

**Testimony on SB 53  
Before the Senate Judiciary Committee**

February 6, 2013

Mr. Chairman and members of the Committee, my name is Robert Simon. I'm an attorney in private practice in Multnomah County, and I'm here today on behalf of the Animal Law Section of the Oregon State Bar to testify in support of Senate Bill 53.

Senate Bill 53 is an uncomplicated clarification of existing law which is intended only to clarify that animals are considered to be "property" as used in ORS 133.033, which is the statute that provides for the community caretaking functions of peace officers. Under Oregon's current community caretaking statute ORS 133.033, peace officers are permitted to enter onto the premises of another person, without the need of a warrant, if they believe it is reasonably necessary in order to locate missing persons, to render aid to injured persons, or in order to prevent serious harm to any person or "property".

We support a clarification of the statute because the issue – "is an animal "property" as envisioned by the statute?" arises time and again in communities across the state in our anecdotal experience. In particular, in a single case arising in Clackamas County and Multnomah County a couple years ago, several trapped cats died in a home after the occupants were arrested and held pending arraignment. The Sheriff's office was not convinced that animals counted as "property" under this statute, and was therefore not willing to accompany animal control officers who wished to enter the house where they knew that several pets were trapped while the occupants were in custody. The Executive Committee of the Animal Law Section passed a resolution, which was supported without dissent by the entire Section Membership, and likely is the opinion of most Oregon lawyers, that animals (whether they be livestock, pets, service animals) – are in fact "property" for the purposes of ORS 133.033.

However, since there is apparently reluctance among law enforcement on this issue of providing support to animal control officers for the purpose of making certain that an animal is not trapped or in danger. We are proposing to make this explicit in the statute.

All Senate Bill 53 does is to add a line to ORS 133.033 that specifies that the term "property" includes animals.

The Animal Law Section certainly appreciates the fact that allowing peace officers to enter onto private premises is something we are very careful about in our system of government, and it is not our intention to expand circumstances where law enforcement is allowed to do that. This bill has actually been modified from our original proposal, in order to attempt to mitigate concerns that the bill might somehow give too much discretion to law enforcement. Specifically our original proposal would have gone further and stated that peace officers could enter premises to render aid to injured or ill persons **or animals**. However, we removed the "or animals" clause specifically because of concerns that it might create a pretext for otherwise illegal searches.

We believe that most Oregonians would agree that if law enforcement are permitted to enter someone's house to prevent harm to other pieces of personal property, or to the physical structure itself, then they should certainly be permitted to enter the house to save the lives of animals that they believe are in danger.