

HB 4145 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/13, 2/15

WHAT THE MEASURE DOES:

This measure creates five new crimes concerning visual displays of animal crushing.

Detailed Summary:

Defines “animal crushing” and “visual recording”. Creates five new crimes:

- **Using an animal in a display of animal crushing.** Criminalizes recording animal crushing or subjecting an animal to animal crushing for others to observe or record. Classifies the crime as a Class C felony. Prohibits a person from possessing an animal of the same genus of the crime for 15 years after conviction.
- **Encouraging animal crushing in the first degree.** Criminalizes the duplication, dissemination, or financing of animal crushing or possessing with intent to do the same. Criminalizes knowingly bringing into Oregon for sale or distribution a visual recording of animal crushing. Classifies the crime as a Class A misdemeanor. Prohibits a person from possessing an animal of the same genus of the crime for 5 years after conviction.
- **Encouraging animal crushing in the second degree.** Criminalizes knowingly possessing, exchanging, or giving consideration to obtain or observe animal crushing or animal crushing visual recordings for the purpose of arousing or satisfying the sexual desires of the person or another person and is aware of and consciously disregards the fact that animal crushing involves animal abuse. Classifies the crime as a Class B misdemeanor. Prohibits a person from possessing an animal of the same genus of the crime for 5 years after conviction.
- **Encouraging animal crushing in the third degree.** Criminalizes knowingly possessing, exchanging, or giving consideration to obtain or observe animal crushing or animal crushing visual recordings for the purpose of arousing or satisfying the sexual desires of the person or another person and fails to be aware of a substantial and unjustifiable risk that animal crushing constitutes animal abuse. Classifies the crime as a Class C misdemeanor. Prohibits a person from possessing an animal of the same genus of the crime for 5 years after conviction.
- **Failure to report a display of animal crushing.** Requires a computer technician or processor of photographic images to report the person, if known, who requested the processing or the person in possession of the computer, computer network, or computer system to law enforcement. Provides immunity from civil or criminal liability for any party complying with this measure in good faith in connection with making the report. Declares the failure to comply with this subsection is the crime of failure to report a display of animal crushing. Defines computer technician and processor. Classifies the crime as a Class C misdemeanor.

Creates certain exceptions, such as hunting, fishing, or educational recordings. Authorizes a peace officer to enter the premises or motor vehicle where the animal is located to provide emergency treatment when probable cause is established.

ISSUES DISCUSSED:

- The federal case in Prineville that involved animal crushing.
- The differences between the federal crime and this measure.
- Free speech concerns that resulted in the -1 amendment.
- Acts that are exempted from criminal prosecution.

EFFECT OF AMENDMENT:

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-1 The amendment replaces the measure, amends aggravated animal abuse in the first degree, and creates two new crimes of encouraging aggravated animal abuse in the first and second degree.

Detailed Summary

Defines key terms. Amends aggravated animal abuse in the first degree to include the act of intentionally or knowingly creating a visual recording of a person maliciously killing an animal or torturing an animal. Creates the crimes of:

- **Encouraging aggravated animal abuse in the first degree:** Criminalizes the duplication, dissemination, financing, or possessing with intent to do the same, visual recordings of maliciously killing or torturing an animal. Criminalizes knowingly bringing into Oregon for sale or distribution of the visual recordings of maliciously killing or torturing an animal and is aware of and consciously disregards the fact that the creation of the visual recordings involved aggravated animal abuse. Classifies the crime as a Class A Misdemeanor. Prohibits a person from possessing an animal of the same genus of the crime for 5 years after conviction.
- **Encouraging animal crushing in the second degree.** Criminalizes knowingly possessing, exchanging, or giving consideration to obtain or view a visual recording of a malicious killing or torturing of an animal and is aware of and consciously disregards the fact that the creation of the visual recordings involved aggravated animal abuse. Classifies the crime as a B misdemeanor. Prohibits a person from possessing an animal of the same genus of the crime for 5 years after conviction.

Adds exceptions.

BACKGROUND:

Oregon has several statutes that provide the basic parameters for animal care and establish crimes for failure to meet animal care standards, abuse or neglect. Oregon has three degrees of animal abuse crimes: animal abuse in the second degree, animal abuse in the first degree and aggravated animal abuse in the first degree. Oregon treats animal neglect and sexual assault of an animal as separate and distinct crimes from animal abuse crimes.

- **Aggravated animal abuse in the first degree:** A person who maliciously kills an animal or intentionally or knowingly tortures an animal commits the crime of aggravated animal abuse in the first degree, a C felony. A person convicted of aggravated animal abuse in the first degree may not possess an animal of the same genus for fifteen years after the conviction date.
- **Animal abuse in the first degree:** A person who intentionally, knowingly, or recklessly causes serious physical injury to an animal or cruelly causes the death of an animal commits the crime of animal abuse in the first degree, an A misdemeanor. A person convicted of animal abuse in the first degree may not possess an animal of the same genus of the crime for five years after the conviction date.
- **Animal abuse in the third degree:** A person who intentionally, knowingly, or recklessly causes physical injury to an animal has committed animal abuse in the second degree, a B misdemeanor. A person convicted of animal abuse in the second degree crime may not possess an animal of the same genus of the crime for five years after the conviction date.

Many farm, veterinary, commercial, and sport activities are excluded from abuse and neglect statutes, including good animal husbandry practices, transportation of livestock, commercially grown poultry, animals used in rodeos, lawful hunting, fishing or trapping, wildlife management practices, lawful scientific or agricultural research, pest control and reasonable handling and training techniques. If gross negligence occurs in any of these activities, however, the abuse and neglect statutes can be applied.

In 2019, a federal bill, Preventing Animal Cruelty and Torture Act (PACT), revised and expanded federal criminal provisions with respect to animal crushing. PACT criminalized the act of creating or distributing an animal crushing video with the intent, or reason to know, that the video will be distributed in interstate or foreign commerce. The

federal criminal classification is a D felony, punishable up to seven years in prison.

PRELIMINARY