification tag and for at least five days if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of a dog before the dog is removed from impoundment.

(3) Unless the dog control board or county governing body provides otherwise, if the keeper appears and redeems the dog, the keeper shall pay a sum of not less than \$10 for the first impoundment and not less than \$20 for each subsequent impoundment and also pay the expense of keeping the dog during the time it was impounded. If the dog is unlicensed the keeper shall also purchase a license and pay the applicable penalty for failure to have a license. If the keeper is not the owner of the dog, the keeper may request that a license purchased by the keeper under this subsection be issued in the name of the dog owner.

(4) In addition to any payment required pursuant to subsection (3) of this section, a dog control board or county governing body may require as a condition for redeeming the dog that the keeper agree to reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization.

(5) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under subsection (4) of this section or if a keeper fails to provide acceptable proof of compliance to the dog control board or county governing body on or before the 10th day after issuance of the order imposing the restrictions. If the board or governing body finds the proof submitted by the keeper unacceptable, the board or governing body shall send notice of that finding to the keeper no later than five days after the proof is received.

(6) If no keeper appears to redeem a dog within the allotted time, the dog may be killed in a humane manner. The dog control board or county governing body may release the dog to a responsible person upon receiving assurance that the person will properly care for the dog and upon payment of a sum established by the county governing body plus cost of keep during its impounding, and purchase of a license if required. The person shall thereafter be the keeper of the dog for purposes of ORS 609.035 to 609.110.

(7) If the keeper of a dog is not charged with violating ORS 609.095 (2) or (3) or ORS 609.098, and the dog control board or county governing body finds that the dog has menaced or chased a person when on premises other than the premises from which the keeper may lawfully exclude others or has bitten a person, the dog control board or county governing body may order that the dog be killed in a humane manner. Before ordering that the dog be killed, the board or governing body shall consider the factors described in ORS 609.093 and issue written findings on those factors. Notwithstanding ORS 34.030, if the disposition order issued by the board or governing body provides that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than the 10th day after the dog control board

or county governing body sends notice of the order to the keeper. Notwithstanding ORS 19.270, 19.330 and 34.070, the order for the killing of the dog may not be carried out during the period that the order is subject to review or appeal. If the dog is not killed, the board or governing body may impose reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions.

(8) If the keeper of a dog is charged with violating ORS 609.095 (2) or (3) or 609.098, upon conviction of the keeper the court may determine the disposition of the dog as provided under ORS 609.990.

(9) Notwithstanding subsections (2), (3), (6), (7) and (8) of this section, any dog impounded for biting a person shall be held for at least 10 days before redemption or destruction to determine if the dog is rabid.

(10) Notwithstanding subsections (2) and (3) of this section, if the keeper is charged with violating ORS 609.098, the dog shall be kept in impoundment pending resolution of the charges. A court may order the keeper to post a deposit with the dog control board or county governing body to cover the cost of keeping the dog in impoundment. If the keeper is convicted of violating ORS 609.098, the court may order the deposit forfeited to the board or governing body.

(11) A dog control board or county governing body may impose lesser fees or penalties under subsections (3) and (6) of this section for certain senior citizens under certain circumstances.

609.093 Considerations prior to disposing of chasing, menacing or biting dog.

In determining whether a dog should be killed as provided under ORS 609.090 (7) or 609.990 (6), a dog control board, county governing body or court shall consider the following factors:

- (1) If the dog has bitten a person, the circumstances and severity of the bite;
- (2) Whether the keeper has a history of maintaining dogs that are a public nuisance;
- (3) The impact of keeper actions on the behavior of the dog;
- (4) The ability and inclination of the keeper to prevent the dog from chasing or menacing another person on premises other than the premises from which the keeper may lawfully exclude others or from biting another person;
- (5) Whether the dog can be relocated to a secure facility;
- (6) The effect that a transfer of the keeping of the dog to another person would have on ensuring the health and safety of the public;
- (7) Behavior by the dog before or since the biting, chasing or menacing; and
- (8) Any other factors that the board, governing body or court may deem relevant.

609.095 Dog as public nuisance; public nuisance prohibited; complaint.

- (1) A dog is a public nuisance if it:
 - (a) Chases persons or vehicles on premises other than premises from which the keeper of the dog may lawfully exclude others;
 - (b) Damages or destroys property of persons other than the keeper of the dog;
 - (c) Scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude others;
 - (d) Trespasses on private property of persons other than the keeper of the dog;
 - (e) Disturbs any person by frequent or prolonged noises;
 - (f) Is a female in heat and running at large; or
 - (g) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098.
- (2) The keeper of a dog in a county, precinct or city that is subject to ORS 609.030 and 609.035 to 609.110 maintains a public nuisance if the dog commits an act described under

subsection (1) of this section. Maintaining a dog that is a public nuisance is a violation.

(3) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under ORS 609.990 or if a keeper fails to provide acceptable proof of compliance to the court on or before the 10th day after issuance of the order imposing the restrictions. If the court finds the proof submitted by the keeper unacceptable, the court shall send notice of that finding to the keeper no later than five days after the proof is received.

(4) Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance may complain, either orally or in writing, to the county, precinct or city. The receipt of any complaint is sufficient cause for the county, precinct or city to investigate the matter and determine whether the keeper of the dog is in violation of subsection (2) or (3) of this section.

609.098 Maintaining dangerous dog.

(1) As used in this section, “dangerous dog” means a dog that:

(a) Without provocation and in an aggressive manner inflicts serious physical injury, as defined in ORS 161.015, on a person or kills a person;

(b) Acts as a potentially dangerous dog, as defined in ORS 609.035, after having previously committed an act as a potentially dangerous dog that resulted in the keeper being found to have violated ORS 609.095; or

(c) Is used as a weapon in the commission of a crime.

(2) A person commits the crime of maintaining a dangerous dog if the person is the keeper of a dog and the person, with criminal negligence, fails to prevent the dog from engaging in an act described in subsection (1) of this section.

(3) Maintaining a dangerous dog is punishable as described in ORS 609.990.

609.100 Dog licenses, tags and fees; exemptions.

(1) In a county, precinct or city having a dog control program under ORS 609.030, 609.035 to 609.110 and 609.405, every person keeping a dog that has a set of permanent canine teeth or is six months old, whichever comes first, shall procure a license for the dog. The license must be procured by paying a license fee to the county in which the person resides not later than March 1 of each year or within 30 days after the person becomes keeper of the dog. However, the county governing body may provide for dates other than March 1 for annual payment of fees. The fee for the license shall be determined by the county governing body in such amount as it finds necessary to carry out ORS 609.035 to 609.110. A license fee shall not be less than \$25 for each dog, except that the fee shall not be less than \$3 for each spayed female or neutered male dog for which a veterinarian’s certificate of operation for the spaying or neutering of the dog is presented to the county. If the person fails to procure a license within the time provided by this section, the county governing body may prescribe a penalty in an additional sum to be set by the governing body.

(2) The county shall, at the time of issuing a license, supply the licensee, without charge, with a suitable identification tag, which shall be fastened by the licensee to a collar and kept on the dog at all times when not in the immediate possession of the licensee.

(3) The license fees in subsection (1) of this section do not apply to dogs that are kept primarily in kennels and are not permitted to run at large. The county governing body may establish a separate license for dogs that are kept primarily in kennels when the dogs cease to be considered inventory under ORS 307.400, the fee for which shall not exceed \$5 per dog.

(4) A license fee is not required to be paid for any dog kept by a person who is blind and who uses the dog as a guide. A license shall be issued for such dog upon the filing by the person who is blind of an affidavit with the county showing that the dog qualifies for exemption.

(5) The county shall keep a record of dog licenses.

(6) Notwithstanding any other provision of this section or ORS 609.015, when the keeper of a dog obtains a license for the dog, that license is valid and is in lieu of a license for the dog required by any other city or county within this state, for the remainder of the license period:

- (a) If the keeper of the dog changes residence to a city or county other than the city or county in which the license was issued; or
- (b) If the keeper of the dog transfers the keeping of the dog to a person who resides in a city or county other than the city or county in which the license was issued

609.105 Exemption for assistance animals.

Notwithstanding ORS 609.015 or 609.100, a county or city shall not charge a fee to license a dog used as an assistance animal as defined in ORS 346.680.

609.110 Dog License Fund.

All funds derived under ORS 433.340 to 433.385 and 609.035 to 609.110 shall be turned over to the county treasurer, who shall keep them in a fund to be known as the Dog License Fund, to be expended as provided for by law. At the end of a fiscal year any amount of money in the fund determined by the county governing body to be in excess of the requirements of the Dog License Fund may be placed in the general fund of the county.

609.115 Liability for injury or property damage caused by potentially dangerous dog.

(1) As used in this section, “keeper” and “potentially dangerous dog” have the meanings given those terms in ORS 609.035.

(2) Except as provided in subsection (3) of this section, if a court has determined under ORS 609.990 that a dog is a potentially dangerous dog, and subsequent to that determination the dog causes physical injury to a person or damage to real or personal property, the keeper of the dog is strictly liable to the injured person or property owner for any economic damages resulting from the injury or property damage.

(3) Subsection (2) of this section does not apply if a physical injury is to a person provoking the dog or assaulting the dog’s keeper or to a person who trespasses upon premises from which the keeper may lawfully exclude others.

