

Senate Bill 262

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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**.

Replaces brand inspection for equines with equine ownership certificate. Requires owner to obtain equine ownership certificate for equine that is present in state for more than 30 consecutive days. Makes failure to obtain certificate subject to maximum fine of \$500 per equine for first occurrence and \$1,000 per equine for second or subsequent occurrence. Establishes requirements for recording transfer of ownership of equine.

Requires providing equine with food, water and opportunity to rest after each eight hours of transport time. Makes violations subject to maximum fine of \$500 per equine for first occurrence and \$1,000 per equine for second or subsequent occurrence.

Establishes duties of livestock carrier transporting equines. Establishes prohibitions for livestock carrier transporting equines. Requires that equine ownership certificate or equivalent document issued by another state accompany equine transported by livestock carrier. Makes violations subject to maximum fine of \$500 per equine for first occurrence or \$1,000 per equine for second or subsequent occurrence.

Establishes equine trader permit system.

Requires State Department of Agriculture to establish registry of equine rescue facilities. Identifies certain failures to disclose or misleading or deceptive statements by persons not registered as equine rescue facility to be unfair trade practice.

Establishes requirements for livestock auction market sale of equines. Repeals temporary horse sales license provisions.

A BILL FOR AN ACT

1
2 Relating to equines; creating new provisions; and amending ORS 561.144, 599.205, 599.510, 599.620,
3 604.005, 604.015, 604.066 and 646.608.

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

5 **SECTION 1. As used in sections 2 to 12 of this 2011 Act:**

6 (1) "Equine" means a horse, pony, donkey, mule or hinny or any hybrid of those animals.

7 (2) "Equine carrier" means a person that transports equine by motor vehicle for com-
8 pensation as a contract carrier.

9 (3) "Equine trader" means the holder of an equine trader permit issued under section 7
10 of this 2011 Act.

11 (4) "Trailer" has the meaning given that term in ORS 801.560.

12 **SECTION 2. (1) The owner of an equine that is present in this state for more than 30**
13 **consecutive days must apply to the State Department of Agriculture for an equine ownership**
14 **certificate for the equine. If an equine that has been registered with the department is sold**
15 **to a buyer in this state, the buyer must apply for a new ownership certificate for the equine**
16 **no later than 30 days after purchasing the equine.**

17 (2) An application for an equine ownership certificate must be in a form acceptable to the
18 department and accompanied by an inspection and certificate fee established by department
19 rule, not to exceed \$100. The application information must include the following:

20 (a) The name and address of the applicant. If the applicant is an equine trader, the ap-

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 plication must also include the equine trader permit number of the applicant.

2 (b) The name and address of each person to be listed as an owner of the equine.

3 (c) Whether the equine is currently registered in this state or another state. If the
4 equine is currently registered in this state or another state, the application must include a
5 copy of the registration information. If the equine is not registered in any state and was
6 acquired by the applicant, the application shall indicate the source from which the equine
7 was acquired.

8 (d) Whether the equine is registered with any breed association. If the equine is regis-
9 tered with a breed association, the application must include a copy of the association regis-
10 tration information.

11 (e) The species of equine.

12 (f) The name of the equine.

13 (g) The age or date of birth of the equine.

14 (h) The gender of the equine and whether the equine has been rendered sterile.

15 (i) The color of the equine and a description of any markings.

16 (j) The place or places at which the equine will be regularly kept.

17 (k) Any other information the department considers necessary or convenient for pro-
18 cessing a certificate or maintaining a certificate registry.

19 (3) An equine ownership certificate issued by the department is valid for the life of the
20 equine unless the equine is sold. The department shall maintain a registry of all active equine
21 ownership certificates issued by the department.

22 **SECTION 3.** A person that is transporting an equine shall ensure that the equine is not
23 transported more than eight hours between rest breaks. A rest break for an equine must
24 include removal from any vehicle for at least six hours, appropriate food and potable water.

25 **SECTION 4.** (1) An equine carrier may not transport an equine in a trailer that has more
26 than one level or tier.

27 (2) An equine carrier who transports an equine in a trailer shall ensure that:

28 (a) The trailer:

29 (A) Is designed, constructed and maintained in a manner that at all times protects the
30 health and well-being of any equine being transported;

31 (B) Segregates any aggressive equine from the other equines being transported;

32 (C) Has sufficient interior height to allow each equine to stand with its head extended to
33 fullest normal postural height; and

34 (D) Is equipped with doors of sufficient width and height to provide for the safe loading
35 and unloading of any equine.

36 (b) Each equine is loaded in the trailer in such a manner that:

37 (A) The equine has enough floor space to prevent any crowding likely to cause injury or
38 discomfort to the equine; and

39 (B) Any aggressive equine cannot come into contact with any other equine being trans-
40 ported.

