

House Bill 2058

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on General Government and Consumer Protection)

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 from owning, being employed by or providing services at animal grooming parlor or boarding kennel for specified period following conviction. Makes 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 boarding kennel from hiring person owner knows is prohibited from working at grooming parlor or boarding kennel due to conviction for certain crimes. Prohibits owner of grooming parlor or boarding kennel from allowing provision of services at grooming parlor or boarding kennel by person owner knows is prohibited from providing services at grooming parlor or boarding kennel due to conviction for certain crimes. Makes violation punishable by maximum of six months' imprisonment, \$2,500 fine, or both.

Requires owner of grooming parlor or boarding kennel to request criminal offender information from Department of State Police before hiring individual to work at grooming parlor or boarding kennel or allowing individual to provide services at grooming parlor or boarding kennel. Subject to exception, makes failure to comply punishable by maximum of \$2,500 fine. Makes first failure to comply punishable by maximum of \$250 fine if owner posted informational notice.

Imposes care requirements, other health-related requirements and recordkeeping requirements on owner of boarding kennel. Makes violation punishable by maximum of \$10,000 fine.

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 and section 1, chapter 67, Oregon Laws 2012.

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

5 **SECTION 1. As used in this section and sections 2 to 4 of this 2013 Act:**

6 (1) **"Boarding kennel" means a commercial establishment engaged in the business of**
7 **providing food, shelter and other basic needs to domestic animals that stay at the facility**
8 **an average of less than 30 days, but does not include a veterinary facility.**

9 (2) **"Domestic animal" has the meaning given that term in ORS 167.310.**

10 (3) **"Grooming parlor" means a commercial establishment engaged in the business of**
11 **bathing, clipping or providing pedicures for domestic animals, but does not include a**
12 **veterinary facility.**

13 **SECTION 2. (1) In addition to any other penalty imposed by law, a person convicted of**
14 **violating ORS 163.200, 163.212, 163.415, 163.545, 167.315, 167.325, 167.330, 167.333, 167.340 or**
15 **167.355 or of a misdemeanor under ORS 163.160, 163.187 or 167.320 may not, for five years**
16 **following entry of the conviction:**

17 (a) **Own or be employed by a grooming parlor or boarding kennel; or**

18 (b) **Provide services for domestic animals at or for a grooming parlor or boarding kennel**
19 **as an independent contractor.**

20 (2) **In addition to any other penalty imposed by law, a person convicted of violating ORS**
21 **163.115, 163.118, 163.125, 163.165, 163.175, 163.185, 163.205, 163.208, 163.213, 163.225, 163.235,**

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.

1 163.264, 163.275, 163.375, 163.405, 163.411, 163.425, 163.427, 163.535, 163.547, 167.322, 167.365 or
2 167.428 or of a felony under ORS 163.160, 163.187 or 167.320 may not, for 15 years following
3 entry of the conviction:

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

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

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

9 **SECTION 3.** (1)(a) An owner of a grooming parlor or boarding kennel may not hire a
10 person whom the owner knows to be subject to section 2 of this 2013 Act as an employee of
11 the grooming parlor or boarding kennel.

12 (b) An owner of a grooming parlor or boarding kennel may not allow a person whom the
13 owner knows to be subject to section 2 of this 2013 Act to provide services for domestic an-
14 imals at or for the grooming parlor or boarding kennel as an independent contractor.

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

16 **SECTION 4.** (1) An owner of a grooming parlor or boarding kennel shall file a request
17 with the Department of State Police under ORS 181.560 for criminal offender information
18 regarding an individual before the owner:

19 (a) Employs the individual at the grooming parlor or boarding kennel; or

20 (b) Allows the individual to provide services for domestic animals at or for the grooming
21 parlor or boarding kennel as an independent contractor.

22 (2) Except as provided in subsection (3) of this section, failure to comply with subsection
23 (1) of this section is a specific fine violation punishable by a fine of not more than \$2,500.

24 (3) A first failure to comply with subsection (1) of this section is a Class D violation if
25 the owner affirmatively establishes that prior to employing or allowing services to be pro-
26 vided by the individual the owner posted at the grooming parlor or boarding kennel in good
27 faith a notice identifying a website for accessing reliable information about the laws of this
28 state pertaining to the grooming parlor and boarding kennel industries. For purposes of this
29 subsection, posting a notice in compliance with form, content and location standards devel-
30 oped by a humane society employing special agents authorized under ORS 131.805 or humane
31 special agents commissioned under section 1, chapter 67, Oregon Laws 2012, is prima facie
32 evidence of good faith and reliable information.

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

34 (a) "Boarding kennel" means a commercial establishment engaged in the business of
35 providing food, shelter and other basic needs to domestic animals that stay at the facility
36 an average of less than 30 days, but does not include a veterinary facility.

