

OREGON REVISED STATUTES RELATING TO LIVESTOCK

LEGISLATIVE FINDINGS

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 a government agency, a humane investigation agency or its agent or a person that provides treatment for impounded animals;
- (6) A government agency, a humane investigation agency or its agent or a person that provides care and treatment for impounded or seized animals:
 - (a) Has an interest in mitigating the costs of the care and treatment in order to ensure the swift and thorough rehabilitation of the animals; and
 - (b) May mitigate the costs of the care and treatment through funding that is separate from, and in addition to, any recovery of reasonable costs that a court orders a defendant to pay while a forfeiture proceeding is pending or subsequent to a conviction;
- (7) Use of pre-conviction civil remedies is not an affront to the presumption of innocence; and
- (8) Amendments to current law are needed to ensure that interested parties are afforded adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien foreclosure and pre-conviction forfeiture processes through unfounded due process claims.

OFFENSES AGAINST ANIMALS

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, doghouse or other enclosed structure sufficient to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury.
 - (b) “Adequate shelter” does not include:
 - (A) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;

- (B) The space under a vehicle;
 - (C) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the domestic animal's health or safety;
 - (D) Shelters made from cardboard or other materials that are easily degraded by the elements;
 - (E) Animal carriers or crates that are designed to provide temporary housing;
 - (F) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or
 - (G) Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.
- (3) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.
- (4) "Domestic animal" means an animal, other than livestock or equines, that is owned or possessed by a person.
- (5) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.
- (6) "Good animal husbandry" includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.
- (7) "Law enforcement animal" means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181A.355, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.
- (8)
- (a) "Livestock," except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125.
 - (b) "Livestock" does not include psittacines.
- (9) "Minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:
- (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
 - (b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Access to snow or ice is not adequate access to potable water.
 - (c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to adequate shelter.
 - (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
 - (e) For a domestic animal, continuous access to an area:
 - (A) With adequate space for exercise necessary for the health of the animal;
 - (B) With air temperature suitable for the animal; and

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

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.

167.315 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 same genus or domestic animal; prohibition period reduction; waiver procedure

- (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, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 may not possess any animal of the same genus against which the crime was committed or any domestic animal for a period of five years following entry of the conviction.
 - (b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 may not possess any animal of the same genus against which the crime was committed or any domestic animal for a period of 15 years following entry of the conviction. However, the sentencing court may

reduce the prohibition period if the person successfully completes mental health treatment approved by the court.

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

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

(4)

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

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

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

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

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

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

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

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

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

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

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

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

- (c) When deciding a motion filed under this subsection, the sentencing court may consider the person's financial circumstances and mental health in determining whether the person is capable of adequately caring for livestock.
- (d) If the sentencing court grants the motion described in this subsection, the waiver of the prohibition against possessing animals shall apply only to livestock. The sentencing court shall further order that for five years the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of the livestock under the person's custody or control. A refusal to consent to a reasonable inspection described in this paragraph is contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the waiver of the possession prohibition.
- (e) As used in this subsection, "commercial livestock operation" means a business engaged in the raising, breeding or selling of livestock for profit.

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 C felony.

167.335 Exemption from ORS 167.315 to 167.333

- (1) Except as provided in subsection (2) of this section, unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:
 - (a) The treatment of livestock being transported by owner or common carrier;
 - (b) Animals involved in rodeos or similar exhibitions;
 - (c) Commercially grown poultry;
 - (d) Animals subject to good animal husbandry practices;
 - (e) The killing of livestock according to the provisions of ORS 603.065;
 - (f) Animals subject to good veterinary practices as described in ORS 686.030;
 - (g) Lawful fishing, hunting and trapping activities;
 - (h) Wildlife management practices under color of law;
 - (i) Lawful scientific or agricultural research or teaching that involves the use of animals;
 - (j) Reasonable activities undertaken in connection with the control of vermin or pests;
 - and
 - (k) Reasonable handling and training techniques.
- (2) Subsection (1) of this section does not create an exemption from ORS 167.332.