609.125 Definition of “livestock.”

As used in ORS 609.135 to 609.190, “livestock” means ratites, psittacines, horses, mules, jackasses, cattle, llamas, alpacas, sheep, goats, swine, domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.

609.135 Applicability of ORS 609.156, 609.162 and 609.168.

(1) ORS 609.156, 609.162 and 609.168 apply in every county having a dog control program.

(2) Except as provided under subsections (1) and (3) of this section, ORS 609.135 to 609.190 apply in every county having a dog control program except as otherwise provided by county charter or ordinance. Except as provided under subsections (1) and (3) of this section, the provisions of ORS 609.135 to 609.190 do not limit the powers of cities or counties to adopt ordinances and regulations relating to the control of dogs.

(3) ORS 609.162 (2) does not eliminate or restrict the ability of a county to adopt a charter or ordinance that is contrary to ORS 609.163. Notwithstanding any county charter or ordinance, a notice of determination sent under ORS 609.156 (2) or after a full and fair hearing shall be sent as provided under ORS 609.158 (4).

609.140 Right of action by owner of damaged livestock.

(1) The owner of any livestock which has been damaged by being injured, chased, wounded or killed by any dog shall have a cause of action against the owner of such dog for the damages resulting therefrom, including double the value of any livestock killed and double the amount of any damage to the livestock.

(2) If one or more of several dogs owned by different persons participate in damaging any livestock, the owners of the respective dogs shall be jointly and severally liable under this section. The owners of dogs jointly or severally liable under this section have a right of contribution among themselves. The right exists only in favor of an owner who has paid more than the pro rata share of the owner, determined by dividing the total damage by the number of dogs involved, of the common liability, and the total recovery of the owner is limited to the amount paid by the owner in excess of the pro rata share of the owner.

(3) An action brought under this section may be tried as an action at law in any court of competent jurisdiction.

(4) As used in this section:

(a) "Owner" means the head of the family of the home where the dog is cared for at the time of the damage.

(b) "Head of the family" means any person who has charge or manages the affairs of a collective body of persons residing together, the relations between whom are of a permanent and domestic character.

609.150 Right to kill dog that harms or chases livestock.

(1) Except as provided in subsection (3) of this section, any dog, whether licensed or not, which, while off the premises owned or under control of its owner, kills, wounds, or injures any livestock not belonging to the master of such dog, is a public nuisance and may be killed immediately by any person. However, nothing in this section applies to any dog acting under the direction of its master, or the agents or employees of such master.

(2) If any dog, not under the control of its owner or keeper, is found chasing or feeding upon the warm carcass of livestock not the property of such owner or keeper it shall be deemed, prima facie, as engaged in killing, wounding or injuring livestock.

(3) No person shall kill any dog for killing, wounding, injuring or chasing chickens upon a public place, highway or within the corporate limits of any city.

609.153 Dog owner education program.

(1) The State Department of Agriculture shall coordinate the development of a program to educate dog owners concerning their responsibility to avoid conflicts between dogs and livestock. The program shall include the publication of a brochure. A discussion of penalties and other measures provided for under ORS 609.162 and 609.163 shall be included in the brochure.

(2) The obligation of the department under subsection (1) of this section is limited to the extent of any moneys specifically appropriated for that purpose or available from donations, gifts and grants by private or other nonstate sources.

609.155 Impoundment for harming or chasing livestock; determination of fact; costs.

(1) In a county with a dog control program, upon finding a dog engaged in killing, wounding, injuring or chasing livestock or upon receipt from a complainant of evidence that a dog has been so engaged, the dog control officer or other law enforcement officer shall impound the dog.

(2) If there is reason to believe that reasonable testing of a dog impounded pursuant to subsection (1) of this section, including but not limited to a fecal examination or examination of the teeth of the dog, will provide substantial further evidence as to whether the dog has been engaged in killing, wounding, injuring or chasing livestock, the county shall provide for the administration of the tests by a licensed veterinarian.

(3)(a) After the completion of tests administered pursuant to subsection (2) of this section and allowing an opportunity for a hearing under ORS 609.158, the county shall determine whether the dog has been engaged in killing, wounding, injuring or chasing livestock. If the county determines that the dog has been so engaged, the county shall take action as provided under ORS 609.162 and 609.163. In addition to any action taken under ORS 609.162 and 609.163, the county may require that the dog owner pay the costs of keeping and testing the dog during impoundment. If the county determines that the dog has not been engaged in killing, wounding, injuring or chasing livestock, the dog shall be released to its owner and, if the dog had been impounded upon receipt of evidence from a complainant, the complainant shall pay the costs of keeping and testing the dog during the impoundment.

(b) Notwithstanding ORS 609.090, a dog impounded pursuant to subsection (1) of this section shall not be released until a determination is made by the county pursuant to this subsection.

609.156 Opportunity to request hearing.

(1) Prior to making a determination whether a dog has killed, wounded, injured or chased livestock, a county shall provide an opportunity for the dog owner to receive a hearing. The county shall send notice of the opportunity to request a hearing in a manner that is reasonably calculated, under all the circumstances, to apprise the dog owner of the specific behavior and incident alleged and the possible penalties, and to provide the dog owner with a fair opportunity for making the hearing request.

(2) A dog owner must cause a hearing request to be delivered to the county not later than the 14th day following the sending of notice under subsection (1) of this section. If a dog owner does not make a timely request for a hearing, the dog owner is conclusively presumed to have admitted the matter alleged and the county may immediately take action under ORS 609.162 and 609.163. The county shall send notice of its determination in the manner provided under ORS 609.158 (4).

609.158 Hearing process; notice of determination; reexamination of determination.

(1) A hearing may be conducted and a determination whether a dog has killed, wounded, injured or chased livestock may be made by the county governing body or any members thereof, the dog control board or any members thereof or a county hearings officer.

(2) Notwithstanding ORS 9.160 and 9.320, the county may choose to be represented at the hearing by any employee of the county. If the employee is not an attorney, the employee shall not present legal argument, examine or cross-examine witnesses, present rebuttal evidence or give legal advice to the governing body, dog control board or hearings officer conducting the hearing.

(3) The person presiding at the hearing shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary to determine the matter alleged. A determination made by a county following a hearing must be upon consideration of the whole record and supported by reliable, probative and substantial evidence.

(4) The county shall notify the dog owner of its determination and of any civil penalties or other measures imposed by delivering or mailing a copy to the dog owner or, if applicable, the attorney of the dog owner.

(5) If a hearing is not conducted by a majority of the county governing body, the owner may request that the county governing body reexamine the determination. If the county governing body does not grant the request for reexamination within 14 days, the request shall be deemed denied. A county governing body may not reexamine a determination if a petition for judicial review of the determination has been filed

609.161 Disputable presumption that dog harms or chases livestock.

For purposes of ORS 609.135 to 609.190, a disputable presumption shall arise that a dog has been engaged in killing, wounding, injuring or chasing livestock if:

- (1) The dog is found chasing livestock not the property of the owner of the dog in an area where freshly damaged livestock are found;
 - (2) The dog is found feeding upon a warm carcass of a livestock animal;
 - (3) An examination of the dog's feces indicates ingestion of portions of the anatomy or covering of the anatomy of livestock by the dog; or
 - (4) Portions of the anatomy or covering of the anatomy of livestock are found on the teeth of the dog, unless the dog is regularly used for the purpose of herding sheep.
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609.162 Guidelines for imposing remedial measures, civil penalties or other sanctions.

(1) If a county determines under ORS 609.156 (2) or after a full and fair hearing that a dog has engaged in killing, wounding, injuring or chasing livestock, the county shall take action in accordance with the following guidelines:

(a) If the dog has engaged in chasing livestock and has not previously killed, wounded, injured or chased livestock:

(A) The county shall take reasonable measures to prevent a recurrence. Reasonable measures include, but are not limited to, requiring that the dog owner take specific measures to adequately confine the dog and provide a notarized written pledge that the owner will prevent the dog from chasing livestock again; and

(B) The county may impose a civil penalty of not more than \$500.

(b) If the dog has engaged in chasing livestock and has previously killed, wounded, injured or chased livestock, or if the dog has engaged in wounding or injuring livestock and has not previously killed, wounded, injured or chased livestock, the county shall impose a civil penalty of not less than \$250 and not more than \$1,000. In addition to imposing the civil penalty, the county may:

(A) Require the dog owner to surrender the dog for adoption by a new owner approved by the county;

(B) Require the owner to remove the dog to a location where, in the opinion of the county, the dog does not present a threat to livestock; or

(C) Require that the dog be put to death in a humane manner. Before requiring that a dog be put to death under this subparagraph, the county shall make specific findings on the record that other measures are not available, are not adequate to remedy the problem or are otherwise unsuitable.

(c) If the dog has engaged in wounding or injuring livestock and has previously killed, wounded, injured or chased livestock, or if the dog has engaged in killing livestock and has not previously killed livestock, the county shall impose a civil penalty of not less than \$500 and not more than \$1,000. In addition to imposing the civil penalty, the county shall:

(A) Require the dog owner to remove the dog to a location where, in the opinion of the county, the dog does not present a threat to livestock; or

(B) Require that the dog be put to death in a humane manner.

