

House Bill 3417

Sponsored by Representative HUFFMAN; Representatives BARKER, BOONE, COWAN, GARRARD, JENSON, KRIEGER, ROBLAN, SCHAUFLEER, Senators ATKINSON, FERRIOLI, GIROD, WHITSETT (at the request of Oregon Cattlemen's Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits State Department of Agriculture responsibilities regarding estray livestock to animals of bovine species and horses. Changes content of notice by person taking up estray animal to eliminate statutory inconsistency. Limits department duty to determine adequacy of fence to fences enclosing animals of bovine species or horses. Allows department to charge for determining adequacy of fence.

A BILL FOR AN ACT

1
2 Relating to estray animals; creating new provisions; and amending ORS 604.056, 607.007, 607.300,
3 607.303, 607.304, 607.308, 607.311, 607.313, 607.321, 607.328, 607.332, 607.336, 607.337, 607.338,
4 607.339 and 607.355.

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

6 **SECTION 1.** ORS 607.007 is amended to read:

7 607.007. As used in this chapter, unless the context requires otherwise:

8 (1) "Adequate fence" means a continuous barrier consisting of natural barriers, structures,
9 masonry, rails, poles, planks, wire or the combination thereof, installed and maintained in a condi-
10 tion so as to form a continuous guard and defense against the ingress or egress of [*livestock*] **an**
11 **animal of the bovine species or a horse** into or from the lands enclosed by the barrier. [*Such*]
12 Natural barriers [*shall*] **may** include hedges, ditches, rivers, streams, ponds or lakes.

13 (2) "Estray **animal**" means [*livestock of any unknown person that is*] **an animal of the bovine**
14 **species or a horse**, unlawfully running at large or being permitted to do so, or that is found to be
15 trespassing on land enclosed by an adequate fence.

16 (3) "Taking up" means the intentional exertion of control over [*livestock*] **an estray animal**,
17 including but not limited to the restriction of movement, holding under herd, feeding, pasturing or
18 sheltering of [*such livestock*] **the animal**.

19 **SECTION 2.** ORS 607.300 is amended to read:

20 607.300. [*Whenever livestock has broken*] **If an animal of the bovine species or a horse breaks**
21 through a fence on the open range and a determination of the adequacy of the fence is necessary
22 in order to determine [*if such livestock*] **whether the bovine or horse** is an estray **animal**, the State
23 Department of Agriculture shall make the determination of the adequacy of the fence and shall
24 consider, among other things, the customs and practices of good [*husbandmen*] **animal husbandry**
25 in the particular area with reference to fences. **The department may adopt rules establishing**
26 **fees for determining the adequacy of a fence. Fees must be reasonably calculated to com-**
27 **pensate the department for the costs of the determination.**

28 **SECTION 3.** ORS 607.303 is amended to read:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 607.303. (1) A person who finds [*livestock*] **an estray animal** unlawfully being permitted to run
2 at large upon the premises of the person, or premises of which the person has lawful possession or
3 control, may take up the [*livestock*] **animal** if the owner [*thereof*] **of the animal** is known to the
4 person.

5 (2) A person taking up [*livestock*] **an animal** shall within five days give notice of the taking up
6 by certified or registered mail addressed to the owner or person having control of the [*livestock*]
7 **animal**. The notice shall:

8 (a) Contain a concise description of the [*livestock*] **animal**, including marks and brands, if any.

9 (b) State that the [*livestock*] **animal** will be released to and sold by the State Department of
10 Agriculture as an estray **animal** unless redeemed before [*such*] sale.

11 [*(c) Designate the time and place of sale, as approved by the department. The sale shall be held*
12 *not less than 30 days nor more than 45 days from the date of the taking up.*]

13 **(c) State the date of taking up the animal and that the department may sell an unclaimed**
14 **animal not less than 30 days and not more than 45 days after the date of taking up the ani-**
15 **mal.**

16 (3) A person taking up [*livestock shall within five days of*] **an animal shall, no later than five**
17 **days after** giving the notice provided in subsection (2) of this section, forward a copy of the notice
18 to the department or give a copy of the notice to a brand inspector or other agent of the depart-
19 ment.

