

HB 4145-1  
(LC 227)  
2/7/24 (AG/ps)

Requested by Representative GOMBERG

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4145**

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

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

5

6 **“VISUAL RECORDING OF AGGRAVATED ANIMAL ABUSE**

7

8 **“SECTION 1. ORS 167.310 is amended to read:**

9 “167.310. As used in ORS 167.310 to 167.351:

10 “(1) ‘Adequate bedding’ means bedding of sufficient quantity and quality  
11 to permit a domestic animal to remain dry and reasonably clean and main-  
12 tain a normal body temperature.

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

18 “(b) ‘Adequate shelter’ does not include:

19 “(A) Crawl spaces under buildings or parts of buildings, such as steps,  
20 decks or stoops;

21 “(B) The space under a vehicle;

1 “(C) The inside of a vehicle if the domestic animal is kept in the vehicle  
2 in a manner or for a length of time that is likely to be detrimental to the  
3 domestic animal’s health or safety;

4 “(D) Shelters made from cardboard or other materials that are easily de-  
5 graded by the elements;

6 “(E) Animal carriers or crates that are designed to provide temporary  
7 housing;

8 “(F) Shelters with wire or chain-link floors, unless the domestic animal  
9 is a bird; or

10 “(G) Shelters surrounded by waste, debris, obstructions or impediments  
11 that could adversely affect an animal’s health.

12 “(3) ‘Animal’ means any nonhuman mammal, bird, reptile, amphibian or  
13 fish.

14 “(4) ‘Domestic animal’ means an animal, other than livestock or equines,  
15 that is owned or possessed by a person.

16 “(5) ‘Equine’ means a horse, pony, donkey, mule, hinny, zebra or a hybrid  
17 of any of these animals.

18 “(6) ‘Good animal husbandry’ includes, but is not limited to, the dehorn-  
19 ing of cattle, the docking of horses, sheep or swine, and the castration or  
20 neutering of livestock, according to accepted practices of veterinary medicine  
21 or animal husbandry.

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

30 “(8)(a) ‘Livestock,’ except as provided in paragraph (b) of this subsection,

1 has the meaning provided in ORS 609.125.

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

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

5 “[9] **(10)** ‘Minimum care’ means care sufficient to preserve the health  
6 and well-being of an animal and, except for emergencies or circumstances  
7 beyond the reasonable control of the owner, includes, but is not limited to,  
8 the following requirements:

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

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

14 “(c) For a domestic animal other than a dog engaged in herding or pro-  
15 tecting livestock, access to adequate shelter.

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

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

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

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

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

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

25 “(A) Humane euthanasia; or

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

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

30 “[11] **(12)** ‘Physical trauma’ means fractures, cuts, punctures, bruises,

1 burns or other wounds.

2 “[~~(12)~~] **(13)** ‘Possess’ has the meaning provided in ORS 161.015.

3 “[~~(13)~~] **(14)** ‘Serious physical injury’ means physical injury that creates a  
4 substantial risk of death or that causes protracted disfigurement, protracted  
5 impairment of health or protracted loss or impairment of the function of a  
6 limb or bodily organ.

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

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

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

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

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

17 “167.322. (1) A person commits the crime of aggravated animal abuse in  
18 the first degree if the person:

19 “(a) Maliciously kills an animal; [*or*]

20 “(b) Intentionally or knowingly tortures an animal[.]; **or**

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

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

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

27 “[~~(a)~~] *‘Maliciously’ means intentionally acting with a depravity of mind and*  
28 *reckless and wanton disregard of life.]*

29 “[~~(b)~~] *‘Torture’ means an action taken for the primary purpose of inflicting*  
30 *pain.]*

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

3       **“SECTION 4. (1) A person commits the crime of encouraging ag-**  
4 **gravated animal abuse in the first degree if the person:**

5       **“(a)(A) Knowingly develops, duplicates, publishes, prints, dissem-**  
6 **inates, exchanges, displays, finances, attempts to finance or sells a**  
7 **visual recording of an act described in ORS 167.322 (1)(a) or (b), or**  
8 **knowingly possesses, accesses or views such a visual recording with**  
9 **the intent to develop, duplicate, publish, print, disseminate, exchange,**  
10 **display or sell it; or**

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

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

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

19       **“SECTION 5. (1) A person commits the crime of encouraging ag-**  
20 **gravated animal abuse in the second degree if the person:**

21       **“(a)(A)(i) Knowingly possesses or controls, or knowingly accesses**  
22 **with the intent to view, a visual recording of an act described in ORS**  
23 **167.322 (1)(a) or (b); or**

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

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

30       **“(b)(A) Knowingly pays, exchanges or gives anything of value to**

1 **observe an act described in ORS 167.322 (1)(a) or (b) or knowingly ob-**  
2 **serves an act described in ORS 167.322 (1)(a) or (b); and**

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

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

8 **“SECTION 6.** ORS 167.335 is amended to read:

9 **“167.335. (1) [***Except as provided in subsection (2) of this section,***] Unless**  
10 **gross negligence can be shown, the provisions of ORS 167.315 to 167.333,**  
11 **other than the provisions of ORS 167.332, do not apply to:**

12 **“(a) The treatment of livestock being transported by owner or common**  
13 **carrier;**

