

House Bill 2471

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

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**.

Prohibits person convicted of certain crimes involving animals from owning, being employed by or providing services at animal grooming parlor or kennel for specified period following conviction. Makes first violation punishable by maximum of 30 days' imprisonment, \$1,250 fine, or both. Makes second or subsequent violation punishable by maximum of one year's imprisonment, \$6,250 fine, or both.

Prohibits owner of grooming parlor or kennel from hiring person who owner knows is prohibited from working at grooming parlor or kennel due to conviction for certain crimes involving animals. Prohibits owner of grooming parlor or kennel from allowing performance of services at grooming parlor or kennel by person who owner knows is prohibited from providing services at grooming parlor or kennel due to conviction for certain crimes involving animals. Makes violation punishable by maximum of six months' imprisonment, \$2,500 fine, or both.

Requires owner of grooming parlor or kennel to conduct criminal background check of person before hiring person to work at grooming parlor or kennel or allowing person to provide services at grooming parlor or kennel. Authorizes State Department of Agriculture to investigate complaints of noncompliance. Makes violation subject to civil penalty not to exceed \$10,000.

Requires that owner of grooming parlor or kennel post notice at grooming parlor or kennel regarding department website. Makes violation subject to civil penalty not to exceed \$100 per day.

Imposes enclosure specifications and recordkeeping requirements for boarding kennels accommodating 10 or more adult dogs. Makes violation punishable by maximum of one year's imprisonment, \$6,250 fine, or both.

Imposes care requirements, other health-related requirements and recordkeeping requirements on boarding kennels. Authorizes department to investigate complaints of noncompliance. Makes violation subject to civil penalty not to exceed \$10,000.

Requires department to place information regarding grooming parlor, kennel and boarding kennel requirements and prohibitions on website maintained by department. Requires department to post summary of boarding kennel violations of care requirements, health-related requirements or recordkeeping requirements.

Replaces term "owner" with "keeper" for purposes of certain statutes establishing crimes involving animals. Defines "keeper."

A BILL FOR AN ACT

1
2 Relating to animals; creating new provisions; and amending ORS 167.310, 167.312, 167.335, 167.345,
3 167.348 and 167.350.

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

SECTION 1. As used in sections 1 to 3 of this 2011 Act:

6 (1) "Domestic animal" has the meaning given that term in ORS 167.310.

7 (2) "Grooming parlor" means a commercial establishment engaged in the business of
8 bathing, clipping or providing pedicures for domestic animals.

9 (3) "Kennel" means a commercial establishment engaged in the business of boarding,
10 training, breeding, selling or exchanging domestic animals.

11 **SECTION 2. (1) In addition to any other penalty imposed by law, a person convicted of**
12 **violating ORS 167.315, 167.325, 167.330, 167.333, 167.340 or 167.355 or of a misdemeanor under**
13 **ORS 167.320 may not, for five years following entry of the conviction:**

14 (a) Own or be employed by a grooming parlor or kennel; or

15 (b) Provide services for domestic animals at or for a grooming parlor or kennel as an

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 independent contractor.

2 (2) In addition to any other penalty imposed by law, a person convicted of violating ORS
3 167.322, 167.365 or 167.428 or of a felony under ORS 167.320 may not, for 15 years following
4 entry of the conviction:

5 (a) Own or be employed by a grooming parlor or kennel; or

6 (b) Provide services for domestic animals at or for a grooming parlor or kennel as an
7 independent contractor.

8 (3) Violation of this section is a Class C misdemeanor for a first offense and a Class A
9 misdemeanor for a second or subsequent offense.

10 **SECTION 3.** (1) An owner of a grooming parlor or kennel may not hire a person whom
11 the owner knows to be subject to section 2 of this 2011 Act as an employee of the grooming
12 parlor or kennel. An owner of a grooming parlor or kennel may not allow a person whom
13 the owner knows to be subject to section 2 of this 2011 Act to provide services for domestic
14 animals at or for the grooming parlor or kennel as an independent contractor.

15 (2) Violation of this section is a Class B misdemeanor.

