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University of Arkansas School of Law

An Agricultural Law Research Project

**States' Animal Cruelty Statutes**  
**State of Oregon**

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UNIVERSITY of ARKANSAS  
SCHOOL of LAW

## States' Animal Cruelty Statutes

### STATE OF OREGON

*Current through End of the 2009 Reg. Sess.*

#### **167.310. Definitions**

- (1) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.
- (2) "Domestic animal" means an animal, other than livestock or equines, that is owned or possessed by a person.
- (3) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.
- (4) "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.
- (5) "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 181.610, 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.
- (6) "Livestock" has the meaning provided in ORS 609.125.
- (7) "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 a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and that 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) 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.

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

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

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

(11) "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.

### **167.312. Research and animal interference**

- (1) A person commits the crime of research and animal interference if the person:
  - (a) With the intent to interfere with research, releases, steals or otherwise causes the death, injury or loss of any animal at or from an animal research facility.
  - (b) With the intent to interfere with research, damages, vandalizes or steals any property in or on an animal research facility.
  - (c) With the intent to interfere with research, obtains access to an animal research facility to perform acts not authorized by that facility.
  - (d) Obtains or exerts unauthorized control over records, data, materials, equipment or animals of any animal research facility with the intent to interfere with research by concealing, abandoning or destroying such records, data, materials, equipment or animals.
  - (e) With the intent to interfere with research, possesses or uses equipment or animals that the person reasonably believes have been obtained by theft or deception from an animal research facility or without the authorization of an animal research facility.

(2) For the purposes of this section, "animal research facility" means any facility engaging in legal scientific research or teaching involving the use of animals.

- (3) Research and animal interference is a:
  - (a) Class C felony if damage to the animal research facility is \$2,500 or more; or
  - (b) Class A misdemeanor if there is no damage to the facility or if damage to the animal research facility is less than \$2,500.

(4) Determination of damages to an animal research facility shall be made by the court. In making its determination, the court shall consider the reasonable costs of:

- (a) Replacing lost, injured or destroyed animals;
- (b) Restoring the animal research facility to the approximate condition of the facility before the damage occurred; and
- (c) Replacing damaged or missing records, data, material or equipment.

(5) In addition to any other penalty imposed for violation of this section, a person convicted of such violation is liable:

- (a) To the owner of the animal for damages, including the costs of restoring the animal to confinement and to its health condition prior to commission of the acts constituting the violation;
- (b) For damages to real and personal property caused by acts constituting the violation; and
- (c) For the costs of repeating an experiment, including the replacement of the animals, labor and materials, if acts constituting the violation cause the failure of an experiment.

#### **167.315. Animal abuse in the second degree**

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, 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) Animal abuse in the second degree is a Class B misdemeanor.

#### **167.320. Animal abuse in the first degree**

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, 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) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) 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 two 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 167.322, 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.

### **167.322. Aggravated animal abuse in the first degree**

- (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:
  - (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.

### **167.325. Animal neglect in the second degree**

- (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 fails to provide minimum care for an animal in such person's custody or control.
- (2) Animal neglect in the second degree is a Class B misdemeanor.

### **167.330. Animal neglect in the first degree**

- (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 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.
- (2) Animal neglect in the first degree is a Class A misdemeanor.

### **167.332. Possession of domestic animals by violator**

- (1) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.325, 167.330 or 167.340 or of a misdemeanor under ORS 167.320, may not possess a domestic animal for a period of five years following entry of the conviction. An offense under this subsection is an unclassified misdemeanor punishable by a fine not exceeding \$1,000 and forfeiture of the animal as provided in ORS 167.350
- (2) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322 or of a felony under ORS 167.320, may not possess a domestic animal for a period of 15 years following entry of the conviction. An offense under this subsection is an unclassified misdemeanor punishable by a fine not exceeding \$5,000 and forfeiture of the animal as provided under ORS 167.350.

### **167.333. Sexual assault of animal**

- (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 arousing or gratifying the sexual desire of a person; 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.

(2) Subsection (1) of this section does not apply to the use of products derived from animals.

(3) Sexual assault of an animal is a Class A misdemeanor.

