

House Bill 2637

Sponsored by Representative ROBLAN (Pre-session filed.)

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**.

Revises petition and election procedure regarding county or city decision whether to allow dogs to run at large. Deletes references to precinct regulation of dogs running at large. Requires that moneys collected by city from dog licensing or fines for dogs running at large be maintained in special fund of city treasury.

A BILL FOR AN ACT

1
2 Relating to dog control; creating new provisions; amending ORS 609.060, 609.095, 609.100 and
3 609.990; and repealing ORS 609.040.

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

5 **SECTION 1.** ORS 609.060 is amended to read:

6 609.060. (1) **A petition may be submitted in accordance with ORS chapter 250 for a vote**
7 **to be taken for or against permitting dogs to run at large within a city or county. If a peti-**
8 **tion is successfully filed with the county clerk or city elections officer, the filing officer shall**
9 **cause notice of receipt to be given as required under ORS chapter 250.**

10 [(1)] (2) If a majority of all votes cast in the election [*provided for by ORS 609.040*] is against
11 permitting dogs to run at large, or if the governing body of the county **or city** by ordinance pro-
12 hibits dogs from running at large, the county **or city** shall give notice, by publication in [*some*] **a**
13 newspaper having a general circulation in the county **or city**[, *and in the election precinct if the*
14 *prohibition of dogs running at large affects any one precinct only, for three consecutive weeks*].

15 [(2)] (3) After 60 days from the date of the notice, every person keeping a dog shall prevent the
16 dog from running at large in any county[, *city or precinct*] **or city** where prohibited. A person who
17 is the keeper of a dog is guilty of a violation if the dog runs at large [*in a county, city or precinct*]
18 where prohibited.

19 [(3)] (4) County license fees and **moneys that a county collects from** the penalty for violation
20 of subsection [(2)] (3) of this section or ORS 609.100[, *when collected,*] shall be paid into the county
21 treasury, and kept in a special fund. **City license fees and moneys that a city collects from the**
22 **penalty for violation of subsection (3) of this section or ORS 609.100 shall be paid into the city**
23 **treasury, and kept in a special fund.**

24 **SECTION 2.** ORS 609.095 is amended to read:

25 609.095. (1) A dog is a public nuisance if it:

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

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

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

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 (d) Trespasses on private property of persons other than the keeper of the dog;
- 2 (e) Disturbs any person by frequent or prolonged noises;
- 3 (f) Is a female in heat and running at large; or
- 4 (g) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098.

5 (2) The keeper of a dog in a county[, *precinct*] or city that is subject to ORS 609.030 and 609.035
 6 to 609.110 maintains a public nuisance if the dog commits an act described under subsection (1) of
 7 this section. Maintaining a dog that is a public nuisance is a violation.

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

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

17 **SECTION 3.** ORS 609.100 is amended to read:

18 609.100. (1) In a county[, *precinct*] or city having a dog control program under ORS 609.030,
 19 609.035 to 609.110 and 609.405, every person keeping a dog that has a set of permanent canine teeth
 20 or is six months old, whichever comes first, shall procure a license for the dog. The license must
 21 be procured by paying a license fee to the county in which the person resides not later than March
 22 1 of each year or within 30 days after the person becomes keeper of the dog. However, the county
 23 governing body may provide for dates other than March 1 for annual payment of fees. The fee for
 24 the license shall be determined by the county governing body in such amount as it finds necessary
 25 to carry out ORS 609.035 to 609.110. A license fee shall not be less than \$25 for each dog, except
 26 that the fee shall not be less than \$3 for each spayed female or neutered male dog for which a
 27 veterinarian’s certificate of operation for the spaying or neutering of the dog is presented to the
 28 county. If the person fails to procure a license within the time provided by this section, the county
 29 governing body may prescribe a penalty in an additional sum to be set by the governing body.

30 (2) The county shall, at the time of issuing a license, supply the licensee, without charge, with
 31 a suitable identification tag, which shall be fastened by the licensee to a collar and kept on the dog
 32 at all times when not in the immediate possession of the licensee.

33 (3) The license fees in subsection (1) of this section do not apply to dogs that are kept primarily
 34 in kennels and are not permitted to run at large. The county governing body may establish a sepa-
 35 rate license for dogs that are kept primarily in kennels when the dogs cease to be considered in-
 36 ventory under ORS 307.400, the fee for which shall not exceed \$5 per dog.

37 (4) A license fee is not required to be paid for any dog kept by a person who is blind and who
 38 uses the dog as a guide. A license shall be issued for such dog upon the filing by the person who
 39 is blind of an affidavit with the county showing that the dog qualifies for exemption.

40 (5) The county shall keep a record of dog licenses.

41 (6) Notwithstanding any other provision of this section or ORS 609.015, when the keeper of a
 42 dog obtains a license for the dog, that license is valid and is in lieu of a license for the dog required
 43 by any other city or county within this state, for the remainder of the license period:

44 (a) If the keeper of the dog changes residence to a city or county other than the city or county
 45 in which the license was issued; or

(b) If the keeper of the dog transfers the keeping of the dog to a person who resides in a city or county other than the city or county in which the license was issued.

SECTION 4. ORS 609.990 is amended to read:

609.990. (1) Violation of ORS 609.060 [(2)] (3), 609.100 or 609.169 is a Class B violation.

(2) Maintaining a public nuisance in violation of ORS 609.095 (2) or (3) is punishable by a fine of not more than \$250.

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

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

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

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

(5) In addition to any fine or sentence imposed under this section, a court may order a person who violates ORS 609.060 [(2)] (3), 609.095, 609.098, 609.100, 609.169 or 609.405 to pay restitution for any physical injury, death or property damage caused by the dog as a result of the keeper's violation of ORS 609.060 [(2)] (3), 609.095, 609.098, 609.100, 609.169 or 609.405. The court may also order the person to pay the cost of keeping the dog in impoundment.

(6) In addition to any fine imposed or restitution ordered of a keeper for a violation of ORS 609.060 [(2)] (3), 609.095, 609.100, 609.169 or 609.405, the court may impose reasonable restrictions on the keeping of the dog to ensure the safety or health of the public. The keeper must pay the cost of complying with reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization. If the dog is a potentially dangerous dog, the court may order the dog killed in a humane manner. In determining whether to have the dog killed, the court shall give consideration to the factors described in ORS 609.093 and issue written findings on those factors.

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

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

SECTION 5. ORS 609.040 is repealed.

SECTION 6. The amendments to ORS 609.060, 609.095, 609.100 and 609.990 by sections 1 to 4 of this 2011 Act and the repeal of ORS 609.040 by section 5 of this 2011 Act do not invalidate any dog control program formed by one or more precincts prior to the effective date of this 2011 Act. Precincts that formed dog control programs prior to the effective date of this 2011 Act may continue to administer and enforce those programs on or after the effective date of this 2011 Act in the same manner as a city dog control program.