

A-Engrossed House Bill 4034

Ordered by the House February 5
Including House Amendments dated February 5

Sponsored by Representative LEVY B, Senator NERON MISSLIN; Representatives ANDERSEN, BOICE, EDWARDS, GOMBERG, HELFRICH, HELM, LEWIS, MCDONALD, MCLAIN, OSBORNE, OWENS, RESCHKE, SCHARF, SKARLATOS, YUNKER, Senator NASH (Presession filed.)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes a definition for places that rescue animals. The Act changes the agency that oversees places that rescue animals. The Act changes the records that the places have to keep. The Act makes changes related to licensing the places. (Flesch Readability Score: 66.4).

[Digest: The Act changes the agency that oversees places that rescue animals. The Act changes the records that the places have to keep. The Act makes changes related to licensing the places. (Flesch Readability Score: 70.8).]

Revises the definition of “animal rescue entity.” Provides that veterinary facilities do not qualify as animal rescue entities for purposes of regulating animal rescue entities. Directs the State Department of Agriculture to enforce provisions related to regulating animal rescue entities. Makes changes related to recordkeeping and licensing requirements for animal rescue entities. Removes the impoundment of animals as a civil penalty for a violation of provisions related to animal rescue entities.

A BILL FOR AN ACT

Relating to animal rescue entities; amending ORS 609.415 and 609.420.

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

SECTION 1. ORS 609.415 is amended to read:

609.415. (1) As used in this section and ORS 609.420:

(a) “Animal” means any nonhuman mammal, bird, reptile[,] **or** amphibian [*or fish*].

(b) “Animal rescue entity”:

(A) Means an individual or organization, including but not limited to an animal control agency, humane society, animal shelter, animal sanctuary or boarding kennel not subject to ORS 167.374, [*but excluding a veterinary facility,*] that keeps, houses and maintains **animals** in the individual’s or organization’s legal custody [*10 or more animals*], whether physically located at a facility operated by the individual or organization or kept, housed or maintained elsewhere, and that solicits or accepts donations in any form.

(B) Does not mean a veterinary facility as defined in ORS 686.010.

[(c) “Enforcing agency” means the State Veterinarian.]

(2) [*Any*] **An** animal rescue entity shall [*comply with all of the following record-keeping requirements*]:

(a) Maintain a record for each animal [*that identifies:*] **in the legal custody of the animal rescue entity, in compliance with rules adopted by the State Department of Agriculture pursuant to subsection (6)(a) of this section.**

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 [(A) *The date of birth for the animal or, if the date of birth is unknown, the approximate age of*
2 *the animal;*]

3 [(B) *The date the animal rescue entity acquired possession, control or charge of the animal and the*
4 *source of the animal;*]

5 [(C) *The number of offspring the animal produced while in the possession or control of the animal*
6 *rescue entity, if applicable;*]

7 [(D) *The disposition the animal rescue entity makes of each animal possessed by, controlled by or*
8 *in the charge of the animal rescue entity, including the date of disposition, manner of disposition and*
9 *the name and address for any individual or organization taking possession, control or charge of an*
10 *animal;*]

11 [(E) *The source of the animal, date of acquisition, age, sex, breed type and weight of the animal*
12 *at intake; and*]

13 [(F) *A photograph of the animal taken within 24 hours of intake by the animal rescue entity.*]

14 (b) Permit an authorized representative of the [enforcing agency] **department** to inspect records
15 of the animal rescue entity required by this subsection and furnish **any** reports and information re-
16 quired by the [enforcing agency, as provided under ORS 609.420.] **department if the department:**

17 **(A) Conducts an on-site investigation of the premises of the animal rescue entity pursu-**
18 **ant to ORS 609.420; or**

19 **(B) Audits the animal rescue entity pursuant to rules described in subsection (6)(b) of**
20 **this section.**

21 (3) An animal rescue entity **that keeps, houses and maintains 10 or more animals in the**
22 **legal custody of the animal rescue entity for more than two consecutive business days** shall
23 *[comply with the following licensing requirements]:*

24 (a) *[The entity shall]* Obtain a license issued by the [enforcing agency] **department** in accordance
25 with this section and [any] rules [or policies] adopted by the [enforcing agency] **department**; and

26 (b) *[The entity shall]* Pay a reasonable fee, as determined by the [enforcing agency]
27 **department**, for a license or an annual renewal of the license to provide for the actual cost of en-
28 forcing this section and ORS 609.420.