14 **“(b) Animals involved in rodeos or similar exhibitions;**

15 **“(c) Commercially grown poultry;**

16 **“(d) Animals subject to good animal husbandry practices;**

17 **“(e) The killing of livestock according to the provisions of ORS 603.065;**

18 **“(f) Animals subject to good veterinary practices as described in ORS**  
19 **686.030;**

20 **“(g) Lawful fishing, hunting and trapping activities;**

21 **“(h) Wildlife management practices under color of law;**

22 **“(i) Lawful scientific or agricultural research or teaching that involves**  
23 **the use of animals;**

24 **“(j) Reasonable activities undertaken in connection with the control of**  
25 **vermin or pests; and**

26 **“(k) Reasonable handling and training techniques.**

27 **“[(2) Subsection (1) of this section does not create an exemption from ORS**  
28 **167.332.]**

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

1       “(a) Any activity undertaken in the course of bona fide law  
2 enforcement activity;

3       “(b) Any activity necessary to the proper functioning of the crimi-  
4 nal justice system;

5       “(c) The disclosure of a visual recording of an act described in ORS  
6 167.322 (1)(a) or (b):

7       “(A) In the course of reporting conduct to a law enforcement  
8 agency; or

9       “(B) If the disclosure serves a lawful public interest;

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

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

15

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

17

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

19       “167.332. (1) Except as provided in subsections (3) and (4) of this section:

20       “(a) In addition to any other penalty imposed by law, a person convicted  
21 of violating ORS 167.315, 167.340 or 167.355 **or section 4 or 5 of this 2024**  
22 **Act** or of a misdemeanor under ORS 167.320, 167.325 or 167.330 may not  
23 possess any animal of the same genus against which the crime was commit-  
24 ted, **or which the crime involved**, or any domestic animal for a period of  
25 five years following entry of the conviction.

26       “(b) In addition to any other penalty imposed by law, a person convicted  
27 of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS  
28 167.320, 167.325 or 167.330 may not possess any animal of the same genus  
29 against which the crime was committed, **or which the crime involved**, or  
30 any domestic animal for a period of 15 years following entry of the con-

1 viction. However, the sentencing court may reduce the prohibition period  
2 if the person successfully completes mental health treatment approved by the  
3 court.

4 “(2) A person who possesses an animal in violation of this section com-  
5 mits a Class C misdemeanor. When a person is convicted of possessing an  
6 animal in violation of this section, as part of the sentence the court may  
7 order the removal of that animal from the person’s residence and as a con-  
8 dition of the person’s probation may prohibit the person from possessing any  
9 animal of the same genus:

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

11 “(b) Against which the underlying violation of ORS 167.315, 167.320,  
12 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was  
13 committed; **or**

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

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

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

26 “(A) The person’s conviction leading to the possession prohibition in-  
27 volved only livestock;

28 “(B) During the two years before the conviction triggering the prohibi-  
29 tion, the person was the owner of a commercial livestock operation;

30 “(C) The person has not been convicted, in the previous five years, of a



1 crime involving animals or domestic violence or a crime where the victim  
2 was under 18 years of age; and

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

4 “(i) Criminal liability for the conduct of another person under ORS  
5 161.155 (2)(c);

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

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

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

14 “(A) Continued enforcement of the prohibition against possessing live-  
15 stock would result in substantial economic hardship that cannot otherwise  
16 be mitigated;

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

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

21 “(c) When deciding a motion filed under this subsection, the sentencing  
22 court may consider the person’s financial circumstances and mental health  
23 in determining whether the person is capable of adequately caring for live-  
24 stock.

25 “(d) If the sentencing court grants the motion described in this sub-  
26 section, the waiver of the prohibition against possessing animals shall apply  
27 only to livestock. The sentencing court shall further order that for five years  
28 the person must consent to reasonable inspections by law enforcement and  
29 the United States Department of Agriculture to ensure the welfare of the  
30 livestock under the person’s custody or control. A refusal to consent to a

1 reasonable inspection described in this paragraph is contempt of court and,  
2 if the person is found in contempt, shall result in the sentencing court re-  
3 voking the waiver of the possession prohibition.

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

6

7

## “CONFORMING AMENDMENTS

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

10 “105.597. In addition to any places described in ORS 105.555, the following  
11 are declared to be nuisances and shall be enjoined and abated as provided  
12 in ORS 105.550 to 105.600:

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

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

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

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

22 “(d) Possession of a domestic animal as defined in ORS 167.310 by a per-  
23 son described under ORS 167.332.

24 “(2) Any place appearing to be vacant at which a domestic animal or  
25 equine, both as defined in ORS 167.310, are present and have been left with-  
26 out provision for minimum care as defined in ORS 167.310.

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

30 “(a) Training or keeping an animal for use in an exhibition of fighting

1 as defined in ORS 167.355.

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

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

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

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

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

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

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

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

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

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

23 “(b) Possession of dogfighting paraphernalia as described under ORS  
24 167.372.

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

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

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

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

11

12

### “APPLICABILITY

13

14 **“SECTION 9. Sections 4 and 5 of this 2024 Act and the amendments**  
15 **to ORS 105.597, 167.310, 167.322, 167.332 and 167.335 by sections 1, 2, and**  
16 **6 to 8 of this 2024 Act apply to conduct occurring on or after the ef-**  
17 **fective date of this 2024 Act.**

18

19

### “CAPTIONS

20

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

25