

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 3283**

1 On page 1 of the printed bill, delete lines 4 through 28 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1.** ORS 167.305 is amended to read:

4 “167.305. The Legislative Assembly finds and declares that:

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

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

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

12 “(4) The suffering of animals at the hands of unlicensed animal rescue
13 organizations that are unable to provide sufficient food and care for the an-
14 imals can be reduced by requiring such organizations to comply with regu-
15 lations;

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

20 “(6) **A government agency, a humane investigation agency or its**
21 **agent or a person that provides care and treatment for impounded or**

1 **seized animals:**

2 **“(a) Has an interest in mitigating the costs of the care and treat-**
3 **ment in order to ensure the swift and thorough rehabilitation of the**
4 **animals; and**

5 **“(b) May mitigate the costs of the care and treatment through**
6 **funding that is separate from, and in addition to, any recovery of**
7 **reasonable costs that a court orders a defendant to pay while a**
8 **forfeiture proceeding is pending or subsequent to a conviction;**

9 **“[(6)] (7) Use of preconviction civil remedies is not an affront to the**
10 **presumption of innocence; and**

11 **“[(7)] (8) Amendments to current law are needed to ensure that interested**
12 **parties are afforded adequate notice and an opportunity to be heard and thus**
13 **cannot unduly delay or impede animal lien foreclosure and preconviction**
14 **forfeiture processes through unfounded due process claims.**

15 **“SECTION 2. ORS 167.332 is amended to read:**

16 **“167.332. (1) Except as provided in subsections (3) and (4) of this section:**

17 **“(a) In addition to any other penalty imposed by law, a person convicted**
18 **of violating ORS 167.315, [167.325, 167.330,] 167.340 or 167.355 or of a**
19 **misdemeanor under ORS 167.320, **167.325 or 167.330** may not possess [a do-**
20 **mestic animal or] any animal of the same genus against which the crime was**
21 **committed **or any domestic animal** for a period of five years following**
22 **entry of the conviction.**

23 **“(b) In addition to any other penalty imposed by law, a person convicted**
24 **of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS**
25 **167.320, **167.325 or 167.330** may not possess [a domestic animal or] any animal**
26 **of the same genus against which the crime was committed **or any domestic****
27 **animal for a period of 15 years following entry of the conviction. **However,****
28 **the sentencing court may reduce the prohibition period if the person**
29 **successfully completes mental health treatment approved by the court.**

30 **“(2) A person who possesses an animal in violation of this section com-**

1 mits a Class C misdemeanor. When a person is convicted of possessing an
2 animal in violation of this section, as part of the sentence the court may
3 order the removal of that animal from the person’s residence and **as a con-**
4 **dition of the person’s probation** may prohibit the person from possessing
5 any animal of the same genus that the person unlawfully possessed under
6 this section or against which the underlying violation of ORS 167.315,
7 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428
8 was committed.

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

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

18 “(A) The person’s conviction leading to the possession prohibition in-
19 volved only livestock;

20 “(B) During the two years before the conviction triggering the prohibi-
21 tion, the person was the owner of a commercial livestock operation;

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

25 “(D) The person’s conviction was the result of:

26 “(i) Criminal liability for the conduct of another person under ORS
27 161.155 (2)(c);

28 “(ii) Criminal liability of a corporation as described in ORS 161.170, and
29 the person is a corporation; or

30 “(iii) Animal neglect as described in ORS 167.325 or 167.330 and the

1 person's criminal conduct was not knowing or intentional.

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

6 “(A) Continued enforcement of the prohibition against possessing live-
7 stock would result in substantial economic hardship that cannot otherwise
8 be mitigated;

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

10 “(C) The person is capable of providing and willing to provide necessary,
11 adequate and appropriate levels of care for all livestock that would come
12 within the person's custody or control if the petition is granted.

13 “(c) When deciding a motion filed under this subsection, the sentencing
14 court may consider the person's financial circumstances and mental health
15 in determining whether the person is capable of adequately caring for live-
16 stock.

17 “(d) If the sentencing court grants the motion described in this sub-
18 section, the waiver of the prohibition against possessing animals shall apply
19 only to livestock. The sentencing court shall further order that for five years
20 the person must consent to reasonable inspections by law enforcement and
21 the United States Department of Agriculture to ensure the welfare of the
22 livestock under the person's custody or control. A refusal to consent to a
23 reasonable inspection described in this paragraph is contempt of court and,
24 if the person is found in contempt, shall result in the sentencing court re-
25 voking the waiver of the possession prohibition.

26 “(e) As used in this subsection, ‘commercial livestock operation’ means a
27 business engaged in the raising, breeding or selling of livestock for profit.

28 **“SECTION 3.** ORS 167.350 is amended to read:

29 “167.350. (1)(a) In addition to and not in lieu of any other sentence it may
30 impose, a court may require a defendant convicted under ORS 167.315 to

1 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in
2 the animal subjected to the violation, and to repay the reasonable costs in-
3 curred by *[any]* **a government agency, a humane investigation agency**
4 **or its agent or a person** *[or agency]* prior to judgment in caring for each
5 animal *[subjected to the violation]* **associated with the criminal**
6 **proceeding.**

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

13 “(2)(a) When the court orders the defendant’s rights in the animal to be
14 forfeited, the court may further order that those rights be given over to an
15 appropriate person or agency demonstrating a willingness to accept and care
16 for the animal or to the county or an appropriate animal care agency for
17 further disposition in accordance with accepted practices for humane treat-
18 ment of animals. The court may not transfer the defendant’s rights in the
19 animal to any person who resides with the defendant.

20 “(b) This subsection does not limit the right of the person or agency to
21 whom rights are granted to resell or otherwise make disposition of the ani-
22 mal. A transfer of rights under this subsection constitutes a transfer of
23 ownership. The court shall require a person to whom rights are granted to
24 execute an agreement to provide minimum care to the animal. The agreement
25 must indicate that allowing the defendant to possess the animal constitutes
26 a crime.

27 “(3) In addition to and not in lieu of any other sentence it may impose,
28 a court may order the owner or person having custody of an animal to repay
29 *[the]* **any** reasonable costs incurred by *[any]* **a government agency, a hu-**
30 **mane investigation agency or its agent or a person** *[or agency]* in pro-

1 viding minimum care to the animal **that are not included in a repayment**
2 **order under subsection (1) of this section.**

3 “(4) A court may order a person convicted under ORS 167.315 to 167.333,
4 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty
5 prevention programs or education programs, or both, or to obtain psycho-
6 logical counseling for treatment of mental health disorders that, in the
7 court’s judgment, contributed to the commission of the crime. The person
8 shall bear any costs incurred by the person for participation in counseling
9 or treatment programs under this subsection.

10 “(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal
11 subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365
12 or 167.428. Any such animal is subject to forfeiture as provided in sub-
13 sections (1) to (3) of this section or, if the animal is a fighting bird, as pro-
14 vided in ORS 167.435.

15 **“SECTION 4. The amendments to ORS 167.332 by section 2 of this**
16 **2017 Act apply to crimes committed on or after the effective date of**
17 **this 2017 Act.**

18 **“SECTION 5. The amendments to ORS 167.350 by section 3 of this**
19 **2017 Act apply to repayment orders issued by a court on or after the**
20 **effective date of this 2017 Act.”.**

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