(d) If the dog has engaged in killing livestock and the dog has previously killed livestock, the county shall impose a civil penalty of not less than \$500 and not more than \$1,000. In addition to imposing the civil penalty, the county shall require that the dog be put to death in a humane manner.

(2) In establishing the history of a dog for purposes of this section, or the history of an owner for purposes of ORS 609.163, a county shall consider all known determinations involving the dog or owner by any court, or by a governing body, official or agency of any local or state government, without regard to where or when the incident occurred.

609.163 Enhanced civil penalties for habitual violators.

(1) If a county assesses a civil penalty under ORS 609.162 against a dog owner who has previously been assessed a civil penalty, fine or forfeiture based upon the killing, wounding, injuring or chasing of livestock in an incident not involving the same dog or dogs as in the matter being determined, the county shall assess an additional civil penalty of not less than \$250 and not more than \$1,000.

(2) If a county assesses a civil penalty under ORS 609.162 against a dog owner who has previously been assessed two or more civil penalties, fines or forfeitures, or a combination thereof, based upon the killing, wounding, injuring or chasing of livestock in two or more incidents not involving the same dog or dogs as in the matter being determined, the county shall assess an additional civil penalty of not less than \$1,000 and not more than \$5,000. A penalty under this subsection is in lieu of a civil penalty under subsection (1) of this section.

(3) In addition to any other civil penalty under this section or ORS 609.162, if a dog that kills, wounds, injures or chases livestock is not licensed as required, the county may assess a civil penalty of not more than \$1,000. A civil penalty imposed under this subsection shall prevent imposition of a fine under ORS 609.990 for violation of ORS 609.100.

609.165 Judicial review of county determination.

(1) A determination issued under ORS 609.156 or 609.158 is subject to judicial review by the circuit court for the county making the determination as provided under ORS 34.010 to 34.100. Notwithstanding ORS 34.070, filing a petition for review shall automatically stay execution of the determination made by the county.

(2) Notwithstanding ORS 34.030, a petition for review must be filed no later than the 21st day following the date on which the county delivered or mailed its determination in accordance with ORS 609.158 (4). The filing of a request for reexamination under ORS 609.158 (5) does not act to toll the time for filing a petition for judicial review. However, if a county governing body reexamines the determination, the time for filing a petition for judicial review shall be extended through the 21st day following the date that the result of the reexamination is delivered or mailed.

(3) If the court reverses the decision of the county, the court shall make special findings of fact based upon the evidence in the record and conclusions of law indicating clearly all aspects in which the county's procedure or determination was in error.

609.166 Record of penalized owners.

(1) When a civil penalty is assessed against a dog owner under ORS 609.162 or 609.163, the county shall supply the State Department of Agriculture with information identifying the dog owner. The department shall supply the counties with forms for recording the information.

(2) The department shall maintain the record of a penalized dog owner for a reasonable period and shall make the record available to any county upon request.

(3) The county and the department may charge reasonable fees to the dog owner to cover the cost of conducting and administering the dog owner information program.

609.167 Conversion of civil penalty into lien; disposition of proceeds.

(1) Moneys collected from a dog owner under ORS 609.162 or 609.163 shall be deposited in the county treasury.

(2) A civil penalty under ORS 609.162 or 609.163 is a penalty against the person owning the dog at the time that the dog killed, wounded, injured or chased livestock. The penalty may not be transferred to a subsequent owner of the dog.

(3) When a county assesses a civil penalty under ORS 609.162 or 609.163, if the amount of penalty is not paid within 21 days after delivery or mailing of the determination, the county may record the penalty with the county clerk of any county of this state. The clerk shall thereupon record in the County Clerk Lien Record the name of the person incurring the penalty. However, the county shall not record a penalty with a county clerk while a request for reexamination or petition for judicial review is pending.

(4) In addition to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant to this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126.

(5) Imposition of a civil penalty under ORS 609.162 or 609.163 does not prevent the bringing of an action for damages under ORS 609.140 or 609.190. A determination by the county that a dog has killed, wounded, injured or chased livestock is prima facie evidence of the matter in a subsequent action under ORS 609.140 but not in an action under ORS 609.190.

609.168 Microchip identification of dog; rules.

(1) A county shall implant an identifying microchip into a dog described in ORS 609.162 that is not put to death. Implantation shall be made prior to any adoption or relocation of the dog. The State Department of Agriculture, by rule, shall prescribe standards for microchip implantation. The county making an implantation shall forward the microchip information and the record of the dog to the department.

(2) The department shall maintain the record for a dog implanted with a microchip under this section for a reasonable period and shall make the record available to any county upon request.

(3) The county and the department may charge reasonable fees to the dog owner to cover the cost of conducting and administering the microchip implantation program.

609.169 Keeping dog with knowledge that it has harmed livestock.

(1) Except as provided under subsections (2) and (3) of this section, a person may not own, harbor or keep any dog with knowledge that it has killed, wounded or injured livestock within this state or, with knowledge that, while off the premises owned or under the control of its owner and while not acting under the direction of its master or the agents or employees of such master, it has killed or seriously injured any person.

(2) A person is not prohibited from owning, harboring or keeping a dog pursuant to a county approved adoption or relocation of a dog under ORS 609.162 (1)(b) or (c).

(3) A person is not prohibited from owning, harboring or keeping a dog, with knowledge that it has killed or wounded chickens, unless the dog owner fails to pay full damages for the killed or wounded chickens within three days after receipt of a demand for those damages from the owner of the chickens.

609.170 Claim by owner of livestock.

In a county with a dog control program the owner of any livestock killed, wounded, chased or injured by any dog may, within 10 days after the killing, wounding, chasing or injuring occurred, or became known to the owner, present to the dog control board or county governing body a verified statement containing a full account of the incident, stating in detail the amount of damage claimed on account thereof, and the name and address of the owner or keeper of the dog, if known. The claim shall be supported by the affidavit of at least one disinterested person as to all material facts contained in it.

609.180 Hearing and payment of claims.

All claims presented as provided by ORS 609.170 shall be heard at the first regular session of the dog control board or county governing body after their presentation, or as soon thereafter as may be practicable. If the board or governing body determines that any livestock has been damaged by being killed, wounded, injured or chased, it shall file and enter a record of the value of the livestock and order a warrant drawn for the amount of damages thus found, or any portion thereof that it considers just, to be paid by the county treasurer out of the Dog License Fund. A livestock owner may refuse to accept the tendered payment and may withdraw a claim filed under ORS 609.170. If the dog control board or county governing body considers the claim unjust, it shall disallow the claim and enter that fact upon its record. A claim may not be allowed where it appears that the damage complained of was caused by a dog owned or controlled by the claimant or the agent of the claimant.

609.190 Subrogation of county paying claim; collection by district attorney.

In each case where a claim against the Dog License Fund of any county has been paid by the dog control board or county governing body, the county shall be subrogated to all the rights of the livestock owner against the dog owner for damages. The district attorney shall proceed promptly, in a lawful way, to collect for those damages. Any money so collected shall be paid over immediately to the treasurer of the county and credited to the Dog License Fund.

EXOTIC ANIMALS

609.205 Prohibitions against keeping of wild or exotic animals.

Notwithstanding the provisions of ORS chapters 496, 497 and 498 relating to wildlife, and ORS 609.305 to 609.335 and 609.992 relating to exotic animals, a city or county may prohibit by ordinance the keeping of wildlife, as defined in ORS 496.004, and may prohibit by ordinance the keeping of exotic animals as defined in ORS 609.305.

609.305 “Exotic animal” defined.

As used in ORS 609.305 to 609.355 and 609.992, “exotic animal” means:

- (1) Any member of the family Felidae not indigenous to Oregon, except the species *Felis catus* (domestic cat);
- (2) Any nonhuman primate;
- (3) Any nonwolf member of the family Canidae not indigenous to Oregon, except the species *Canis familiaris* (domestic dog);
- (4) Any bear, except the black bear (*Ursus americanus*); and
- (5) Any member of the order Crocodylia.

609.309 Policy on exotic animals.

It is the policy of this state to protect the public against health and safety risks that

exotic animals pose to the community, ensure the health, welfare and safety of exotic animals and ensure the security of facilities in which exotic animals are kept, so as to avoid undue physical or financial risk to the public.

609.312 Seller to provide buyer with informational material.

A person who sells an exotic animal must, prior to accepting the offer to purchase, provide the prospective purchaser of the exotic animal with informational material approved by the State Department of Agriculture regarding the care, husbandry, health and nutritional needs of the exotic animal. This section does not allow the sale of an exotic animal to a person located in this state other than an entity described in ORS 609.345.

609.325 Conditions for keeping exotic animal.

Any person who keeps an exotic animal shall keep the animal under conditions of confinement or control that, given the nature of the animal, would be imposed by a reasonable and prudent keeper to avoid physical or financial risk to the public as a result of escape of the animal or otherwise.

609.329 Liability for escape or injury.

(1) A keeper of an exotic animal is strictly liable for:

- (a) Costs incurred by any person or city, county or state agency in attempting to remedy the animal's escape from custody;
- (b) Personal injury, property damage or similar loss directly or indirectly caused by the animal's escape from custody, the lack of custody over the animal or efforts to remedy the animal's escape from custody; and
- (c) Personal injury directly caused by the animal while in custody.

