

ABUSE, NEGLECT, AND ASSAULT EXEMPTION MODIFICATION AND IMPROVEMENT ACT

Whereas, animals are sentient beings capable of experiencing pain, stress, and fear.

Whereas, current exemptions permit unnecessary and inhumane harm to animals.

The People of Oregon therefore propose the Abuse, Neglect, and Assault Exemption Modification and Improvement Act to amend Chapter 167 of the Oregon Revised Statutes—which currently provide unnecessary exemptions to laws governing animal abuse, animal neglect, and animal sexual assault—in order to reduce the suffering of animals and improve their quality of life.

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

FINDINGS AND POLICY

Section 1. (1) The People of the State of Oregon find that animal abuse, neglect, and assault is a serious problem in Oregon and that Oregon needs to amend the current exemptions that allow for the abuse, neglect, and assault of animals.

(2)(a) The purpose of this Abuse, Neglect, and Assault Exemption Modification and Improvement Act is to remove the current exemptions that allow for the inhumane and unnecessary abuse, neglect, and assault of animals.

(b) It is the policy of the State of Oregon that animals should be cared for in ways that minimize their pain, stress, fear, and suffering.

(3) The provisions of this Act shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

REMOVING ABUSE, NEGLECT, AND ASSAULT EXEMPTIONS

Section 2. ORS 167.315 is amended to read:

(1) A person commits the crime of animal abuse in the second degree if, except as [*otherwise authorized by law*] **necessary to defend him or herself against an apparent threat of immediate violence**, the person intentionally, knowingly or recklessly causes physical injury to an animal.

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

[(3)](2) Animal abuse in the second degree is a Class B misdemeanor. [1985 c.662 §2]

Section 3. ORS 167.320 is amended to read:

(1) A person commits the crime of animal abuse in the first degree if, except as [*otherwise authorized by law*] **necessary to defend him or herself against an apparent threat of immediate violence**, the person intentionally, knowingly or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

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

[3](2) Animal abuse in the first degree is a Class A misdemeanor.

[4](3) Notwithstanding subsection [3](2) of this section, animal abuse in the first degree is a Class C felony 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 (Assault in the fourth degree), 163.165 (Assault in the third degree), 163.175 (Assault in the second degree), 163.185 (Assault in the first degree) or 163.187 (Strangulation) or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 (Definitions for ORS 135.230 to 135.290) or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322 (Aggravated animal abuse in the first degree), 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](4) When animal abuse in the first degree is a felony, the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid. [1985 c.662 §3; 2001 c.926 §8; 2003 c.577 §8; 2013 c.719 §2]

Section 4. ORS 167.325 is amended to read:

(1) A person commits the crime of animal neglect in the second degree if [, *except as otherwise authorized by law,*] the person intentionally, knowingly, recklessly or with criminal negligence:

(a) Fails to provide minimum care for an animal in such person's custody or control; or

(b) Tethers a domestic animal in the person's custody or control and the tethering results in physical injury to the domestic animal.

(2) Animal neglect in the second degree is a Class B misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the second degree is a Class C felony if:

(a) The person committing the offense has previously been convicted of two or more offenses under this section, ORS 167.330 (Animal neglect in the first degree) or the equivalent laws of another jurisdiction;

(b) The offense was part of a criminal episode involving 11 or more animals; or

(c) The person knowingly commits the offense in the immediate presence of a minor child and the person has one or more previous convictions for an offense involving domestic violence as defined in ORS 135.230 (Definitions for ORS 135.230 to 135.290). For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.

(4) The Oregon Criminal Justice Commission shall classify animal neglect in the second degree under subsection (3) of this section:

- (a) As crime category 6 if 11 to 40 animals were the subject of the neglect.
- (b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section. [1985 c.662 §4; 2013 c.382 §5; 2013 c.719 §4]

Section 5. ORS 167.330 is amended to read:

- (1) A person commits the crime of animal neglect in the first degree if [, *except as otherwise authorized by law,*] the person intentionally, knowingly, recklessly or with criminal negligence:
 - (a) Fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal; or
 - (b) Tethers a domestic animal in the person’s custody or control and the tethering results in serious physical injury or death to the domestic animal.
- (2) Animal neglect in the first degree is a Class A misdemeanor.
- (3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class C felony if:
 - (a) The person committing the offense has previously been convicted of one or more offenses under this section, ORS 167.325 (Animal neglect in the second degree) or the equivalent laws of another jurisdiction;
 - (b) The offense was part of a criminal episode involving 10 or more animals; or
 - (c) The person knowingly commits the offense in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.
- (4) The Oregon Criminal Justice Commission shall classify animal neglect in the first degree under subsection (3) of this section:

- (a) As crime category 6 if 10 to 40 animals were the subject of the neglect.
- (b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section. [1985 c.662 §5; 2001 c.926 §10; 2013 c.382 §4; 2013 c.719 §5]

Section 6. ORS 167.333 is amended to read:

- (1) A person commits the crime of sexual assault of an animal if the person:
 - (a) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of:
 - (A) [a]Arousing or gratifying the sexual desire of [a person] either party; or**
 - (B) Breeding domestic, livestock, and equine animals as defined in ORS 167.310; or**
 - (b) Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of [a person] **either party.**

(2) Subsection (1) of this section does not apply to [*the use of products derived from animals*] **animals subject to good veterinary practices as described in ORS 686.030 (Acts constituting practice of veterinary medicine).**

(3) Sexual assault of an animal is a Class C felony. [2001 c.926 §5b; 2003 c.428 §1; 2015 c.324 §3]

Section 7. ORS 167.335 is amended to read:

(1) Except as provided in subsection (2) of this section, unless gross negligence can be shown, the provisions of ORS 167.315 (Animal abuse in the second degree) to 167.333 (Sexual assault of an animal) do not apply to:

(a) [*The treatment of livestock being transported by owner or common carrier;*] **Situations of self-defense when it is necessary to defend against an apparent threat of immediate violence;**

[(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 (Slaughter methods);*]

[(f)](b) Animals subject to good veterinary practices as described in ORS 686.030 (Acts constituting practice of veterinary medicine)[;].

[(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 (Prohibition against possession of same genus or domestic animal). [1985 c.662 §6; 1995 c.663 §4; 2001 c.926 §10a; 2018 c.19 §4]

MISCELLANEOUS

Section 8. Effective Dates. (1) This Act shall become effective pursuant to Article IV, section 1(4)(d) of the Oregon Constitution.

(2) The amendments to statutes by section 2 to section 7 become operative 30 days after the election at which the Act is approved.

Section 9. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.