

**ABUSE, NEGLECT, AND ASSAULT EXEMPTION
MODIFICATION AND IMPROVEMENT ACT**

Whereas, animals are sentient beings capable of experiencing pain, stress, and fear.

Whereas, current exemptions permit unnecessary and inhumane harm to animals.

The People of Oregon therefore propose the Abuse, Neglect, and Assault Exemption Modification and Improvement Act to amend Chapter 167 of the Oregon Revised Statutes—which currently provide unnecessary exemptions to laws governing animal abuse, animal neglect, and animal sexual assault—in order to reduce the suffering of animals and improve their quality of life.

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

FINDINGS AND POLICY

Section 1. (1) The People of the State of Oregon find that animal abuse, neglect, and assault is a serious problem in Oregon and that Oregon needs to amend the current exemptions that allow for the abuse, neglect, and assault of animals.

(2)(a) The purpose of this Abuse, Neglect, and Assault Exemption Modification and Improvement Act is to remove the current exemptions that allow for the inhumane and unnecessary abuse, neglect, and assault of animals.

(b) It is the policy of the State of Oregon that animals should be cared for in ways that minimize their pain, stress, fear, and suffering.

(3) The provisions of this Act shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

REMOVING EXEMPTIONS

Section 2. ORS 167.310 is amended to read:

(1) “Adequate bedding” means bedding of sufficient quantity and quality to permit an [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 n [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)]~~(6) "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 (Definitions for ORS 181A.355 to 181A.670), 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)]~~(7) (a) "Livestock," except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125 (Definition of "livestock").

(b) "Livestock" does not include psittacines.

~~[(9)]~~(8) "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, a]* 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, c]* 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)](9) “Physical injury” means physical trauma, impairment of physical condition or substantial pain.

[(11)](10) “Physical trauma” means fractures, cuts, punctures, bruises, burns or other wounds.

[(12)](11) “Possess” has the meaning provided in ORS 161.015 (General definitions).

[(13)](12) “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)](13) (a) “Tethering” means to restrain an [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 n [domestic] animal. [1985 c.662 §1; 1995 c.663 §3; 1999 c.756 §13; 2001 c.926 §7; 2003 c.543 §6; 2003 c.549 §1; 2005 c.264 §18; 2009 c.233 §2; 2013 c.382 §3; 2017 c.677 §2]

Section 3. ORS 167.315 is amended to read:

(1) A person commits the crime of animal abuse in the second degree if, except as [otherwise authorized by law] **necessary to defend against the threat of immediate harm to oneself, to other humans, or to other animals**, 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)](2) Animal abuse in the second degree is a Class B misdemeanor. [1985 c.662 §2]

Section 4. ORS 167.320 is amended to read:

(1) A person commits the crime of animal abuse in the first degree if, except as [otherwise authorized by law] **necessary to defend against the threat of immediate harm to oneself, to other humans, or to other animals**, the person intentionally, knowingly or recklessly:

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

(b) [Cruelly c]Causes the death of an animal.

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

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

[(4)](3) Notwithstanding subsection [(3)](2) 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 (Assault in the fourth degree), 163.165 (Assault in the third degree), 163.175 (Assault in the second degree), 163.185 (Assault in the first degree) or 163.187 (Strangulation) or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 (Definitions for ORS 135.230 to 135.290) or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322 (Aggravated animal abuse in the first degree), 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)](4) 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. [1985 c.662 §3; 2001 c.926 §8; 2003 c.577 §8; 2013 c.719 §2]

Section 5. ORS 167.325 is amended to read:

(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 an [*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 (Animal neglect in the first degree) 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 (Definitions for ORS 135.230 to 135.290). 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. [1985 c.662 §4; 2013 c.382 §5; 2013 c.719 §4]

Section 6. ORS 167.330 is amended to read:

(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 an [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 (Animal neglect in the second degree) 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. [1985 c.662 §5; 2001 c.926 §10; 2013 c.382 §4; 2013 c.719 §5]

Section 7. ORS 167.332 is amended to read:

[(1) Except as provided in subsections (3) and (4) of this section:]

[(a)](1) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315 (Animal abuse in the second degree), 167.340 (Animal abandonment) or 167.355 (Involvement in animal fighting) or of a misdemeanor under ORS 167.320 (Animal abuse in the first degree), 167.325 (Animal neglect in the second degree) or 167.330 (Animal neglect in the first degree) 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)](2) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322 (Aggravated animal abuse in the first degree), 167.333 (Sexual assault of an animal), 167.365 (Dogfighting) or 167.428 (Cockfighting) or of a felony under ORS 167.320 (Animal abuse in the first degree), 167.325 (Animal neglect in the second degree) or 167.330 (Animal neglect in the first degree) 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)](3) 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 **or any other property owned by the person**, and as a condition of the person's probation may prohibit the person from possessing any animal *[of the same genus that the person unlawfully possessed under this section or against which the underlying violation of ORS 167.315 (Animal abuse in the second degree), 167.320 (Animal abuse in the*

first degree), 167.322 (Aggravated animal abuse in the first degree), 167.325 (Animal neglect in the second degree), 167.330 (Animal neglect in the first degree), 167.333 (Sexual assault of an animal), 167.340 (Animal abandonment), 167.355 (Involvement in animal fighting), 167.365 (Dogfighting) or 167.428 (Cockfighting) 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 (Animal abuse in the second degree), 167.320 (Animal abuse in the first degree), 167.322 (Aggravated animal abuse in the first degree), 167.325 (Animal neglect in the second degree), 167.330 (Animal neglect in the first degree), 167.333 (Sexual assault of an animal), 167.340 (Animal abandonment), 167.355 (Involvement in animal fighting), 167.365 (Dogfighting) or 167.428 (Cockfighting) 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 (Criminal liability for conduct of another) (2)(c);]

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

[(iii) Animal neglect as described in ORS 167.325 (Animal neglect in the second degree) or 167.330 (Animal neglect in the first degree) 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. [2001 c.926 §3; 2009 c.486 §1; 2013 c.719 §6; 2015 c.324 §4; 2017 c.677 §3]]

Section 8. ORS 167.333 is amended to read:

(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:

(A) [a]Arousing or gratifying the sexual desire of [a person] either party; or

(B) The impregnation or masturbation of the animal; 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] **either party.**

(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. [2001 c.926 §5b; 2003 c.428 §1; 2015 c.324 §3]

Section 9. ORS 167.335 is amended to read:

(1) Except as provided in subsection (2) of this section, unless gross negligence can be shown, the provisions of ORS 167.315 (Animal abuse in the second degree) to 167.333 (Sexual assault of an animal) do not apply to:

(a) *[The treatment of livestock being transported by owner or common carrier;]* **Situations of self-defense when it is necessary to defend against the threat of immediate harm to oneself, to other humans, or to other animals;**

[(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 (Slaughter methods);]

[(f)](b) Animals subject to good veterinary practices as described in ORS 686.030 (Acts constituting practice of veterinary medicine)[;].

[(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 (Prohibition against possession of same genus or domestic animal). [1985 c.662 §6; 1995 c.663 §4; 2001 c.926 §10a; 2018 c.19 §4]

MISCELLANEOUS

Section 10. Effective Dates. (1) This Act shall become effective pursuant to Article IV, section 1(4)(d) of the Oregon Constitution.

(2) The amendments to statutes by section 2 to section 9 become operative 30 days after the election at which the Act is approved.

Section 11. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.