(2) Notwithstanding subsection (1) of this section, if an injury or escape by an exotic animal is in whole or in part the result of a willful unlawful act by a person other than the keeper, the keeper's liability for damages resulting from the escape or injury is the amount of total damages multiplied by the percentage of fault attributable to the keeper's negligence.

609.335 Department rules regulating keeping of exotic animals; sanctions for rule violations.

(1) The State Department of Agriculture shall adopt reasonable rules for issuing permits to keep exotic animals and establishing conditions for keeping the exotic animals. The conditions shall be directed toward ensuring the health, welfare and safety of the exotic animals and, where necessary, the security of facilities in which the exotic animals are kept so as to avoid undue physical or financial risk to the public. The rules shall be no more restrictive upon keepers of exotic animals than is reasonably necessary to carry out the purposes of ORS 609.309.

(2) The department may revoke a permit upon finding a violation of rules adopted under this section, or the department may issue a finding of violation and a warning to remedy the violation by a specified date.

609.341 Permit requirement for keeping of exotic animal; breeding of animal.

(1) A person may not keep an exotic animal in this state unless the person possesses a valid State Department of Agriculture permit for that animal issued prior to January 1, 2010, or issued as provided in ORS 609.351.

(2) Except as provided in subsection (4) of this section, a person keeping an exotic animal in this state may not breed that animal.

(3) A person may not keep an exotic animal in this state for more than 30 days after the expiration, revocation or suspension of a permit.

(4)(a) A person may breed a small exotic feline if the person:

(A) Is exempt from the requirements for a permit under ORS 609.345; or

(B) Breeds a small exotic feline with a member of the species *Felis catus* (domestic cat), and:

(i) The person has a permit issued by the State Department of Agriculture under ORS 609.351; and

(ii) The person provides written documentation, including the person's business license, that the person bred the animals for the purpose of retail sale of the offspring.

(b) As used in this subsection, "small exotic feline" means a member of the family Felidae, except the species *Felis catus* (domestic cat), that weighs 50 pounds or less when fully mature.

609.351 Issuance and renewal of exotic animal permit; fee.

(1) The State Department of Agriculture may issue a permit to a person to keep an exotic animal if the person applies for the permit within 90 days after January 1, 2010.

(2) The department may, within one year of January 1, 2010, issue a permit to a person to possess an exotic animal if the person submits satisfactory proof to the department that the person possessed the exotic animal prior to January 1, 2010, and that the person meets requirements of rules adopted by the department under ORS 609.335.

(3) The department may charge a fee to issue or renew a permit under this section. The fee may not exceed \$100. Each permit or renewal of a permit is valid for two years.

609.355 Issuance of permit upon lapse of federal license or registration.

The State Department of Agriculture may issue a permit to a person to keep an exotic animal if:

(1) The person operated a facility under a valid license or research facility registration issued by the United States Department of Agriculture pursuant to the federal Animal Welfare Act of 1970 (7 U.S.C. 2133 or 2136);

(2) The person does not renew the person's license or registration described in subsection (1) of this section;

(3) The person applies for the permit within 90 days after the renewal date of the license or registration; and

(4) The person meets the requirements of rules adopted by the department under ORS 609.335.

DESTRUCTION OF ANIMALS

609.405 Requirement for destroying dogs and cats.

(1) No city or county or any facility with which the city or county has contracted to perform animal control functions and no humane society shall cause a dog or cat to be destroyed except by lethal injection of sodium pentobarbital or other substance approved by the Oregon State Veterinary Medical Examining Board.

(2) If a particular dog or cat to be destroyed poses an imminent threat to human or animal life, making use of lethal injection of sodium pentobarbital inappropriate, a reasonable and appropriate alternative may be used. The alternative method may be subject to review by the Oregon State Veterinary Medical Examining Board.

ANIMAL DEALERS

609.500 Definitions for ORS 609.500 to 609.520 and 609.994.

As used in ORS 609.500 to 609.520 and 609.994, unless the context requires otherwise:

- (1) "Animal control officer" means any person operating under the authority of this state, any unit of local government or the United States Government or pursuant to an agreement with any state or local government authority, for the purpose of:
 - (a) Providing shelter and other care for lost, homeless or injured animals;
 - (b) Serving as an information center concerning missing and found animals;
 - (c) Protecting the public from hazardous or insanitary conditions associated with animals that are running at large; or
 - (d) Protecting animals from neglect, cruelty or abuse.
 - (2) "Animal dealer" means any person, whether or not duly licensed or registered under state or federal law, who acquires or maintains possession of a dog or cat with the intention of selling the animal to another person, but does not include:
 - (a) Any research facility, retail pet store, animal control agency or animal shelter;
 - (b) Any person who sells the person's companion animal or the offspring of the companion animal;
 - (c) Any person who receives less than \$250 per calendar year for the sale of animals;
 - (d) Any person who breeds or possesses animals solely for sale to research facilities and does not purchase or accept animals from the public or paid collectors;
 - (e) Any commercial breeder or distributor who sells animals exclusively for the purpose of private pet ownership;
 - (f) Any person who receives lost or injured animals for the exclusive purpose of rehabilitating the animals or placing them in private pet ownership;
 - (g) Any person who breeds or possesses dogs or cats for competition, exhibition, legal sporting events, search and rescue activity or police activity; or
 - (h) Any person licensed to practice veterinary medicine, surgery or dentistry under ORS chapter 686.
 - (3) "Animal shelter" means any person operating a facility in this or any other state for the purposes of:
 - (a) Providing shelter and other care for lost, homeless or injured animals;
 - (b) Serving as an information center concerning missing and found animals; or
 - (c) Protecting animals from neglect, cruelty or abuse.
 - (4) "Companion animal" means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.
 - (5) "Person" means a human being, corporation, nonprofit corporation, association, partnership, sole proprietorship or other legal entity.
 - (6) "Research facility" means any person who:
 - (a) Investigates or gives instruction concerning the structure or functions of living organisms, the causes, prevention, control or cure of diseases or abnormal conditions of human beings or animals, or the effects of substances on human beings or animals; or
 - (b) Manufactures or sells products to be used in the prevention, control or cure of diseases or abnormal conditions of human beings or animals, or in the testing of the effects of substances on human beings or animals.
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609.505 Unlawfully obtaining dog or cat.

(1) A person commits the crime of unlawfully obtaining a dog or cat if the person:

(a) Is an animal dealer; and

(b) Obtains a companion animal or the offspring of a companion animal from a person who has not raised the companion animal or the offspring of the companion animal on the person's own premises.

(2) Unlawfully obtaining a dog or cat is a Class A misdemeanor.

(3) It is an affirmative defense to a charge of violating subsections (1) and (2) of this section that an animal dealer, having received a companion animal or the offspring of a companion animal in violation of subsections (1) and (2) of this section, delivers the companion animal or the offspring of the companion animal to an animal shelter within 24 hours of acquisition.

609.510 Animal dealers required to keep records; report to State Department of Agriculture; fee; public inspection of records.

(1) Every animal dealer shall establish and maintain records on each dog or cat and the dog's or cat's offspring in the dealer's possession or control, including:

(a) The species, gender, approximate age, color and distinctive markings and breed of the dog or cat;

(b) A photograph of the dog or cat made within 24 hours of acquisition or birth;

(c) The name, address and driver license number or other official state identification number of the person providing the dog or cat;

(d) The date of acquisition or birth of the dog or cat;

(e) The date and nature of disposition of the dog or cat; and

(f) The intended destination of the dog or cat at release.

(2) Within 24 hours of the acquisition or birth of a dog or cat in the possession of any animal dealer, the dealer shall forward, by first class mail or any more expeditious method, the information required by subsection (1) of this section to the State Department of Agriculture and a fee of \$1 for each dog or cat reported.

(3) The department shall maintain the reports and provide for public inspection of, and telephone inquiries concerning, the reports during normal business hours.

609.515 Required period of possession of animal by dealer.

Every animal dealer shall maintain possession of each dog or cat received for a period of at least 10 days after initial receipt of the dog or cat, unless the dealer:

(1) Returns the dog or cat to its rightful owner; or

(2) Delivers the dog or cat to an animal shelter.

609.520 Inspection of dealer records; procedure for obtaining animal held by dealer; penalty for failure to turn over animal; inspection of dealer facilities.

(1)(a) An animal dealer shall permit inspection during normal business hours of companion animal records and the location at which companion animals are kept. The dealer may require documentation that a person seeking to inspect the location is the owner of a companion animal. When making the inspection, the person may be accompanied by an animal control officer. A person may demand inspection only if it is for the purpose of seeking the person's own companion animal. A person is allowed no more than three inspections per week for up to six weeks following the disappearance of the person's companion animal.

(b) The person may prove ownership of a companion animal by providing the dealer with:

(A) Photographs clearly showing the companion animal and any distinguishing markings;

(B) Licensing information;

- (C) Veterinary records;
- (D) Registration records;
- (E) Microchip-implantation records; or
- (F) Tattooing records.