167.340 Animal abandonment

- (1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal or an equine at a location without providing minimum care.
- (2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.
- (3) Animal abandonment is a Class B misdemeanor.

167.345 Authority to enter premises or motor vehicle; 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 or motor vehicle 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 or motor vehicle 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 action

- (1)
 - (a) If an 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 a criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to the final disposition of the criminal action, the county or other animal care agency or, on behalf of the county or other animal care agency, the district attorney, 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 the final disposition of the criminal action. The petitioner shall serve a true copy of the petition upon the defendant and, unless the district attorney has filed the petition on behalf of the county or other animal care agency, the district attorney.

(b) A petition may be filed in the criminal action under paragraph (a) of this subsection concerning any animal impounded under ORS 167.345 and held pending the outcome of the criminal action, regardless of whether the specific animal is the subject of a criminal charge, or named in the charging instrument, in the criminal action.

(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 any impounded animal from the date of initial impoundment to the date of final disposition of the animal in the related 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.

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

(1)

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

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

(2)

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

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

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay any reasonable costs incurred

by a government agency, a humane investigation agency or its agent or a person in providing minimum care to the animal that are not included in a repayment order under subsection (1) of this section.

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

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

87.159 Lien for care of impounded animal; petition for hearing to contest impoundment and lien; court order; waiver

(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.

167.383 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.

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.

ANIMAL FIGHTING OFFENSES

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.

167.426 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.

(6) "Source bird" means:

(a) A hen used to produce one or more chicks intended for eventual use as fighting birds; or

(b) A chick being reared with the intent that the chick eventually be used as a fighting bird or as a hen described in paragraph (a) of this subsection.

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 or source birds; procedure

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

(2) A judge ordering the seizure of an alleged fighting bird or source 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 or source 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, source birds or property; public nuisance

(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 or source bird. This subsection does not limit the ability of the court to dispose of a fighting bird or source 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 fighting 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. The court shall provide for a humane disposition of any source birds included in the forfeited property.

167.437 Constructive possession of fighting birds or source birds; procedure

(1) A peace officer having jurisdiction may, upon probable cause to believe that a bird is a fighting bird or source 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 or source 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 alleged fighting bird or source 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 an alleged fighting bird or source 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 or source 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 or source bird or an alleged fighting bird or source bird .

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

OFFENSES INVOLVING LIVESTOCK

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.

PENALTIES, FINES, PUNISHMENT

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.

REPORTING ANIMAL ABUSE

609.656 Regulated social worker reporting of abuse or neglect; immunity

(1) As used in this section:

(a) "Abuse or neglect" means:

(A) Animal abuse in the second degree as described in ORS 167.315;

(B) Animal abuse in the first degree as described in ORS 167.320;

(C) Aggravated animal abuse in the first degree as described in ORS 167.322;

(D) Animal neglect in the second degree as described in ORS 167.325; or

(E) Animal neglect in the first degree as described in ORS 167.330.

(b) "Regulated social worker" means a person authorized under ORS 675.510 to 675.600 to perform regulated social work.

(2) Notwithstanding ORS 40.250, in addition to the authorization under ORS 609.654 to report aggravated animal abuse in the first degree, a regulated social worker who is an employee of the Department of Human Services and has reasonable cause to believe that an animal with which the social worker has come in contact as an employee of the department has suffered abuse or neglect, or that any person with whom the social worker has come in contact as an employee of the department has committed abuse or neglect of

an animal, may immediately report the suspected abuse or neglect in the manner prescribed in subsection (3) of this section.

(3) A report under subsection (2) 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 or neglect;
- (d) Any evidence of previous abuse or neglect or of previous aggravated animal abuse in the first degree as described in ORS 167.322;
- (e) Any explanation given for the suspected abuse or neglect; and
- (f) Any other information that the regulated social worker believes may be helpful in establishing the cause of the suspected abuse or neglect or the identity of a person causing abuse or neglect.

(4) A regulated social worker who acts in good faith and has reasonable grounds for making a report under this section of suspected abuse or neglect is not liable in any civil or criminal proceeding brought as a result of making the report.

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.