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

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

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

41 (b) Request the person placing the domestic animal in the custody of the boarding kennel
42 to provide contact information for any veterinarian who usually provides veterinary care for
43 the animal.

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

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

3 (e) Arrange with a veterinarian for veterinary care to be available for domestic animals
4 that are placed in the custody of the boarding kennel. This paragraph does not require the
5 owner of a boarding kennel to limit veterinary care to a particular veterinarian.

6 (f) Send notice to a humane society that employs special agents authorized under ORS
7 131.805 or humane special agents commissioned under section 1, chapter 67, Oregon Laws
8 2012, no later than 10 days after a domestic animal in the custody of the boarding kennel dies
9 or suffers an injury or illness that results in treatment by a veterinarian.

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

13 (3) The owner of a boarding kennel shall maintain records at the boarding kennel that,
14 at a minimum, include information necessary to demonstrate compliance with this section.
15 The owner shall retain records required by this subsection for a minimum of two years fol-
16 lowing the date the domestic animal is returned to the person that placed the animal in the
17 custody of the boarding kennel.

18 (4) Failure to comply with a provision of this section is a specific fine violation punishable
19 by a fine of not more than \$10,000.

20 **SECTION 6.** Section 1, chapter 67, Oregon Laws 2012, is amended to read:

21 **Sec. 1.** (1) At the request of a humane investigation agency, the Superintendent of State Police
22 shall commission a designated employee of the humane investigation agency as a humane special
23 agent, if:

24 (a) The employee is certified, or is eligible for certification, as a police officer under the pro-
25 visions of ORS 181.610 to 181.712;

26 (b) The superintendent determines that the employee is fit and qualified to perform the duties
27 of a humane special agent;

28 (c) The humane investigation agency agrees in writing to save harmless and indemnify the State
29 of Oregon and its officers, employees and agents from and against any tort claim or demand,
30 whether groundless or otherwise, arising out of an alleged act or omission of the employee or the
31 humane investigation agency, that relates to or results from the authority granted by the commis-
32 sion; and

33 (d) The humane investigation agency furnishes to the superintendent a copy of an insurance
34 policy, purchased and maintained by the humane investigation agency, that the superintendent de-
35 termines is sufficient to satisfy any tort claim or demand described in paragraph (c) of this sub-
36 section.

37 (2) Before granting a commission under this section, the superintendent may require the em-
38 ployee to take and subscribe to an oath of office to support the Constitution and laws of the United
39 States and of the State of Oregon, and to honestly and faithfully perform the duties of a humane
40 special agent.

41 (3) The superintendent shall suspend or revoke a commission granted under this section if the
42 superintendent determines that:

43 (a) The certification of the employee as a police officer has lapsed or been revoked pursuant to
44 ORS 181.661, 181.662 and 181.664 (1), and has not been reissued under ORS 181.664 (2);

45 (b) The employee has been separated from employment with the humane investigation agency;

1 or

2 (c) The employee has abused the commission.

3 (4) Except as otherwise provided in subsection (3) of this section, an employee of a humane in-
4 vestigation agency commissioned under this section holds the commission at the pleasure of the su-
5 perintendent. The superintendent may suspend or revoke a commission granted under this section
6 at any time for good cause, as determined by the superintendent. If the superintendent revokes a
7 commission granted under this section, the employee of the humane investigation agency is entitled
8 only to an informal opportunity to be heard by the superintendent, for the purposes of explaining
9 any factual circumstances related to the revocation and attempting to persuade the superintendent
10 to reverse the decision to revoke the commission.

11 (5) Humane special agents commissioned under this section serve at the expense of the humane
12 investigation agency employing the agent.

13 (6) The superintendent may adopt rules to carry out the provisions of this section. The rules
14 may include a description of the circumstances in which a humane special agent is prohibited from
15 carrying a firearm while engaged in the enforcement of animal welfare laws.

16 (7) As used in this section:

17 (a) "Animal welfare laws" means:

18 (A) ORS 167.310 to 167.351, 167.352, 167.355, 167.360 to 167.372, 167.374, 167.376, 167.385, 167.388,
19 167.390 and 167.426 to 167.439 **and sections 2 to 4 and 5 of this 2013 Act**; and

20 (B) ORS 164.043, 164.045, 164.055, 164.057, 164.075, 164.345, 164.354 and 164.365, if the subject
21 of the crime is an animal.

22 (b) "Humane investigation agency" means a private, nonprofit animal care agency that has
23 maintained an animal welfare investigation department for at least five years and has had officers
24 employed as special agents under ORS 131.805.