#### **167.334. Evaluation of person convicted of violating ORS 167.333**

Upon the conviction of a defendant for violation of ORS 167.333, the court may order a psychiatric or psychological evaluation of the defendant for inclusion in the presentence report as described in ORS 137.077.

#### **167.335. Exemption from ORS 167.315 to 167.333**

Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:

- (1) The treatment of livestock being transported by owner or common carrier;
- (2) Animals involved in rodeos or similar exhibitions;
- (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;
- (9) Lawful scientific or agricultural research or teaching that involves the use of animals;
- (10) Reasonable activities undertaken in connection with the control of vermin or pests;  
and
- (11) Reasonable handling and training techniques.

#### **167.337. Interfering with police animal**

(1) A person commits the crime of interfering with a law enforcement animal if the person intentionally or knowingly injures or attempts to injure an animal the person knows or reasonably should know is a law enforcement animal while the law enforcement animal is being used in the lawful discharge of its duty.

(2) Interfering with a law enforcement animal is a Class A misdemeanor.

#### **167.339. Assault of a law enforcement animal**

(1) A person commits the crime of assaulting a law enforcement animal if:

- (a) The person knowingly causes serious physical injury to or the death of a law enforcement animal, knowing that the animal is a law enforcement animal; and
- (b) The injury or death occurs while the law enforcement animal is being used in the lawful discharge of the animal's duties.

(2) Assaulting a law enforcement animal is a Class C felony.

#### **167.340. Animal abandonment**

- (1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal at a location without providing for the animal's continued care.
- (2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.
- (3) Animal abandonment is a Class B misdemeanor.

#### **167.345. Search and seizure; impoundment; liability**

- (1) As used in this section, "peace officer" has the meaning given that term in ORS 161.015.
- (2) If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.333 or 167.340, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the animal is located to provide the animal with food, water and emergency medical treatment and may impound the animal. If after reasonable effort the owner or person having custody of the animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted on the premises and within 72 hours after the impoundment the notice shall be sent by certified mail to the address, if any, where the animal was impounded.
- (3) A peace officer is not liable for any damages for an entry under subsection (2) of this section, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.
- (4) 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.

#### **167.347. Forfeiture of impounded animal**

- (1) If any animal is impounded pursuant to ORS 167.345 and is being held by a county animal shelter or other animal care agency pending outcome of criminal action charging a violation of ORS 167.315 to 167.333 or 167.340, prior to final disposition of the criminal charge, the county or other animal care agency may file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the county or other animal care agency prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney.
- (2) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.
- (3)(a) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of ORS 167.315 to 167.333 or 167.340. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the date of trial.

(b) Notwithstanding paragraph (a) of this subsection, a court may waive for good cause shown the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3) of this section, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new date of trial.

(5) If a security deposit or bond has been posted in accordance with subsection (4) of this section, the petitioner may draw from that security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the impounded animal from the date of initial impoundment to the date of final disposition of the animal in the criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350.

#### **167.348. Placement of forfeited animal; preference**

If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, in placing the animal with a new owner, the agency to which the animal was forfeited shall give placement preference to any person or persons who had prior contact with the animal, including but not limited to family members and friends of the former owner whom the agency determines are capable of providing necessary, adequate and appropriate levels of care for the animal.

#### **167.349. Encouraging animal abuse**

(1) A person commits the crime of encouraging animal abuse if the person:

(a) Obtains a previously abused, neglected or abandoned animal from an animal care agency under ORS 167.348 or the court under ORS 167.350; and

(b) Knowingly allows the person from whom the animal was forfeited to possess the animal.

(2) Encouraging animal abuse is a Class C misdemeanor.

#### **167.350. Forfeiture of rights in mistreated animal; costs; penalty**

(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 167.333 or 167.340 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to the violation.

(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 does not limit 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 minimum care to the animal.

(4) A court may order a person convicted under ORS 167.315 to 167.333 or 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.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333 or 167.340. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section.

### **167.351. Definitions**

(1) As used in this section:

- (a) "Nonambulatory" means unable to stand or walk unassisted.
- (b) "Livestock auction market" has the meaning given that term in ORS 599.205.

