

People for the Elimination of Animal Cruelty Exemptions (PEACE) Act

Whereas, Oregon state law already recognizes that 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 People for the Elimination of Animal Cruelty Exemptions (PEACE) Act to amend Chapter 167 of the Oregon Revised Statutes—which currently provides 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 the People for the Elimination of Animal Cruelty Exemptions (PEACE) 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 EXEMPTIONS

Section 2. ORS 167.310 is amended to read:

(1) “Adequate bedding” means bedding of sufficient quantity and quality to permit an [*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 an [*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)~~**(6)** "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 (Definitions for ORS 181A.355 to 181A.670), 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)~~**(7)** (a) "Livestock," except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125 (Definition of "livestock").

(b) "Livestock" does not include psittacines.

[~~(9)~~**(8)** "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, a*]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, c*]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)](9) “Physical injury” means physical trauma, impairment of physical condition or substantial pain.

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

[(12)](11) “Possess” has the meaning provided in ORS 161.015 (General definitions).

[(13)](12) “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)](13) (a) “Tethering” means to restrain an *[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 an *[domestic]* animal. [1985 c.662 §1; 1995 c.663 §3; 1999 c.756 §13; 2001 c.926 §7; 2003 c.543 §6; 2003 c.549 §1; 2005 c.264 §18; 2009 c.233 §2; 2013 c.382 §3; 2017 c.677 §2]

Section 3. 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 against the threat of immediate harm to oneself, to other humans, or to other animals**, 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 **C***[B]* misdemeanor. [1985 c.662 §2]

Section 4. 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 against the threat of immediate harm to oneself, to other humans, or to other animals**, the person intentionally, knowingly or recklessly:

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

(b) *[Cruelly c]* 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 **B***[A]* misdemeanor.

[(4)](3) Notwithstanding subsection *[(3)](2)* of this section, animal abuse in the first degree is a Class **A misdemeanor** *[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 **Class A misdemeanor** [*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 5. 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 an [*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 C[B] misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the second degree is a **Class A misdemeanor** [*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 **Class A misdemeanor** [*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 6. 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 an [*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 **B**[*A*] misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class **A misdemeanor** [*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 **Class A misdemeanor** [*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 7. ORS 167.332 is amended to read:

[(1) Except as provided in subsections (3) and (4) of this section:]

[(a)](1) In lieu of [addition to] any other penalty imposed by law, a person convicted of violating ORS 167.315 (Animal abuse in the second degree), 167.340 (Animal abandonment) or 167.355 (Involvement in animal fighting) or of a misdemeanor under ORS 167.320 (Animal abuse in the first degree), 167.325 (Animal neglect in the second degree) or 167.330 (Animal neglect in the first degree) may not possess any animal [of the same genus against which the crime was committed or any domestic animal] for a period of five years following entry of the conviction **and must complete 100 hours of supervised community service at an animal care facility pursuant to subsection (4) of this section within three months following entry of the conviction. The court may issue a one-time extension of no more than one month if the person convicted demonstrates good progress towards completion of the required hours.**

[(b)](2) In lieu of [addition to] any other penalty imposed by law, a person convicted of violating ORS 167.322 (Aggravated animal abuse in the first degree), 167.333 (Sexual assault of an animal), 167.365 (Dogfighting) or 167.428 (Cockfighting) or of a **Class A misdemeanor[*felony*] under ORS 167.320 (Animal abuse in the first degree), 167.325 (Animal neglect in the second degree) or 167.330 (Animal neglect in the first degree) may not possess any animal [of the same genus against which the crime was committed or any domestic animal] for a period of 15 years following entry of the conviction **and must complete 300 hours of supervised community service at an animal care facility pursuant to subsection (4) of this section within nine months following entry of the conviction. The court may issue a one-time extension of no more than three months if the person convicted demonstrates good****

progress towards completion of the required hours [*However, the sentencing court may reduce the prohibition period if the person successfully completes mental health treatment approved by the court*].

[(2)]**(3)** A person who possesses an animal in violation of this section commits a Class A[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 **or any other property owned by the person**, and as a condition of the person's probation may prohibit the person from possessing any animal **for an additional period of 15 years**[*of the same genus that the person unlawfully possessed under this section or against which the underlying violation of ORS 167.315 (Animal abuse in the second degree), 167.320 (Animal abuse in the first degree), 167.322 (Aggravated animal abuse in the first degree), 167.325 (Animal neglect in the second degree), 167.330 (Animal neglect in the first degree), 167.333 (Sexual assault of an animal), 167.340 (Animal abandonment), 167.355 (Involvement in animal fighting), 167.365 (Dogfighting) or 167.428 (Cockfighting) was committed*].