25 **SECTION 7.** ORS 167.310 is amended to read:

26 167.310. As used in ORS 167.310 to 167.351:

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

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

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

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

35 **(5)(a) "Keeper" means a person that owns or possesses an animal.**

36 **(b) "Keeper" does not include:**

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

38 **(B) A facility impounding animals on behalf of a city or county; or**

39 **(C) A veterinary facility.**

40 ~~[(5)]~~ (6) "Law enforcement animal" means a dog or horse used in law enforcement work under
41 the control of a corrections officer, parole and probation officer, police officer or youth correction
42 officer, as those terms are defined in ORS 181.610, who has successfully completed at least 360 hours
43 of training in the care and use of a law enforcement animal, or who has passed the demonstration
44 of minimum standards established by the Oregon Police Canine Association or other accredited and
45 recognized animal handling organization.

1 [(6)] (7) "Livestock" has the meaning provided in ORS 609.125.

2 [(7)] (8) "Minimum care" means care sufficient to preserve the health and well-being of an ani-
3 mal and, except for emergencies or circumstances beyond the reasonable control of the [owner]
4 **keeper**, includes, but is not limited to, the following requirements:

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

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

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

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

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

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

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

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

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

20 (A) Humane euthanasia; or

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

22 [(8)] (9) "Physical injury" means physical trauma, impairment of physical condition or substan-
23 tial pain.

24 [(9)] (10) "Physical trauma" means fractures, cuts, punctures, bruises, burns or other wounds.

25 [(10)] (11) "Possess" has the meaning provided in ORS 161.015.

26 [(11)] (12) "Serious physical injury" means physical injury that creates a substantial risk of
27 death or that causes protracted disfigurement, protracted impairment of health or protracted loss
28 or impairment of the function of a limb or bodily organ.

29 **SECTION 8.** ORS 167.312 is amended to read:

30 167.312. (1) A person commits the crime of research and animal interference if the person:

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

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

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

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

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

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

45 (3) Research and animal interference is a:

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

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

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

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

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

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

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

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

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

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

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

18 167.335. Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not
19 apply to:

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

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

22 (3) Commercially grown poultry;

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

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

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

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

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

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

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

30 (11) Reasonable handling and training techniques.

31 **SECTION 10.** ORS 167.345 is amended to read:

32 167.345. (1) As used in this section, "peace officer" has the meaning given that term in ORS
33 161.015.

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

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

45 (4)(a) A court may order an animal impounded under subsection (2) of this section to be held

1 at any animal care facility in the state. A facility receiving the animal shall provide adequate food
 2 and water and may provide veterinary care.

3 (b) A court may order a fighting bird impounded under subsection (2) of this section to be held
 4 on the property of the [*owner, possessor or*] keeper of the fighting bird in accordance with ORS
 5 167.433.

6 **SECTION 11.** ORS 167.348 is amended to read:

7 167.348. (1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the
 8 agency to which the animal was forfeited may place the animal with a new [*owner*] **keeper**. The
 9 agency shall give placement preference to any person or persons who had prior contact with the
 10 animal, including but not limited to family members and friends of the former [*owner*] **keeper** whom
 11 the agency determines are capable of providing necessary, adequate and appropriate levels of care
 12 for the animal. As a condition of placement, the agency shall require the new [*owner*] **keeper** to
 13 execute an agreement to provide minimum care to the animal. The agreement must indicate that
 14 allowing the former [*owner*] **keeper** to possess the animal constitutes a crime.

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

17 **SECTION 12.** ORS 167.350 is amended to read:

18 167.350. (1) In addition to and not in lieu of any other sentence it may impose, a court may re-
 19 quire a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any
 20 rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs
 21 incurred by any person or agency prior to judgment in caring for each animal subjected to the vio-
 22 lation.

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

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

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

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

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

1 **SECTION 13.** Section 2 of this 2013 Act applies:

2 (1) To a person convicted of an offense identified in section 2 of this 2013 Act on or after
3 the effective date of this 2013 Act; and

4 (2) To a person convicted of an offense identified in section 2 of this 2013 Act before the
5 effective date of this 2013 Act, if the person:

6 (a) Requires an ownership interest in a grooming parlor or boarding kennel on or after
7 the effective date of this 2013 Act;

8 (b) Commences employment on or after the effective date of this 2013 Act; and

9 (c) Provides independent contractor services on or after the effective date of this 2013
10 Act.

11 **SECTION 14.** Sections 3 and 4 of this 2013 Act apply to:

12 (1) The hiring of persons on or after the effective date of this 2013 Act to commence
13 employment on or after the effective date of this 2013 Act; and

14 (2) Independent contractor services provided on or after the effective date of this 2013
15 Act.

16 **SECTION 15.** Section 5 of this 2013 Act applies to domestic animals for which placement
17 into the custody of a boarding kennel commences on or after the effective date of this 2013
18 Act.

19 **SECTION 16.** The amendments to ORS 167.312 by section 8 of this 2013 Act apply to
20 damages awarded for offenses committed on or after the effective date of this 2013 Act.
21
