

## HOUSE AMENDMENTS TO HOUSE BILL 4145

By COMMITTEE ON JUDICIARY

February 16

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete line 3  
2 and insert “105.597, 167.310, 167.322, 167.332 and 167.335.”.

3 Delete lines 5 through 20 and delete pages 2 through 8 and insert:  
4

### “VISUAL RECORDING OF AGGRAVATED ANIMAL ABUSE

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6  
7 “**SECTION 1.** 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

1 of training in the care and use of a law enforcement animal, or who has passed the demonstration  
2 of minimum standards established by the Oregon Police Canine Association or other accredited and  
3 recognized animal handling organization.

4 “(8)(a) ‘Livestock,’ except as provided in paragraph (b) of this subsection, has the meaning pro-  
5 vided in ORS 609.125.

6 “(b) ‘Livestock’ does not include psittacines.

7 “(9) **‘Maliciously’ means intentionally acting with a depravity of mind and reckless and**  
8 **wanton disregard of life.**

9 “[9] (10) ‘Minimum care’ means care sufficient to preserve the health and well-being of an an-  
10 imal and, except for emergencies or circumstances beyond the reasonable control of the owner, in-  
11 cludes, but is not limited to, the following requirements:

12 “(a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body  
13 weight.

14 “(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal’s  
15 needs. Access to snow or ice is not adequate access to potable water.

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

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

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

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

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

23 “(C) Kept reasonably clean and free from excess waste or other contaminants that could affect  
24 the animal’s health.

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

26 “(A) Humane euthanasia; or

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

28 “[10] (11) ‘Physical injury’ means physical trauma, impairment of physical condition or sub-  
29 stantial pain.

30 “[11] (12) ‘Physical trauma’ means fractures, cuts, punctures, bruises, burns or other wounds.

31 “[12] (13) ‘Possess’ has the meaning provided in ORS 161.015.

32 “[13] (14) ‘Serious physical injury’ means physical injury that creates a substantial risk of  
33 death or that causes protracted disfigurement, protracted impairment of health or protracted loss  
34 or impairment of the function of a limb or bodily organ.

35 “[14)(a)] (15)(a) ‘Tethering’ means to restrain a domestic animal by tying the domestic animal  
36 to any object or structure by any means.

37 “(b) ‘Tethering’ does not include using a handheld leash for the purpose of walking a domestic  
38 animal.

39 “(16) **‘Torture’ means an action taken for the primary purpose of inflicting pain.**

40 “(17) **‘Visual recording’ includes, but is not limited to, photographs, films, videotapes and**  
41 **computer and other digital pictures, regardless of the manner in which the recording is**  
42 **stored.**

43 “**SECTION 2.** ORS 167.322 is amended to read:

44 “167.322. (1) A person commits the crime of aggravated animal abuse in the first degree if the  
45 person:

1 “(a) Maliciously kills an animal; [or]  
2 “(b) Intentionally or knowingly tortures an animal[.]; or  
3 “(c) **Intentionally or knowingly creates a visual recording of an act described in para-**  
4 **graph (a) or (b) of this subsection.**  
5 “(2) Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal  
6 Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.  
7 “[*(3) As used in this section:*]  
8 “[*(a) ‘Maliciously’ means intentionally acting with a depravity of mind and reckless and wanton*  
9 *disregard of life.*]  
10 “[*(b) ‘Torture’ means an action taken for the primary purpose of inflicting pain.*]  
11 “**SECTION 3. Sections 4 and 5 of this 2024 Act are added to and made a part of ORS**  
12 **167.315 to 167.333.**  
13 “**SECTION 4. (1) A person commits the crime of encouraging aggravated animal abuse**  
14 **in the first degree if the person:**  
15 “(a)(A) **Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, dis-**  
16 **plays, finances, attempts to finance or sells a visual recording of an act described in ORS**  
17 **167.322 (1)(a) or (b), or knowingly possesses, accesses or views such a visual recording with**  
18 **the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or**  
19 “(B) **Knowingly brings into this state, or causes to be brought or sent into this state, for**  
20 **sale or distribution, a visual recording of an act described in ORS 167.322 (1)(a) or (b); and**  
21 “(b) **Knows or is aware of and consciously disregards the fact that creation of the visual**  
22 **recording of an act described in ORS 167.322 (1)(a) or (b) involved aggravated animal abuse.**  
23 “(2) **Encouraging aggravated animal abuse in the first degree is a Class A misdemeanor.**  
24 “**SECTION 5. (1) A person commits the crime of encouraging aggravated animal abuse**  
25 **in the second degree if the person:**  
26 “(a)(A)(i) **Knowingly possesses or controls, or knowingly accesses with the intent to view,**  
27 **a visual recording of an act described in ORS 167.322 (1)(a) or (b); or**  
28 “(ii) **Knowingly pays, exchanges or gives anything of value to obtain or view a visual re-**  
29 **recording of an act described in ORS 167.322 (1)(a) or (b); and**  
30 “(B) **Knows or is aware of and consciously disregards the fact that creation of the visual**  
31 **recording of an act described in ORS 167.322 (1)(a) or (b) involved aggravated animal abuse;**  
32 **or**  
33 “(b)(A) **Knowingly pays, exchanges or gives anything of value to observe an act described**  
34 **in ORS 167.322 (1)(a) or (b) or knowingly observes an act described in ORS 167.322 (1)(a) or**  
35 **(b); and**  
36 “(B) **Knows or is aware of a substantial and unjustifiable risk that an act described in**  
37 **ORS 167.322 (1)(a) or (b) constitutes aggravated animal abuse.**  
38 “(2) **Encouraging aggravated animal abuse in the second degree is a Class B**  
39 **misdemeanor.**  
40 “**SECTION 6. ORS 167.335 is amended to read:**  
41 “167.335. (1) [*Except as provided in subsection (2) of this section,*] Unless gross negligence can  
42 be shown, the provisions of ORS 167.315 to 167.333, **other than the provisions of ORS 167.332**, do  
43 not apply to:  
44 “(a) The treatment of livestock being transported by owner or common carrier;  
45 “(b) Animals involved in rodeos or similar exhibitions;

