

Enrolled
House Bill 4145

Sponsored by Representative GOMBERG, Senator MANNING JR; Representatives CONRAD, GAMBA, HIEB, HOLVEY, HUDSON, YUNKER, Senators PROZANSKI, SOLLMAN (Presession filed.)

CHAPTER

AN ACT

Relating to animal crush videos; creating new provisions; and amending ORS 105.597, 167.310, 167.322, 167.332 and 167.335.

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

VISUAL RECORDING OF AGGRAVATED ANIMAL ABUSE

SECTION 1. ORS 167.310 is amended to read:

167.310. As used in ORS 167.310 to 167.351:

(1) "Adequate bedding" means bedding of sufficient quantity and quality to permit a domestic animal to remain dry and reasonably clean and maintain a normal body temperature.

(2)(a) "Adequate shelter" includes a barn, doghouse or other enclosed structure sufficient to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury.

(b) "Adequate shelter" does not include:

- (A) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;
- (B) The space under a vehicle;
- (C) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the domestic animal's health or safety;
- (D) Shelters made from cardboard or other materials that are easily degraded by the elements;
- (E) Animal carriers or crates that are designed to provide temporary housing;
- (F) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or
- (G) Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.

(3) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.

(4) "Domestic animal" means an animal, other than livestock or equines, that is owned or possessed by a person.

(5) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.

(6) "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.

(7) “Law enforcement animal” means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181A.355, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.

(8)(a) “Livestock,” except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125.

(b) “Livestock” does not include psittacines.

(9) “Maliciously” means intentionally acting with a depravity of mind and reckless and wanton disregard of life.

[(9)] **(10) “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. Access to snow or ice is not adequate access to potable water.

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

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

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

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

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

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

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

(A) Humane euthanasia; or

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

[(10)] **(11) “Physical injury”** means physical trauma, impairment of physical condition or substantial pain.

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

[(12)] **(13) “Possess”** has the meaning provided in ORS 161.015.

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

[(14)(a)] **(15)(a) “Tethering”** means to restrain a domestic animal by tying the domestic animal to any object or structure by any means.

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

(16) “Torture” means an action taken for the primary purpose of inflicting pain.

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

SECTION 1a. If House Bill 4043 becomes law, section 1 of this 2024 Act (amending ORS 167.310) is repealed and ORS 167.310 is amended to read:

167.310. As used in ORS 167.310 to 167.351:

(1) “Adequate bedding” means bedding of sufficient quantity and quality to permit a domestic animal to remain dry and reasonably clean and maintain a normal body temperature.

(2)(a) “Adequate shelter” includes a barn, doghouse or other enclosed structure sufficient to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect

against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury.

(b) "Adequate shelter" does not include:

- (A) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;
- (B) The space under a vehicle;
- (C) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the domestic animal's health or safety;
- (D) Shelters made from cardboard or other materials that are easily degraded by the elements;
- (E) Animal carriers or crates that are designed to provide temporary housing;
- (F) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or
- (G) Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.

(3) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.

(4) "Domestic animal" means an animal, other than livestock or equines, that is owned or possessed by a person.

(5) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.

(6) "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.

(7) "Law enforcement animal" means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181A.355, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.

(8)(a) "Livestock," except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125.

(b) "Livestock" does not include psittacines.

(9) "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. Access to snow or ice is not adequate access to potable water.

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

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

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

- (A) With adequate space for exercise necessary for the health of the animal;
- (B) With air temperature suitable for the animal; and
- (C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.

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

- (A) Humane euthanasia; or
- (B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

(10) "Physical injury" means physical trauma, impairment of physical condition or substantial pain.

(11) "Physical trauma" means fractures, cuts, punctures, bruises, burns or other wounds.

(12) "Possess" has the meaning provided in ORS 161.015.

(13) “Serious physical injury” means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

(14)(a) “Tethering” means to restrain a domestic animal by tying the domestic animal to any object or structure by any means.

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

(15) **“Visual recording” includes, but is not limited to, photographs, films, videotapes and computer and other digital pictures, regardless of the manner in which the recording is stored.**

SECTION 2. ORS 167.322 is amended to read:

167.322. (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[.]; or

(c) **Intentionally or knowingly creates a visual recording of an act described in paragraph (a) or (b) of this subsection.**

(2) Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

[*(3) As used in this section:*]

[*(a) “Maliciously” means intentionally acting with a depravity of mind and reckless and wanton disregard of life.*]

[*(b) “Torture” means an action taken for the primary purpose of inflicting pain.*]

SECTION 2a. If House Bill 4043 becomes law, section 2 of this 2024 Act (amending ORS 167.322) is repealed and ORS 167.322, as amended by section 4, chapter __, Oregon Laws 2024 (Enrolled House Bill 4043), is amended to read:

167.322. (1) A person commits the crime of aggravated animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally or knowingly:

(a) Tortures an animal; [or]

(b) Causes serious physical injury or death to an animal[.]; or

(c) **Creates a visual recording of an act described in paragraph (a) or (b) of this subsection.**

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

(4) Notwithstanding subsection (3) of this section, the Oregon Criminal Justice Commission shall classify the offense of aggravated animal abuse in the first degree as crime category 7 of the sentencing guidelines grid if:

(a) The person committing the animal abuse has previously been convicted of one or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.320, or the equivalent laws of another jurisdiction; or

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

(5) As used in this section, “torture” means an action taken for the primary purpose of inflicting pain.

SECTION 3. Sections 4 and 5 of this 2024 Act are added to and made a part of ORS 167.315 to 167.333.

