

House Bill 3384

Sponsored by Representative CONRAD

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**.

Creates crime of aggravated animal neglect in the first degree. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Creates crime of interfering with an investigation into an offense against an animal. Punishes by maximum 364 days' imprisonment, \$6,250 fine, or both.

Prohibits person convicted of violating certain animal cruelty statutes from owning, exerting control over or residing on same property as animal of same genus against which crime was committed or domestic animal for certain period of time.

Requires court to impose fine of \$100 for each animal on person convicted of certain offenses against animal. Provides that moneys paid as fines must be deposited in Proper Animal Husbandry Fund.

Requires Department of State Police to establish program for awarding grants to organizations that teach proper animal husbandry to youths.

Establishes Proper Animal Husbandry Fund, separate and distinct from General Fund. Appropriates moneys in Proper Animal Husbandry Fund to department for purposes of grant program.

A BILL FOR AN ACT

1
2 Relating to animal cruelty; creating new provisions; and amending ORS 167.330, 167.332 and 167.350.

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

4 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 167.315 to**
5 **167.333.**

6 **SECTION 2. (1) A person commits the crime of aggravated animal neglect in the first**
7 **degree if, except as otherwise authorized by law, the person intentionally, knowingly,**
8 **recklessly or with criminal negligence fails to provide minimum care for an animal in the**
9 **person's custody or care and the failure to provide minimum care results in:**

10 (a) **The death of the animal; or**

11 (b) **Endangerment of the life of the animal.**

12 (2) **Aggravated animal neglect in the first degree is a Class C felony and the Oregon**
13 **Criminal Justice Commission shall classify the offense:**

14 (a) **As crime category 6 if up to 40 animals were the subject of the neglect.**

15 (b) **As crime category 7 if more than 40 animals were the subject of the neglect.**

16 **SECTION 3. Section 4 of this 2023 Act is added to and made a part of ORS 167.310 to**
17 **167.390.**

18 **SECTION 4. (1) A person commits the crime of interfering with an investigation into an**
19 **offense against an animal if the person intentionally or knowingly conceals an animal,**
20 **transports an animal or takes other action to prevent a peace officer, as defined in ORS**
21 **161.015, or a licensed veterinarian from examining an animal suspected of being the subject**
22 **of a violation under ORS 167.310 to 167.390.**

23 (2) **Interfering with an investigation into an offense against an animal is a Class A**
24 **misdemeanor.**

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.

SECTION 5. ORS 167.330 is amended to read:

167.330. (1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:

(a) Fails to provide minimum care for an animal in the person's custody or control and the failure to provide care results in serious physical injury [*or death*] to the animal; or

(b) Tethers a domestic animal in the person's custody or control and the tethering results in serious physical injury [*or death*] to the domestic animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class C felony if:

(a) The person committing the offense has previously been convicted of one or more offenses under this section, ORS 167.325 or the equivalent laws of another jurisdiction;

(b) The offense was part of a criminal episode involving 10 or more animals; or

(c) The person knowingly commits the offense in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.

(4) The Oregon Criminal Justice Commission shall classify animal neglect in the first degree under subsection (3) of this section:

(a) As crime category 6 if 10 to 40 animals were the subject of the neglect.

(b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section.

SECTION 6. ORS 167.332 is amended to read:

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

(a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 may not [*possess*] **own, exert control over or reside on the same property as** any animal of the same genus against which the crime was committed or any domestic animal for a period of five years following entry of the conviction.

(b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 **or section 2 of this 2023 Act** may not [*possess*] **own, exert control over or reside on the same property as** any animal of the same genus against which the crime was committed or any domestic animal for a period of 15 years following entry of the conviction. However, the sentencing court may reduce the prohibition period if the person successfully completes mental health treatment approved by the court.

