

# **Oregon Humane Society**

## **Oregon Animal Cruelty Laws Handbook**



**A Legal Reference to  
Oregon Revised Statutes**



**OREGON  
HUMANE  
SOCIETY**

**2014 Edition**

## **Welcome to the 2014 edition of the Oregon Humane Society's Animal Cruelty Laws Handbook.**

*Welcome to the 2014 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



OREGON  
**HUMANE**  
SOCIETY

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

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## LEGISLATIVE FINDINGS

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### **167.305 Legislative Findings.**

The Legislative Assembly finds and declares that:

- (1) Animals are sentient beings capable of experiencing pain, stress and fear;
- (2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;
- (3) The suffering of animals can be mitigated by expediting the disposition of abused animals that would otherwise languish in cages while their defendant owners await trial;
- (4) The suffering of animals at the hands of unlicensed animal rescue organizations that are unable to provide sufficient food and care for the animals can be reduced by requiring such organizations to comply with regulations;
- (5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred by persons and government agencies that provide treatment for impounded animals;
- (6) Use of preconviction civil remedies is not an affront to the presumption of innocence; and
- (7) Amendments to current law are needed to ensure that interested parties are afforded adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien foreclosure and preconviction forfeiture processes through unfounded due process claims.

### **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.

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## DUTIES OF PEACE OFFICERS & HUMANE SPECIAL AGENTS

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### **133.005 Definitions for ORS 133.005 to 133.400 and 133.410 to 133.450.**

As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise:

- (1) “Arrest” means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. A “stop” as authorized under ORS 131.605 to 131.625 is not an arrest.
- (2) “Federal officer” means a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.
- (3) “Peace officer” means:
  - (a) A member of the Oregon State Police;
  - (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.383;
  - (c) 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;
  - (d) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon;
  - (e) A humane special agent as defined in ORS 181.435;

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### **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.

### **181.433 Commissioning of humane special agents; rules.**

- (1) At the request of a humane investigation agency, the Superintendent of State Police shall commission a designated employee of the humane investigation agency as a humane special agent, if:
  - (a) The employee is certified, or is eligible for certification, as a police officer under the provisions of ORS 181.610 to 181.712;
  - (b) The superintendent determines that the employee is fit and qualified to perform the duties of a humane special agent;
  - (c) The humane investigation agency agrees in writing to save harmless and indemnify the State of Oregon and its officers, employees and agents from and against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission of the employee or the humane investigation agency, that relates to or results from the authority granted by the commission; and
  - (d) The humane investigation agency furnishes to the superintendent a copy of an insurance policy, purchased and maintained by the humane investigation agency, that the superintendent determines is sufficient to satisfy any tort claim or demand described in paragraph (c) of this subsection.
- (2) Before granting a commission under this section, the superintendent may require the employee to take and subscribe to an oath of office to support the Constitution and laws of the United States

and of the State of Oregon, and to honestly and faithfully perform the duties of a humane special agent.

(3) The superintendent shall suspend or revoke a commission granted under this section if the superintendent determines that:

(a) The certification of the employee as a police officer has lapsed or been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1), and has not been reissued under ORS 181.664 (2);

(b) The employee has been separated from employment with the humane investigation agency; or

(c) The employee has abused the commission.

(4) Except as otherwise provided in subsection (3) of this section, an employee of a humane investigation agency commissioned under this section holds the commission at the pleasure of the superintendent. The superintendent may suspend or revoke a commission granted under this section at any time for good cause, as determined by the superintendent. If the superintendent revokes a commission granted under this section, the employee of the humane investigation agency is entitled only to an informal opportunity to be heard by the superintendent, for the purposes of explaining any factual circumstances related to the revocation and attempting to persuade the superintendent to reverse the decision to revoke the commission.

(5) Humane special agents commissioned under this section serve at the expense of the humane investigation agency employing the agent.

(6) The superintendent may adopt rules to carry out the provisions of this section. The rules may include a description of the circumstances in which a humane special agent is prohibited from carrying a firearm while engaged in the enforcement of animal welfare laws.

(7) As used in this section:

(a) "Animal welfare laws" means:

- (A) ORS 167.310 to 167.351, 167.352, 167.355, 167.360 to 167.372, 167.374, 167.376, 167.385, 167.388, 167.390 and 167.426 to 167.439; and
- (B) ORS 164.043, 164.045, 164.055, 164.057, 164.075, 164.345, 164.354 and 164.365, if the subject of the crime is an animal.

(b) "Humane investigation agency" means a private, nonprofit animal care agency that has maintained an animal welfare investigation department for at least five years and has had officers employed as special agents under ORS 131.805.

### **181.435 Humane special agents to enforce animal welfare laws under direction of law enforcement agency; notice required of allegation of abuse of commission.**

(1) A humane special agent shall work cooperatively with law enforcement agencies in enforcing animal welfare laws and shall defer to the direction of a law enforcement agency having jurisdiction over the commission of a violation of animal welfare laws.

