

**B-Engrossed**  
**House Bill 3283**

Ordered by the Senate May 24  
Including House Amendments dated April 26 and Senate Amendments  
dated May 24

Sponsored by COMMITTEE ON JUDICIARY

**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.

Amends findings by Legislative Assembly regarding provision of care and treatment for impounded or seized animals. Revises provisions regarding defendant's payment of costs to provide animal with minimum care.

Prohibits person convicted of animal neglect in the first degree or animal neglect in the second degree from possessing certain animals for period of 15 years after conviction if crime of conviction was felony. Allows reduction in prohibition period if convicted person successfully completes mental health treatment approved by court.

Clarifies that person convicted of possessing animal in violation of prohibition may be further prohibited from possessing certain animals as condition of probation.

**Amends definition of "livestock" for purposes of certain statutes involving offenses against animals.**

**A BILL FOR AN ACT**

1  
2 Relating to animals; creating new provisions; and amending ORS 167.305, 167.310, 167.332 and  
3 167.350.

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

5 **SECTION 1.** ORS 167.305 is amended to read:

6 167.305. The Legislative Assembly finds and declares that:

7 (1) Animals are sentient beings capable of experiencing pain, stress and fear;

8 (2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;

9 (3) The suffering of animals can be mitigated by expediting the disposition of abused animals  
10 that would otherwise languish in cages while their defendant owners await trial;

11 (4) The suffering of animals at the hands of unlicensed animal rescue organizations that are  
12 unable to provide sufficient food and care for the animals can be reduced by requiring such organ-  
13 izations to comply with regulations;

14 (5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred  
15 by [*persons and government agencies that provide*] **a government agency, a humane investigation**  
16 **agency or its agent or a person that provides** treatment for impounded animals;

17 (6) **A government agency, a humane investigation agency or its agent or a person that**  
18 **provides care and treatment for impounded or seized animals:**

19 (a) **Has an interest in mitigating the costs of the care and treatment in order to ensure**  
20 **the swift and thorough rehabilitation of the animals; and**

21 (b) **May mitigate the costs of the care and treatment through funding that is separate**  
22 **from, and in addition to, any recovery of reasonable costs that a court orders a defendant**

**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 **to pay while a forfeiture proceeding is pending or subsequent to a conviction;**

2 [(6)] (7) Use of preconviction civil remedies is not an affront to the presumption of innocence;  
3 and

4 [(7)] (8) Amendments to current law are needed to ensure that interested parties are afforded  
5 adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien  
6 foreclosure and preconviction forfeiture processes through unfounded due process claims.

7 **SECTION 2.** ORS 167.310 is amended to read:

8 167.310. As used in ORS 167.310 to 167.351:

9 (1) "Adequate bedding" means bedding of sufficient quantity and quality to permit a domestic  
10 animal to remain dry and reasonably clean and maintain a normal body temperature.

11 (2)(a) "Adequate shelter" includes a barn, doghouse or other enclosed structure sufficient to  
12 protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect  
13 against cold and dampness and that is maintained to protect the domestic animal from weather and  
14 physical injury.

15 (b) "Adequate shelter" does not include:

16 (A) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;

17 (B) The space under a vehicle;

18 (C) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a  
19 length of time that is likely to be detrimental to the domestic animal's health or safety;

20 (D) Shelters made from cardboard or other materials that are easily degraded by the elements;

21 (E) Animal carriers or crates that are designed to provide temporary housing;

22 (F) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or

23 (G) Shelters surrounded by waste, debris, obstructions or impediments that could adversely af-  
24 fect an animal's health.

25 (3) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.

26 (4) "Domestic animal" means an animal, other than livestock or equines, that is owned or pos-  
27 sessed by a person.

28 (5) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these ani-  
29 mals.

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

33 (7) "Law enforcement animal" means a dog or horse used in law enforcement work under the  
34 control of a corrections officer, parole and probation officer, police officer or youth correction offi-  
35 cer, as those terms are defined in ORS 181A.355, who has successfully completed at least 360 hours  
36 of training in the care and use of a law enforcement animal, or who has passed the demonstration  
37 of minimum standards established by the Oregon Police Canine Association or other accredited and  
38 recognized animal handling organization.

39 (8)(a) "Livestock," **except as provided in paragraph (b) of this subsection**, has the meaning  
40 provided in ORS 609.125.

41 **(b) "Livestock" does not include psittacines.**

42 (9) "Minimum care" means care sufficient to preserve the health and well-being of an animal  
43 and, except for emergencies or circumstances beyond the reasonable control of the owner, includes,  
44 but is not limited to, the following requirements:

45 (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body

1 weight.

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

4 (c) For a domestic animal other than a dog engaged in herding or protecting livestock, access  
5 to adequate shelter.

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

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

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

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

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

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

14 (A) Humane euthanasia; or

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

16 (10) "Physical injury" means physical trauma, impairment of physical condition or substantial  
17 pain.

18 (11) "Physical trauma" means fractures, cuts, punctures, bruises, burns or other wounds.

19 (12) "Possess" has the meaning provided in ORS 161.015.

20 (13) "Serious physical injury" means physical injury that creates a substantial risk of death or  
21 that causes protracted disfigurement, protracted impairment of health or protracted loss or impair-  
22 ment of the function of a limb or bodily organ.

23 (14)(a) "Tethering" means to restrain a domestic animal by tying the domestic animal to any  
24 object or structure by any means.

25 (b) "Tethering" does not include using a handheld leash for the purpose of walking a domestic  
26 animal.