(2) A person who [*possesses an animal in violation of*] **violates** this section commits a Class C misdemeanor. When a person is convicted of [*possessing an animal in violation of*] **violating** this section, as part of the sentence the court may order the removal of that animal from the person's residence and as a condition of the person's probation may prohibit the person from [*possessing*] **owning, exerting control over or residing on the same property as** any animal of the same genus that the person unlawfully [*possessed under*] **owned, exerted control over or resided on the same property as in violation of** this section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 **or section 2 of this 2023 Act** was committed.

(3) The [*animal possession*] prohibition described in subsection (1) of this section does not apply

1 to a person’s first conviction if the person is the owner of a commercial livestock operation and the
 2 underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355,
 3 167.365 or 167.428 **or section 2 of this 2023 Act** was committed against livestock.

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

7 (A) The person’s conviction leading to the [*possession*] prohibition involved only livestock;

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

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

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

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

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

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

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

21 (A) Continued enforcement of the prohibition against [*possessing*] **owning, exerting control**
 22 **over or residing on the same property as** livestock would result in substantial economic hardship
 23 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
 33 further order that for five years the person must consent to reasonable inspections by law enforce-
 34 ment and the United States Department of Agriculture to ensure the welfare of the livestock under
 35 the person’s custody or control. A refusal to consent to a reasonable inspection described in this
 36 paragraph 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 7.** 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 a government agency, a humane investigation agency or its agent or a person
 45 prior to judgment in caring for each animal associated with the criminal proceeding.

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

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

11 (b) This subsection does not limit the right of the person or agency to whom rights are granted
 12 to resell or otherwise make disposition of the animal. A transfer of rights under this subsection
 13 constitutes a transfer of ownership. The court shall require a person to whom rights are granted to
 14 execute an agreement to provide minimum care to the animal. The agreement must indicate that
 15 allowing the defendant to *[possess]* **own, exert control over or reside on the same property as**
 16 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 any reasonable costs incurred by a govern-
 19 ment agency, a humane investigation agency or its agent or a person in providing minimum care to
 20 the animal that are not included in a repayment order under subsection (1) of this section.

21 **(4)(a) Notwithstanding ORS 161.625 and 161.635, in addition to and not in lieu of any**
 22 **amount fixed by the court as a sentence to pay a fine for a misdemeanor or felony, or of any**
 23 **sentence it may impose, a court shall require a person convicted under ORS 167.310 to 167.390**
 24 **to pay a fine of \$100 for each animal involved in the offense for which the person was con-**
 25 **victed.**

26 **(b) Moneys paid under paragraph (a) of this subsection must be deposited in the Proper**
 27 **Animal Husbandry Fund established under section 9 of this 2023 Act.**

28 *[(4)]* (5) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355,
 29 167.365 or 167.428 to participate in available animal cruelty prevention programs or education pro-
 30 grams, or both, or to obtain psychological counseling for treatment of mental health disorders that,
 31 in the court's judgment, contributed to the commission of the crime. The person shall bear any costs
 32 incurred by the person for participation in counseling or treatment programs under this subsection.

33 *[(5)]* (6) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a vio-
 34 lation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to
 35 forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as
 36 provided in ORS 167.435.

37 **SECTION 8. (1) The Department of State Police shall establish a program for awarding**
 38 **grants to organizations that teach proper animal husbandry to youths.**

39 **(2) The department shall establish criteria for awarding grants, keep records of grants**
 40 **awarded and establish requirements for reporting on the use of grant moneys by grantees.**

41 **SECTION 9. The Proper Animal Husbandry Fund is established in the State Treasury,**
 42 **separate and distinct from the General Fund. The Proper Animal Husbandry Fund consists**
 43 **of moneys deposited in the fund under ORS 167.350 (4), moneys appropriated or otherwise**
 44 **transferred to the fund by the Legislative Assembly and other amounts deposited in the fund**
 45 **from any source. Moneys in the fund are continuously appropriated to the Department of**

1 **State Police for purposes described in section 8 of this 2023 Act.**

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