16 **SECTION 4.** (1) As used in this section:

17 (a) "Domestic animal" has the meaning given that term in ORS 167.310.

18 (b) "Grooming parlor" means a commercial establishment engaged in the business of
19 bathing, clipping or providing pedicures for domestic animals.

20 (c) "Kennel" means a commercial establishment engaged in the business of boarding,
21 training, breeding, selling or exchanging domestic animals.

22 (2) An owner of a grooming parlor or kennel shall conduct a criminal background check
23 of a person before:

24 (a) Employing the person to work at the grooming parlor or kennel; or

25 (b) Allowing the person to provide services for domestic animals at or for the grooming
26 parlor or kennel as an independent contractor.

27 (3) Upon receipt of a complaint, the State Department of Agriculture shall investigate
28 any alleged violation of this section.

29 (4) A grooming parlor or kennel shall post a notice at the grooming parlor or kennel
30 identifying the website maintained by the department under section 7 of this 2011 Act as an
31 information source regarding certain laws applicable to the grooming parlor and kennel in-
32 dustries. The department shall adopt rules prescribing the form, content and acceptable
33 posting locations for a notice.

34 (5) The department may assess a civil penalty not to exceed \$10,000 for a violation of
35 subsection (2) of this section.

36 (6) The department may assess a civil penalty not to exceed \$100 for a violation of sub-
37 section (4) of this section. Each day that the violation continues after the department noti-
38 fies the grooming parlor or kennel that the grooming parlor or kennel is not in compliance
39 with subsection (4) of this section is a separate violation.

40 **SECTION 5.** (1) As used in this section:

41 (a) "Adult dogs" means dogs other than unweaned or bottle-fed puppies.

42 (b) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at
43 the facility an average of less than 30 days.

44 (c) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that
45 subspecies.

1 (2) A boarding kennel that has enclosures for 10 or more adult dogs shall, in addition to
2 providing minimum care as defined in ORS 167.310:

3 (a) Provide each dog with sufficient space to turn about freely, stand and sit and to lie
4 down without the head, face, tail, legs or feet of the dog touching the sides of the enclosure
5 or touching any other dog.

6 (b) Provide each dog with an enclosure that:

7 (A) Has a solid floor without slats or gaps;

8 (B) Is at least six inches higher than the head of the tallest dog in that enclosure when
9 the tallest dog is in a normal standing position;

10 (C) If elevated above the floor of a room, is placed so that the floor of the enclosure is
11 no more than 42 inches above the floor of the room; and

12 (D) Is not stacked or otherwise placed above or below any other dog enclosure.

13 (c) Remove waste and contaminants from the enclosure at least once each day.

14 (d) Remove the dog from the enclosure when cleaning the enclosure of waste and con-
15 taminants.

16 (3) A boarding kennel shall maintain records establishing the enclosure used for each dog
17 boarded at the kennel.

18 (4) Violation of this section is a Class A misdemeanor.

19 **SECTION 6.** (1) As used in this section:

20 (a) "Boarding kennel" means a facility that provides care for a fee to domestic animals
21 that stay at the facility an average of less than 30 days.

22 (b) "Domestic animal" has the meaning given that term in ORS 167.310.

23 (2) The owner of a boarding kennel shall:

24 (a) Require a person to provide health history information for a domestic animal before
25 placing the animal in the custody of the boarding kennel.

26 (b) Request the person to provide contact information for any veterinarian who usually
27 provides veterinary care for the animal.

28 (c) Ensure that the physical condition of each domestic animal in the custody of the
29 boarding kennel is checked and recorded daily.

30 (d) Ensure that minimum care as defined in ORS 167.310 is provided for each domestic
31 animal in the custody of the boarding kennel.

32 (e) Arrange with a veterinarian for veterinary care to be available for domestic animals
33 that are placed in the custody of the boarding kennel. However, this paragraph does not re-
34 quire a boarding kennel owner to limit veterinary care to a particular veterinarian.