- 1 “(c) Commercially grown poultry;
- 2 “(d) Animals subject to good animal husbandry practices;
- 3 “(e) The killing of livestock according to the provisions of ORS 603.065;
- 4 “(f) Animals subject to good veterinary practices as described in ORS 686.030;
- 5 “(g) Lawful fishing, hunting and trapping activities;
- 6 “(h) Wildlife management practices under color of law;
- 7 “(i) Lawful scientific or agricultural research or teaching that involves the use of animals;
- 8 “(j) Reasonable activities undertaken in connection with the control of vermin or pests; and
- 9 “(k) Reasonable handling and training techniques.
- 10 “[*(2) Subsection (1) of this section does not create an exemption from ORS 167.332.*]
- 11 **“(2) The provisions of sections 4 and 5 of this 2024 Act do not apply to any exemption**
- 12 **listed in subsection (1) of this section or to:**
- 13 **“(a) Any activity undertaken in the course of bona fide law enforcement activity;**
- 14 **“(b) Any activity necessary to the proper functioning of the criminal justice system;**
- 15 **“(c) The disclosure of a visual recording of an act described in ORS 167.322 (1)(a) or (b):**
- 16 **“(A) In the course of reporting conduct to a law enforcement agency; or**
- 17 **“(B) If the disclosure serves a lawful public interest;**
- 18 **“(d) Obtaining, viewing or possessing a visual recording of an act described in ORS**
- 19 **167.322 (1)(a) or (b) as part of a bona fide treatment program for sexual offenders; or**
- 20 **“(e) A public library, as defined in ORS 357.400, or a library exempt from taxation under**
- 21 **ORS 307.090 or 307.130.**

22

23 **“RELATED AMENDMENTS TO ANIMAL POSSESSION PROHIBITION**

24

25 **“SECTION 7** ORS 167.332 is amended to read:

26 “167.332. (1) Except as provided in subsections (3) and (4) of this section:

27 “(a) In addition to any other penalty imposed by law, a person convicted of violating ORS

28 167.315, 167.340 or 167.355 **or section 4 or 5 of this 2024 Act** or of a misdemeanor under ORS

29 167.320, 167.325 or 167.330 may not possess any animal of the same genus against which the crime

30 was committed, **or which the crime involved**, or any domestic animal for a period of five years

31 following entry of the conviction.

32 “(b) In addition to any other penalty imposed by law, a person convicted of violating ORS

33 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 may not

34 possess any animal of the same genus against which the crime was committed, **or which the crime**

35 **involved**, or any domestic animal for a period of 15 years following entry of the conviction. How-

36 ever, the sentencing court may reduce the prohibition period if the person successfully completes

37 mental health treatment approved by the court.

38 “(2) A person who possesses an animal in violation of this section commits a Class C

39 misdemeanor. When a person is convicted of possessing an animal in violation of this section, as part

40 of the sentence the court may order the removal of that animal from the person’s residence and as

41 a condition of the person’s probation may prohibit the person from possessing any animal of the

42 same genus:

43 **“(a) That the person unlawfully possessed under this section [or];**

44 **“(b) Against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330,**

45 **167.333, 167.340, 167.355, 167.365 or 167.428 was committed; or**

1           “(c) Which the underlying violation of section 4 or 5 of this 2024 Act involved.