(2)(a) When a person claims to be the owner of a companion animal being held by an animal dealer, the animal dealer shall:

(A) Upon proof of ownership and payment by the person of actual direct expenses incurred by the animal dealer in obtaining and caring for the dog or cat, turn the dog or cat over to the person; or

(B) If the animal dealer disputes the identification, or if the amount of expenses cannot be agreed upon, turn the dog or cat over to an animal shelter pending resolution of the dispute.

(b) If the person claiming to be the owner and the animal dealer cannot resolve the dispute within a reasonable length of time, the circuit court for the area in which the dog or cat is located may, upon petition, designate a third party to serve as an impartial adjudicator of the issue. The decision of the third party is final and the dog or cat shall be released accordingly. If the decision is in favor of the person claiming to be the owner, that person shall pay the animal dealer the amount of the actual direct expenses incurred by the animal dealer in obtaining and caring for the dog or cat while the dog or cat was in the possession of the animal dealer. The party losing the dispute shall pay the expenses incurred by the animal shelter in caring for the dog or cat during the pendency of the dispute. No filing or other fees shall apply to the petition to the circuit court. The court shall process the matter as informally and as expeditiously as possible.

(c) An animal dealer who fails to turn a dog or cat over as required by this subsection commits a Class A misdemeanor.

(3) Law enforcement officers or animal control officers may conduct routine inspections of animal dealer facilities during normal business hours to insure compliance with animal control statutes, ordinances and regulations.

609.805 Misrepresentation of pedigree; mutilation of certificate or proof of pedigree; violation.

(1) No person shall:

(a) By any false representation and with intent to defraud, obtain from any corporation, club, association, society or company organized in whole or in part for the purpose of improving breeds of cattle, horses, sheep, swine or other domestic animals, a false certificate of registration of any such animal in their herd register or other register, or obtain the transfer of any such certificate.

(b) Knowingly and with intent to defraud, give a false pedigree of any such animal.

(c) During the existence of any mortgage on or lien or charge against any such animal, spoliage, mutilate or destroy the registration certificates or proofs of pedigree, or so encumber the same that the animal covered thereby cannot, in connection with the records, rules and regulations of the corporation, club, association, society or company under which the animal is registered, be directly designated thereby.

(2) Violation of this section is a Class B misdemeanor.

609.815 On-site individuals for locations where numerous dogs are kept.

(1) As used in this section, “dog” means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.

(2) A person that possesses, controls or otherwise has charge of at the same time 75 or

more dogs shall have one or more individuals on site for at least eight hours each day to care for the dogs. The ratio between dogs and on-site individuals may not be more than 75 dogs to one individual.

PENALTIES

609.990 Penalties for ORS 609.060, 609.095, 609.098, 609.100, 609.169 and 609.405; disposition of dog by court.

(1) Violation of ORS 609.060 (2), 609.100 or 609.169 is a Class B violation.

(2) Maintaining a public nuisance in violation of ORS 609.095 (2) or (3) is punishable by a fine of not more than \$250.

(3)(a) Except as provided in paragraph (b) of this subsection, violation of ORS 609.098 is a Class A misdemeanor.

(b) If a dog kills a person, violation of ORS 609.098 is a Class C felony.

(c) If a keeper violates ORS 609.098, the court shall order the dangerous dog killed in a humane manner.

(4) Violation of ORS 609.405 constitutes a Class C misdemeanor.

(5) In addition to any fine or sentence imposed under this section, a court may order a person who violates ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405 to pay restitution for any physical injury, death or property damage caused by the dog as a result of the keeper's violation of ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405. The court may also order the person to pay the cost of keeping the dog in impoundment.

(6) In addition to any fine imposed or restitution ordered of a keeper for a violation of ORS 609.060 (2), 609.095, 609.100, 609.169 or 609.405, the court may impose reasonable restrictions on the keeping of the dog to ensure the safety or health of the public. The keeper must pay the cost of complying with reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization. If the dog is a potentially dangerous dog, the court may order the dog killed in a humane manner. In determining whether to have the dog killed, the court shall give consideration to the factors described in ORS 609.093 and issue written findings on those factors.

(7) Notwithstanding ORS 19.270 and 19.330, subject to periodic advance payment of the cost of keeping the dog in impoundment, the killing of a dog pursuant to an order under subsection (3) or (6) of this section may not be carried out during the period that the order is subject to the appeal process. Unless otherwise ordered by the Court of Appeals, the dog may be killed during the appeal period if the keeper fails to maintain advance payment of the cost of keeping the dog impounded.

(8) If a court orders a dog killed under subsection (6) of this section and the keeper does not make the dog available for that purpose, the court may issue a search warrant for a property upon probable cause to believe that the dog is located at that property.

609.345 Exceptions to permit requirement.

(1) The requirements for a permit in ORS 609.335 and 609.341 do not apply to the following:

(a) A wildlife rehabilitation center operated under a valid permit issued by the State Fish and Wildlife Commission pursuant to ORS 497.308.

(b) A facility operated under a valid license or research facility registration issued by the United States Department of Agriculture pursuant to the federal Animal Welfare Act of 1970 (7 U.S.C. 2133 or 2136).

(c) An exotic animal protection organization, including humane societies and animal shelters, incorporated under ORS chapter 65, that houses an exotic animal at the written

request of the state or a state agency for a period not to exceed 30 days.

(d) A law enforcement agency.

(e) A licensed veterinary hospital or clinic.

(f) An educational facility that houses a member of the order Crocodylia pursuant to a written request of the state, a local government or a state agency stating the need to house the member of the order Crocodylia at the educational facility.

(g) A person or organization that takes in an exotic animal in an emergency situation but that does not otherwise qualify for an exemption under this section. The person or organization may keep the exotic animal for not more than 48 hours during which time the person or organization must make a good faith effort to contact a law enforcement agency, the State Department of Agriculture or a wildlife rehabilitation center described in paragraph (a) of this subsection.

(h) A person with a disability as defined in 42 U.S.C. 12102(2)(A) who possesses a service monkey if:

(A) The person presents, at the request of the State Department of Agriculture, written proof from a medical doctor that the person has a disability and that the service monkey performs specific tasks for the benefit of the person with the disability;

(B) The service monkey was obtained from, and trained at, a nonprofit organization whose mission is to improve the quality of life of persons with disabilities; and

(C) The person complies with any requirements of the Americans with Disabilities Act relating to service animals.

(2) As used in subsection (1)(h) of this section, "service monkey" means a nonhuman primate of the genus *Cebus* that is trained to perform specific tasks for a person with a disability.

609.992 Penalties for ORS 609.314; transfer of rights in exotic animal.

(1) Violation of ORS 609.314 is a Class B misdemeanor.

(2) In addition to and not in lieu of any jail sentence or fine it may impose, a court may require a defendant convicted under ORS 609.319 to forfeit any rights of the defendant in any exotic animal kept in violation thereof and to repay reasonable costs incurred by any person, city, county or state agency in caring for the animal prior to judgment.

(3) When the court orders the defendant's rights in the exotic 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. This subsection shall not constitute or authorize any limitation upon 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.

609.994 Penalties for ORS 609.510 to 609.520; cause of action for damages; injunctions.

(1) Violation of ORS 609.510, 609.515 or 609.520 is punishable by a fine of not less than \$500, nor more than \$50,000.

(2) A person has a cause of action for the recovery of compensatory damages from any person violating ORS 164.055 (1)(e), 164.085, 609.510, 609.515 or 609.520. In the action, the minimum pecuniary value of any companion animal is \$250.

(3) The circuit court for each county has the authority to enjoin any violation of ORS 609.510, 609.515 or 609.520, to issue warrants and to take such other actions as equity or justice may require.

646A.075 Required information prior to purchase of dog.

(1) As used in this section:

(a) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.

(b) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.

(c) "Retail pet store" means a retail establishment open to the public that sells or offers to sell dogs.

(d) "Retail pet store" does not mean a person that sells or offers to sell only dogs:

(A) That were bred or raised by the person; or

(B) That are kept primarily for the purpose of reproduction.

(2) A retail pet store that offers a dog for sale shall, prior to accepting an offer to purchase the dog, provide the person making the offer with the following information, in writing, regarding the dog:

(a) If known, the breed, age and date of birth for the dog.

(b) The sex and color of the dog.

(c) A list, and accompanying proof, of all inoculations that have been given to the dog by any person, and the date of those inoculations.

(d) A list of all medical treatment provided to the dog by any person, the date or treatment and the reasons for the treatment.

(e) The name and business address of the breeder and of the facility where the dog was born.

(f) If the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(g) The retail price of the dog.

(h) Any congenital disorder or hereditary diseases in the parents of the dog known to the pet dealer.

(i) If the dog is being sold with the representation that the dog qualifies for registration with a pedigree organization:

(A) The name and registration numbers of the parents of the dog; and

(B) The name and address of the pedigree organization with which the parents of the dog are registered.

(j) If the dog has previously been sold by the retail pet store and returned by the purchaser, the reason for the return.

(k) A statement in substantially the following form, with the applicable provision number circled:

The facility in which this dog was born has produced:

1. 0 to 2 litters during the one-year period preceding the day this dog was born.

2. 3 to 10 litters during the one-year period preceding the day this dog was born.

3. 11 to 39 litters during the one-year period preceding the day this dog was born.

4. 40 or more litters during the one-year period preceding the day this dog was born.