41 (c) During the transportation:

42 (A) The motor vehicle pulling the trailer is driven in a manner reasonably calculated to
43 avoid causing injury to the equines;

44 (B) The physical condition and segregation of the equines is checked at least once every
45 six hours;

1 (C) Except as provided in subparagraph (D) of this paragraph, if an equine is in obvious
2 physical distress, veterinary assistance is obtained for the equine as soon as practicable;

3 (D) If an equine becomes nonambulatory, the equine is provided with veterinary assist-
4 ance or humanely euthanized as soon as practicable; and

5 (E) Any equine that has been in the trailer for eight consecutive hours is unloaded and
6 provided with appropriate food, potable water and the opportunity to rest for at least six
7 consecutive hours.

8 (3) A person may not use an electric prod on an equine while the equine is being loaded,
9 transported or unloaded.

10 **SECTION 5.** (1) An equine carrier may not:

11 (a) Engage in equine transportation that originates within this state unless the person
12 presenting the equine for transport has been issued an equine ownership certificate issued
13 under section 2 of this 2011 Act or presents a document establishing that the equine has been
14 in this state for less than 30 consecutive days.

15 (b) Fail to possess the equine ownership certificate for the transported equine or docu-
16 ments establishing that the transported equine was in this state for less than 30 days con-
17 secutive prior to the date the equine carrier took possession of the equine.

18 (c) Fail to present any documents provided to the equine carrier under paragraph (a) of
19 this subsection to the consignee upon the equine reaching the intended destination.

20 (d) Refuse to present an equine ownership certificate or other document described in
21 paragraph (a) of this subsection to a person authorized by law to inspect an equine ownership
22 certificate or refuse to allow the inspection of a transported equine by a person authorized
23 by law to inspect the equine.

24 (2) For purposes of subsection (1) of this section, a valid ownership certificate, brand
25 inspection certificate or similar document issued by another state for an equine is prima
26 facie evidence that an equine has been in this state for less than 30 consecutive days. This
27 subsection does not prohibit the use of other forms of documentation to establish that an
28 equine has been in this state for less than 30 consecutive days.

29 **SECTION 6.** (1) Except as provided in any rules adopted under section 11 of this 2011 Act,
30 a person selling an equine in this state shall complete, date and sign an equine transfer form.
31 The State Department of Agriculture shall specify the information required to be included
32 on the transfer form. Except as provided in sections 7 and 15 of this 2011 Act or in rules
33 adopted under section 11 of this 2011 Act, the seller shall give the transfer form, the equine
34 ownership certificate for the equine and a notarized bill of sale to the buyer.

35 (2) Unless the sale is subject to section 7 of this 2011 Act or rules adopted under section
36 11 of this 2011 Act, or unless the equine is transported to a place outside of this state for
37 keeping, no later than 30 days after the transfer of ownership the buyer shall complete the
38 buyer information portion of the equine transfer form and file the form and equine owner-
39 ship certificate with the department. The department shall record the transfer of ownership
40 for the equine and issue the buyer a new equine ownership certificate.

41 (3) Notwithstanding section 2 of this 2011 Act, the department:

42 (a) Except as provided in paragraph (b) of this subsection, shall charge the buyer a fee
43 of \$10 to record the transfer of ownership and issue the new equine ownership certificate.

44 (b) Shall record the transfer of ownership and issue a new equine ownership certificate
45 without charge if the buyer or seller of the equine is a federal agency or is listed on the

1 registry of equine rescue facilities maintained by the department under section 10 of this
2 2011 Act.

3 (4) A buyer may not resell an equine prior to the department recording the transfer of
4 ownership and issuing a new equine ownership certificate for the equine. This subsection
5 does not apply to an equine bought or sold by an equine trader.

6 (5) The owner of an equine shall notify the department if:

7 (a) The equine dies of natural causes or is euthanized.

8 (b) The equine is being transported out of state.

9 (c) The equine is being sold to an out-of-state buyer.

10 **SECTION 7.** (1) The State Department of Agriculture shall issue an equine trader permit
11 to an applicant who pays a fee of \$100 and who complies with the requirements of this sec-
12 tion. The permit is valid for one year from the date of issuance.

13 (2) Applications for the issuance or renewal of an equine trader permit must contain the
14 following information:

15 (a) The full name of the applicant.

16 (b) The applicant's business and residence addresses.

17 (c) The date and place of the applicant's birth.

18 (d) Information concerning any equine trading permits currently or previously held by
19 the applicant in other states and the status of those permits.

20 (e) Information concerning any misdemeanor or felony convictions within seven years
21 before the date of the application, including any convictions subsequently set aside or re-
22 sulting in restoration of civil rights.

23 (f) Information concerning any misdemeanor or felony convictions for an offense de-
24 scribed in ORS 167.315 to 167.333 or for an equivalent offense of another jurisdiction.

25 (g) Any other information required by the department.