20 **SECTION 4.** ORS 607.304 is amended to read:

21 607.304. (1) If the owner of [*the livestock*] **an estray animal** does not appear in response to the
22 notice given under ORS 607.303 (2), the [*livestock shall be delivered*] **person taking up the animal**
23 **shall deliver the animal** to the State Department of Agriculture, at a place designated by the de-
24 partment, at least 48 hours in advance of the date of sale. [*and shall thereafter be sold by*] **The time**
25 **of sale may not be less than 30 days and not more than 45 days after the date of taking up**
26 **the animal.** The State Department of Agriculture **shall sell the animal** in accordance with ORS
27 607.328.

28 (2) If the owner of the [*livestock*] **animal** does appear, the [*livestock shall be delivered*] **the per-**
29 **son taking up the animal shall deliver the animal** to the owner or agent if the owner pays to the
30 person [*taking up the livestock*], before the date of sale:

31 (a) The cost of taking up the [*livestock*] **animal**;

32 (b) The cost of giving notice;

33 (c) The cost of keeping the [*livestock*] **animal**; and

34 (d) The cost of repairing any damage done by the [*livestock*] **animal** to the property of the per-
35 son [*taking it up*].

36 (3) The person taking up the [*livestock, upon delivery thereof*] **animal, upon delivering the an-**
37 **imal** to the owner, shall notify the department [*that such action has been taken*] **of the delivery.**

38 (4) If the owner is unable to agree with the person taking up the [*livestock*] **animal** as to the
39 amount of the costs payable to [*such person, such owner shall*]:

40 [*(a) within five days of the date*] **the person, no later than five days after** the owner is advised
41 of the amount of [*such costs*], **the payable costs, the owner shall:**

42 **(a)** Pay an arbitration fee of \$150 to the department[.]; **and**

43 **(b)** Give written notice to the department and the person taking up the [*livestock*] **animal** that
44 the owner disagrees with the amount of the costs, [*that the owner desires arbitration of such disa-*
45 *greement and that the owner desires the department to furnish the owner with*] **desires arbitration**

1 **of the disagreement and desires that the department furnish** a list of arbitrators. [*from which*
2 *the owner can appoint one arbitrator; and*]

3 *[(b) Within five days of the date the owner is furnished the list of arbitrators, give written notice*
4 *to the department and the person taking up the livestock of the name of the person appointed by the*
5 *owner as arbitrator from such list.]*

6 (5) Upon receiving the notice of the owner described in subsection (4)(a) of this section, the
7 department shall furnish to the owner and the person taking up the [*livestock*] **animal** the names
8 of five arbitrators selected from the list of qualified persons maintained in accordance with sub-
9 section (10) of this section. **No later than five days after receiving the list of arbitrators, the**
10 **owner shall give written notice to the department and the person taking up the animal of**
11 **the name of the arbitrator appointed by the owner from the list. No later than five days after**
12 **receiving the list of arbitrators, the person taking up the animal shall give written notice to**
13 **the department and to the owner of the name of the arbitrator appointed by the person from**
14 **the list.**

15 (6) Upon receiving the notices of appointment of arbitrators, as provided in subsection [(4)(b)
16 *and subsection (6)]* (5) of this section, the department shall give written notice to each appointed
17 arbitrator of the arbitrator's appointment.

18 *[(6) Within five days of the date of receiving the list of arbitrators, the person taking up the live-*
19 *stock shall give written notice to the department and to the owner of the name of the person appointed*
20 *as arbitrator from such list.]*

21 *[(7) Upon receiving the notice provided in subsection (5) of this section, the two arbitrators shall*
22 *each give the department written notice of acceptance of such appointment. The department shall*
23 *thereafter appoint a third arbitrator and notify all three arbitrators of such appointment. The third*
24 *arbitrator shall give the department written notice of acceptance of such appointment.]*