2           “(3) The animal possession prohibition described in subsection (1) of this section does not apply  
3 to a person’s first conviction if the person is the owner of a commercial livestock operation and the  
4 underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355,  
5 167.365 or 167.428 or section 4 or 5 of this 2024 Act was committed against or involved livestock.

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

9           “(A) The person’s conviction leading to the possession prohibition involved only livestock;

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

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

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

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

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

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

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

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

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

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

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

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

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

41  
42                                   **“CONFORMING AMENDMENTS**

43  
44          “**SECTION 8.** ORS 105.597 is amended to read:

45          “105.597. In addition to any places described in ORS 105.555, the following are declared to be

1 nuisances and shall be enjoined and abated as provided in ORS 105.550 to 105.600:

2 “(1) Any place being used on a continuous, regular or sporadic basis for carrying out any of the  
3 following activities, except with regard to activities and animals described under ORS 167.335,  
4 whether or not carried out with a particular mental state:

5 “(a) Causing physical injury or serious physical injury, both as defined in ORS 167.310, or  
6 cruelly causing death.

7 “(b) Killing maliciously as defined in ORS [167.322] **167.310** or committing torture as defined in  
8 ORS [167.322] **167.310**.

9 “(c) Failing to provide minimum care as defined in ORS 167.310.

10 “(d) Possession of a domestic animal as defined in ORS 167.310 by a person described under ORS  
11 167.332.

12 “(2) Any place appearing to be vacant at which a domestic animal or equine, both as defined in  
13 ORS 167.310, are present and have been left without provision for minimum care as defined in ORS  
14 167.310.

15 “(3) Any place being used on a continuous, regular or sporadic basis for carrying out any of the  
16 following activities, whether or not carried out with a particular mental state:

17 “(a) Training or keeping an animal for use in an exhibition of fighting as defined in ORS 167.355.

18 “(b) Preparing for, occupation for, promoting, conducting or participating in an exhibition of  
19 fighting as defined in ORS 167.355.

20 “(c) Possessing, keeping, breeding, training, buying, selling or offering for sale a fighting dog as  
21 defined in ORS 167.360.

22 “(d) Promoting, conducting, participating in or performing services in furtherance of a dogfight  
23 as defined in ORS 167.360.

24 “(e) Occupation, keeping or use of the place for a dogfight as defined in ORS 167.360.

25 “(f) Exchanging for commerce raw fur of a domestic cat or dog as defined in ORS 167.390, or  
26 products that include the fur of a domestic cat or dog, if the fur is obtained through a process that  
27 kills or maims the domestic cat or dog.

28 “(g) Possessing, keeping, rearing, training, buying, selling or offering for sale a fighting bird as  
29 defined in ORS 167.426.

30 “(h) Promoting, conducting, participating in or performing services in furtherance of a cockfight  
31 as defined in ORS 167.426.

32 “(i) Occupation, keeping or use of the place for a cockfight as defined in ORS 167.426.

33 “(4) Any place being used on a continuous, regular or sporadic basis for carrying out any of the  
34 following activities:

35 “(a) Sexual assault of an animal as described in ORS 167.333.

36 “(b) Possession of dogfighting paraphernalia as described under ORS 167.372.

37 “(c) Selling or offering for sale equipment other than paraphernalia described in paragraph (b)  
38 of this subsection with the intent that the equipment be used to train a fighting dog as defined in  
39 ORS 167.360.

40 “(d) Possessing, controlling or otherwise having charge at the same time of more than 50  
41 sexually intact dogs that are two or more years of age for the primary purpose of reproduction.

42 “(e) Manufacturing, buying, selling, bartering, exchanging, possessing or offering for sale a gaff  
43 or slasher as those terms are defined in ORS 167.426, or other sharp implement designed for at-  
44 tachment to the leg of a fighting bird as defined in ORS 167.426, with the intent that the gaff, slasher  
45 or other sharp implement be used in a cockfight as defined in ORS 167.426.

1 “(f) Manufacturing, buying, selling, bartering, exchanging, possessing or offering for sale equip-  
2 ment other than equipment described in paragraph (e) of this subsection with the intent that the  
3 equipment be used to train or handle a fighting bird as defined in ORS 167.426 or to enhance the  
4 fighting ability of a fighting bird.

5  
6 “APPLICABILITY

7  
8 “**SECTION 9.** Sections 4 and 5 of this 2024 Act and the amendments to ORS 105.597,  
9 167.310, 167.322, 167.332 and 167.335 by sections 1, 2, and 6 to 8 of this 2024 Act apply to con-  
10 duct occurring on or after the effective date of this 2024 Act.

11  
12 “CAPTIONS

13  
14 “**SECTION 10.** The unit captions used in this 2024 Act are provided only for the conven-  
15 ience of the reader and do not become part of the statutory law of this state or express any  
16 legislative intent in the enactment of this 2024 Act.”.