(2) If a law enforcement agency or a humane investigation agency learns of an allegation that a humane special agent has abused the agent's commission, or otherwise has reasonable cause to believe that the commission of a humane special agent is subject to suspension or revocation under ORS 181.433(3), the agency shall promptly notify the Superintendent of State Police.

(3) As used in this section:

(a) "Animal welfare laws" and "humane investigation agency" have the meanings given those terms in ORS 181.433.

(b) "Humane special agent" means a person who is commissioned under ORS 181.433 and is engaged in the enforcement of animal welfare laws.

(c) "Law enforcement agency" includes the Department of State Police, a county sheriff's office, a district attorney's office and a municipal police department.

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## THEFT AND RELATED OFFENSES

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### 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 nitro jelly, 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 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.

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## **OFFENSES AGAINST ANIMALS**

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### **167.310 Definitions for ORS 167.310 to 167.351.**

As used in ORS 167.310 to 167.351:

- (1) "Adequate bedding" means bedding of sufficient quantity and quality to permit a domestic animal to remain dry and reasonably clean and maintain a normal body temperature.
- (2)
  - (a) "Adequate shelter" includes a barn, dog house or other enclosed structure sufficient

to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury.

(b) "Adequate shelter" does not include:

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

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

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

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

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

(7) "Law enforcement animal" means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 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.

(8) "Livestock" has the meaning provided in ORS 609.125.

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

- (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
- (b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Access to snow or ice is not adequate access to potable water.
- (c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to adequate shelter.
- (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
- (e) For a domestic animal, continuous access to an area:
  - (A) With adequate space for exercise necessary for the health of the animal;
  - (B) With air temperature suitable for the animal; and
  - (C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.

- (f) For a livestock animal that cannot walk or stand without assistance:
  - (A) Humane euthanasia; or
  - (B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.
- (10) “Physical injury” means physical trauma, impairment of physical condition or substantial pain.
- (11) “Physical trauma” means fractures, cuts, punctures, bruises, burns or other wounds.
- (12) “Possess” has the meaning provided in ORS 161.015.
- (13) “Serious physical injury” means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.
- (14)
  - (a) “Tethering” means to restrain a domestic animal by tying the domestic animal to any object or structure by any means.
  - (b) “Tethering” does not include using a handheld leash for the purpose of walking a domestic animal.

### **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.

### **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 one 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.
- (5) When animal abuse in the first degree is a felony, the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

### **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 and the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

(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:

(a) Fails to provide minimum care for an animal in such person's custody or control; or

(b) Tethers a domestic animal in the person's custody or control and the tethering results in physical injury to the domestic animal.

(2) Animal neglect in the second degree is a Class B misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the second degree is a Class C felony if:

(a) The person committing the offense has previously been convicted of two or more offenses under this section, ORS 167.330 or the equivalent laws of another jurisdiction;

(b) The offense was part of a criminal episode involving 11 or more animals; or

(c) The person knowingly commits the offense in the immediate presence of a minor child and the person has one or more previous convictions for an offense involving domestic violence as defined in ORS 135.230. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.

(4) The Oregon Criminal Justice Commission shall classify animal neglect in the second degree under subsection (3) of this section:

(a) As crime category 6 if 11 to 40 animals were the subject of the neglect.

(b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section.

### **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:

(a) 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; or

(b) Tethers a domestic animal in the person's custody or control and the tethering results in serious physical injury or death to the domestic animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class C felony if:

(a) The person committing the offense has previously been convicted of one or more offenses under this section, ORS 167.325 or the equivalent laws of another jurisdiction;

- (b) The offense was part of a criminal episode involving 10 or more animals; or
  - (c) The person knowingly commits the offense in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.
- (4) The Oregon Criminal Justice Commission shall classify animal neglect in the first degree under subsection (3) of this section:
- (a) As crime category 6 if 10 to 40 animals were the subject of the neglect.
  - (b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section.

### **167.332 Prohibition against possession of domestic animal.**

- (1) Except as provided in subsections (3) and (4) of this section:
- (a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.325, 167.330 or 167.340 or of a misdemeanor under ORS 167.320, may not possess a domestic animal or any animal of the same genus against which the crime was committed for a period of five years following entry of the conviction.
  - (b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.365 or 167.428 or of a felony under ORS 167.320, may not possess a domestic animal or any animal of the same genus against which the crime was committed for a period of 15 years following entry of the conviction.
- (2) A person who possesses an animal in violation of this section commits a Class C misdemeanor. When a person is convicted of possessing an animal in violation of this section, as part of the sentence the court may order the removal of that animal from the person's residence and may prohibit the person from possessing any animal of the same genus that the person unlawfully possessed under this section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed.
- (3) The animal possession prohibition described in subsection (1) of this section does not apply to a person's first conviction if the person is the owner of a commercial livestock operation and the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed against livestock.
- (4)
- (a) A person subject to an animal possession prohibition described in subsection (1) of this section may file a motion with the sentencing court requesting a waiver of the prohibition. The person must file a sworn affidavit in support of the motion stating that:
    - (A) The person's conviction leading to the possession prohibition involved only livestock;
    - (B) During the two years before the conviction triggering the prohibition, the person was the owner of a commercial livestock operation;
    - (C) The person has not been convicted, in the previous five years, of a crime involving animals or domestic violence or a crime where the victim was under 18 years of age; and
    - (D) The person's conviction was the result of:
      - (i) Criminal liability for the conduct of another person under

ORS 161.155 (2)(c);

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

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

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

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

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

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

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

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

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

### **167.333 Sexual assault of an 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.

### **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 a 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 a 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.