25 (7) **Upon receiving notice as provided in subsection (6) of this section, each of the two**
26 **arbitrators shall notify the department in writing whether the arbitrator accepts the ap-**
27 **pointment. Upon acceptance of appointment by an arbitrator appointed by the owner and an**
28 **arbitrator appointed by the person taking up the animal, the department shall appoint a third**
29 **arbitrator. An acceptance of appointment by the third arbitrator must be in writing.** The
30 department shall pay each appointed arbitrator \$50 from the money paid to the department under
31 subsection (4) of this section for arbitration services. The three arbitrators shall act as a board of
32 arbitration and may hear witnesses, take testimony, inspect documents, the [*livestock*] **animal** and
33 premises and [*thereafter render their*] **may issue a** decision as to the amount allowable as costs.
34 [*Such*] **The** decision shall be by majority vote and conclusive as to the owner and person taking up
35 the [*livestock*] **animal** upon receipt of the decision by the department. Written notice of [*such*] **the**
36 decision shall be given to the department, the owner and the person taking up the [*livestock within*
37 *30 days of*] **animal no later than 30 days after** the appointment of the third arbitrator.

38 (8)(a) If the owner gives the notice [*required by subsection (4)(a) of this section*] **to the depart-**
39 **ment and the person taking up the animal that the owner disagrees with the amount of the**
40 **costs,** but does not [*therein*] indicate **in the notice** a desire to arbitrate or a desire to have a list
41 of arbitrators furnished to the owner, the owner's right to arbitration [*shall be deemed waived and*
42 *the livestock shall be delivered to the department, at a place designated by the department, by the per-*
43 *son taking up the livestock. Thereafter the livestock shall be sold by the department*] **is waived and**
44 **the person taking up the animal shall deliver the animal to the department at a place des-**
45 **ignated by the department. The department shall then sell the animal** in accordance with ORS

1 607.328.

2 (b) If the person taking up the *[livestock fails to give the notice required by subsection (6) of this*
 3 *section, such person's right to arbitration shall be deemed waived and the livestock shall]* **animal fails**
 4 **to give a notice of appointment required under subsection (5) of this section, the person**
 5 **waives the right to arbitration and the animal may** not be sold. The owner shall be entitled to
 6 the immediate possession *[thereof]* **of the animal** without payment of any of the costs described in
 7 subsection (2) of this section.

8 (9) At any time during the arbitration provided for in this section, the owner of the *[livestock]*
 9 **animal** may give written notice to the department and the person taking up the *[livestock]* **animal**
 10 of the owner's desire to regain immediate possession and custody of *[such livestock]* **the animal**. If
 11 the owner gives such notice, and at the same time deposits with the department a cash deposit in
 12 an amount equal to the accrued costs claimed by the person taking up the *[livestock]* **animal** as of
 13 the date *[such]* **the** notice is given, the *[livestock]* **animal** shall be released to the owner or agent
 14 within 48 hours after the giving of *[such]* notice and cash deposit. The department is authorized to
 15 pay the costs determined by the arbitrators *[pursuant to]* **under** subsection (7) of this section to the
 16 person taking up the *[livestock]* **animal** and return the balance, if any, to the owner.

17 (10) The department shall establish and maintain a list of persons qualified by experience and
 18 knowledge to act as arbitrators in accordance with subsection (7) of this section. In furnishing the
 19 names of five arbitrators, as provided in subsection (5) of this section, the department shall first
 20 determine that none of *[such persons named]* **the listed persons**:

21 (a) Is related to either the owner or person taking up the *[livestock]* **animal**;

22 (b) Is, or has been, an agent, employee or business associate of *[either]* the owner or **the** person
 23 taking up the *[livestock]* **animal**; or

24 (c) Has for any reason bias or prejudice *[towards either]* **toward** the owner or **the** person taking
 25 up the *[livestock]* **animal**.

26 (11) If *[either]* the owner or **the** person taking up the *[livestock]* **animal** intentionally fails to
 27 disclose to the department that any of the five arbitrators *[furnished to them as provided in]* **on the**
 28 **list provided under** subsection (5) of this section does not meet the criteria described in subsection
 29 (10) of this section, the department shall upon determining *[such]* **an** intentional failure to disclose:

30 (a) Declare the arbitrator disqualified and any arbitration decision previously rendered void and
 31 of no effect;

32 (b) Select a person from *[its]* **the department's** list to replace the disqualified arbitrator; and

33 (c) Direct **that** the arbitration be undertaken with the newly appointed arbitrator as a member
 34 of the board of arbitration.