35 (f) Send notice to the State Department of Agriculture no later than 10 days after a do-
36 mestic animal in the custody of the boarding kennel dies or suffers an injury or illness that
37 results in treatment by a veterinarian.

38 (g) Ensure that any domestic animal transported by or on behalf of the boarding kennel
39 for the purpose of obtaining veterinary care is placed in a carrier or is otherwise restrained
40 in movement.

41 (3) The owner shall maintain records at the boarding kennel and make the records
42 available for inspection by the department upon request. The records shall, at a minimum,
43 include information necessary to demonstrate compliance with this section. The owner shall
44 retain records required by this subsection for a minimum of two years.

45 (4) Upon receipt of a complaint, the department shall investigate any alleged violation

1 of this section.

2 (5) The department may assess a civil penalty not to exceed \$10,000 for a violation of this
3 section.

4 **SECTION 7. (1) The State Department of Agriculture shall place on a website maintained**
5 **by the department information regarding:**

6 (a) The prohibitions contained in sections 2 and 3 of this 2011 Act;

7 (b) The requirements of section 4 of this 2011 Act and related rules of the department;

8 (c) The requirements of section 5 of this 2011 Act;

9 (d) The requirements of section 6 of this 2011 Act and related rules of the department;
10 and

11 (e) How to contact the department regarding a violation or suspected violation of the
12 prohibitions and requirements described in paragraphs (a) to (d) of this subsection.

13 (2) The department shall also maintain on the website described in subsection (1) of this
14 section summaries of any violations of section 6 of this 2011 Act for which the department
15 has issued a final order.

16 **SECTION 8.** ORS 167.310 is amended to read:

17 167.310. As used in ORS 167.310 to 167.351:

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

19 (2) "Domestic animal" means an animal, other than livestock or equines, [*that is owned or pos-*
20 *essed by a person*] **for which a person is a keeper.**

21 (3) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these ani-
22 mals.

23 (4) "Good animal husbandry" includes, but is not limited to, the dehorning of cattle, the docking
24 of horses, sheep or swine, and the castration or neutering of livestock, according to accepted prac-
25 tices of veterinary medicine or animal husbandry.

26 (5) **"Keeper" means a person that owns, possesses, controls or otherwise has charge of**
27 **an animal, other than:**

28 (a) **A licensed business primarily intended to obtain a profit from the boarding of animals;**

29 (b) **A humane society or other nonprofit animal shelter;**

30 (c) **A facility impounding animals on behalf of a city or county; or**

31 (d) **A veterinary facility.**

32 [(5)] (6) "Law enforcement animal" means a dog or horse used in law enforcement work under
33 the control of a corrections officer, parole and probation officer, police officer or youth correction
34 officer, as those terms are defined in ORS 181.610, who has successfully completed at least 360 hours
35 of training in the care and use of a law enforcement animal, or who has passed the demonstration
36 of minimum standards established by the Oregon Police Canine Association or other accredited and
37 recognized animal handling organization.

38 [(6)] (7) "Livestock" has the meaning provided in ORS 609.125.

39 [(7)] (8) "Minimum care" means care sufficient to preserve the health and well-being of an ani-
40 mal and, except for emergencies or circumstances beyond the reasonable control of the [*owner*]
41 **keeper**, includes, but is not limited to, the following requirements:

42 (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body
43 weight.

44 (b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs.
45 Access to snow or ice is not adequate access to potable water.

1 (c) For a domestic animal other than a dog engaged in herding or protecting livestock, access
 2 to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain,
 3 snow or sun and that has adequate bedding to protect against cold and dampness.

4 (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from
 5 injury, neglect or disease.

6 (e) For a domestic animal, continuous access to an area:

7 (A) With adequate space for exercise necessary for the health of the animal;

8 (B) With air temperature suitable for the animal; and

9 (C) Kept reasonably clean and free from excess waste or other contaminants that could affect
 10 the animal's health.

11 (f) For a livestock animal that cannot walk or stand without assistance:

12 (A) Humane euthanasia; or

13 (B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

14 [(8)] (9) "Physical injury" means physical trauma, impairment of physical condition or substan-
 15 tial pain.