### **167.343 Unlawful tethering.**

- (1) A person commits the offense of unlawful tethering if the person tethers a domestic animal in the person's custody or control:
  - (a) With a tether that is not a reasonable length given the size of the domestic animal and available space and that allows the domestic animal to become entangled in a manner that risks the health or safety of the domestic animal;
  - (b) With a collar that pinches or chokes the domestic animal when pulled;
  - (c) For more than 10 hours in a 24-hour period; or
  - (d) For more than 15 hours in a 24-hour period if the tether is attached to a running

line, pulley or trolley system.

- (2) A person does not violate this section if the person tethers a domestic animal:
  - (a) While the domestic animal remains in the physical presence of the person who owns, possesses, controls or otherwise has charge of the domestic animal;
  - (b) Pursuant to the requirements of a campground or other recreational area;
  - (c) For the purpose of engaging in an activity that requires licensure in this state, including but not limited to hunting;
  - (d) To allow the person to transport the domestic animal; or
  - (e) That is a dog kept for herding, protecting livestock or dogsledding.
- (3) Unlawful tethering is a Class B violation.

### **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)
  - (a) 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.
  - (b) To provide notice on any potential claimant who may have an interest in any animals impounded pursuant to ORS 167.345 and as an alternate form of service upon a defendant who cannot be personally served as required in subsection (1) of this section, a petitioner may publish notice of the filing of the petition, printed twice

weekly for up to 14 consecutive days in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the hearing is to be held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the hearing is to be held. The notice of the filing of the petition required under this subsection shall contain a description of the impounded animal or animals, the name of the owner or reputed owner thereof, the location from which the animal or animals were impounded and the time and place of the hearing if the hearing has been set at the time of publication, or otherwise the name, address and phone number for the attorney for the petitioner, who shall upon request provide further details on the hearing date, place and time.

(3) 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. The defendant or any other claimant shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant or any other claimant, 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.

(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 or any other claimant 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 and ORS chapters 87 and 88.

### **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 may 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. The agency may not, however, place the animal with family members or friends of the former owner who aided or abetted the criminal conduct underlying the forfeiture or had knowledge of the criminal conduct and failed to intervene. 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.

### **87.159 Lien for animal care.**

(1) 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.

(2)

(a) Within 30 days of impoundment of any animal or animals as is authorized under ORS 167.345, any person who has an ownership interest in any impounded animal may file a written petition, verified under oath, demanding a hearing before the circuit court. The petition shall specifically identify the petitioner's ownership interest in the animal or animals. The petition shall further specifically articulate the petitioner's challenge to the probable cause justifying the impoundment that resulted in the lien attaching under subsection (1) of this section or the amount of the charges associated

with that lien. The petitioner shall serve a true copy of the petition on the lien holder, the peace officer who impounded the animals and the district attorney, who shall be captioned as the respondents.

(b) Upon receipt of a petition in compliance with this subsection, the circuit court shall hold the hearing within 14 days, or as soon as practicable, wherein the respondents shall demonstrate by a preponderance of the evidence that impoundment of the animal was based on probable cause and that the lien amount claimed accurately reflects the reasonable charges authorized and accruing under subsection (1) of this section.

(c) If the court finds that impoundment of an animal under ORS 167.345 was:

(A) Based on probable cause and that the lien amount accurately reflects the reasonable charges authorized and accruing under subsection (1) of this section, then the court shall deny the petition, award reasonable attorney fees to the respondents and direct the foreclosure to proceed.

(B) Based on probable cause but that the lien amount does not accurately reflect the reasonable charges authorized and accruing under subsection (1) of this section, then the court shall enter an order modifying the lien amount to accurately state the reasonable charges authorized and accruing under subsection (1) of this section, award reasonable attorney fees to the respondents and direct the foreclosure to proceed.

(C) Without probable cause, then the court may enter an order striking the lien created under subsection (1) of this section and may, but only if a final judgment is entered in the defendant's favor in the criminal case related to the impoundment under ORS 167.345, order an impounded animal returned to its lawful owner. To prevent the lawful owner or any other claimant from being unjustly enriched while having been relieved of the duty to provide an impounded animal with minimum care, any court order directing return of an impounded animal shall include an award to the respondents of the full costs of providing care to the animal.

(d) A person's failure to file a written petition within 30 days of impoundment of an animal or animals shall constitute a waiver of the right to file a petition under this subsection and the foreclosure shall proceed without judicial review in the manner provided in ORS 87.172 to 87.212. The court may extend the 30-day period to file a written petition by an additional 15 days only if the petitioner did not have actual notice of the impoundment and the court makes findings, on the record and in writing, that there are exceptional and compelling circumstances justifying the extension.

