



HUMANE VOTERS | OREGON

Testimony of Humane Voters Oregon on Senate Bill 761
House Committee on Agriculture and Natural Resources

April 27, 2021

Chair Hudson, Vice Chairs Breese-Iverson and McLain, and Members of the Committee:

Humane Voters Oregon is a nonprofit organization that works in Oregon's political process and elections to promote humane treatment of animals. We are not affiliated with any other state or national organization.

Humane Voters Oregon opposes Senate Bill 761 as drafted but would not oppose the bill if it included some modest amendments to improve both the existing program for deer and the proposed addition of elk to that program.

SB 761 would add elk to a program created for deer in 2017 by Senate Bill 373. In general, the program allows a city to apply to the Department of Fish and Wildlife for permission to lethally reduce deer populations in urban areas if they rise to a level deemed a "public nuisance."

Our understanding is that, even without the program, cities may obtain permits to kill specific deer and elk causing "damage" or deemed a "public nuisance." ORS 498.012(1). Thus, SB 761 (like SB 373) may help create a more open and standardized process for doing that, with at least one requirement for attempting to reduce or eliminate the nuisance with non-lethal measures (an ordinance restricting attractants). Section 1(5).

However, SB 761 and the existing urban deer control program should be improved with direction to the Department of Fish and Wildlife to develop better criteria for determining when urban deer or elk populations constitute a "public nuisance." SB 373 (2017) did not do that. Thus, the Department's rules incorporated the definition in ORS 498.012(7)(c), which is "loss of or harm inflicted on gardens, ornamental plants, ornamental trees, pets, vehicles, boats, structures or other personal property." OAR 635-043-0250. Under this definition, a city could declare deer or elk a "public nuisance" if one animal tramples two flowers (the use of plurals implies that at least two flowers must be involved). A comprehensive removal program should require something more, and something more specific.

SB 761 and the existing urban deer control program also should be improved by requiring consideration of additional non-lethal measures for reducing or eliminating any public nuisance created by deer and elk in urban areas. In addition, the measure specified in Section 1(5) (restrictions on attractants) should be required to be in effect for some amount of time (we suggest one year) before resorting to killing the deer or elk.

Attached are suggested changes to SB 761 based on our comments above.

Thank you for considering our comments.

Brian Posewitz

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Director

Senate Bill 761

Sponsored by Senator JOHNSON

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**.

Expands pilot program for urban deer population control to include elk.

A BILL FOR AN ACT

Relating to elk; amending sections 1 and 2, chapter 331, Oregon Laws 2017.

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

SECTION 1. Section 1, chapter 331, Oregon Laws 2017, is amended to read:

Sec. 1. (1) As used in this section, "food bank or other charitable organization" has the meaning given that term in ORS 315.154.

(2) The State Fish and Wildlife Commission shall develop and adopt by rule a pilot program for urban deer **and elk** population control that:

(a) Following the passage by a city of an ordinance, resolution or order declaring that [*deer populations have risen to levels that constitute*] **a deer or elk population has risen to a level that constitutes** a public nuisance, allows the city to petition the State Department of Fish and Wildlife for assistance in reducing [*deer population levels*] **the deer or elk population level** within city limits; and

(b) In cities where the department determines that [*deer populations do constitute*] **a deer or elk population constitutes** a public nuisance, allows a local government body or an appropriate agent to take **the deer or elk** for the purpose of reducing [*deer population levels*] **the deer or elk population level**.

(3) To implement the pilot program under this section, the department shall consult with:

(a) The governing bodies of cities where high urban deer **or elk** populations are a concern; and

(b) Food banks or other charitable organizations that serve the governing bodies described in paragraph (a) of this subsection.

(4) Rules for the pilot program adopted by the commission must include, but need not be limited to:

(a) Provisions for the means and manner by which deer **and elk** may be taken under the pilot program, which must include a prohibition on taking deer **or elk** by dart or lethal injection;

(b) Provisions for ensuring, to the extent feasible, that the edible portions of any deer **or elk** taken under the pilot program are distributed, at the expense of the local government, to a local food bank or other charitable organization;

(c) A requirement that, if the hides and antlers of a deer **or elk** taken under the program are not sold by the local government to persons licensed under ORS 498.019, that the antlers must be surrendered to the department; ~~and~~

(d) Provisions for ensuring that the number of deer **and elk** taken under the pilot program do

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 not exceed the number necessary to be taken to reduce the deer **or elk** population to a level that
2 no longer constitutes a public nuisance:-

33 (e) Objectively reasonable criteria for determining if a deer or elk population constitutes a public
nuisance for purposes of granting a petition under this Act and for purposes of the limiting the number
of deer or elk that may be taken pursuant to a petition under this Act; and

3334 (f) Non-lethal deterrent and control measures, in addition to those specified in subsection (5), that must
be attempted before submitting a petition under this Act.

1 (5) Prior to exercising any power granted by the pilot program adopted under this section, the
2 governing body of a city shall adopt by ordinance, and have in effect for at least one year, restrictions on
3 placing, depositing, distributing,
4 storing or scattering food, garbage or any other attractant so as to knowingly constitute a lure,
5 attractant or enticement for deer **or elk**.

5 **SECTION 2.** Section 2, chapter 331, Oregon Laws 2017, is amended to read:

6 **Sec. 2.** (1) The State Department of Fish and Wildlife shall first allow a local government to
7 engage in activities **related to deer** pursuant to the pilot program adopted under section 1 [*of this*
8 *2017 Act*], **chapter 331, Oregon Laws 2017**, no later than January 1, 2019.

9 **(2) The department may first allow a local government to engage in activities related to**
10 **elk pursuant to the pilot program described in section 1, chapter 331, Oregon Laws 2017, as**
11 **amended by section 1 of this 2021 Act, on or after the effective date of this 2021 Act.**

12 [(2)] (3) The department shall prepare and submit a report in the manner provided in ORS
13 192.245 on the implementation of the urban deer **and elk** population control pilot program, that may
14 include recommendations for legislation, to the committees of the Legislative Assembly related to
15 the environment and natural resources during the 2027 regular session of the Legislative Assembly.

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