16 [(9)] (10) "Physical trauma" means fractures, cuts, punctures, bruises, burns or other wounds.

17 [(10)] (11) "Possess" has the meaning provided in ORS 161.015.

18 [(11)] (12) "Serious physical injury" means physical injury that creates a substantial risk of
 19 death or that causes protracted disfigurement, protracted impairment of health or protracted loss
 20 or impairment of the function of a limb or bodily organ.

21 **SECTION 9.** ORS 167.312 is amended to read:

22 167.312. (1) A person commits the crime of research and animal interference if the person:

23 (a) With the intent to interfere with research, releases, steals or otherwise causes the death,
 24 injury or loss of any animal at or from an animal research facility.

25 (b) With the intent to interfere with research, damages, vandalizes or steals any property in or
 26 on an animal research facility.

27 (c) With the intent to interfere with research, obtains access to an animal research facility to
 28 perform acts not authorized by that facility.

29 (d) Obtains or exerts unauthorized control over records, data, materials, equipment or animals
 30 of any animal research facility with the intent to interfere with research by concealing, abandoning
 31 or destroying such records, data, materials, equipment or animals.

32 (e) With the intent to interfere with research, possesses or uses equipment or animals that the
 33 person reasonably believes have been obtained by theft or deception from an animal research facility
 34 or without the authorization of an animal research facility.

35 (2) For the purposes of this section, "animal research facility" means any facility engaging in
 36 legal scientific research or teaching involving the use of animals.

37 (3) Research and animal interference is a:

38 (a) Class C felony if damage to the animal research facility is \$2,500 or more; or

39 (b) Class A misdemeanor if there is no damage to the facility or if damage to the animal re-
 40 search facility is less than \$2,500.

41 (4) Determination of damages to an animal research facility shall be made by the court. In
 42 making its determination, the court shall consider the reasonable costs of:

43 (a) Replacing lost, injured or destroyed animals;

44 (b) Restoring the animal research facility to the approximate condition of the facility before the
 45 damage occurred; and

1 (c) Replacing damaged or missing records, data, material or equipment.

2 (5) In addition to any other penalty imposed for violation of this section, a person convicted of
3 such violation is liable:

4 (a) To the [owner] **keeper** of the animal for damages, including the costs of restoring the animal
5 to confinement and to its health condition prior to commission of the acts constituting the violation;

6 (b) For damages to real and personal property caused by acts constituting the violation; and

7 (c) For the costs of repeating an experiment, including the replacement of the animals, labor and
8 materials, if acts constituting the violation cause the failure of an experiment.

9 **SECTION 10.** ORS 167.335 is amended to read:

10 167.335. Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not
11 apply to:

12 (1) The treatment of livestock being transported by [owner] **keeper** or common carrier;

13 (2) Animals involved in rodeos or similar exhibitions;

14 (3) Commercially grown poultry;

15 (4) Animals subject to good animal husbandry practices;

16 (5) The killing of livestock according to the provisions of ORS 603.065;

17 (6) Animals subject to good veterinary practices as described in ORS 686.030;

18 (7) Lawful fishing, hunting and trapping activities;

19 (8) Wildlife management practices under color of law;

20 (9) Lawful scientific or agricultural research or teaching that involves the use of animals;

21 (10) Reasonable activities undertaken in connection with the control of vermin or pests; and

22 (11) Reasonable handling and training techniques.

23 **SECTION 11.** ORS 167.345 is amended to read:

24 167.345. (1) As used in this section, "peace officer" has the meaning given that term in ORS
25 161.015.

26 (2) If there is probable cause to believe that any animal is being subjected to treatment in vio-
27 lation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining
28 a search warrant or in any other manner authorized by law, may enter the premises where the an-
29 imal is located to provide the animal with food, water and emergency medical treatment and may
30 impound the animal. If after reasonable effort the [owner or person having custody] **keeper** of the
31 animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted
32 on the premises and within 72 hours after the impoundment the notice shall be sent by certified mail
33 to the address, if any, where the animal was impounded.