### **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.

### **167.383 Equine tripping.**

- (1) As used in this section, "equine" means any member of the family Equidae.
- (2) Except as provided in subsection (3) of this section, a person commits the offense of equine tripping if, for purposes of a rodeo, contest, exhibition, entertainment or sport or as practice for a rodeo, contest, exhibition, entertainment or sport, the person intentionally ropes or lassos the legs of an equine, intentionally causing the equine to trip or fall.
- (3) Subsection (2) of this section does not apply to a person who causes an equine to trip or fall for the purpose of allowing veterinary care for the equine.
- (4) The offense of equine tripping is a Class B misdemeanor.

### **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.

## **ANIMAL BREEDERS, RESCUE ENTITIES, BOARDERS, & DEALERS**

### **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.

#### **609.415 Animal rescue entities; licensing; records; fees; rules; civil penalty.**

(1) As used in this section and ORS 609.420:

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

(b) "Animal rescue entity" means an individual or organization, including but not limited to an animal control agency, humane society, animal shelter, animal sanctuary or boarding kennel not subject to ORS 167.374, but excluding a veterinary facility, that keeps, houses, and maintains in its custody 10 or more animals and that solicits or accepts donations in any form.

(c) "Enforcing agency" means the agency that operates a city or county dog licensing and control program under ORS 609.035 to 609.110 or under any city or county ordinances or regulations that operate in lieu of ORS 609.035 to 609.110, or any other agency designated the enforcing agency by the city or county governing body.

(2) Any animal rescue entity shall comply with all of the following record-keeping requirements:

(a) Maintain a record for each animal that identifies:

(A) The date of birth for the animal or, if the date of birth is unknown, the approximate age of the animal;

(B) The date the animal rescue entity acquired possession, control or charge of the animal and the source of the animal;

(C) The number of offspring the animal produced while in the possession or control of the animal rescue entity, if applicable;

(D) The disposition the animal rescue entity makes of each animal possessed by, controlled by or in the charge of the animal rescue entity, including the date of disposition, manner of disposition and the name and

- address for any individual or organization taking possession, control or charge of an animal;
  - (E) The source of the animal, date of acquisition, age, sex, breed type and weight of the animal at intake; and
  - (F) A photograph of the animal taken within 24 hours of intake by the animal rescue entity.
- (b) Permit an authorized representative of the enforcing agency to inspect records of the animal rescue entity required by this subsection and furnish reports and information required by the enforcing agency, as provided under ORS 609.420.
- (3) An animal rescue entity shall comply with the following licensing requirements:
- (a) The entity shall obtain a license issued by the enforcing agency in accordance with this section and any rules or policies adopted by the enforcing agency; and
  - (b) The entity shall pay a reasonable fee, as determined by the enforcing agency, for a license or an annual renewal of the license to provide for the actual cost of enforcing this section and ORS 609.420.
- (4) The enforcing agency may not issue or renew a license under this section unless the animal rescue entity is in compliance with this section and ORS 609.420.
- (5) An animal rescue entity may transfer a license issued under this section to another person with the written consent of the enforcing agency, provided that the transferee otherwise qualifies to be licensed as an animal rescue entity under this section and rules applicable to the transferee and does not have a certified unpaid debt to the state. The transferee shall submit a signed release to the enforcing agency permitting the performance of a background investigation of the transferee, and the enforcing agency shall conduct the background investigation.
- (6) An applicant for a license issued under this section shall demonstrate that the animal rescue entity that is the subject of the application complies with all standards imposed under applicable law.
- (7) Any animal rescue entity is subject to inspection by the enforcing agency as provided in ORS 609.420.
- (8)
- (a) A violation of this section may result in imposition of civil penalties to be determined by the enforcing agency, including but not limited to impoundment of all animals under the animal rescue's control, the revocation of the animal rescue's license to operate animal rescue operations and a civil penalty of not more than \$500 for each violation.
  - (b) Before a civil penalty may be imposed under this section, the enforcing agency shall adopt rules or policies that:
    - (A) Ensure that a person who is the subject of an alleged violation receives notice of the allegations and potential imposition of civil penalties;
    - (B) Allow for an opportunity for a hearing prior to the imposition of civil penalties; and
    - (C) Allow for the opportunity for judicial review of the imposition of civil penalties.
- (9) Moneys raised by the enforcing agency under this section are dedicated to and shall be used for enforcing agency operations undertaken pursuant to this section and 609.420.

#### **609.420 Investigation and inspection of animal rescue entity.**

- (1) Whenever an authorized representative of an enforcing agency is advised or has reason to believe that an animal rescue entity is operating without a license, the authorized representative may visit and conduct an on-site investigation of the premises of the animal rescue entity. The purpose of an investigation under this section is to determine whether the animal rescue entity is

subject to the requirements of ORS 609.415.