SECTION 4. (1) A person commits the crime of encouraging aggravated animal abuse in the first degree if the person:

(a)(A) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, displays, finances, attempts to finance or sells a visual recording of an act described in ORS 167.322 (1)(a) or (b), or knowingly possesses, accesses or views such a visual recording with the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or

(B) Knowingly brings into this state, or causes to be brought or sent into this state, for sale or distribution, a visual recording of an act described in ORS 167.322 (1)(a) or (b); and

(b) Knows or is aware of and consciously disregards the fact that creation of the visual recording of an act described in ORS 167.322 (1)(a) or (b) involved aggravated animal abuse.

(2) Encouraging aggravated animal abuse in the first degree is a Class A misdemeanor.

SECTION 5. (1) A person commits the crime of encouraging aggravated animal abuse in the second degree if the person:

(a)(A)(i) Knowingly possesses or controls, or knowingly accesses with the intent to view, a visual recording of an act described in ORS 167.322 (1)(a) or (b); or

(ii) Knowingly pays, exchanges or gives anything of value to obtain or view a visual recording of an act described in ORS 167.322 (1)(a) or (b); and

(B) Knows or is aware of and consciously disregards the fact that creation of the visual recording of an act described in ORS 167.322 (1)(a) or (b) involved aggravated animal abuse; or

(b)(A) Knowingly pays, exchanges or gives anything of value to observe an act described in ORS 167.322 (1)(a) or (b) or knowingly observes an act described in ORS 167.322 (1)(a) or (b); and

(B) Knows or is aware of a substantial and unjustifiable risk that an act described in ORS 167.322 (1)(a) or (b) constitutes aggravated animal abuse.

(2) Encouraging aggravated animal abuse in the second degree is a Class B misdemeanor.

SECTION 6. ORS 167.335 is amended to read:

167.335. (1) *[Except as provided in subsection (2) of this section,]* Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333, **other than the provisions of ORS 167.332**, do not apply to:

- (a) The treatment of livestock being transported by owner or common carrier;
- (b) Animals involved in rodeos or similar exhibitions;
- (c) Commercially grown poultry;
- (d) Animals subject to good animal husbandry practices;
- (e) The killing of livestock according to the provisions of ORS 603.065;
- (f) Animals subject to good veterinary practices as described in ORS 686.030;
- (g) Lawful fishing, hunting and trapping activities;
- (h) Wildlife management practices under color of law;
- (i) Lawful scientific or agricultural research or teaching that involves the use of animals;
- (j) Reasonable activities undertaken in connection with the control of vermin or pests; and
- (k) Reasonable handling and training techniques.

[(2) Subsection (1) of this section does not create an exemption from ORS 167.332.]

(2) The provisions of sections 4 and 5 of this 2024 Act do not apply to any exemption listed in subsection (1) of this section or to:

- (a) Any activity undertaken in the course of bona fide law enforcement activity;**
- (b) Any activity necessary to the proper functioning of the criminal justice system;**
- (c) The disclosure of a visual recording of an act described in ORS 167.322 (1)(a) or (b):**
 - (A) In the course of reporting conduct to a law enforcement agency; or**
 - (B) If the disclosure serves a lawful public interest;**

(d) Obtaining, viewing or possessing a visual recording of an act described in ORS 167.322 (1)(a) or (b) as part of a bona fide treatment program for sexual offenders; or

(e) A public library, as defined in ORS 357.400, or a library exempt from taxation under ORS 307.090 or 307.130.

RELATED AMENDMENTS TO ANIMAL POSSESSION PROHIBITION

SECTION 7. 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 section 4 or 5 of this 2024 Act** or of a misdemeanor under ORS 167.320, 167.325 or 167.330 may not possess any animal of the same genus against which the crime was committed, **or which the crime involved**, 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 may not possess any animal of the same genus against which the crime was committed, **or which the crime involved**, 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 this section commits a Class C misdemeanor. When a person is convicted of possessing an animal in violation of 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 any animal of the same genus:

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

(b) 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 was committed; **or**

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

(3) The animal possession prohibition described in subsection (1) of this section does not apply to a person's first conviction if the person is the owner of a commercial livestock operation and 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 4 or 5 of this 2024 Act** was committed against **or involved** livestock.

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

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

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

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

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

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

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

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

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

(A) Continued enforcement of the prohibition against possessing livestock would result in substantial economic hardship that cannot otherwise be mitigated;

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

(C) The person is capable of providing and willing to provide necessary, adequate and appropriate levels of care for all livestock that would come within the person's custody or control if the petition is granted.

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

(d) If the sentencing court grants the motion described in this subsection, the waiver of the prohibition against possessing animals shall apply only to livestock. The sentencing court shall further order that for five years the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of the livestock under the person's custody or control. A refusal to consent to a reasonable inspection described in this paragraph is contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the waiver of the possession prohibition.

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

CONFORMING AMENDMENTS

SECTION 8. ORS 105.597 is amended to read:

105.597. In addition to any places described in ORS 105.555, the following are declared to be nuisances and shall be enjoined and abated as provided in ORS 105.550 to 105.600:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 8a. If House Bill 4043 becomes law, section 8 of this 2024 Act (amending ORS 105.597) is repealed.

APPLICABILITY

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

SECTION 9a. If House Bill 4043 becomes law, section 9 of this 2024 Act is amended to read:

Sec. 9. Sections 4 and 5 of this 2024 Act and the amendments to ORS [105.597,] 167.310, 167.322, 167.332 and 167.335 by sections [1] **1a**, [2] **2a**, [and] 6 [to 8] **and 7** of this 2024 Act apply to conduct occurring on or after the effective date of this 2024 Act.

CAPTIONS

SECTION 10. The unit captions used in this 2024 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

Passed by House February 20, 2024

Repassed by House March 6, 2024

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate March 5, 2024

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

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LaVonne Griffin-Valade, Secretary of State