(2) A person commits the crime of trading in nonambulatory livestock if the person knowingly delivers or accepts delivery of a nonambulatory livestock animal at a livestock auction market. This subsection does not apply to the delivery to, or acceptance by, a licensed veterinarian at a livestock auction market for the purpose of humanely euthanizing or providing appropriate medical care to the animal.

(3) The crime of trading in nonambulatory livestock is a Class A misdemeanor.

### **167.352. Interfering with assistance, search and rescue or therapy animal**

(1) A person commits the crime of interfering with an assistance, a search and rescue or a therapy animal if the person intentionally or knowingly:

- (a) Injures or attempts to injure an animal the person knows or reasonably should know is an assistance animal, a search and rescue animal or a therapy animal;
- (b) Interferes with an assistance animal while the assistance animal is being used to provide assistance to a person with a physical impairment; or
- (c) Interferes with a search and rescue animal or a therapy animal while the animal is being used for search and rescue or therapy purposes.

(2) As used in this section, "assistance animal" and "person with a physical impairment" have the meanings given those terms in ORS 346.680.

(3) As used in this section and ORS 30.822:

- (a) "Search and rescue animal" means that the animal has been professionally trained for, and is actively used for, search and rescue purposes.
- (b) "Therapy animal" means that the animal has been professionally trained for, and is actively used for, therapy purposes.

(4) Interfering with an assistance, a search and rescue or a therapy animal is a Class A misdemeanor.

### **167.355. Involvement in animal fighting**

(1) A person commits the crime of involvement in animal fighting if the person:

- (a) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting;
- (b) Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto;
- (c) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or
- (d) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(2) For purposes of this section:

- (a) "Animal" means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog or a fighting bird as defined in ORS 167.426.
- (b) "Exhibition of fighting" means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. "Exhibition of fighting" does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(3) Involvement in animal fighting is a Class A misdemeanor.

#### **167.360. Definitions**

As used in ORS 167.360 to 167.375:

- (1) "Breaking stick" means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object.
- (2) "Cat mill" means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.
- (3) "Dogfight" means a fight, arranged by any person, between two or more dogs the purpose or probable result of which fight is the infliction of injury by one dog upon another.
- (4) "Dogfighting paraphernalia" means a breaking stick, cat mill, springpole, weighted or unweighted chain collar weighing 10 pounds or more, leather or mesh collar with a strap more than two inches in width, fighting pit or unprescribed veterinary medicine that is a prescription drug as defined in ORS 689.005.
- (5) "Fighting dog" means a dog that is intentionally bred or trained to be used in, or that is actually used in, a dogfight. A dog does not constitute a fighting dog solely on account of its breed.
- (6) "Fighting pit" means a walled area designed to contain a dogfight.
- (7) "Springpole" means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.

#### **167.365. Dogfighting**

(1) A person commits the crime of dogfighting if the person knowingly does any of the following:

- (a) Owns, possesses, keeps, breeds, trains, buys, sells or offers to sell a fighting dog, including but not limited to any advertisement by the person to sell such a dog.
- (b) Promotes, conducts or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to refereeing of a dogfight, handling of dogs at a dogfight, transportation of spectators to a dogfight, organizing a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.
- (c) Keeps, uses or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.
- (d) Suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of dogfighting.

(2) Dogfighting is a Class C felony.

#### **167.370. Participation in dogfighting**

(1) A person commits the crime of participation in dogfighting if the person knowingly:

- (a) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.
- (b) Advertises or otherwise offers to sell equipment for the training and handling of a fighting dog.

(2) Participation in dogfighting is a Class A misdemeanor.

#### **167.372. Possessing dogfighting paraphernalia**

(1) A person commits the crime of possessing dogfighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.

(2) Possessing dogfighting paraphernalia is a Class A misdemeanor.

#### **167.374. Breeding dogs; possession; records**

(1) As used in this section:

- (a) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at the facility an average of less than 30 days.
- (b) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.
- (c) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.