(2) At any reasonable time, an authorized representative of an enforcing agency, a law enforcement agency or the United States Department of Agriculture may conduct an on-site investigation of the premises of any licensed animal rescue entity to determine whether the entity is in compliance with ORS 609.415.

(3) An authorized representative of the enforcing agency or a law enforcement agency shall conduct an on-site investigation of the premises of any licensed animal rescue entity if the agency receives a complaint about the animal rescue entity related to the failure to comply with the requirements of ORS 609.415 that the agency determines is credible and serious. The investigation by the agency shall be limited to determining if the animal rescue entity has failed to comply with the requirements of ORS 609.415.

(4) Any state agency that receives a complaint about a licensed animal rescue entity shall notify the enforcing agency about the complaint and any subsequent action taken by the state agency based on that complaint.

(5) A licensed animal rescue entity shall permit an authorized representative of the enforcing agency to inspect records of the animal rescue entity and shall furnish any reports and information required by the enforcing agency.

(6) If, during the course of an inspection made under this section, the enforcing agency finds evidence of animal cruelty in violation of ORS 167.310 to 167.351, 167.352, 167.355 or 167.360 to 167.372, the enforcing agency shall seize the evidence and report the violation to law enforcement. Evidence of animal cruelty found through a valid inspection under this section shall be presumed admissible in any subsequent criminal proceeding.

#### **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.

### **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.

### **609.994 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.

### **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, spoliating, mutilating or destroying the registration certificates or proofs of pedigree, or so encumbering 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.

### **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.

## **Oregon Administrative Rules: Care of Pet and Captive Animals. OAR 603-015-0025 Definitions.**

As used in OAR 603-015-0025 to 603-015-0060:

- (1) "Animal Pounds" or "Animal Shelters" means any establishment maintained by public funds, private funds, or a combination of public and private funds, that uses such establishment for holding pet or captive animals for disposition by gift, treatment and care, euthanasia, sale, or exchange.
- (2) "Boarding Kennels" means an establishment operated and maintained for the care or custody of pet animals for boarding, training, or similar purposes, for varying periods of time, for profit or compensation.
- (3) "Commercial Kennels" means an establishment operated and maintained for the purpose of breeding, buying, selling, or bartering of pet animals for profit or compensation.
- (4) "Establishment" includes, in connection with the operation or ownership of a business of a boarding kennel, commercial kennel, grooming parlor, pet shop, animal pound, or animal shelter:
  - (a) Any room, building, structure, or place; and

- (b) All equipment, machinery, fixtures, articles, and materials; and
- (c) The ground upon which such place or business is located and such ground or area which is a part of the business, or used by the owner or operator in carrying out such business.

(5) "Grooming Parlor" means any establishment that bathes, clips, pedicules, or grooms any pet or captive animal for profit or compensation.

(6) "Pet Animal" or "Pet Animals" means any animal held, maintained, or kept in captivity.

(7) "Pet Shop" or "Animal Dealer" means an establishment operated and maintained for buying or receiving pet animals, and thereafter exhibiting or offering for sale, or selling, trading, or bartering such animals.

### **OAR 603-015-0030 Intent and Purpose.**

It is the intent and purpose of the provisions of OAR 603-015-0025 to 603-015-0060 to verify and require that all measures and procedures are maintained and taken to eradicate and control diseases in pet animals, and/or the diseases in pet animals which may be transferable or transmissible from pet animals to other animals or persons.

### **OAR 603-015-0035 General Requirements.**

(1) Any person who is engaged in the business of a boarding kennel, commercial kennel, pet shop, animal pounds, animal shelters, or grooming parlors, shall comply with the provisions of OAR 603-015-0025 to 603-015-0060. All such provisions apply to such businesses and to the owners or operators thereof.

(2) An individual, family, or groups of associations who do not fall within the meaning and definition of a boarding kennel, commercial kennel, pet shop, animal pound, or animal shelter or grooming parlor, owner or operator, shall also reasonably comply with the provisions of OAR 603-015-0025 to 603-015-0060, in the handling, care, and keeping of pet animals under their ownership, care, or custody.

### **OAR 603-015-0040 Facilities – Indoors.**

(1) Structural strength of facilities for housing pet animals shall be sound, in good repair to prevent injuries, contain the animal, and prevent the entrance of other animals.

(2) Electric power and a potable water supply shall be available. Lighting, artificial and natural, shall be of good quality and well distributed.

(3) Isolation -- Facilities must be available for the isolation and treatment of pet animals suspected of harboring communicable diseases.

(4) Storage -- Facilities shall be provided for the storage of equipment and to protect food and bedding against vermin infestation and contamination.

(5) Waste Disposal: Provision for the removal and disposal of excreta, bedding, dead animals, shall be made. Disposal facilities shall be constructed and operated in such manner as to minimize disease hazards, offensive odors, and vermin infestation.

(6) Facilities for wash rooms: Basins and sinks shall be provided for cleanliness of caretakers, and sanitization of feeding utensils.