26 (3) Except as provided in any rules adopted under section 11 of this 2011 Act, an equine
27 trader who purchases an equine in this state shall obtain from the seller a notarized bill of
28 sale, an equine ownership certificate for the equine and a copy of an equine transfer form
29 with the seller information completed. The equine trader shall provide the seller with a re-
30 ceipt for the equine and documents. An equine trader is not required to file the transfer form
31 with the department before reselling the equine. If the equine is purchased from a seller
32 outside this state, instead of submitting an equine ownership certificate for the equine the
33 equine seller may submit an equivalent document issued by another state.

34 (4) If the equine trader resells the equine, the equine trader shall enter the name and
35 permit number of the equine trader and the date of sale on the transfer form. The equine
36 trader shall provide the buyer with a notarized bill of sale and an equine ownership certif-
37 icate or the equivalent from another state for the equine. Unless the equine trader knows
38 that the equine is being sold to be transported out of state, the equine trader shall also
39 provide the buyer with the transfer form for the equine. Unless the equine is transported to
40 a place outside of this state for keeping, a person buying an equine from an equine trader
41 shall file the transfer form and the equine ownership certificate or equivalent with the de-
42 partment no later than 30 days after the date of sale entered on the transfer form by the
43 equine trader. If the equine trader knows that the equine is being sold to be transported out
44 of state, the equine trader shall retain the transfer form and deliver the form to the de-
45 partment as provided under section 8 of this 2011 Act.

1 **SECTION 8.** (1) An equine trader shall maintain inventory records of all equines sold by
2 the equine trader. The records must include the date sold, information contained on the
3 equine ownership certificate or an equivalent document issued by another state and the
4 name and address of the buyer. The equine trader shall file monthly reports with the State
5 Department of Agriculture stating the number of equines sold by the equine trader during
6 the month. At the time of filing a report under this section, the equine trader shall send the
7 department any equine transfer forms retained by the equine trader under section 7 of this
8 2011 Act.

9 (2) The department may enter the business premises of an equine trader during reason-
10 able hours to inspect equines on the premises and inspect the inventory and other business
11 records of the equine trader.

12 **SECTION 9.** (1) The State Department of Agriculture may deny, refuse to renew, suspend
13 or revoke an equine trader permit because of:

14 (a) Violation of a provision of section 7 or 8 of this 2011 Act or a department rule for the
15 administration or enforcement of section 7 or 8 of this 2011 Act.

16 (b) Violation of a provision of ORS 646.605 to 646.652.

17 (c) Revocation within the preceding five years of an equine trader permit issued by an-
18 other state.

19 (d) Suspension within the preceding five years of an equine trader permit issued by an-
20 other state, if the suspension is based on activity that is substantially related to the fitness
21 and ability of the person to hold an equine trader permit in this state.

22 (e) Conviction within the preceding seven years of a misdemeanor or felony directly re-
23 lated to the equine trade occupation, if the offense demonstrates unfitness for a permit.

24 (2) A person whose equine trader permit is revoked by the department is disqualified
25 from applying for a new permit for a period specified by the department, not to be less than
26 five years.

27 **SECTION 10.** (1) The State Department of Agriculture shall establish and maintain a
28 registry of equine rescue facilities, and a public list of registered equine rescue facilities, at
29 department offices. The public list must also be made available on a department website.

30 (2) To be registered under this section, an equine rescue facility must:

31 (a) Be incorporated as a nonprofit corporation in this state.

32 (b) Meet minimum standards prescribed by the department for:

33 (A) The physical condition of the facility; and

34 (B) Equine care and treatment at the facility.

35 (3) The term of registration is one year from the initial date of registration, renewable
36 annually.

37 (4) For initial registration or annual renewal of registration, a person representing the
38 equine rescue facility shall file with the department:

39 (a) A letter from a licensed veterinarian, dated no later than 15 days before the filing
40 date, certifying that the facility meets the standards prescribed by the department for the
41 physical condition of the facility and for the care and treatment of equines at the facility;
42 and

43 (b) Documents demonstrating the facility's current status as a nonprofit corporation in
44 good standing in this state.

45 (5) The registry must include the documents filed for registration or renewal of regis-

1 tration under this section or a link to an equine rescue facility website displaying the docu-
2 ments.

3 (6) The department may not charge a fee for registering and renewing the registration
4 of equine rescue facilities under this section.

5 (7) Subject to ORS chapter 183, the department may remove an equine rescue facility
6 from the registry if:

7 (a) The facility violates a provision of ORS 646.605 to 646.652;

8 (b) An owner, manager or employee of the facility is convicted of an offense described in
9 ORS 167.315 to 167.333 or for an equivalent offense of another jurisdiction that demonstrates
10 the facility is unfit for registry; or

11 (c) The physical facilities or the equine care and treatment provided by the facility fail
12 to meet the minimum standards adopted by the department under this section.

13 (8) The department may adopt rules to implement this section.

14 **SECTION 11.** (1) An equine rescue facility registered under section 10 of this 2011 Act
15 shall maintain inventory records for all equines that the facility sells or places for adoption.
16 The records must include the date that the equine is sold or placed for adoption and the
17 name and address of the buyer or the person adopting the equine. The facility shall file
18 monthly reports with the State Department of Agriculture describing any sales or place-
19 ments of equines by the facility.