(2) A person may not possess, control or otherwise have charge of at the same time more than 50 sexually intact dogs that are two years of age or older for the primary purpose of reproduction. It is prima facie evidence that a person possesses dogs for the primary purpose of reproduction if during a 12-month period the person sells, offers for sale, barter or exchanges more than three litters of dogs that are less than eight months of age.

(3) A person that possesses, controls or otherwise has charge of 50 or more sexually intact dogs that are eight months of age or older shall maintain a record for each of those dogs that identifies:

- (a) The date of birth for the dog or, if the date of birth is unknown, the date the person acquired possession, control or charge of the dog and the source of the dog;
  - (b) The dates on which the dog has been bred;
  - (c) For a female, the number of dogs in each litter produced; and
  - (d) The disposition the person makes of each dog possessed by, controlled by or in the charge of the person, including the date of disposition, manner of disposition and the name and address information for any person taking possession, control or charge of a dog.
- (4) A person shall retain a record required under subsection (3) of this section for a period of three years following the death of the dog or a date on which the person permanently ceased to have possession, control or charge of the dog.
- (5) Subsections (2) to (4) of this section do not apply to:
- (a) An animal control agency, humane society or animal shelter;
  - (b) A person who provides care for dogs at the request of a unit of government, government agency, humane society or animal shelter;
  - (c) A veterinary facility;
  - (d) A person that is transporting dogs; or
  - (e) A boarding kennel.
- (6) A violation of this section is a Class B misdemeanor. However, a court shall suspend sentence under this subsection for a violation of subsection (2) of this section if the person agrees to have a sufficient number of dogs spayed or neutered to remedy the violation.

### **167.375. Seizure of fighting dogs**

- (1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.
- (2) The judge issuing an order for the seizure of a dog as provided in subsection (1) of this section may require the dog to be impounded at an animal shelter if the judge believes it to be in the best interest of the animal and the public to so order. The governmental unit, the agency of which executes the seizure of the dog, shall be responsible for the costs of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog. If the owner, possessor or keeper of the dog is subsequently convicted of dogfighting under ORS 167.365, the court may order the defendant to pay the costs of animal shelter as restitution in the case.
- (3) In lieu of ordering such dogs seized under subsection (1) of this section to be impounded at an animal shelter, the court may order the dogs impounded on the property of their owner, possessor or keeper. If dogs are ordered impounded on the property of their owner, possessor or keeper, the court shall order such person to provide all necessary care for the dogs and to allow regular and continuing inspection of the dogs by any persons designated by the court, or the agents of such persons. The court shall further order the person not to sell or otherwise dispose of any of the dogs unless the court authorizes such sale or disposition, or until the

seized dogs are released as evidence by the law enforcement agency that seized them, or restored to the person by the court pursuant to an order under ORS 133.643.

### 167.376

(1) As used in this section:

(a) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at the facility an average of less than 30 days.

(b) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.

(c) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.

(d) "Regular exercise" means the removal of the dog from the dog's primary enclosure and:

(A) Walking the dog on a leash;

(B) Allowing the dog to move about freely within a building or an outdoor space at least one hour per day; or

(C) Allowing the dog to walk on a treadmill, jenny mill, slat mill or similar device, if use of the device is prescribed for the dog by a veterinarian to accommodate a specific medical condition.

(2) A person that possesses, controls or otherwise has charge of at the same time 10 or more sexually intact dogs that are eight months of age or older shall, in addition to providing minimum care as defined in ORS 167.310:

(a) Provide each dog with sufficient space to turn about freely, stand and sit and to lie down without the head, face, tail, legs or feet of the dog touching the sides of the enclosure or touching any other dog.

(b) Provide each dog with an enclosure that:

(A) Has a solid floor without slats or gaps;

(B) Is six inches higher than the head of the tallest dog in that enclosure when the tallest dog is in a normal standing position;

(C) If elevated above the floor of a room, is placed so that the floor of the enclosure is no more than 42 inches above the floor of the room; and

(D) Is not stacked or otherwise placed above or below any other dog enclosure.

(c) Provide each dog that is more than four months of age with at least one hour of regular exercise each day, unless a veterinarian has certified that the dog is medically precluded from exercise.

(d) Remove waste and contaminants from the enclosure at least once each day.