(7) Ventilation: Provisions and facilities for adequate ventilation to insure the exhausting of stale air, excess humidity, and kennel odors, shall be made and maintained.

Temperatures of 70 degrees to 75 degrees F. are recommended within practical limits.

### **OAR 603-015-0045 Facilities – Outdoors.**

Shall offer shade against sun, shelter against rain, snow, and wind; sufficient protection for pet animals against cold and inclement weather, and adequate drainage to eliminate excessive water in the runs. Adequate space should be allowed in outside houses and cages to permit the animal to stand, turn around, and lie down, without obstructing freedom of movement.

### **OAR 603-015-0050 Health and Husbandry Practices.**

- (1) Pet animals shall be fed a food that is palatable, wholesome, and meets minimal daily nutritional requirements. Ground or kennel surface feeding is not permitted. Feed pans and receptacles shall be washed and sanitized after each feeding. Self feeders will be cleaned and sanitized as often as necessary to prevent molding or deterioration of the contents.
- (2) Fresh potable water will be offered at least twice daily and more often if weather conditions warrant. More water is required in hot weather.
- (3) Sanitation: Excreta will be removed from runs, cages, pens, daily and more often if necessary. Runs and enclosures will be sanitized once weekly by cleaning and using a safe and effective disinfectant and changing soil or litter as often as it becomes soiled. Premises will be kept clean and free from trash and facilities will be maintained in good order to prevent injury to animals and offer them proper protection against inclement weather.
- (4) Sick animals. Pet animals that are quarantined or under treatment for communicable diseases shall be isolated in such place that healthy animals are not exposed.
- (5) Importation: In accordance with OAR 603-011-0250 through 603-011-0382 and ORS 596.341 and other laws or regulations thereunder.

### **OAR 603-015-0055 Animals in Transit.**

- (1) Pet animals when required to be shipped in crates shall be transported in crates constructed of a smooth, durable material which is easily cleaned and shall:
  - (a) Have a solid floor which may have a false bottom;
  - (b) Be so constructed as to provide maximum safety for the particular animal or animals being transported;
  - (c) Have openings on two sides to assure adequate ventilation;
  - (d) Crates shall be so constructed that food or water may be put through a small-type door without removing the animal from the crate in order that caretakers may feed and water when required;
  - (e) Care and feeding instructions should be written out by the shipper and attached to the crate. Other precautions in handling the animal should also be given in case it becomes necessary to move the animal from the crate.
- (2) In all cases the crates shall be large enough to provide space for the pet animals to lie down in extended position and to allow ease of movement when standing or turning around. When the temperature is over 85 degrees F, increased space shall be provided to within reason.
- (3) The crate shall be cleaned before use for each trip.
- (4) Food and water containers shall be cleaned and sanitized before each trip.
- (5) If bedding is used it shall be clean, dry, and dust free.
- (6) The person or persons responsible for the welfare of the pet animal or animals while in transit shall:
  - (a) Offer the pet animal food at least once every 24 hours;
  - (b) Offer all pet animals water at 12 hour intervals at least, except that water shall

be offered at four-hour intervals when the temperature reaches 90 degrees F. or above;

(c) Inspect each pet animal at four-hour intervals or more often.

### **OAR 603-015-0060 Records.**

(1) A record of each sale shall be maintained by the owner or operator of each boarding kennel, commercial kennel, pet shop, animal pound, or animal shelter, for a minimum period of 12 months after date of sale or transfer of a pet animal and shall include the date of sale, age, breed, indication of sex of animal sold, name and address of the purchaser, source, and breeder.

(2) If records of prophylactic medication are used in advertising or are furnished the purchaser or person acquiring a pet animal, specific information regarding type, amount, and date of prophylactic medication shall be kept by the owner or operator of each boarding kennel, commercial kennel, pet shop, animal pound, or animal shelter, and shall become a part of the sales record.

(3) Upon request from the purchaser, such owner or operator of each boarding kennel, commercial kennel, pet shop, animal pound, or animal shelter, or his representative, shall furnish the purchaser with a record as outlined in section (2) of this rule.

### **OAR 603-015-0065 Penalties.**

Applicable penalties as set forth in ORS 596.990 apply to any person violating the provisions of OAR 603-015-0025 to 603-015-0060

#### **596.990 Penalties.**

(1) Violation of any of the provisions of ORS 596.075, 596.321, 596.331 (1) or (3), 596.351, 596.388, 596.392 (1) to (3) or (6), 596.404 to 596.416 or 596.460, or of any lawful order of the State Department of Agriculture issued pursuant to this chapter, is a Class A violation.

(2) Violation of any of the quarantine provisions of ORS 596.331 (2), 596.355, 596.392

(4) or (5) or 596.394 to 596.402 is a specific fine violation punishable by a fine of not more than \$ 5,000.

(3) Violation of any of the provisions of ORS 596.100 or 596.105 or rules adopted thereunder is a Class A misdemeanor.

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## **ANIMAL FIGHTING OFFENSES**

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### **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 unprescribed 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.