20 (2) The department may adopt rules to regulate the selling, buying and recording of
21 ownership information for wild equines, equines obtained from an equine rescue facility or
22 other equines for which the department finds that seller or buyer compliance with section 6
23 or 7 of this 2011 Act is not practicable.

24 (3) The department may enter the business premises of a registered equine rescue facility
25 during reasonable hours for the purpose of inspecting the inventory records described in this
26 section or for the purpose of verifying that physical facilities and equine care and treatment
27 meet the minimum standards of the department described in section 10 (2) of this 2011 Act.

28 **SECTION 12.** (1) A person that purports to receive an equine for rescue purposes or that
29 solicits funding from a public or private source for equine rescue purposes must make a
30 clear and conspicuous disclosure that the person is not approved by the state as an equine
31 rescue facility unless the person is listed on the State Department of Agriculture registry
32 described in section 10 of this 2011 Act as an equine rescue facility.

33 (2) A person that is subject to the disclosure requirement in subsection (1) of this section
34 may not make any false or deceptive statement or other representation indicating that the
35 person is recognized or approved as an equine rescue facility by the state or by any organ-
36 ization or facility that is listed on the department registry described in section 10 of this 2011
37 Act as an equine rescue facility.

38 **SECTION 13.** (1) Violation of section 2 of this 2011 Act is an unclassified violation subject
39 to:

40 (a) For a first occurrence, a maximum fine of \$500 for each equine for which the owner
41 fails to obtain an equine ownership certificate.

42 (b) For a second or subsequent occurrence, a maximum fine of \$1,000 for each equine for
43 which the owner fails to obtain an equine ownership certificate.

44 (2) Violation of section 3 of this 2011 Act is an unclassified violation subject to a maxi-
45 mum fine:

1 (a) For a first occurrence, of \$500 for each equine not provided with the required appro-
2 priate food, potable water or opportunity to rest.

3 (b) For a second or subsequent occurrence, of \$1,000 for each equine not provided with
4 the required appropriate food, potable water or opportunity to rest.

5 (3) Violation of a provision of section 4 or 5 of this 2011 Act is an unclassified violation
6 subject to:

7 (a) For a first occurrence, a maximum fine of \$500 for each equine being transported in
8 violation of section 4 or 5 of this 2011 Act.

9 (b) For a second or subsequent occurrence, a maximum fine of \$1,000 for each equine
10 being transported in violation of section 4 or 5 of this 2011 Act.

11 (4) Violation of section 7 of this 2011 Act is an unclassified violation subject to:

12 (a) For a first offense, a maximum fine of \$500.

13 (b) For a second or subsequent offense, a maximum fine of \$1,000.

14 **SECTION 14.** Section 15 of this 2011 Act is added to and made a part of ORS chapter 599.

15 **SECTION 15.** (1) A person who delivers an equine to a livestock auction market shall
16 present the equine ownership certificate described in section 2 of this 2011 Act or an equiv-
17 alent document issued by another state for the equine to the person in responsible charge
18 of the livestock auction market. The owner selling the equine must provide the operator of
19 the livestock auction market with an equine transfer form with the seller information com-
20 pleted.

21 (2) The operator of the livestock auction market shall provide a buyer with a bill of sale
22 and the equine ownership certificate or the equivalent from another state for the equine.
23 Unless the operator of the livestock auction market knows that the equine is being sold to
24 be transported out of state, the operator shall also provide the buyer with the equine
25 transfer form for the equine. If the operator knows that the equine is being sold to be
26 transported out of state, the operator shall retain the transfer form and deliver the form to
27 the State Department of Agriculture with the monthly report described in subsection (3) of
28 this section.

29 (3) A livestock auction market must maintain inventory records of all equine sold by the
30 livestock auction market. The records shall include the date sold, information contained on
31 the equine ownership certificate or an equivalent document issued by another state and the
32 name and address of the buyer. The livestock auction market shall file monthly reports with
33 the department stating the number of equines sold by the livestock auction market during
34 the month. At the time of filing a report under this section, the livestock auction market
35 shall send the department any equine transfer forms retained by the equine trader under
36 subsection (2) of this section.

37 (4) A licensed livestock auction market is not required to obtain an equine trader permit
38 under section 7 of this 2011 Act.

39 **SECTION 16.** ORS 561.144 is amended to read:

40 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which
41 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-
42 culture shall deposit all license and service fees paid to it under the provisions of the statutes
43 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State
44 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-
45 positories as are authorized to receive deposits of the General Fund, and which may be invested by

1 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

2 (2) Interest received on deposits credited to the Department of Agriculture Service Fund shall
 3 accrue to and become a part of the Department of Agriculture Service Fund.