34 (3) A peace officer is not liable for any damages for an entry under subsection (2) of this section,
35 unless the damages were caused by the unnecessary actions of the peace officer that were inten-
36 tional or reckless.

37 (4)(a) A court may order an animal impounded under subsection (2) of this section to be held
38 at any animal care facility in the state. A facility receiving the animal shall provide adequate food
39 and water and may provide veterinary care.

40 (b) A court may order a fighting bird impounded under subsection (2) of this section to be held
41 on the property of the [owner, possessor or] keeper of the fighting bird in accordance with ORS
42 167.433.

43 **SECTION 12.** ORS 167.348 is amended to read:

44 167.348. (1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the
45 agency to which the animal was forfeited may place the animal with a new [owner] **keeper**. The

1 agency shall give placement preference to any person or persons who had prior contact with the
 2 animal, including but not limited to family members and friends of the former [owner] **keeper** whom
 3 the agency determines are capable of providing necessary, adequate and appropriate levels of care
 4 for the animal. As a condition of placement, the agency shall require the new [owner] **keeper** to
 5 execute an agreement to provide minimum care to the animal. The agreement must indicate that
 6 allowing the former [owner] **keeper** to possess the animal constitutes a crime.

7 (2) Notwithstanding subsection (1) of this section, the agency may not place the animal with any
 8 person who resides with the former [owner] **keeper**.

9 **SECTION 13.** ORS 167.350 is amended to read:

10 167.350. (1) In addition to and not in lieu of any other sentence it may impose, a court may re-
 11 quire a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any
 12 rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs
 13 incurred by any person or agency prior to judgment in caring for each animal subjected to the vio-
 14 lation.

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

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

26 (3) In addition to and not in lieu of any other sentence it may impose, a court may order the
 27 [owner or person having custody] **keeper** of an animal to repay the reasonable costs incurred by any
 28 person or agency in providing minimum care to the animal.

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

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

38 **SECTION 14. Section 2 of this 2011 Act applies:**

39 (1) **To a person convicted of an offense identified in section 2 of this 2011 Act on or after**
 40 **the effective date of this 2011 Act; and**

41 (2) **To a person convicted of an offense identified in section 2 of this 2011 Act before the**
 42 **effective date of this 2011 Act with regard to:**

43 (a) **An ownership interest in a grooming parlor or kennel that the person acquires on or**
 44 **after the effective date of this 2011 Act;**

45 (b) **Employment commenced on or after the effective date of this 2011 Act; and**

1 (c) Independent contractor services provided on or after the effective date of this 2011
2 Act.

3 SECTION 15. Section 3 of this 2011 Act applies to:

4 (1) The hiring of persons on or after the effective date of this 2011 Act to commence
5 employment on or after the effective date of this 2011 Act; and

6 (2) Independent contractor services provided on or after the effective date of this 2011
7 Act.

8 SECTION 16. (1) Section 4 of this 2011 Act applies to:

9 (a) The hiring of persons on or after the effective date of this 2011 Act to commence
10 employment on or after the effective date of this 2011 Act; and

11 (b) Independent contractor services provided on or after the effective date of this 2011
12 Act.

13 (2) The State Department of Agriculture shall adopt rules prescribing the form, content
14 and acceptable posting locations for the notice described in section 4 of this 2011 Act in time
15 for the rules to take effect no later than July 1, 2012. Notwithstanding section 4 (6) of this
16 2011 Act, the department may not assess a civil penalty for failure to post the notice required
17 by section 4 of this 2011 Act that occurs prior to October 1, 2012.

18 SECTION 17. Section 6 of this 2011 Act applies to domestic animals for which placement
19 into the custody of a boarding kennel commences on or after the effective date of this 2011
20 Act.

21 SECTION 18. The State Department of Agriculture shall place the information required
22 by section 7 of this 2011 Act on a website no later than 90 days after the effective date of this
23 2011 Act.

24 SECTION 19. The amendments to ORS 167.312 by section 9 of this 2011 Act apply to
25 damages awarded for offenses committed on or after the effective date of this 2011 Act.
26