35 **SECTION 5.** ORS 607.308 is amended to read:

36 607.308. A person taking up *[livestock]* **an estray animal** of a known owner, *[in lieu]* **instead**
 37 of following the procedure established by ORS 607.303 and 607.304, may, within five days after
 38 *[the]* taking up **the animal**, deliver the *[livestock]* **animal** and the notice described in ORS 607.313
 39 (1) to the State Department of Agriculture at a place designated by the department. *[The livestock*
 40 *shall thereafter be disposed of by]* The department **shall dispose of the animal** in accordance with
 41 ORS 607.321 or 607.328.

42 **SECTION 6.** ORS 607.311 is amended to read:

43 607.311. (1) A person who finds an estray **animal** upon the premises of the person or premises
 44 of which the person has lawful possession or control may take up the *[estrays]* **animal**.

45 (2) *[No person shall]* **A person may not** knowingly take up or retain possession, custody or

1 control of an estray **animal** without giving the notice required by ORS 607.313.

2 **SECTION 7.** ORS 607.313 is amended to read:

3 607.313. (1) Any person taking up an estray **animal** shall, within five days *[thereof]*, give written
4 notice **of the taking up** to the State Department of Agriculture *[of the taking up]*. *[Such]* **The** notice
5 shall include:

6 (a) A statement of the description of the *[livestock]* **animal**, including marks and brands or other
7 identifying characteristics.

8 (b) The date of the taking up.

9 (c) The location of the taking up and present location of the *[livestock]* **animal**.

10 (2) *[In the event any]* **If** a person gives the notice required by subsection (1) of this section[,] but
11 fails to do so within the time allowed, *[therein, such person taking up an estray shall only be entitled*
12 *to recover]* **the person may recover only** those costs verified by the department of taking up the
13 *[livestock]* **animal**, of giving notice *[thereof]* and of keeping the *[livestock]* **animal**, as provided in
14 ORS 607.304 (2), 607.332 and 607.338, **that were** incurred within five days immediately preceding the
15 giving of *[such]* **the** notice[, *but not such costs incurred prior thereto*].

16 **SECTION 8.** ORS 607.321 is amended to read:

17 607.321. (1) The State Department of Agriculture, *[when it receives]* **upon receiving** a notice as
18 described in ORS 607.313, shall attempt to determine the owner of the estray **animal** from the re-
19 corded brand, marks, other identifying characteristics and other relevant information tending to es-
20 tablish ownership.

21 (2) A record of the findings of the department supporting *[its]* **a** determination of ownership shall
22 be made and retained by the department for three years.

23 (3) The department shall have 20 days after *[it receives a notice described in ORS 607.313 to de-*
24 *termine ownership of an estray. In the event the department determines the owner of the estray within*
25 *this time limit, it shall at that time give written notice to such]* **receiving a notice described in ORS**
26 **607.313 to determine the owner of an estray animal. If the department determines the owner**
27 **of the animal within 20 days, the department shall send written notice to the** owner and the
28 person taking up the *[estray]* **animal**, at their last-known addresses.[, *which]* **The notice** shall con-
29 tain the matters described in ORS 607.328 (2)(b). If *[such]* **the** owner does not appear and claim the
30 *[estray]* **animal** prior to sale, in accordance with ORS 607.332, the sale shall be carried out as pro-
31 vided in ORS 607.328.

32 **SECTION 9.** ORS 607.328 is amended to read:

33 607.328. (1) The State Department of Agriculture shall cause *[livestock]* **an estray animal** to be
34 sold at public sale **if**:

35 (a) *[In the event the department does not]* **The department is unable to determine in a timely**
36 **manner** the owner of *[an estray pursuant to]* **the animal under** ORS 607.321;

37 (b) *[In the event livestock]* **The estray animal** of a known owner is delivered to *[it pursuant to]*
38 **the department under** ORS 607.304 (1) or (8); or

39 (c) *[In the event livestock]* **The estray animal** of a known owner is delivered to *[it pursuant to]*
40 **the department under** ORS 607.308, and sale *[thereof]* **of the animal** is required because of the
41 owner's failure to appear and claim the *[livestock]* **animal** as provided in ORS 607.332.

42 (2) Prior to the holding of any public sale, as provided in subsection (1) of this section, the de-
43 partment shall:

44 (a) Designate a time and place of public sale.[, *which]* **Subject to any other sale date re-**
45 **strictions, the sale** shall be held not less than five days after *[receiving]* **the department receives**

1 the notice of taking up.