4 (3) The license and service fees subject to this section are those described in ORS 561.400,
 5 561.740, 570.710, 571.057, 571.063, 571.145, 571.305, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050,
 6 586.270, 586.580, 586.650, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090,
 7 603.025, 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730,
 8 622.080, 625.180, 628.240, 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015,
 9 633.029, 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126,
 10 634.132, 634.136, 634.212 and 635.030 **and sections 2 and 7 of this 2011 Act.**

11 **SECTION 17.** ORS 599.205 is amended to read:

12 599.205. As used in this chapter, unless the context otherwise requires:

13 (1) “Dairy cattle” includes the recognized breeds of bovine animals used primarily for the pro-
 14 duction of milk, such as, but not limited to, Jersey, Guernsey, Brown Swiss, Ayrshire, Milking
 15 Shorthorn, Holstein and Red Polled, whether or not such animals are purebred or grade, and crosses
 16 of such breeds, including crosses of such breeds with beef type animals.

17 (2) “Department” means the State Department of Agriculture of the State of Oregon.

18 (3) “Director” means the director of the department.

19 (4) **“Equine” means a horse, pony, donkey, mule or hinny or any hybrid of those animals.**

20 [(4)] (5) “Licensee” means any person who operates a livestock auction market, either as owner
 21 or lessee, and who holds a license to conduct such market issued by the department pursuant to the
 22 provisions of this chapter.

23 [(5)] (6) “Livestock” includes [*horses, mules, asses,*] **equines**, cattle, sheep, swine, goats and
 24 poultry, including turkeys, of any age or sex.

25 [(6)] (7) “Livestock auction market” means a place of business to which the public may consign
 26 livestock for sale by auction open to public bidding or sold on a commission basis, but, specifically,
 27 it does not include breed or livestock associations operating subject to and in compliance with the
 28 provisions of the Oregon Nonprofit Corporation Act, ORS chapter 65, Future Farmer and 4-H groups,
 29 auction sales conducted in conjunction with county, state or private fairs or auction sales conducted
 30 by or for a person at which livestock of such person’s ownership are sold on premises of the person.

31 [(7)] (8) “Meat dealer” means a person licensed to slaughter meat food animals pursuant to the
 32 applicable provisions of this section and ORS chapter 603.

33 **SECTION 18.** ORS 599.510 is amended to read:

34 599.510. [*No person shall*] **A person may not** enter or offer or attempt to enter into any
 35 agreement or arrangement with another person for the purpose of preventing competitive bidding
 36 upon any [*horses, mules,*] **equines**, cattle, sheep, swine or other livestock shipped to a wholesale or
 37 central stockyards market for sale.

38 **SECTION 19.** ORS 604.015 is amended to read:

39 604.015. (1) The State Department of Agriculture may appoint and designate employees as brand
 40 inspectors to administer and enforce the brand inspection activities of the department under ORS
 41 561.144, 577.512, 599.205, 599.269, 599.273, 599.610, 603.015, 603.034, 603.075 to 603.095, 603.992,
 42 604.005 to 604.071, 604.640, 604.650 and 604.992 **and the equine ownership certificate laws in**
 43 **sections 2 to 12, 13 and 15 of this 2011 Act.** In addition, the department may authorize and direct
 44 brand inspectors to administer and enforce other laws under the jurisdiction of the department.

45 (2) In making appointments under subsection (1) of this section, the department may appoint as

1 part-time brand inspectors persons in the unclassified service of the personnel relations system who
2 possess the necessary experience, knowledge and qualifications and pay them on any reasonable and
3 fair basis. However, at any time the average monthly compensation received by such a person
4 during a six-month period equals or exceeds the minimum wage or starting step of the pay range
5 or schedule established for brand inspectors, then the person and the position are subject to the
6 State Personnel Relations Law. If such person in the opinion of the department has satisfactorily
7 carried out the duties as a brand inspector, and if it is in the best interests of the department, the
8 person shall be given regular merit system status and shall be entitled to be hired by the department
9 upon successfully passing a noncompetitive examination for this classification.

10 (3) In making appointments under subsection (1) of this section, the department may appoint as
11 brand inspectors persons subject to the State Personnel Relations Law. At any time in any area
12 where the workload decreases or other facts or conditions require only the part-time services of a
13 person in a classified position, the department may declare the position to be unclassified.

14 (4) By written agreement, the department may designate employees of another state agency, or
15 of a county or city government, as brand inspectors to administer and enforce the department's
16 brand inspection activities or other laws under the jurisdiction of the department in the same man-
17 ner and to the same extent as brand inspectors appointed under subsection (1) of this section. While
18 carrying out the authority delegated under this subsection, brand inspectors shall comply with the
19 provisions of ORS 561.144, 577.512, 599.205, 599.269, 599.273, 599.610, 603.015, 603.034, 603.075 to
20 603.095, 603.992, 604.005 to 604.071, 604.640, 604.650 and 604.992 **and sections 2 to 12, 13 and 15**
21 **of this 2011 Act**, and the administrative rules promulgated thereunder, collect any brand inspection
22 fees due the department and forthwith pay the same to the department, continue to act under the
23 supervision of their employing agencies, continue to carry out their regular duties for their em-
24 ploying agencies, and receive or have their employing agencies receive any agreed compensation
25 from the department for carrying out the authority delegated under this subsection. The department
26 may terminate any designation under this subsection without hearing or notice, notwithstanding any
27 laws to the contrary.

