

Senate Bill 838

Sponsored by Senator STARR

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**.

Creates crime of hindering assistance animal in second degree. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both. Creates crime of hindering assistance animal in first degree. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Expands crime of first degree animal abuse to include certain actions relating to assistance animals. Revises enhanced penalty language.

Modifies grounds for statutory civil cause of action for damages arising from certain acts involving assistance animals. Abolishes statutory cause of action for noneconomic damages.

Classifies as public nuisance dog that, without provocation, attempts to injure, injures, attempts to disable, disables, interferes with work of or jeopardizes safety of assistance animal.

Increases maximum fine for maintaining dog that is public nuisance from \$250 to \$360.

A BILL FOR AN ACT

1
2 Relating to animals; creating new provisions; and amending ORS 131.602, 167.320, 167.352, 346.687,
3 609.093, 609.095 and 609.990.

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

SECTION 1. (1) As used in this section:

5
6 (a) "Assistance animal" has the meaning given that term in ORS 346.680.

7 (b) "Disables" means the use of physical or verbal intimidation, or other means of in-
8 ducing fear, that decreases the willingness or ability of an assistance animal to render as-
9 sistance to a person with a physical impairment.

10 (c) "Injures" means to cause physical trauma, impairment of physical condition or sub-
11 stantial pain, whether inflicted directly or resulting from an assistance animal's effort to
12 avoid injury.

13 (d) "Keeper" has the meaning given that term in ORS 609.035.

14 (e) "Person with a physical impairment" has the meaning given that term in ORS 346.680.

15 (2) A person commits the crime of hindering an assistance animal in the second degree
16 if the person recklessly:

17 (a) Without provocation, injures, attempts to injure, disables, attempts to disable, inter-
18 feres with the work of or jeopardizes the safety of an animal the person knows or reasonably
19 should know is an assistance animal; or

20 (b) Fails to prevent a dog for which the person is the keeper from, without provocation,
21 injuring, attempting to injure, disabling, attempting to disable, interfering with the work of
22 or jeopardizing the safety of an animal the person knows or reasonably should know is an
23 assistance animal.

24 (3) Subsection (2) of this section does not apply to the use of licensed veterinary practices
25 described in ORS 686.030 or reasonable techniques for handling and training an assistance
26 animal.

27 (4) Hindering an assistance animal in the second degree is a Class A misdemeanor. If a

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 **person commits the crime of hindering an assistance animal in the second degree by means**
2 **described in subsection (2)(b) of this section, the court imposing sentence for the crime may**
3 **also make a disposition of the dog as described in ORS 609.990 (6).**

4 **SECTION 2. (1) A person commits the crime of hindering an assistance animal in the**
5 **first degree if the person violates section 1 of this 2009 Act and:**

6 (a) **The person acts intentionally; or**

7 (b) **Before the date of hindering an assistance animal, the person commits acts that twice**
8 **result in the person being found to have violated this section or ORS 167.320 or 167.352 or**
9 **section 1 of this 2009 Act, or the equivalent laws of another jurisdiction.**

10 (2) **Hindering an assistance animal in the first degree is a Class C felony. If a person**
11 **commits the crime of hindering an assistance animal in the first degree as described in**
12 **section 1 (2)(b) of this 2009 Act, the court imposing sentence for the crime may also make**
13 **a disposition of the dog as described in ORS 609.990 (6).**

14 **SECTION 3.** ORS 131.602 is amended to read:

15 131.602. The crimes to which ORS 131.550 (11)(b) applies are:

16 (1) Bribe giving, as defined in ORS 162.015.

17 (2) Bribe receiving, as defined in ORS 162.025.

18 (3) Public investment fraud, as defined in ORS 162.117.

19 (4) Bribing a witness, as defined in ORS 162.265.

20 (5) Bribe receiving by a witness, as defined in ORS 162.275.

21 (6) Simulating legal process, as defined in ORS 162.355.

22 (7) Official misconduct in the first degree, as defined in ORS 162.415.

23 (8) Custodial interference in the second degree, as defined in ORS 163.245.

24 (9) Custodial interference in the first degree, as defined in ORS 163.257.

25 (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.

26 (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.

27 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.

28 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.

29 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.

30 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
31 defined in ORS 163.688.

32 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
33 as defined in ORS 163.689.

34 (17) Theft in the second degree, as defined in ORS 164.045.

35 (18) Theft in the first degree, as defined in ORS 164.055.

36 (19) Aggravated theft in the first degree, as defined in ORS 164.057.