29 [(4) *The enforcing agency may not issue or renew a license under this section unless the animal*
30 *rescue entity is in compliance with this section and ORS 609.420.*]

31 [(5) *An animal rescue entity may transfer a license issued under this section to another person with*
32 *the written consent of the enforcing agency, provided that the transferee otherwise qualifies to be li-*
33 *censed as an animal rescue entity under this section and rules applicable to the transferee and does*
34 *not have a certified unpaid debt to the state. The transferee shall submit a signed release to the en-*
35 *forcing agency permitting the performance of a background investigation of the transferee, and the en-*
36 *forcing agency shall conduct the background investigation.*]

37 [(6) *An applicant for a license issued under this section shall demonstrate that the animal rescue*
38 *entity that is the subject of the application complies with all standards imposed under applicable*
39 *law.*]

40 [(7) *Any animal rescue entity is subject to inspection by the enforcing agency as provided in ORS*
41 *609.420.*]

42 [(8)(a)] **(4)** A violation of this section may result in imposition of civil penalties to be determined
43 by the [enforcing agency] **department**, including but not limited to *[impoundment of all animals un-*
44 *der the animal rescue's control,]* the **denial, suspension or** revocation of the animal *[rescue's]* **rescue**
45 **entity's** license *[to operate animal rescue operations]* **under this section** and a civil penalty of not

more than \$500 for each violation.

[(b) Before a civil penalty may be imposed under this section, the enforcing agency shall adopt rules or policies that:]

[(A) Ensure that a person who is the subject of an alleged violation receives notice of the allegations and potential imposition of civil penalties;]

[(B) Allow for an opportunity for a hearing prior to the imposition of civil penalties; and]

[(C) Allow for the opportunity for judicial review of the imposition of civil penalties.]

[(9)] (5) Moneys [raised] **received** by the [enforcing agency under] **department pursuant to** this section are dedicated to and shall be used for [enforcing agency operations undertaken pursuant to] **implementing** this section and ORS 609.420.

(6) The department shall adopt rules to implement this section, including rules that:

(a) Require an animal rescue entity to maintain a record for each animal in the legal custody of the animal rescue entity;

(b) Establish a process for auditing animal rescue entities that incorporates consideration of the compliance histories of the animal rescue entities;

(c) Establish licensing requirements for animal rescue entities;

(d) Ensure that an animal rescue entity that is the subject of an alleged violation is notified of the allegations and of the potential imposition of civil penalties under this section through a notice that complies with ORS 183.415;

(e) Allow an animal rescue entity to have an opportunity for a hearing prior to the imposition of civil penalties under this section; and

(f) Allow an animal rescue entity to have an opportunity for judicial review of the imposition of civil penalties.

(7) Consistent with the rulemaking procedures set forth in ORS chapter 183, in developing rules to implement this section, the department shall solicit and review input from:

(a) Animal rescue entities located in rural areas of this state;

(b) Animal rescue entities located in urban areas of this state;

(c) Individuals or organizations involved in providing transportation to or from animal rescue entities in this state; and

(d) Individuals or organizations involved in providing free or low-cost services relating to the care of animals in this state.

SECTION 2. ORS 609.420 is amended to read:

609.420. (1) Whenever an authorized representative of [an enforcing agency] **the State Department of Agriculture** is advised or has reason to believe that an animal rescue entity **that is required to obtain a license under ORS 609.415** is operating without a license, the authorized representative may visit and conduct an on-site investigation of the premises of the animal rescue entity. The purpose of an investigation under this section is to determine whether the animal rescue entity is subject to the requirements of ORS 609.415.

(2) At any reasonable time, an authorized representative of [an enforcing agency] **the department**, a law enforcement agency or the United States Department of Agriculture may conduct an on-site investigation of the premises of any licensed animal rescue entity to determine whether the entity is in compliance with ORS 609.415 **or a rule adopted thereunder.**

(3) An authorized representative of the [enforcing agency] **State Department of Agriculture** or a law enforcement agency shall conduct an on-site investigation of the premises of any licensed animal rescue entity if the **department or** agency receives a complaint about the animal rescue

1 entity related to the failure to comply with the requirements of ORS 609.415 **or a rule adopted**
2 **thereunder** that the **department or** agency determines is credible and serious. The investigation
3 by the **department or** agency shall be limited to determining if the animal rescue entity has failed
4 to comply with the requirements of ORS 609.415 **or a rule adopted thereunder**.

5 (4) Any state agency that receives a complaint about a licensed animal rescue entity shall notify
6 the *[enforcing agency]* **department** about the complaint and any subsequent action taken by the
7 state agency based on that complaint.

8 *[(5) A licensed animal rescue entity shall permit an authorized representative of the enforcing*
9 *agency to inspect records of the animal rescue entity and shall furnish any reports and information*
10 *required by the enforcing agency.]*

11 *[(6)]* (5) If, during the course of an *[inspection]* **investigation** made under this section, the *[en-*
12 *forcing agency]* **department** finds evidence of animal cruelty in violation of ORS 167.310 to 167.351,
13 167.352, 167.355 or 167.360 to 167.372, the *[enforcing agency]* **department** shall seize the evidence
14 and report the violation to law enforcement. Evidence of animal cruelty found through a valid *[in-*
15 *spection]* **investigation** under this section shall be presumed admissible in any subsequent criminal
16 proceeding.
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