28 (5) The department may appoint and designate employees as livestock police officers or investi-
29 gative officers to administer and enforce the department's authority under ORS 561.144, 577.512,
30 599.205, 599.269, 599.273, 599.610, 603.015, 603.034, 603.075 to 603.095, 603.992, 604.005 to 604.071,
31 604.640, 604.650 and 604.992 **and sections 2 to 12, 13 and 15 of this 2011 Act**, including supervision
32 of brand inspectors. In addition, the department may authorize and direct livestock police officers
33 or investigative officers to administer and enforce other laws under the jurisdiction of the depart-
34 ment. Brand inspectors, livestock police officers and investigative officers are empowered to carry
35 out the activities of peace officers and police officers, as set forth in ORS chapter 133. They may
36 be furnished uniforms, identification badges, emergency vehicles and other equipment appropriate
37 to carrying out investigative and law enforcement activities.

38 **SECTION 20.** ORS 599.620 is amended to read:

39 599.620. Except as provided by ORS 599.245, the provisions of this chapter shall not apply to a
40 person licensed pursuant to ORS 599.610. In lieu thereof, the State Department of Agriculture shall
41 promulgate regulations relating to the time, place, manner and method of the temporary sale of
42 horses as authorized by ORS 599.610. In the enforcement of such provisions or the promulgation of
43 regulations thereunder, the department shall take into consideration the following factors:

44 (1) The measures necessary to establish and maintain the same standards and purposes as are
45 contained in the laws and regulations relating to livestock auction markets and stockyards licensed

1 under and subject to the provisions of this chapter and ORS chapter 596 and yet at the same time
 2 to provide a practical and reasonable procedure to permit the holding of such temporary sale of
 3 horses.

4 (2) Those measures necessary to control or eradicate contagious or infectious diseases of horses.

5 (3) The employment of a veterinarian by the licensee as provided by ORS 599.335.

6 (4) The economic consequences to the citizens of this state which may result from the spread
 7 of all diseases of horses.

8 (5) The extent to which certain diseases of horses are endemic or epidemic through neighboring
 9 states, the United States or this state.

10 (6) The extent to which livestock other than horses which are infected with or are carriers of
 11 the diseases may be adversely affected by reason thereof.

12 (7) The laws and regulations of the United States and other states.

13 (8) The laws relating to brands, as provided by this chapter.

14 **(9) The laws relating to equine ownership certificates and equine transfer forms as pro-**
 15 **vided in sections 2 and 6 of this 2011 Act.**

16 **SECTION 21.** ORS 604.005 is amended to read:

17 604.005. As used in this chapter, unless the context requires otherwise:

18 (1) "Brand" means a distinctive design, mark or other means of identification applied to a des-
 19 ignated location of the hide, wool or skin of livestock, by methods prescribed by administrative rule
 20 of the State Department of Agriculture promulgated pursuant to ORS chapter 183.

21 (2) "Brand inspection" means the department's:

22 (a) Examination of the brands, tags, breed, flesh marks including dewlaps and wattles, earmarks,
 23 coloring, sex, age or other distinguishing characteristics of livestock;

24 (b) Examination of documents and other evidence of ownership or right to possession of live-
 25 stock; and

26 (c) Issuance or refusal to issue a brand inspection certificate.

27 (3) "Brand inspection certificate" means a document issued by the department that is valid for
 28 eight days, unless otherwise specified therein, and that includes:

29 (a) The date and place of issuance;

30 (b) The quantity of livestock inspected and a description of the distinguishing characteristics
 31 of hides or of livestock examined, including brands, tags, breed and sex;

32 (c) The name and address of the person to whom issued and the name and address of the owner;

33 (d) If the livestock are to be transported, the destination;

34 (e) A statement of any limitation on the use of the certificate, or on its period of validity; and

35 (f) A signed certification of the department's brand inspector that the brand inspector has ex-
 36 amined the described hides or livestock and documents associated therewith and that to the best
 37 of the inspector's knowledge the hides or livestock are owned or in the lawful possession of the
 38 person presenting the hides or livestock for brand inspection.

39 (4) "Custom slaughtering establishment" shall have the meaning set forth in ORS 603.010.

40 (5) "Department" means the State Department of Agriculture.

41 (6) "Document of title" shall have the meaning set forth in ORS 71.2010.

42 (7) "Equidae" means a horse, *[mule or ass]* **pony, donkey, mule or hinny or any hybrid of**
 43 **those animals.**

44 (8) "Livestock" means cattle, Equidae, sheep and any other animals designated by the adminis-
 45 trative rule of the department.