(e) Remove the dog from the enclosure when cleaning the enclosure of waste and contaminants.

(f) Maintain a record for each sexually intact dog that is eight months of age or older that identifies:

(A) The date of birth for the dog or, if the date of birth is unknown, the date on which the person acquired possession, control or charge of the dog and the source of the dog;

(B) Any veterinary care provided for the dog; and

(C) The disposition the person makes of each dog possessed by, controlled by or in the charge of the person, including the date of disposition, manner of disposition and the name and address information for any person taking possession, control or charge of a dog.

(3) A person shall retain a record required under subsection (2) of this section for a period of three years following the death of the dog or a date on which the person permanently ceased to have possession, control or charge of the dog.

(4) Subsections (2) and (3) of this section do not apply to:

(a) An animal control agency, humane society or animal shelter;

(b) A person who provides care for dogs at the request of a unit of government, government agency, humane society or animal shelter;

(c) A veterinary facility;

(d) A person that is transporting dogs; or

(e) A boarding kennel.

(5) A violation of this section is a Class B misdemeanor.

#### **167.385. Unauthorized use of livestock animal**

(1) A person commits the crime of unauthorized use of a livestock animal when the person knowingly:

(a) Takes, appropriates, obtains or withholds a livestock animal from the owner thereof or derives benefit from a livestock animal without the consent of the owner of the animal; or

(b) Takes or holds a livestock animal and thereby obtains the use of the animal to breed, bear or raise offspring without the consent of the owner of the animal.

(2) Except as otherwise provided by law, offspring born to a female livestock animal or hatched from the egg of a female livestock animal belong to the owner of the female livestock animal until the owner transfers ownership of the offspring.

(3) As used in this section, "livestock animal" has the same meaning given that term in ORS 164.055.

(4) Unauthorized use of a livestock animal is a Class A misdemeanor.

(5) In addition to any criminal sanctions, if a defendant is convicted of the crime of unauthorized use of a livestock animal under this section, the court shall order the defendant to pay restitution to the owner of the animal.

### **167.387. Definitions**

As used in this section and ORS 167.388:

(1) "Livestock" has the meaning given in ORS 609.125.

(2) "Livestock production facility" means:

(a) Any facility or organization engaged in animal breeding, production or processing; or

(b) Any facility or institution whose primary purpose is to impound stray animals, as that term is defined in ORS 607.007.

### **167.388. Interference with livestock production**

(1) A person commits the crime of interference with livestock production when the person, with the intent to interfere with livestock production:

(a) Takes, appropriates, obtains or withholds livestock from the owner thereof, or causes the loss, death or injury of any livestock maintained at a livestock production facility;

(b) Damages, vandalizes or steals any property located on a livestock production facility; or

(c) Obtains access to a livestock production facility to perform any act contained in this subsection or any other act not authorized by the livestock production facility.

(2) The crime of interference with livestock production is:

(a) A Class C felony if damage to the livestock production facility is \$2,500 or more; or

(b) A Class A misdemeanor if there is no damage to the livestock production facility or if damage to the facility is less than \$2,500.

(3) Determination of damages to a livestock production facility shall be made by the court. In making its determination, the court shall consider the reasonable costs of:

(a) Replacing lost, injured or destroyed livestock;

(b) Restoring the livestock production facility to the approximate condition of the facility before the damage occurred; and

(c) Replacing damaged or missing records, data, material, equipment or substances used in the breeding and production of livestock.

(4) In addition to any criminal sanctions, if a defendant is convicted of the crime of interference with livestock production under subsection (1) of this section, the court shall order the defendant to pay restitution to the owner of the animal or the owner of the livestock production facility.

### **167.390. Commerce in fur of domestic cats and dogs**

(1) A person may not take, buy, sell, barter or otherwise exchange for commerce in fur purposes the raw fur 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 cat or dog. As used in this section, "domestic cat or dog" does not include coyote, fox, lynx, bobcat or any other wild or

commercially raised wild feline or wild canine species or a hybrid thereof that is not recognized as an endangered species by the United States Fish and Wildlife Service.

(2) Violation of subsection (1) of this section, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state as defined in ORS 161.085.