37 (20) Theft by extortion, as defined in ORS 164.075.

38 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.

39 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.

40 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.

41 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.

42 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.

43 (26) Laundering a monetary instrument, as defined in ORS 164.170.

44 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
45 in ORS 164.172.

- 1 (28) Burglary in the second degree, as defined in ORS 164.215.
- 2 (29) Burglary in the first degree, as defined in ORS 164.225.
- 3 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 4 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 5 (32) Arson in the second degree, as defined in ORS 164.315.
- 6 (33) Arson in the first degree, as defined in ORS 164.325.
- 7 (34) Computer crime, as defined in ORS 164.377.
- 8 (35) Robbery in the third degree, as defined in ORS 164.395.
- 9 (36) Robbery in the second degree, as defined in ORS 164.405.
- 10 (37) Robbery in the first degree, as defined in ORS 164.415.
- 11 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 12 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 13 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 14 (41) A violation of ORS 164.886.
- 15 (42) Endangering aircraft, as defined in ORS 164.885.
- 16 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 17 (44) Forgery in the second degree, as defined in ORS 165.007.
- 18 (45) Forgery in the first degree, as defined in ORS 165.013.
- 19 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 20 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 21 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 22 (49) Criminal simulation, as defined in ORS 165.037.
- 23 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 24 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 25 (52) Negotiating a bad check, as defined in ORS 165.065.
- 26 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 27 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 28 (55) Falsifying business records, as defined in ORS 165.080.
- 29 (56) Sports bribery, as defined in ORS 165.085.
- 30 (57) Sports bribe receiving, as defined in ORS 165.090.
- 31 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 32 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 33 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 34 (61) A violation of ORS 165.543.
- 35 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 36 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 37 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 38 (65) Identity theft, as defined in ORS 165.800.
- 39 (66) A violation of ORS 166.190.
- 40 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 41 (68) A violation of ORS 166.240.
- 42 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 43 (70) A violation of ORS 166.270.
- 44 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
45 firearms silencer, as defined in ORS 166.272.

- 1 (72) A violation of ORS 166.275.
- 2 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 3 (74) A violation of ORS 166.370.
- 4 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 5 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 6 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 7 (78) A violation of ORS 166.410.
- 8 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
- 9 166.416.
- 10 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 11 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 12 (82) A violation of ORS 166.429.
- 13 (83) A violation of ORS 166.470.
- 14 (84) A violation of ORS 166.480.
- 15 (85) A violation of ORS 166.635.
- 16 (86) A violation of ORS 166.638.
- 17 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 18 (88) A violation of ORS 166.720.
- 19 (89) Prostitution, as defined in ORS 167.007.
- 20 (90) Promoting prostitution, as defined in ORS 167.012.
- 21 (91) Compelling prostitution, as defined in ORS 167.017.
- 22 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 23 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 24 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 25 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 26 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 27 (97) Possession of a gambling device, as defined in ORS 167.147.
- 28 (98) Possession of a gray machine, as defined in ORS 167.164.
- 29 (99) Cheating, as defined in ORS 167.167.
- 30 (100) Tampering with drug records, as defined in ORS 167.212.
- 31 (101) A violation of ORS 167.262.
- 32 (102) Research and animal interference, as defined in ORS 167.312.
- 33 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 34 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 35 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 36 (106) Interfering with [*an assistance,*] a search and rescue **animal** or [*a*] therapy animal, as de-
- 37 fined in ORS 167.352.
- 38 **(107) Hindering an assistance animal in the second degree, as defined in section 1 of this**
- 39 **2009 Act.**
- 40 **(108) Hindering an assistance animal in the first degree, as defined in section 2 of this**
- 41 **2009 Act.**
- 42 [(107)] **(109)** Involvement in animal fighting, as defined in ORS 167.355.
- 43 [(108)] **(110)** Dogfighting, as defined in ORS 167.365.
- 44 [(109)] **(111)** Participation in dogfighting, as defined in ORS 167.370.
- 45 [(110)] **(112)** Unauthorized use of a livestock animal, as defined in ORS 167.385.