1 (9) "Livestock auction market" shall have the meaning set forth in ORS 599.205.

2 (10) "Livestock carrier" means the person who transports livestock **other than Equidae** by rail,
3 motor vehicle, boat, aircraft or on the hoof, either as a common carrier who is available to the
4 public to perform this service for compensation, as a contract carrier who enters into agreements
5 with specific individuals to perform this service for compensation, or as a private carrier who per-
6 forms this service without compensation as an owner, lessee or bailee of livestock.

7 (11) "Slaughterhouse" shall have the meaning set forth in ORS 603.010.

8 **SECTION 22.** ORS 604.066 is amended to read:

9 604.066. (1) Except as provided in subsection (2) of this section, the State Department of Agri-
10 culture shall charge and collect a brand inspection fee [*in accordance with the following:*]

11 [(a) \$30 for a lifetime brand inspection for Equidae;]

12 [(b) \$10 per head for a brand inspection for Equidae, if the brand inspection certificate utilized is
13 valid for more than eight days but less than a lifetime; or]

14 [(c) of \$10 per head for a brand inspection [*on livestock other than Equidae,*] if the brand in-
15 spection certificate utilized is valid for more than eight days.

16 (2) In accordance with the provisions of ORS chapter 183, the department shall establish a brand
17 inspection fee on cattle and cattle hides for which a brand inspection certificate is valid for eight
18 days. The fee shall be not less than 85 cents and not more than \$1 per head of cattle and not more
19 than \$2 per hide.

20 (3) Except as provided in this subsection or subsection (4) of this section, the person requesting
21 or requiring brand inspection to be performed shall pay the State Department of Agriculture a brand
22 inspection fee and the assessments authorized under ORS 577.512. Livestock auction markets,
23 slaughterhouses and custom slaughtering establishments at which brand inspection is performed
24 shall collect the fees and assessments and forward them to the department. The person requesting
25 or requiring brand inspection for cattle delivered to a livestock auction market is not required to
26 pay a brand inspection fee on cattle whose value is \$10 or less. The person requesting or requiring
27 brand inspection is not required to pay a brand inspection fee on cattle not more than 90 days of
28 age that are to be transported with their mothers to a range or pastureland outside of this state.

29 (4) The person requesting or requiring brand inspection is not required to pay a brand in-
30 spection fee or pay assessments when Oregon cattle are being transported from any place in this
31 state to any place outside of this state and then returned to this state, if the movement is continuous
32 without unloading enroute, is done in the usual course of ranch operations and is not related to a
33 change of ownership.

34 (5) Except as provided in ORS 577.512, the department shall deposit all fees paid to it under this
35 chapter in the State Treasury to the credit of the Department of Agriculture Service Fund, and such
36 fees are continuously appropriated to the department for administering and enforcing this chapter.
37 The provisions of ORS 561.144 apply to such fees.

38 **SECTION 23.** ORS 646.608 is amended to read:

39 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-
40 ness, vocation or occupation the person does any of the following:

41 (a) Passes off real estate, goods or services as those of another.

42 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
43 proval, or certification of real estate, goods or services.

44 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
45 ciation with, or certification by, another.

1 (d) Uses deceptive representations or designations of geographic origin in connection with real
2 estate, goods or services.

3 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
4 ingredients, uses, benefits, quantities or qualities that they do not have or that a person has a
5 sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

6 (f) Represents that real estate or goods are original or new if they are deteriorated, altered,
7 reconditioned, reclaimed, used or secondhand.

8 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
9 or that real estate or goods are of a particular style or model, if they are of another.

10 (h) Disparages the real estate, goods, services, property or business of a customer or another
11 by false or misleading representations of fact.

12 (i) Advertises real estate, goods or services with intent not to provide them as advertised, or
13 with intent not to supply reasonably expectable public demand, unless the advertisement discloses
14 a limitation of quantity.

15 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
16 or amounts of price reductions.

17 (k) Makes false or misleading representations concerning credit availability or the nature of the
18 transaction or obligation incurred.

19 (L) Makes false or misleading representations relating to commissions or other compensation to
20 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
21 stration purposes or in exchange for submitting names of potential customers.

22 (m) Performs service on or dismantles any goods or real estate when not authorized by the
23 owner or apparent owner thereof.

24 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
25 vides the information required under ORS 646.611.

26 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
27 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
28 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
29 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
30 discount or other value is contingent upon occurrence of an event subsequent to the time the cus-
31 tomer enters into the transaction.

32 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
33 cize a product, business or service.

34 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
35 not to deliver them as promised.

36 (r) Organizes or induces or attempts to induce membership in a pyramid club.

37 (s) Makes false or misleading representations of fact concerning the offering price of, or the
38 person's cost for real estate, goods or services.

39 (t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any
40 known material defect or material nonconformity.

41 (u) Engages in any other unfair or deceptive conduct in trade or commerce.