2 (b) Cause a notice of *[such]* **the** public sale to be given by posting a written or printed notice
 3 of the time and place of sale, a description of the *[livestock]* **animal** and that such sale shall take
 4 place if the *[livestock]* **animal** is not claimed by the owner *[thereof]* prior to the sale. *[Said]* **The**
 5 posting shall be in two public places of the county where the *[livestock]* **animal** was taken up for
 6 not less than 48 hours prior to the date of sale. If the department is satisfied that adequate notice
 7 has been given an owner pursuant to ORS 607.303 (2), notice need not be posted.

8 **SECTION 10.** ORS 607.332 is amended to read:

9 607.332. (1) If the owner of *[livestock]* **an estray animal** appears and claims *[it]* **the animal** prior
 10 to sale, the owner shall pay to the State Department of Agriculture all costs described in ORS
 11 607.337 (1) and, except as limited by ORS 607.313 (2), shall pay to the person taking up the *[livestock]*
 12 *all]* **animal all accrued** costs described in ORS 607.304 (2) *[which have accrued theretofore]*. Upon
 13 such payment, the *[livestock shall be released]* **department shall release the animal** to the owner
 14 or the agent of the owner. Except as provided in subsection (2) of this section, if the owner fails to
 15 pay the costs, the sale shall be carried out in accordance with ORS 607.328.

16 (2) If the owner is unable to agree with the person taking up the *[livestock]* **animal** as to the
 17 amount of the costs payable to *[such person, such owner and person taking up]* **the person, the**
 18 **owner and the person** shall proceed with arbitration of *[such]* **the** disagreement as provided by
 19 ORS 607.304 (4) to (10).

20 **SECTION 11.** ORS 607.336 is amended to read:

21 607.336. The purchaser of *[livestock]* **an animal** sold in accordance with ORS 607.328 shall have
 22 clear and absolute title to *[such livestock]* **the animal**.

23 **SECTION 12.** ORS 607.337 is amended to read:

24 607.337. (1) All costs incurred by the State Department of Agriculture in the taking up and sale
 25 of an estray **animal** shall be paid from the **sale** proceeds *[thereof]* in the following priority:

- 26 (a) Cost of publication of notice.
- 27 (b) Cost of the sale.
- 28 (c) Cost of transportation of the *[estrays]* **animal** to the point of sale.
- 29 (d) Reasonable cost of feed and care prior to sale.
- 30 (e) All other costs including the time and mileage of the employees of the department.

31 (2) If the proceeds of the sale are inadequate to pay all of the costs mentioned in subsection (1)
 32 of this section, the department shall pay the deficiency.

33 (3) Subject to ORS 607.338 (1) and (3), any balance remaining from the proceeds of sale shall be
 34 transmitted to the department. *[which shall deposit it]* **The department shall deposit the proceeds**
 35 **balance** in the Department of Agriculture Account in the General Fund. Proceeds so deposited shall
 36 be held in such account for a period of one year subject to claim by the owner.

37 (4) If the owner fails to establish the right of the owner to the proceeds of sale within one year,
 38 all right, title and claim thereto shall be transferred to the department to expend and use in carry-
 39 ing out this chapter and ORS chapter 604. *[Proceeds now being held by the department as the result*
 40 *of sale of estrays are subject to this subsection.]*

41 **SECTION 13.** ORS 607.338 is amended to read:

42 607.338. (1) If the State Department of Agriculture sells *[livestock pursuant to ORS 607.328, it*
 43 *shall]* **an estray animal under ORS 607.328, the department shall first recover** from the pro-
 44 ceeds of the sale *[first reimburse itself for]* the costs described in ORS 607.337 (1), and from *[the*
 45 *balance, if any,]* **any balance remaining** pay to the person taking up the *[livestock]* **animal** the costs

1 described in ORS 607.304 (2), except as limited by ORS 607.308, 607.313 (2) and subsection (2) of this
 2 section.

