

HB 3377 as enrolled by the Oregon legislature in 1995

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68th OREGON LEGISLATIVE ASSEMBLY--1995 Regular Session

Enrolled

House Bill 3377

Sponsored by Representatives JOSI, FEDERICI, CARPENTER;
Representatives ADAMS, BEYER, BROWN, CARTER, CORCORAN, EIGHMEY,
FAHEY, JOHNSTON, LUNDQUIST, MANNIX, NAITO, PARKS, PIERCY,
PROZANSKI, REPINE, STARR, THOMPSON, UHERBELAU, Senators BAKER,
BRYANT, CEASE, HAMBY, McCOY, PHILLIPS, SORENSON, SPRINGER,
STULL (at the request of Oregon Humane Society)

CHAPTER

AN ACT

Relating to cruelty to animals; creating new provisions; and
amending ORS 167.310, 167.335, 167.345 and 167.350.

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

***** SECTION 1. { + Section 2 of this
Act is added to and made a part of ORS 167.315 to 167.330. + }

***** SECTION 2. { + (1) A person
commits the crime of aggravated animal abuse in the first degree
if the person:

(a) Maliciously kills an animal; or

(b) Intentionally or knowingly tortures an animal.

(2) Aggravated animal abuse in the first degree is a Class C
felony.

(3) As used in this section, 'maliciously' means intentionally
acting with a depravity of mind and reckless and wanton disregard
of life. + }

***** SECTION 3. ORS 167.310 is amended
to read:

167.310. { - (1) - } As used in ORS 167.310 to
{ - 167.340 - } { + 167.350 + }:
{ - (a) - } { + (1) + } 'Animal' means any nonhuman mammal,
bird, reptile, amphibian or fish.

{ - (b) - } { + (2) + } 'Good animal husbandry' includes,
but is not limited to the dehorning of cattle, the docking of
horses, sheep or swine, and the castration or neutering of
livestock, according to accepted practices of veterinary medicine
or animal husbandry.

{ - (c) - } { + (3) + } 'Livestock' { - means any horse,

mule, burro, dairy or beef animal, goat, sheep, swine or rabbit, regardless of age - } { + has the meaning provided in ORS 609.010 + }.

{ - (d) - } { + (4) + } 'Pet or domestic animal' means any animal that is owned or possessed by a person, other than livestock or poultry.

{ - (e) - } { + (5) + } 'Physical injury' has the meaning provided in ORS 161.015.

{ - (f) - } { + (6) + } 'Possess' has the meaning provided in ORS 161.015.

{ - (g) - } { + (7) + } 'Serious physical injury' has the meaning provided in ORS 161.015.

{ - (2) - } { + (8) + } As used in ORS 167.325 and 167.330, 'Minimum care' means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

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

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.

(c) In the case of pet or domestic animals, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and which has adequate bedding to protect against cold and dampness.

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

(e) Pet or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest. The air temperature in a confinement area must be suitable for the animal involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health.

***** SECTION 4. ORS 167.335 is amended to read:

167.335. Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.330 shall not apply to { + : + }

{ + (1) + } The treatment of livestock being transported by owner or common carrier { + ; + } { - , - }

{ + (2) + } Animals involved in rodeos or similar exhibitions { + ; + } { - or - }

{ + (3) + } Commercially grown poultry { + ; + } { - . - }

{ + (4) + } Animals subject to good animal husbandry practices;

(5) The killing of livestock according to the provisions of ORS 603.065;

(6) Animals subject to good veterinary practices as described in ORS 686.030;

(7) Lawful fishing, hunting and trapping activities;

(8) Wildlife management practices under color of law; and

(9) Lawful scientific or agricultural research or teaching that involves the use of animals. + }

***** SECTION 5. ORS 167.345 is amended to read:

167.345. (1) If there are exigent circumstances and probable cause to believe that any animal is being impounded or confined without minimum care for more than 24 consecutive hours, without medical cause, a peace officer, as defined in ORS 161.015, may enter the premises where the animal is being held and provide the animal with water { + , food or emergency on-site first aid treatment + }. The peace officer shall not be liable for any damages for such entry, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.

(2) If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.340, a peace officer, after obtaining a search warrant in the manner authorized by law, may enter the premises where the animal is being held, provide food and water and impound such animal. If after reasonable search the owner or person having custody of such animal cannot be found and notified of the impoundment, such notice shall be conspicuously posted on such premises and within 72 hours after the impoundment such notice shall be sent by certified mail to the address, if any, at which the animal was impounded.

{ + (3) A court may order an animal impounded under subsection (2) of this section to be held at any animal care facility in the state. A facility receiving the animal shall provide adequate food and water and may provide veterinary care. + }

***** SECTION 6. ORS 167.350 is amended to read:

167.350. (1) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.330 and 167.340 to forfeit any rights of the defendant in the animal subjected to abuse, neglect or abandonment, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to abuse, neglect or abandonment.

(2) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. This subsection shall not constitute or authorize any limitation upon the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay the reasonable costs incurred by any person or agency in providing water { + , food or first aid treatment + } under ORS 167.345 (1).

{ + (4) A court may order a person convicted under ORS 167.315 to 167.330 and 167.340 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection. + }

Passed by House April 28, 1995

Repassed by House May 29, 1995

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Chief Clerk of House

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Speaker of House

Passed by Senate May 25, 1995

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President of Senate

Received by Governor:

.....M.,....., 1995

Approved:

.....M.,....., 1995

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Governor

Filed by Office of Secretary of State:

.....M.,....., 1995

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Secretary of State

Note: This is not the official versions of the bill.