646A.077 Qualification for full refund; replacement dog; reimbursement for cost of veterinary care; exceptions.

(1) As used in this section:

(a) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.

(b) "Pet dealer" means, except as provided in paragraph (c) of this subsection, a person that sells five or more litters of dogs during a one-year period.

(c) "Pet dealer" does not mean an animal control agency, humane society or animal shelter.

(2) Except as otherwise provided in this section, a pet dealer shall provide the purchaser of a dog that complies with subsection (3) of this section with a full refund of the purchase

price for the dog if:

(a) No later than 15 days after purchasing the dog from the pet dealer the purchaser has the dog examined by a veterinarian and the examination reveals that the dog is diseased; or

(b) No later than one year after purchasing the dog from the pet dealer the purchaser has the dog examined by a veterinarian and the examination reveals that the dog has a congenital disorder that significantly limits the dog's quality of life.

(3) To qualify for a refund under this section, the purchaser, no later than four business days after the veterinary examination that revealed the disease or disorder, must:

(a) Return the dog to the pet dealer;

(b) Provide the pet dealer with a dated written statement by the examining veterinarian that the dog has a disease or has a congenital defect; and

(c) Provide the pet dealer with proof of the sale, including but not limited to, the date of sale.

(4) Upon mutual agreement of the purchaser and pet dealer, the purchaser may accept a replacement dog instead of a refund.

(5) A purchaser that complies with subsection (2) of this section may, instead of obtaining a refund, require that the pet dealer reimburse the purchaser for the cost of veterinary care provided in connection with the disease or congenital disorder described in subsection (2) of this section. The duty of the pet dealer to reimburse the purchaser for the cost of veterinary care shall be limited to the purchase price of the dog. A purchaser that agrees to accept reimbursement under this subsection waives any other claim against the pet dealer for reimbursement of the cost of veterinary care for the dog.

(6) Notwithstanding subsections (1) to (5) of this section, a pet dealer is not required to refund the purchase price for a dog, provide a replacement dog or reimburse the purchaser for veterinary care if the pet dealer:

(a) At the time of sale made a clear and conspicuous disclosure in writing, initialed or signed by the purchaser, that disclosed the disease or disorder; or

(b) Had the dog examined by a veterinarian not more than 14 days prior to the date of sale and the examination did not disclose the disease or congenital disorder.

686.990 Penalties.

(1) Violation of ORS 686.020 (1)(a) is a Class A misdemeanor.

(2) In addition to any other sanction imposed by law, the Oregon State Veterinary Medical Examining Board may impose a civil penalty not to exceed \$5,000 for each violation of ORS 686.020 (1).

(3) Failure to file a report of suspected aggravated animal abuse as required by ORS 686.455 is punishable by a fine of not more than \$1,000. [Amended by 1963 c.59 §1; 2003 c.178 §8; subsection (2) of 2003 Edition enacted as 2003 c.178 §10; subsection (3) of 2003 Edition enacted as 2003 c.275 §6; 2005 c.196 §3]

MISCELLANEOUS PROVISIONS

131.602 Prohibited conduct for purposes of instrumentalities of crime.

The crimes to which ORS 131.550 (12)(b) applies are:

(103) Animal abuse in the first degree, as defined in ORS 167.320.

(104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.

(105) Animal neglect in the first degree, as defined in ORS 167.330.

(106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS 167.352.

- (107) Involvement in animal fighting, as defined in ORS 167.355.
- (108) Dogfighting, as defined in ORS 167.365.
- (109) Participation in dogfighting, as defined in ORS 167.370.
- (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.

OR. REV. STAT. § 166.715 (2008). Definitions

As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Racketeering activity" includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.054, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexually explicit material, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

609.654 Public or private official reporting of aggravated animal abuse; immunity.

(1) Notwithstanding ORS 40.225 to 40.295, a public or private official who has reasonable cause to believe that an animal with which the official has come in contact has suffered aggravated animal abuse, or that any person with whom the official has come in contact has committed aggravated animal abuse, may immediately report the suspected aggravated animal abuse in the manner prescribed in subsection (2) of this section.

(2) A report of suspected aggravated animal abuse authorized under subsection (1) of this section may be made to a law enforcement agency, either orally or in writing, and may include, if known:

- (a) The name and description of each animal involved;
- (b) The address and telephone number of the owner or other person responsible for the care of the animal;
- (c) The nature and extent of the suspected abuse;
- (d) Any evidence of previous aggravated animal abuse;
- (e) Any explanation given for the suspected abuse; and

(f) Any other information that the person making the report believes may be helpful in establishing the cause of the suspected abuse or the identity of the person causing the abuse.

(3) A public or private official who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse under this section is not liable in any civil or criminal proceeding brought as a result of making the report. [2007 c.731 §3]

686.440 Immunity from civil liability for emergency treatment.

(1) A veterinarian or veterinary technician is not civilly liable for the acts or omissions described in subsection (2) of this section if:

(a) The animal has been brought to the veterinarian or veterinary technician by a person other than the owner of the animal; and

(b) The veterinarian or veterinary technician does not know who owns the animal or is unable to contact an owner of the animal before a decision must be made with respect to emergency treatment or euthanasia.

(2) The immunity granted by this section applies to:

(a) Any injury to an animal or death of an animal that results from acts or omissions of the veterinarian or veterinary technician in providing treatment to the animal; and

(b) The euthanasia of a seriously injured or seriously ill animal.

(3) Except as provided in subsection (4) of this section, this section does not apply to any act or omission of a veterinarian or veterinary technician that constitutes gross negligence in providing treatment to an animal.

(4) A veterinarian is completely immune from any civil liability for the decision to euthanize an animal under the circumstances described in subsection (1) of this section.

REPORTING ANIMAL ABUSE

686.442 Legislative findings.

The Legislative Assembly finds that there is a direct link between the problems of animal abuse and human abuse and further finds that for the purposes of identifying and prosecuting individuals who have committed crimes against animals, preventing further abuse of animals and preventing animal abuse from escalating to abuse against humans, it is necessary and in the public interest to require mandatory reporting of aggravated animal abuse by veterinarians.

686.445 Reporting of abandoned, neglected or abused animals; immunity from liability for report; reporting animals injured by trapping device.

(1) Except as provided in ORS 686.455, licensed veterinarians and veterinary technicians may report to peace officers, animal control officers or officers of private organizations devoted to humane treatment of animals any animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected or abused. Any veterinarian or veterinary technician making a report under this section is immune from any civil or criminal liability by reason of making the report.

(2) Veterinarians licensed and practicing in Oregon shall report to the Dean of the College of Veterinary Medicine, Oregon State University, in a form established by the dean, incidences of treating animals purported to have been injured by a trapping device.

686.450 Definitions. As used in ORS 686.450 to 686.465 and 686.990 (3):

(1)(a) “Aggravated animal abuse” means any animal abuse as described in ORS 167.322.

(b) “Aggravated animal abuse” does not include:

(A) Good animal husbandry, as defined in ORS 167.310; or

(B) Any exemption listed in ORS 167.335.

(2) “Law enforcement agency” means:

(a) Any city or municipal police department.

(b) Any county sheriff’s office.

(c) The Oregon State Police.

(d) A law enforcement division of a humane society in Oregon that employs special agents authorized under ORS 131.805.

(e) A law enforcement division of a county or municipal animal control agency that employs sworn officers.

(3) “Veterinarian” means a person licensed to practice veterinary medicine under ORS chapter 686.

686.455 Duty to report aggravated animal abuse.

(1) A veterinarian who has reasonable cause to believe that an animal with which the veterinarian has come in contact has suffered aggravated animal abuse, or that any person with whom the veterinarian has come in contact has committed aggravated animal abuse, shall immediately report the suspected aggravated animal abuse in the manner prescribed in subsection (2) of this section.

(2) A report of suspected aggravated animal abuse required under subsection (1) of this section shall be made to a law enforcement agency, either orally or in writing, and shall include, if known:

(a) The name and description of each animal involved;

(b) The address and telephone number of the owner or other person responsible for the care of the animal;

(c) The nature and extent of the suspected aggravated animal abuse;

(d) Any evidence of previous aggravated animal abuse;

(e) Any explanation given for the suspected aggravated animal abuse; and

(f) Any other information that the person making the report believes may be helpful in establishing the cause of the suspected aggravated animal abuse or the identity of the person causing the aggravated animal abuse.

686.460 Duty of law enforcement agency after receiving report of aggravated animal abuse.

(1) A law enforcement agency receiving a report of suspected aggravated animal abuse pursuant to ORS 609.654 or 686.455 shall investigate the nature and cause of the suspected aggravated animal abuse.

(2) If the law enforcement agency finds reasonable cause to believe that aggravated animal abuse has occurred, the law enforcement agency shall process the case in the same manner as any other criminal investigation.

686.465 Immunity for reporting in good faith.

A veterinarian who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse under ORS 686.455 is not liable in any civil or criminal proceeding brought as a result of making the report.

811.200 Carrying dog on external part of vehicle; penalty.

(1) A person commits the offense of carrying a dog on the external part of a vehicle if the person carries a dog upon the hood, fender, running board or other external part of any automobile or truck that is upon a highway unless the dog is protected by framework, carrier or other device sufficient to keep it from falling from the vehicle.