- 1 [(111)] (113) Interference with livestock production, as defined in ORS 167.388.
- 2 [(112)] (114) A violation of ORS 167.390.
- 3 [(113)] (115) A violation of ORS 471.410.
- 4 [(114)] (116) Failure to report missing precursor substances, as defined in ORS 475.955.
- 5 [(115)] (117) Illegally selling drug equipment, as defined in ORS 475.960.
- 6 [(116)] (118) Providing false information on a precursor substances report, as defined in ORS
7 475.965.
- 8 [(117)] (119) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 9 [(118)] (120) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- 10 [(119)] (121) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 11 [(120)] (122) A violation of ORS 475.916.
- 12 [(121)] (123) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 13 [(122)] (124) A violation of ORS 475.904.
- 14 [(123)] (125) Misuse of an identification card, as defined in ORS 807.430.
- 15 [(124)] (126) Unlawful production of identification cards, licenses, permits, forms or camera
16 cards, as defined in ORS 807.500.
- 17 [(125)] (127) Transfer of documents for the purposes of misrepresentation, as defined in ORS
18 807.510.
- 19 [(126)] (128) Using an invalid license, as defined in ORS 807.580.
- 20 [(127)] (129) Permitting misuse of a license, as defined in ORS 807.590.
- 21 [(128)] (130) Using another's license, as defined in ORS 807.600.
- 22 [(129)] (131) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is
23 a felony.
- 24 [(130)] (132) Driving while under the influence of intoxicants, as defined in ORS 813.010, when
25 it is a felony.
- 26 [(131)] (133) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 27 [(132)] (134) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 28 [(133)] (135) A violation of ORS 180.440 (2).
- 29 [(134)] (136) A violation described in ORS 475.846 to 475.894, if it is a felony.
- 30 [(135)] (137) Subjecting another person to involuntary servitude in the first degree, as defined
31 in ORS 163.264.
- 32 [(136)] (138) Subjecting another person to involuntary servitude in the second degree, as defined
33 in ORS 163.263.
- 34 [(137)] (139) Trafficking in persons, as defined in ORS 163.266.
- 35 [(138)] (140) Furnishing sexually explicit material to a child, as defined in ORS 167.054.
- 36 [(139)] (141) Luring a minor, as defined in ORS 167.057.
- 37 [(140)] (142) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- 38 [(141)] (143) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- 39 [(142)] (144) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to
40 [(141)] (143) of this section if the attempt, conspiracy or solicitation is a felony or a Class A
41 misdemeanor.
- 42 **SECTION 4.** ORS 167.320 is amended to read:
- 43 167.320. (1) A person commits the crime of animal abuse in the first degree if, except as other-
44 wise authorized by law, the person [*intentionally, knowingly or*] recklessly:
- 45 (a) Causes serious physical injury to an animal; [*or*]

1 (b) Cruelly causes the death of an animal[.];

2 (c) **Without provocation, causes the death of an animal that the person knows or rea-**
 3 **sonably should know is an assistance animal as defined in ORS 346.680; or**

4 (d) **Fails to prevent a dog for which the person is the keeper, as defined in ORS 609.035,**
 5 **from causing, without provocation, the death of an animal that the person knows or rea-**
 6 **sonably should know is an assistance animal as defined in ORS 346.680.**

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

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

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

11 (a) **Before the date of the animal abuse,** the person committing the animal abuse [*has previ-*
 12 *ously been convicted of two or more of the following offenses:*] **commits acts that twice result in**
 13 **the person being found to have violated any of the following:**

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

17 (B) [*Any*] **An** offense under this section or ORS 167.322 **or section 1 or 2 of this 2009 Act,** or
 18 the equivalent laws of another jurisdiction; or

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

22 (5) **If a person commits the crime of animal abuse in the first degree by means described**
 23 **in subsection (1)(d) of this section, the court imposing sentence for the crime may also make**
 24 **a disposition of the dog as described in ORS 609.990 (6).**

25 **SECTION 5.** ORS 167.352 is amended to read:

26 167.352. (1) A person commits the crime of interfering with [*an assistance,*] a search and rescue
 27 **animal** or [*a*] therapy animal if the person [*intentionally or*] knowingly:

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

30 [*(b) Interferes with an assistance animal while the assistance animal is being used to provide as-*
 31 *sistance to a person with a physical impairment; or*]

32 [*(c)*] (b) Interferes with a search and rescue animal or [*a*] therapy animal while the animal is
 33 being used for search and rescue or therapy purposes.

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

36 [(3)] (2) As used in this section [*and ORS 30.822*]:

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

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

41 [(4)] (3) Interfering with [*an assistance,*] a search and rescue **animal** or [*a*] therapy animal is a
 42 Class A misdemeanor.