3 *[(2) If the department sells livestock pursuant to ORS 607.328 which has been delivered to it pur-
 4 suant to ORS 607.304 (1), it shall allow to the person taking up the livestock only reasonable costs, and
 5 the department's determination of the reasonableness thereof shall be final.]*

6 **(2) If the department sells under ORS 607.328 an estray animal that was delivered to the
 7 department under ORS 607.304 (1), the department shall allow to the person taking up the
 8 animal only reasonable costs. The department's determination of reasonable costs shall be
 9 final.** However, the department may, upon written request of the person taking up the *[livestock]*
 10 **animal**, submit the question of the amount of reasonable costs to arbitration. *[In such event]* **If the
 11 question is submitted to arbitration**, the department shall furnish to the person taking up the
 12 *[livestock]* **animal** the names of five arbitrators selected from the list of qualified persons maintained
 13 in accordance with ORS 607.304 (10), and the person taking up the *[livestock]* **animal** shall appoint
 14 one arbitrator from *[such]* **the** list within five days of receiving *[such]* **the** list. The department shall
 15 *[thereafter]* **then** appoint one arbitrator and the two arbitrators shall jointly appoint a third
 16 arbitrator from *[such]* **the** list. *[Written notice of the appointment of such third arbitrator shall be
 17 given by such two arbitrators to the department and the person taking up the livestock within five days
 18 of the date they are furnished such list]* **The two arbitrators shall give written notice of the ap-
 19 pointment of the third arbitrator to the department and the person taking up the animal no
 20 later than five days after receiving the list.** The three arbitrators shall act as a board of arbi-
 21 tration and may hear witnesses, take testimony, inspect documents, the *[livestock]* **animal** and the
 22 premises and *[thereafter render their]* **issue a** decision as to the amount of reasonable costs. *[Their]*
 23 **The decision of the arbitrators** shall be final. Written notice of *[such]* **the** decision shall be given
 24 to the department and the person taking up the *[livestock within 30 days of]* **animal no later than
 25 30 days after** the appointment of the third arbitrator. The person taking up the *[livestock]* **animal**
 26 shall pay an arbitration fee of \$150 to the department at the time of submitting the written request
 27 for arbitration, from which the department shall pay each appointed arbitrator \$50 for arbitration
 28 services.

29 (3) Any balance remaining from the proceeds of the sale after the department has reimbursed
 30 itself and has paid the costs of the person taking up the *[livestock]* **animal** shall be paid to the owner
 31 of the *[livestock]* **animal**. If the owner fails to establish the right to the remaining proceeds within
 32 one year after the sale, all rights *[thereto]* **to the proceeds** shall vest in the department to use in
 33 carrying out the provisions of this chapter and ORS chapter 604.

34 (4) *[Nothing contained in this section is intended to]* **This section does not** require the depart-
 35 ment to pay the costs of the person taking up the *[livestock]* **animal** if the proceeds of the sale
 36 *[thereof]* **of the animal** are not sufficient to pay *[such]* **those** costs.

37 **SECTION 14.** ORS 607.339 is amended to read:

38 607.339. Except for gross negligence the State Department of Agriculture *[shall not be]* **is not**
 39 liable for the payment of the proceeds of sale or return of custody of an estray **animal** to a person
 40 claiming to be the true owner of *[such estray]* **the animal**.

41 **SECTION 15.** ORS 607.355 is amended to read:

42 607.355. All animals held in violation of ORS 607.345 or 607.350 shall be considered *[estrays]*
 43 **estrays animals**. The nearest stock inspector, *[as soon as the stock inspector has knowledge thereof,
 44 shall cause them to be disposed of as estrays under the estray]* **upon learning of the violation, shall
 45 cause the animals to be disposed of as estray animals under the** laws in force in the stock in-

1 spector’s county or district.

2 **SECTION 16.** ORS 604.056 is amended to read:

3 604.056. (1) The State Department of Agriculture may detain, seize or embargo hides or livestock
 4 in carrying out and enforcing the provisions of ORS 561.144, 577.512, 599.205, 599.269, 599.273,
 5 599.610, 603.015, 603.034, 603.075 to 603.095, 603.992, 604.005 to 604.071, 604.640, 604.650 and 604.992
 6 relating to the ownership or right to possession of livestock. Recognizing that the provisions of ORS
 7 561.605 to 561.620 relating to the departmental procedures for detaining, seizing or embargoing
 8 commodities are not readily applicable to livestock, the following shall apply whenever the depart-
 9 ment detains, seizes or embargoes hides or livestock under the provisions of ORS 561.144, 577.512,
 10 599.205, 599.269, 599.273, 599.610, 603.015, 603.034, 603.075 to 603.095, 603.992, 604.005 to 604.071,
 11 604.640, 604.650 and 604.992:

12 (a) The department shall issue its written notice of detention, seizure or embargo to the person
 13 in possession of the hides or livestock, directing them to be held subject to further order of the de-
 14 partment and any detention, seizure or embargo shall be subject to the contested case provisions
 15 of ORS chapter 183. The issuance of a notice of detention, seizure or embargo to a livestock carrier
 16 shall relieve such carrier from liability for any loss or damage resulting from the detention, seizure
 17 or embargo.

18 (b) If the department cannot determine from its investigation who is the owner or person enti-
 19 tled to possession of hides or livestock, it may handle and dispose of the hides and livestock in the
 20 same manner as provided for the handling and disposition of estray [*livestock*] **animals** under ORS
 21 chapter 607. In the event the livestock is determined by an assistant state veterinarian or deputy
 22 state veterinarian to be diseased, disabled or dying so as to be unsalable, the department may order
 23 its immediate condemnation in lieu of handling and disposition under ORS chapter 607, and any
 24 salvage value recovered by the department from the sale of carcasses or hides shall be disposed of
 25 in the same manner as impounded sales proceeds of an unknown owner under subsection (2) of this
 26 section.

27 (c) During an investigation to determine the owner or person entitled to possession of hides or
 28 livestock, the department may authorize the hides or livestock to be moved and retained in another
 29 location, but the hides or livestock shall not be moved therefrom without a written order issued by
 30 the department and then shall only be moved or handled in accordance with the terms of such order.

31 (d) If the hides or livestock are brand inspected at a livestock auction market, slaughtering es-
 32 tablishment or other sales facility where the hides or livestock are destined for sale, the department
 33 may permit the sale of the hides or livestock and impound the proceeds of the sale in lieu of de-
 34 taining, seizing or embargoing the hides or livestock. After the department impounds the sales pro-
 35 ceeds, the department shall issue a written notice of impoundment to the seller of the hides or
 36 livestock, directing that the sales proceeds remaining after the seller has deducted sales charges be
 37 retained by the seller subject to further order of the department for up to 15 days, at which time
 38 the sales proceeds shall be remitted by the seller to the department. The sales proceeds received
 39 by the department from the seller are not public funds of the state but rather are held by the de-
 40 partment in trust for the person determined to be the owner or entitled to possession of the hides
 41 or livestock sold.

42 (2) If the department impounds sales proceeds under subsection (1)(d) of this section, the de-
 43 partment shall give written notice of the impoundment to all known claimants to the sales proceeds,
 44 hides or livestock at the last-known addresses thereof, and set forth that the sales proceeds shall
 45 be subject to proof of claim for a period of 60 days from the date of the notice of impoundment,

1 during which the claimants may submit their proofs of claim to the department. Within 30 days after
 2 expiration of the time within which proofs of claim may be submitted, the department shall review
 3 the data submitted, investigate the claims and render a written notice of determination to the per-
 4 sons having submitted proofs of claim. The determination of the department shall be a final order
 5 and subject to judicial review under ORS 183.484, and if there is more than one claimant, payment
 6 of sales proceeds may not be made until the expiration of the time within which judicial review may
 7 be had. Any impounded sales proceeds that cannot be paid to persons under this section within one
 8 year of impoundment cease to be trust funds and become part of the state's public funds contin-
 9 uously appropriated to the department for carrying out the provisions of ORS 561.144, 577.512,
 10 599.205, 599.269, 599.273, 599.610, 603.015, 603.034, 603.075 to 603.095, 603.992, 604.005 to 604.071,
 11 604.640, 604.650 and 604.992.

12 **SECTION 17. The amendments to ORS 604.056, 607.007, 607.300, 607.303, 607.304, 607.308,**
 13 **607.311, 607.313, 607.321, 607.328, 607.332, 607.336, 607.337, 607.338, 607.339 and 607.355 by**
 14 **sections 1 to 16 of this 2009 Act apply for estray animals that a person takes up on or after**
 15 **the effective date of this 2009 Act.**

16