(2) The offense described in this section, carrying dog on external part of vehicle, is a Class D traffic violation.

811.710 Failure to perform duties of driver when animal is injured; penalty.

(1) A person commits the offense of failure to perform the duties of a driver when an animal is injured if the person knowingly strikes and injures a domestic animal and the person does not do all of the following:

- (a) Stop at once.
- (b) Make a reasonable effort to determine the nature of the animal's injuries.
- (c) Give reasonable attention to the animal.
- (d) Immediately report the injury to the animal's owner.
- (e) If unable to contact the owner of the animal, notify a police officer.

(2) The requirements under this section for a driver to stop and attend an injured animal depend on the traffic hazards then existing.

(3) The offense described in this section, failure to perform the duties of a driver when an animal is injured, is a Class B traffic violation.

A

- 167.322 Aggravated animal abuse I 19
- 167.335 Aggravated animal abuse I—exemption 20
- 164.057 Aggravated theft I 14
- 167.340 Animal abandonment 20
- 167.320 Animal abuse I 18
- 167.335 Animal abuse I—exemption 20
- 167.322 Animal abuse I—aggravated 19
- 167.315 Animal abuse II 18
- 167.335 Animal abuse II—exemption 20
- 609.500 Animal dealer—definition 47
- 609.510 Animal dealers required to keep records 48
- 609.994 Animal dealers required records—penalties 51
- 167.310 Animal—definition 16
- 167.355 Animal fighting—involvement in 23
- 167.330 Animal neglect I 19
- 167.335 Animal neglect I—exemption 20
- 167.325 Animal neglect II 19
- 167.335 Animal neglect II—exemption 20
- 609.500 Animal shelter—definition 47
- 609.015 Application of dog control laws 33
- 133.377 Arrest of persons for cruelty to animals 6
- 167.339 Assaulting law enforcement animal 20
- 609.105 Assistance animals—dog control exemption 38
- 609.105 Assistance animals—licensing 38
- 167.352 Assistance animals—interfering with 23
- 131.805 Authority to employ special agents 6
- 167.345 Authority to enter, damage resulting from 20

C

- 601.140 Carcass of domestic animal 33
- 811.200 Carrying dog on external part of vehicle 56
- 609.170 Claim by owner of livestock 44
- 167.390 Commerce in fur of domestic dogs & cats 28
- 167.390 Commerce in fur—exception 28
- 40.252 Rule 504-5 Communications revealing intent to commit certain crimes 5
- 609.500 Companion animal—definition 47
- 609.325 Conditions for keeping exotic animals 45

- 609.093 Considerations prior to disposing of chasing, menacing or biting dog 36
- 164.025 Consolidation of theft offenses 12
- 480.124 Control of predatory animals 30
- 609.167 Conversion of civil penalty into lien; disposition of proceeds 43
- 167.350 Cost of care for animal—forfeiture of rights 22
- 87.159 Cost of care for animal—lien for 12
- 609.505 Crime of unlawfully obtaining dog or cat 48
- 164.365 Criminal mischief I 16

D

- 609.140 Damaged livestock—right of action 39
- 164.085 Deception—theft by 15
- 164.035 Defenses to theft 13
- 167.310 Definitions—animal 16
- 609.500 Definitions—animal control officer 47
- 609.500 Definitions—animal dealer 47
- 609.500 Definitions—animal shelter 47
- 609.500 Definitions—companion animal 47
- 167.360 Definitions—dog fight 24
- 167.310 Definitions—domestic animal 16
- 609.305 Definitions—exotic animal 44
- 167.360 Definitions—fighting dog 24
- 167.310 Definitions—good animal husbandry 16
- 609.035 Definitions—keeper 33
- 609.125 Definitions—livestock 38
- 167.387 Definitions—livestock production facility 27
- 609.035 Definitions—menaces or menacing 33
- 167.310 Definitions—minimum care 16
- 133.375 Definitions—owner or person 6
- 161.015 Definitions—Peace Officer 8
- 609.500 Definitions—person 47
- 167.426 Definitions—fighting bird 28
- 167.310 Definitions—physical injury 16
- 167.310 Definitions—physical trauma 16
- 167.310 Definitions—possess 16
- 166.715 Definitions (re: Racketeering) 54
- 686.450 Definitions (re: Reporting animal abuse) 55

609.500 Definitions—research facility 47
609.035 Definitions—running at large 33
167.310 Definitions—serious physical injury 16
164.015 Definitions—theft 12
609.405 Destroying dogs & cats—requirements 46
609.990 Destroying dogs & cats—penalties 50
167.350 Disposition of animal—forfeiture of rights 22
609.990 Disposition of dog by court 50
609.161 Disputable presumption—livestock 41
609.105 Dog control laws—animals exempted 38
609.015 Dog control laws—application of 33
167.365 Dog fighting 24
167.370 Dog fighting—participation in 25
609.110 Dog license fund 38
609.100 Dog licenses, tags and fees; exemptions 37
609.153 Dog owner education program 39
609.020 Dogs as personal property 33
609.095 Dogs as public nuisance 36
609.990 Dogs as public nuisance—penalties 50
167.310 Domestic animal—definition 16
811.710 Driver’s duties to an injured animal 57
686.460 Duty of law enforcement agency after receiving report of aggravated animal abuse 56
133.379 Duty to arrest and prosecute violators 7
686.455 Duty to report aggravated animal abuse 56

E

609.040 Election to determine whether dogs may run at large 34
686.440 Emergency treatment—immunity 55
167.349 Encouraging animal abuse 22
609.163 Enhanced civil penalties for habitual violators 42
167.334 Evaluation of animal sexual assault offender 19
596.341 Examination of livestock—entry into state 32
609.345 Exceptions to permit requirement 50
609.105 Exemption for assistance animals 38
167.335 Exemption from ORS 167.315 to 167.333 20
164.075 Extortion—theft by 14
609.325 Exotic animals—conditions for keeping 45
609.305 Exotic animals—definition 44
609.329 Exotic animals—liability for escape/injury 45
609.345 Exotic animals—permit exceptions 50
609.992 Exotic animals—permit penalties 51
609.319 Exotic animals—permit requirements 45
609.335 Exotic animals—permit rules, fees, warnings 45
609.309 Exotic animals—policy on 44
609.205 Exotic animals—prohibition against keeping 44

F

811.710 Failure to perform duties/animal injured 57
609.520 Failure to turn over animal 48
609.994 Failure to turn over animal—penalties 51
161.605 Felonies—maximum prison terms 9
161.625 Felonies—fines 9
167.428 Fighting birds 28
161.625 Fines for felonies 9
161.635 Fines for misdemeanors 10
167.439 Forcible recovery of fighting bird 30
167.348 Forfeited animal—placement of 22
167.435 Forfeiture of rights—fighting birds 29
167.350 Forfeiture of rights—mistreated animal 22
167.347 Forfeiture of animal prior to disposition 21
167.390 Fur of domestic dogs & cats—commerce 28

G

609.162 Guidelines for imposing remedial measures, civil penalties or other sanctions 41

H

609.156 Hearing—opportunity to request 40
609.180 Hearing and payment of claims 44
609.158 Hearing process; notice of determination 40

I

40.275 Identity of informer 5
686.440 Immunity for emergency treatment 55
686.445 Immunity for reporting animal welfare 55
686.465 Immunity for reporting in good faith 56
133.377 Immunity of Peace Officer providing care 6
609.090 Impounding certain dogs; procedure for county disposition of impounded dogs; impoundment fees and costs; release of dog 35
167.345 Impoundment of animal, search warrants 20
609.155 Impoundment of a dog harming livestock 39
40.275 Informer—identity of 5
811.710 Injured animal—driver’s duties 57
609.520 Inspection of dealer facilities 48
609.994 Inspection of dealer facilities—penalties 51
609.520 Inspection of dealer records 48
609.994 Inspection of dealer records—penalties 51
167.312 Interference—research and animal 17
167.388 Interference with livestock production 27
167.337 Interfering with law enforcement animal 20
167.352 Interfering with assistance, rescue animal 23
167.355 Involvement in animal fighting 23
609.355 Issuance of permit upon lapse of federal license or registration 46

J

609.165 Judicial review of county determination 42

K

609.169 Keeping a dog that has harmed livestock 43
609.990 Keeping a dog that has harmed—penalties 50

L

686.442 Legislative findings 55
609.329 Liability for escape or injury of exotics 45
609.115 Liability for injury or property damage caused by potentially dangerous dog 38
609.105 Licensing of assistance animals 38
87.159 Lien for care of an animal 12
167.385 Livestock animal—unauthorized use of 27
609.125 Livestock—definition 38
609.161 Livestock—presumption that dog harms 41
596.341 Livestock—entry into State, conditions 32
609.155 Livestock—impoundment of dog harming 39
609.169 Livestock—keeping a dog that has harmed 43
167.388 Livestock production—interference with 27
609.150 Livestock—right to kill dog if harms/chases 39
164.065 Lost, mislaid property—theft of 14

M

609.098 Maintaining dangerous dog 37
498.046 Making toxic substances avail. to wildlife 31
161.605 Maximum prison terms for felonies 9
609.168 Microchip identification of dog; rules 43
167.310 Minimum care—definition 16
161.635 Misdemeanors—fines 10
161.615 Misdemeanors—prison terms 9
609.805 Misrepresentation of pedigree 49