43 **SECTION 6.** ORS 346.687 is amended to read:

44 346.687. (1) **As used in this section:**

45 (a) **“Disables” and “injures” have the meanings given those terms in section 1 of this 2009**

1 **Act.**

2 **(b) "Keeper" has the meaning given that term in ORS 609.035.**

3 [(1)] **(2)** In addition to and not in lieu of any other penalty provided by state law, a person with
 4 a physical impairment who uses an assistance animal or the owner of an assistance animal may
 5 bring an action for economic [*and noneconomic*] damages against any person who steals or, without
 6 provocation, [*attacks*] **injures or disables** the assistance animal. The person with a physical
 7 impairment or owner may also bring an action for [*such damages against the owner of any animal*
 8 *that, without provocation, attacks*] **economic damages against the keeper of a dog if the keeper**
 9 **fails to prevent the dog from, without provocation, injuring or disabling** an assistance animal.
 10 The action authorized by this subsection may be brought by the person with a physical impairment
 11 or owner even if the assistance animal was in the custody or under the supervision of another per-
 12 son when the theft [*or attack*], **injury or disabling** occurred.

13 [(2) *If the theft of or unprovoked attack on an assistance animal described in subsection (1) of this*
 14 *section results in the death of the animal or the animal is not returned or if injuries sustained in the*
 15 *theft or attack prevent the animal from returning to service as an assistance animal, the measure of*
 16 *economic damages shall include, but need not be limited to, the replacement value of an equally trained*
 17 *assistance animal, without any differentiation for the age or the experience of the animal. In addition,*
 18 *the person with a physical impairment or owner may recover any other costs and expenses, including,*
 19 *but not limited to, costs of temporary replacement assistance services, whether provided by another as-*
 20 *sistance animal or a person, incurred as a result of the theft of or injury to the animal.]*

21 [(3) *If the theft of or unprovoked attack on an assistance animal described in subsection (1) of this*
 22 *section results in injuries from which the animal recovers and returns to service, or if the animal is*
 23 *stolen but is recovered and returns to service, the measure of economic damages shall include, but need*
 24 *not be limited to, the veterinary medical expenses, costs of temporary replacement assistance services,*
 25 *whether provided by another assistance animal or a person, and any other costs and expenses incurred*
 26 *by the person with a physical impairment or owner as a result of the theft of or injury to the*
 27 *animal.]*

28 **(3) If, as a result of a theft, injury or disabling described in subsection (2) of this section,**
 29 **the assistance animal does not return to the service of the person with a physical impair-**
 30 **ment or owner as an assistance animal, the measure of economic damages includes, but need**
 31 **not be limited to:**

32 **(a) The replacement value of an equally trained assistance animal, without any differen-**
 33 **tiation for the age or the experience of the animal;**

34 **(b) Costs of temporary replacement assistance services provided by another assistance**
 35 **animal or a person;**

36 **(c) Lost wages or earned income; and**

37 **(d) Any other costs and expenses incurred by the person with a physical impairment or**
 38 **owner as a result of the theft, injury or disabling of the animal.**

39 **(4) If the assistance animal returns to the service of the person with a physical impair-**
 40 **ment or owner as an assistance animal following a theft, injury or disabling described in**
 41 **subsection (2) of this section, the measure of economic damages includes, but need not be**
 42 **limited to:**

43 **(a) Veterinary medical expenses;**

44 **(b) Costs of temporary replacement assistance services provided by another assistance**
 45 **animal or a person;**

1 (c) **Costs of retraining the animal;**

2 (d) **Lost wages or earned income; and**

3 (e) **Any other costs and expenses incurred by the person with a physical impairment or**
 4 **owner as a result of the theft, injury or disabling of the animal.**

5 [(4)] (5) A cause of action does not arise under this section if the person with a physical
 6 impairment, owner or the person having custody or supervision of the assistance animal was com-
 7 mitting a criminal or civil trespass at the time of the theft [*of or attack on*], **injury or disabling of**
 8 the assistance animal.

9 [(5)] (6) The court shall award reasonable attorney fees to the prevailing plaintiff in an action
 10 under this section. The court may award reasonable attorney fees and expert witness fees incurred
 11 by a defendant who prevails in the action if the court determines that the plaintiff had no objec-
 12 tively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an
 13 adverse decision of a trial court.