42 (v) Violates any of the provisions relating to auction sales, auctioneers or auction marts under
43 ORS 698.640, whether in a commercial or noncommercial situation.

44 (w) Manufactures mercury fever thermometers.

45 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal

1 law, or is:

2 (A) Prescribed by a person licensed under ORS chapter 677; and

3 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
4 on the proper cleanup of mercury should breakage occur.

5 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to
6 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
7 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
8 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
9 graph, "thermostat" means a device commonly used to sense and, through electrical communication
10 with heating, cooling or ventilation equipment, control room temperature.

11 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
12 mercury light switches.

13 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

14 (bb) Violates ORS 646A.070 (1).

15 (cc) Violates any requirement of ORS 646A.030 to 646A.040.

16 (dd) Violates the provisions of ORS 128.801 to 128.898.

17 (ee) Violates ORS 646.883 or 646.885.

18 (ff) Violates ORS 646.569.

19 (gg) Violates the provisions of ORS 646A.142.

20 (hh) Violates ORS 646A.360.

21 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

22 (jj) Violates ORS 646.563.

23 (kk) Violates ORS 759.690 or any rule adopted pursuant thereto.

24 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
25 thereto.

26 (mm) Violates ORS 646A.210 or 646A.214.

27 (nn) Violates any provision of ORS 646A.124 to 646A.134.

28 (oo) Violates ORS 646A.095.

29 (pp) Violates ORS 822.046.

30 (qq) Violates ORS 128.001.

31 (rr) Violates ORS 646.649 (2) to (4).

32 (ss) Violates ORS 646A.090 (2) to (4).

33 (tt) Violates ORS 87.686.

34 (uu) Violates ORS 646.651.

35 (vv) Violates ORS 646A.362.

36 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.

37 (xx) Violates ORS 180.440 (1) or 180.486 (1).

38 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

39 (zz) Violates ORS 87.007 (2) or (3).

40 (aaa) Violates ORS 92.405 (1), (2) or (3).

41 (bbb) Engages in an unlawful practice under ORS 646.648.

42 (ccc) Violates ORS 646A.365.

43 (ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.

44 (eee) Sells a gift card in violation of ORS 646A.276.

45 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.

1 (ggg) Violates ORS 646A.430 to 646A.450.

2 (hhh) Violates a provision of ORS 744.318 to 744.384, 744.991 and 744.992.

3 (iii) Violates a provision of ORS 646A.702 to 646A.720.

4 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
5 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
6 subject of the violation.

7 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.

8 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
9 U.S.C. App. 501 et seq., as in effect on January 1, 2010.

10 (mmm) Violates a provision of ORS 646A.480 to 646A.495.

11 (nnn) Violates ORS 646A.082.

12 (ooo) Violates ORS 646.647.

13 (ppp) Violates ORS 646A.115.

14 (qqq) Violates a provision of ORS 646A.405.

15 **(rrr) Violates section 12 of this 2011 Act.**

16 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
17 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

18 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney
19 need not prove competition between the parties or actual confusion or misunderstanding.

20 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
21 torney General has first established a rule in accordance with the provisions of ORS chapter 183
22 declaring the conduct to be unfair or deceptive in trade or commerce.

23 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought
24 under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is lim-
25 ited to an injunction and the prevailing party may be awarded reasonable attorney fees.

26 **SECTION 24. (1) Section 2 (1) of this 2011 Act becomes operative January 1, 2015.**

27 **(2) The State Department of Agriculture shall make equine ownership certificates avail-**
28 **able for issuance to applicants no later than July 1, 2012. Notwithstanding section 2 of this**
29 **2011 Act, except as provided in this subsection, the inspection and registration fee that must**
30 **accompany an equine ownership certificate application that the department receives before**
31 **January 1, 2015, is \$25. Notwithstanding section 2 of this 2011 Act, if the owner of the equine**
32 **obtained a lifetime brand inspection for the equine under ORS 604.066 before the effective**
33 **date of this 2011 Act, an inspection and registration fee is not required for an equine own-**
34 **ership certificate application that the department receives before January 1, 2015.**

35 **SECTION 25. (1) Sections 3 to 9, 11, 12 and 15 of this 2011 Act and the amendments to**
36 **ORS 599.205, 599.510, 599.620, 604.005, 604.015, 604.066 and 646.608 by sections 17 to 23 of this**
37 **2011 Act become operative January 1, 2015.**

38 **(2) The State Department of Agriculture shall make equine trader permits available for**
39 **issuance to applicants no later than January 1, 2014. Notwithstanding subsection (1) of this**
40 **section, sections 8 and 9 of this 2011 Act apply to any equine trader that is issued a permit**
41 **under section 7 of this 2011 Act.**

42 **(3) The department shall make equine rescue facility registration available under section**
43 **10 of this 2011 Act no later than January 1, 2014. Notwithstanding subsection (1) of this**
44 **section, section 11 of this 2011 Act applies to any equine rescue facility that is registered**
45 **under section 10 of this 2011 Act.**