N

609.060 Notice of election result; dogs running at large prohibited; deposit of fees and fines 34
167.345 Notice of impoundment of animal 20

O

609.520 Obtaining animal held by dealer 48
609.994 Obtaining animal held by dealer—penalties 51
609.505 Obtaining dog or cat unlawfully 48
609.815 On-site individuals for locations where numerous dogs are kept 49
609.156 Opportunity to request hearing 40

P

167.431 Participation in cockfighting 29
161.015 Peace Officer—definition 8
609.805 Pedigree—misrepresentation 49
686.990 Penalties 53
609.994 Penalties—animal dealers keeping records 51
609.994 Penalties—dealers period of possession 51
609.990 Penalties—destroying dogs and cats 50
609.990 Penalties—dog as public nuisance 50
609.994 Penalties—failure to turn over animal 51
609.990 Penalties—keeping a dog that has harmed 50
167.370 Participation in dog fighting 25
609.992 Penalties—permit required to keep exotics 19
811.200 Penalty—carrying dog on ext. part of car 56
596.341 Permit—for livestock entry into state 32
609.345 Permit for exotic animals—exceptions 50
480.122 Permit for repelling birds or animals 30
609.319 Permit required to keep exotic animals 45
609.992 Permit required to keep exotics—penalties 51
609.341 Permit requirement for keeping of exotic animal; breeding of animal 45
609.335 Permits, rules, fees, for exotic animals 45
498.242 Piranha—possession restricted 31
167.348 Placement of forfeited animal, preference 22
167.337 Police animal—interfering with 20
609.309 Policy on exotic animals 44
167.372 Possessing dogfighting paraphernalia 25
609.515 Possession—required period for dealers 48
609.994 Possession—required period, penalties 51
164.105 Possession—right of 15
167.374 Possession of dogs for purposes of breeding; records; exceptions 25
167.332 Possession of domestic animal, prohibition 19
498.242 Possession of walking catfish and piranha 31
480.124 Predatory animals—control allowed 30
161.605 Prison terms for felonies -maximum 9
161.615 Prison terms for misdemeanors 9
131.602 Prohibited conduct for purposes of instrumentalities of crime 53
167.332 Prohibition of possession of domestic animal 19
596.331 Prohibition against disposing of diseased livestock, parts of quarantined livestock or unvaccinated female cattle; exceptions 31
609.205 Prohibition against wild/exotic animals 44
609.510 Public inspection of animal dealer records 48
609.095 Public nuisance—dogs 36
609.990 Public nuisance penalties—dogs 50
609.654 Public or private official reporting of aggravated animal abuse; immunity 54

Q

646A.077 Qualification for full refund replacement dog; reimbursement for cost of veterinary care; exceptions 52

R

164.095 Receiving–theft by 15
609.510 Records–animal dealers required to keep 48
609.994 Records–of animal dealers, penalties 51
609.166 Records–of penalized owners 42
480.122 Repelling birds or animals–use for/permit 30
686.445 Reporting abused, neglected animals 55
609.515 Required period of possession by dealer 48
609.994 Required period of possession–penalties 50
609.405 Requirements for destroying dogs & cats 46
609.990 Requirements for destroying–penalties 50
167.312 Research and animal interference 17
609.140 Right of action for damaged livestock 39
164.105 Right of possession 15
609.150 Right to kill dog that harms/chases livestock 39

S

167.352 Search and rescue animal–interfering with 23
167.345 Search warrant, impoundment of animal 20
167.433 Seizure of fighting birds–procedure 29
609.312 Seller to provide buyer with information material 45
167.333 Sexual assault of an animal 19
167.335 Sexual assault of an animal–exemption 20
167.334 Sexual assault–evaluation of offender 19
131.805 Special agents–authority to employ 6
167.376 Standards of care applicable to dog breeders; records; exceptions 26
609.190 Subrogation of county paying claim; collection by district attorney 44

T

164.055 Theft I 13
164.057 Theft I –Aggravated 14
164.045 Theft II 13
164.043 Theft III 13
164.085 Theft–by deception 15
164.075 Theft–by extortion 14
164.095 Theft–by receiving 15
164.035 Theft–defenses to 13
164.015 Theft–described 12
164.065 Theft–of lost, mislaid property 14
164.025 Theft offenses–consolidation 12
167.352 Therapy animal–interfering with 23

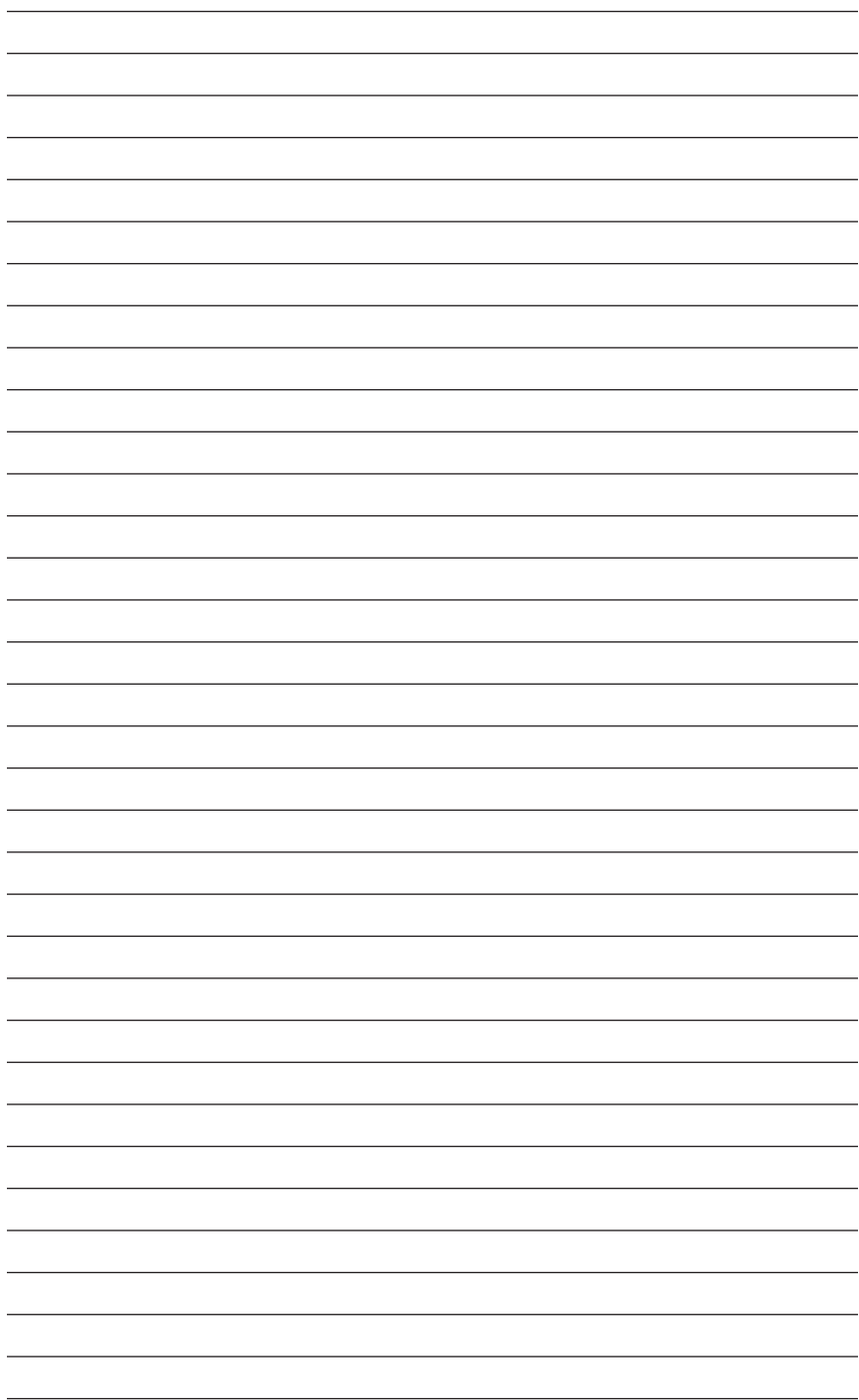
498.046 Toxic substances–accessibility to wildlife 31
167.351 Trading in nonambulatory livestock 23
686.445 Trapping device–animals injured by 55

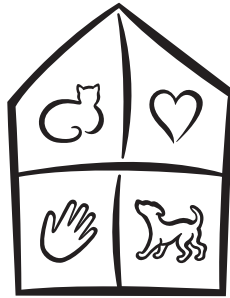
U

167.385 Unauthorized use of livestock animal 27
609.505 Unlawfully obtaining dog or cat 48
480.122 Use for repelling birds or animals, permit 30
480.124 Use for control of predatory animals 30

W

498.242 Walking catfish–possession restricted 31
609.205 Wild animals–prohibition against keeping 44
498.046 Wildlife–accessibility to toxic substances 31





OREGON
HUMANE
SOCIETY

**1067 NE Columbia Blvd.
PO Box 11364
Portland, OR 97211**

**503-285-7722
www.oregonhumane.org**