27 **SECTION 3.** ORS 167.332 is amended to read:

28 167.332. (1) Except as provided in subsections (3) and (4) of this section:

29 (a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315,  
30 [167.325, 167.330,] 167.340 or 167.355 or of a misdemeanor under ORS 167.320, **167.325 or 167.330** may  
31 not possess [*a domestic animal or*] any animal of the same genus against which the crime was com-  
32 mitted **or any domestic animal** for a period of five years following entry of the conviction.

33 (b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322,  
34 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, **167.325 or 167.330** may not possess [*a*  
35 *domestic animal or*] any animal of the same genus against which the crime was committed **or any**  
36 **domestic animal** for a period of 15 years following entry of the conviction. **However, the sen-**  
37 **tencing court may reduce the prohibition period if the person successfully completes mental**  
38 **health treatment approved by the court.**

39 (2) A person who possesses an animal in violation of this section commits a Class C  
40 misdemeanor. When a person is convicted of possessing an animal in violation of this section, as part  
41 of the sentence the court may order the removal of that animal from the person's residence and **as**  
42 **a condition of the person's probation** may prohibit the person from possessing any animal of the  
43 same genus that the person unlawfully possessed under this section or against which the underlying  
44 violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or  
45 167.428 was committed.

1 (3) The animal possession prohibition described in subsection (1) of this section does not apply  
2 to a person's first conviction if the person is the owner of a commercial livestock operation and the  
3 underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355,  
4 167.365 or 167.428 was committed against livestock.

5 (4)(a) A person subject to an animal possession prohibition described in subsection (1) of this  
6 section may file a motion with the sentencing court requesting a waiver of the prohibition. The  
7 person must file a sworn affidavit in support of the motion stating that:

8 (A) The person's conviction leading to the possession prohibition involved only livestock;

9 (B) During the two years before the conviction triggering the prohibition, the person was the  
10 owner of a commercial livestock operation;

11 (C) The person has not been convicted, in the previous five years, of a crime involving animals  
12 or domestic violence or a crime where the victim was under 18 years of age; and

13 (D) The person's conviction was the result of:

14 (i) Criminal liability for the conduct of another person under ORS 161.155 (2)(c);

15 (ii) Criminal liability of a corporation as described in ORS 161.170, and the person is a corpo-  
16 ration; or

17 (iii) Animal neglect as described in ORS 167.325 or 167.330 and the person's criminal conduct  
18 was not knowing or intentional.

19 (b) When a person files a motion and affidavit described in paragraph (a) of this subsection, the  
20 sentencing court shall hold a hearing. At the hearing, the sentencing court shall grant the motion  
21 if the person proves by clear and convincing evidence that:

22 (A) Continued enforcement of the prohibition against possessing livestock would result in sub-  
23 stantial economic hardship that cannot otherwise be mitigated;

24 (B) The person no longer poses any risk to animals; and

25 (C) The person is capable of providing and willing to provide necessary, adequate and appro-  
26 priate levels of care for all livestock that would come within the person's custody or control if the  
27 petition is granted.

28 (c) When deciding a motion filed under this subsection, the sentencing court may consider the  
29 person's financial circumstances and mental health in determining whether the person is capable of  
30 adequately caring for livestock.

31 (d) If the sentencing court grants the motion described in this subsection, the waiver of the  
32 prohibition against possessing animals shall apply only to livestock. The sentencing court shall fur-  
33 ther order that for five years the person must consent to reasonable inspections by law enforcement  
34 and the United States Department of Agriculture to ensure the welfare of the livestock under the  
35 person's custody or control. A refusal to consent to a reasonable inspection described in this para-  
36 graph is contempt of court and, if the person is found in contempt, shall result in the sentencing  
37 court revoking the waiver of the possession prohibition.

38 (e) As used in this subsection, "commercial livestock operation" means a business engaged in  
39 the raising, breeding or selling of livestock for profit.

40 **SECTION 4.** ORS 167.350 is amended to read:

41 167.350. (1)(a) In addition to and not in lieu of any other sentence it may impose, a court may  
42 require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit  
43 any rights of the defendant in the animal subjected to the violation, and to repay the reasonable  
44 costs incurred by *[any]* a **government agency, a humane investigation agency or its agent or**  
45 **a person** *[or agency]* prior to judgment in caring for each animal *[subjected to the violation]* **associ-**

1 **ated with the criminal proceeding.**

2 **(b) If a government agency or a humane investigation agency or its agent provides care**  
3 **and treatment for impounded or seized animals, a court that orders a defendant to repay**  
4 **reasonable costs of care under paragraph (a) of this subsection may not reduce the incurred**  
5 **cost amount based on the agency having received donations or other funding for the care.**

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

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

17 (3) In addition to and not in lieu of any other sentence it may impose, a court may order the  
18 owner or person having custody of an animal to repay *[the]* **any** reasonable costs incurred by *[any]*  
19 **a government agency, a humane investigation agency or its agent or a person** *[or agency]* in  
20 providing minimum care to the animal **that are not included in a repayment order under sub-**  
21 **section (1) of this section.**

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

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

31 **SECTION 5. The amendments to ORS 167.332 by section 3 of this 2017 Act apply to crimes**  
32 **committed on or after the effective date of this 2017 Act.**

33 **SECTION 6. The amendments to ORS 167.350 by section 4 of this 2017 Act apply to re-**  
34 **payment orders issued by a court on or after the effective date of this 2017 Act.**

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