### **167.426 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.

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## **OFFENSES INVOLVING LIVESTOCK**

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### **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.

### **167.385 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.

**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.

### **632.835 Definitions for ORS 632.835 to 632.850.**

(1) “Commercial farm” means the land, buildings and support facilities that are used for the commercial production of animals or animal products used for food or fiber.

(2) “Commercial farm owner or operator” means any person who owns or controls the operation of a commercial farm. “Commercial farm owner or operator” does not mean a contractor, consultant or nonmanagement employee.

(3) “Egg” means an egg, in the shell, from an egg-laying hen.

(4) “Egg-laying hen” means any female domesticated chicken, turkey, duck, goose or guinea fowl that is kept for the purpose of egg production.

(5) “Egg products” has the meaning given that term in ORS 632.705, except that “egg products” does not include the following products when those products are prepared from inspected egg products or eggs and contain no more restricted eggs than are allowed in the official standards for United States Consumer Grade B shell eggs:

- (a) Freeze-dried products;
- (b) Imitation egg products;
- (c) Egg substitutes;
- (d) Dietary foods;
- (e) Dried no-bake custard mixes;
- (f) Eggnog mixes;
- (g) Acidic dressings;
- (h) Noodles;
- (i) Milk and egg dips;
- (j) Cake mixes;
- (k) French toast; and
- (L) Sandwiches containing eggs or egg products.

(6) “Enclosure” means any cage, crate or other structure used to confine an egg-laying hen.

### **632.840 Manner of confining egg-laying hen.**

(1) The State Department of Agriculture shall adopt rules regulating the manner in which egg-laying hens may be confined in an enclosure for purposes of ORS 632.835 to 632.850. The rules must:

- (a) Be designed to promote humane welfare standards;
- (b) Be effective in protecting consumers from food-borne pathogens;
- (c) Require that enclosures constructed or otherwise acquired before January 1, 2012, meet standards equivalent to the requirements for certification established

in the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg Laying Flocks; and

(d) Require that enclosures constructed or otherwise acquired on or after January 1, 2012, meet, or be convertible into enclosures that meet, standards equivalent to the requirements for certification of enriched colony facility systems established in the American Humane Association's farm animal welfare certification program.

(2) The department may impose a civil penalty pursuant to ORS 183.745, not to exceed \$2,500, for violation of a provision of ORS 632.835 to 632.850.

(3) Upon renewal of an egg handler's license described in ORS 632.715 or a commercial egg breaker's permit described in ORS 632.730, a commercial farm owner or operator that is engaged in the commercial production of eggs in this state shall provide the department with a business plan describing the manner by which the commercial farm intends to comply with the rules adopted pursuant to the amendments to this section by section 9 chapter 436, Oregon Laws 2011. Notwithstanding ORS 192.501 or 192.502, the business plan is a public record subject to full disclosure.

### **ORS 632.845 Prohibition against improper confinement of egg-laying hen.**

A commercial farm owner or operator may not confine an egg-laying hen in an enclosure that fails to comply with the rules adopted by the State Department of Agriculture under ORS 632.840.

### **ORS 632.850 Prohibition against selling products of improperly confined egg-laying hen.**

A person may not sell eggs or egg products that the person knows, or reasonably should know, are the product of an egg-laying hen that has been confined, during the production of the eggs, in an enclosure that fails to comply with the rules adopted by the State Department of Agriculture under ORS 632.840.

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## **OFFENSES INVOLVING WILDLIFE**

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### **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.

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## **DOG CONTROL AND LICENSING**

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### **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.

#### **609.155 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.

### **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.

### **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.

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## **EXOTIC ANIMALS**

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### **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.

### **609.319 Permit required to keep exotic animal.**

No person may keep an exotic animal in this state unless, before acquiring the animal, the person possesses a valid State Department of Agriculture permit for that animal issued pursuant to ORS 609.335. No person may keep an exotic animal in this state for more than 30 days after the expiration, revocation or suspension of a permit.

**609.992 Penalties for ORS 609.319; transfer of rights in exotic animal.**

- (1) Violation of ORS 609.319 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.

**609.325 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.

### **609.345 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.

### **609.351 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.

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## **DESTRUCTION OF ANIMALS**

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### **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.

### **609.405 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.

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## PENALTIES, FINES, PUNISHMENT

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### 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.

### **107.718 Family Abuse Prevention Act.**

- (1) When a person files a petition under ORS 107.710, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a showing that the petitioner has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition, that there is an imminent danger of further abuse to the petitioner and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:
  - (a) Except as provided in subsection (2) of this section, that temporary custody of the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the noncustodial parent, which the court shall order, unless such parenting time is not in the best interest of the child;
  - (b) That the respondent be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the parties are married to each other;
  - (c) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's current or subsequent residence if the respondent is required to move from petitioner's residence;
  - (d) That a peace officer accompany the party who is leaving or has left the parties' residence to remove essential personal effects of the party or the party's children, or both, including but not limited to clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identification and tools of the trade;
  - (e) That the respondent be restrained from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;
  - (f) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or menace any children in the custody of the petitioner;
  - (g) That the respondent be restrained from entering, or attempting to enter, on any premises and a reasonable area surrounding the premises when it appears to the court that such restraint is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or children whose custody is awarded to the petitioner;
  - (h) Other relief that the court considers necessary to:

- (A) Provide for the safety and welfare of the petitioner and the children in the custody of the petitioner, including but not limited to emergency monetary assistance from the respondent; and
- (B) Prevent the neglect and protect the safety of any service or therapy animal or any animal kept for personal protection or companionship, but not an animal kept for any business, commercial, agricultural or economic purpose; or

(i) Except as described in subsection (12) of this section or parenting time ordered under this section, that the respondent have no contact with the petitioner in person, by telephone or by mail.