14 **SECTION 7.** ORS 609.093 is amended to read:

15 609.093. In determining whether a dog should be killed as provided under ORS 609.090 (7) or
 16 609.990 (6), a dog control board, county governing body or court shall consider the following factors:

17 (1) If the dog has bitten a person, the circumstances and severity of the bite;

18 (2) Whether the keeper has a history of maintaining dogs that are a public nuisance;

19 (3) The impact of keeper actions on the behavior of the dog;

20 (4) The ability and inclination of the keeper to prevent the dog from [*chasing or menacing an-*
 21 *other person*] **engaging in prohibited behavior** on premises other than the premises from which the
 22 keeper may lawfully exclude others or, **if the dog has bitten a person**, from biting another person;

23 (5) Whether the dog can be relocated to a secure facility;

24 (6) The effect that a transfer of the keeping of the dog to another person would have on ensuring
 25 the health and safety of the public;

26 (7) Behavior by the dog before or since the [*biting, chasing or menacing*] **behavior that placed**
 27 **the dog within the jurisdiction of the governing body or court;** and

28 (8) Any other factors that the board, governing body or court may deem relevant.

29 **SECTION 8.** ORS 609.095 is amended to read:

30 609.095. (1) A dog is a public nuisance if [*it*] **the dog:**

31 (a) Chases persons or vehicles on premises other than premises from which the keeper of the
 32 dog may lawfully exclude others;

33 (b) Damages or destroys property of persons other than the keeper of the dog;

34 (c) Scatters garbage on premises other than premises from which the keeper of the dog may
 35 lawfully exclude others;

36 (d) Trespasses on private property of persons other than the keeper of the dog;

37 (e) Disturbs any person by frequent or prolonged noises;

38 (f) Is a female in heat and running at large; [*or*]

39 (g) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098[.]; **or**

40 (h) **Without provocation, injures, attempts to injure, disables, attempts to disable, inter-**
 41 **feres with the work of or jeopardizes the safety of an assistance animal on premises other**
 42 **than premises from which the keeper of the dog may lawfully exclude others. As used in this**
 43 **paragraph, “assistance animal,” “disables” and “injures” have the meanings given those**
 44 **terms in section 1 of this 2009 Act.**

45 (2) The keeper of a dog in a county, precinct or city that is subject to ORS 609.030 and 609.035

1 to 609.110 maintains a public nuisance if the dog commits an act described under subsection (1) of
2 this section. Maintaining a dog that is a public nuisance is a violation.

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

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

12 **SECTION 9.** ORS 609.990 is amended to read:

13 609.990. (1) Violation of ORS 609.060 (2), 609.100 or 609.169 is a Class B violation.

14 (2) Maintaining a public nuisance in violation of ORS 609.095 (2) or (3) is [*punishable by a fine*
15 *of not more than \$250*] **a Class B violation.**

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

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

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

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

22 (5) In addition to any fine or sentence imposed under this section, a court may order a
23 [*person*] **keeper** who violates **section 1 or 2 of this 2009 Act or** ORS 609.060 (2), 609.095, 609.098,
24 609.100, 609.169 or 609.405 to pay restitution for any physical injury, death or property damage
25 caused by [*the*] **a dog** as a result of the keeper's violation of **section 1 or 2 of this 2009 Act or**
26 ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405. The court may also order the
27 [*person*] **keeper** to pay the cost of keeping the dog in impoundment.

28 (6) In addition to any fine imposed or restitution ordered, [*of*] **if** a keeper [*for a violation of*]
29 **violates** ORS 609.060 (2), 609.095, 609.100, 609.169 or 609.405, **or if the dog is subject to disposition**
30 **by the court under section 1 (4) or 2 (2) of this 2009 Act or ORS 167.320 (5),** the court may
31 impose reasonable restrictions on the keeping of the dog to ensure the safety or health of the public.
32 The keeper must pay the cost of complying with reasonable restrictions. As used in this subsection,
33 "reasonable restrictions" may include, but is not limited to, sterilization. If the dog is a potentially
34 dangerous dog **or if the dog is subject to disposition by the court under section 1 (4) or 2 (2)**
35 **of this 2009 Act or ORS 167.320 (5),** the court may order the dog killed in a humane manner. In
36 determining whether to have the dog killed, the court shall give consideration to the factors de-
37 scribed in ORS 609.093 and issue written findings on those factors.

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

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

1 **SECTION 10.** (1) The amendments to ORS 131.602 (106) by section 3 of this 2009 Act do
2 not exempt any person who commits the crime of interfering with an assistance, a search
3 and rescue or a therapy animal prior to the effective date of this 2009 Act from the applica-
4 tion of ORS 131.602.

5 (2) The amendments to ORS 346.687 by section 6 of this 2009 Act apply to civil actions
6 that are initially filed on or after the effective date of this 2009 Act.

7 (3) The amendments to ORS 609.093 by section 7 of this 2009 Act apply for the disposition
8 of a dog based on behavior that occurs on or after the effective date of this 2009 Act.

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