(2) If the court determines that exceptional circumstances exist that affect the custody of a child, the court shall order the parties to appear and provide additional evidence at a hearing to determine temporary custody and resolve other contested issues. Pending the hearing, the court may make any orders regarding the child's residence and the parties' contact with the child that the court finds appropriate to provide for the child's welfare and the safety of the parties. The court shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining order.

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### **181.805 Definitions for ORS 181.800 to 181.845.**

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(5) "Sex crime" means:

- (a) Rape in any degree;
- (b) Sodomy in any degree;
- (c) Unlawful sexual penetration in any degree;
- (d) Sexual abuse in any degree;
- (e) Incest with a child victim;
- (f) Using a child in a display of sexually explicit conduct;
- (g) Encouraging child sexual abuse in any degree;
- (h) Transporting child pornography into the state;
- (i) Paying for viewing a child's sexually explicit conduct;
- (j) Compelling prostitution;
- (k) Promoting prostitution;
- (L) Kidnapping in the first degree if the victim was under 18 years of age;
- (m) Contributing to the sexual delinquency of a minor;
- (n) Sexual misconduct if the offender is at least 18 years of age;
- (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- (q) Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;
- (r) Luring a minor, if:
  - (A) The offender reasonably believed the child to be more than five years younger than the offender or under 16 years of age; and
  - (B) The court designates in the judgment that the offense is a sex crime;
- (s) Sexual assault of an animal;

- (t) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection;
  - (u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);
  - (v) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to ORS 163.413 (3)(d), or the offense is the defendant's second or subsequent conviction under ORS 163.413 (3)(b)(B);
  - (w) Any attempt to commit any of the crimes listed in paragraphs (a) to (s), (u) or (v) of this subsection;
  - (x) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (v) of this subsection; or
  - (y) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of an offense listed in paragraphs (a) to (t) of this subsection.
- (6) "Sex offender" means a person who:
- (a) Has been convicted of a sex crime;
  - (b) Has been found guilty except for insanity of a sex crime;
  - (c) Has been convicted in another United States court of a crime:
    - (A) That would constitute a sex crime if committed in this state; or
    - (B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or
  - (d) Is described in ORS 181.809 (1).
- (7) "Works" or "carries on a vocation" means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit.

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## MISCELLANEOUS PROVISIONS

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### **131.602 Prohibited conduct for purposes of instrumentalities of crime.**

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

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- (105) 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.
- (106) Animal neglect in the first degree, as defined in ORS 167.330.
- (107) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS 167.352.
- (108) Involvement in animal fighting, as defined in ORS 167.355.
- (109) Dogfighting, as defined in ORS 167.365.
- (110) Participation in dogfighting, as defined in ORS 167.370.
- (111) Unauthorized use of a livestock animal, as defined in ORS 167.385.

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### **166.715 Definitions.**

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

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- (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:

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(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;

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## **686.020 License required to practice veterinary medicine; title and abbreviations usable by licensees.**

(1) Except as otherwise provided by this chapter, no person shall:

(a) Practice veterinary medicine, surgery or dentistry, in this state unless the person holds a valid license issued by the Oregon State Veterinary Medical Examining Board and the license is not expired, revoked or suspended at the time of practice.

(b) Affix or append any letters to the name of the person, indicating a degree in medicine, such as V.S., V.D., D.V.S., M.D.C., D.M.C., D.V.M., or use the word doctor, veterinary, veterinarian, professor, animal doctor, animal surgeon, or any abbreviation or combination thereof of similar import in connection with the name of the person, or any trade name with which the person is interested, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of animal diseases or conditions mentioned in this chapter, unless such person is legally entitled to use such designation.

(2) A person who holds a valid license issued by the Oregon State Veterinary Medical Examining Board that is not expired, revoked or suspended is exempt from the provisions of ORS 348.609 (1) to (4).

## **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.

**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.

**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.

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**REPORTING ANIMAL ABUSE**

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**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.

#### **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.

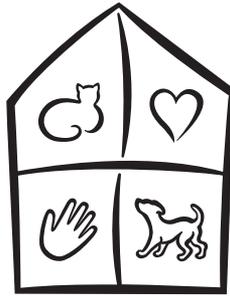
**686.460 Duty of law enforcement agency after receiving report of aggravated animal abuse.**

(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.



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