(4) For the purposes of subsections (1) and (2) of this section, the court shall order community service to be completed at an animal care facility located in Oregon only. Depending on the genus of animal against whom the crime was committed, the court should require the person convicted to complete their service hours at one of the following types of facilities:

(a) A farmed animal sanctuary;

(b) A wildlife rehabilitation care provider;

(c) A humane society or animal shelter.

[(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 (Animal abuse in the second degree), 167.320 (Animal abuse in the first degree), 167.322 (Aggravated animal abuse in the first degree), 167.325 (Animal neglect in the second degree), 167.330 (Animal neglect in the first degree), 167.333 (Sexual assault of an animal), 167.340 (Animal abandonment), 167.355 (Involvement in animal fighting), 167.365 (Dogfighting) or 167.428 (Cockfighting) was committed against 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 (Criminal liability for conduct of another) (2)(c);*]

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

[(iii) Animal neglect as described in ORS 167.325 (Animal neglect in the second degree) or 167.330 (Animal neglect in the first degree) 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. [2001 c.926 §3; 2009 c.486 §1; 2013 c.719 §6; 2015 c.324 §4; 2017 c.677 §3]]

Section 8. 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) The impregnation or masturbation of the animal; 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.

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

Section 9. 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 the threat of immediate harm to oneself, to other humans, or to other animals;**

[(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]

HUMANE TRANSITION

Section 10. (1) The Humane Transition Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fund shall be credited to the Fund.

(2) The Humane Transition Fund shall consist of:

(a) Moneys deposited into the Fund pursuant to section 11;

(b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) All other moneys deposited in the fund from any source.

(3) Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the Fund an amount sufficient to fully fund the grants program required by section 12.

Section 11. (1) To the greatest extent allowable by law, all subsidies distributed in Oregon to be used for a purpose that would no longer be allowable by the implementation of this Act shall instead be credited to the Humane Transition Fund.

Section 12. (1) The Transitional Oversight Council shall oversee and approve grants to assist in the individual and societal transition away from engaging in activities that would become prohibited by the implementation of this Act.

(2) The Transitional Oversight Council may provide grants to any of the following so long as they are pursuant to subsection (3) of this section:

- (a) Existing agencies or organizations, whether government or community based;
- (b) Emerging or newly formed organizations, whether government or community based;
- (c) Private individuals.

(3) The Transitional Oversight Council may provide grants to be used for the following purposes only:

- (a) To help with food assistance, either directly (e.g. food and cash benefits to individuals) or indirectly (e.g. funds for opening private or state-run grocery stores in communities to improve food access);
- (b) To replace lost income due to the implementation of this Act until the individual has completed a job retraining program and acquired new employment;
- (c) To cover all the costs of operating a job retraining program;
- (d) To cover the costs of animal care for individuals or organizations supporting animals who could no longer be killed or harmed due to the implementation of this Act;
- (e) To assist in conservation and rewilding efforts;
- (e) Any other purpose that is unanimously agreed upon by all members of the Transitional Oversight Council.

Section 13. Transitional Oversight Council. (1) The Director of the Oregon Department of Human Services shall establish a Transitional Oversight Council for the purpose of determining how funds will be distributed to grant applicants pursuant to section 12.

- (a) The Council shall consist of at least one member from each of the following categories only:
 - (i) A representative of the Oregon Department of Agriculture;
 - (ii) A representative of the Oregon Department of Fish and Wildlife;
 - (iii) A representative of the Office of Tribal Affairs;
 - (iv) A representative of the Oregon Department of Human Services Vocational Rehabilitation Program;
 - (v) A representative of the Oregon Department of Human Services Self-Sufficiency Program;
 - (vi) A representative from each of the nine tribal governments in Oregon;
 - (vii) A representative from the Oregon Farm Bureau;
 - (viii) Three members of communities that would be directly impacted by the implementation of this Act;
 - (ix) Three members of communities not directly impacted by the implementation of this Act;
 - (x) A professional in the field of veterinary medicine;
 - (xi) A person who works for a non-profit farmed animal sanctuary;
 - (xii) At least two people who have a documented history of advocating on behalf of animals who would be protected from harm by the implementation of this Act;

(xiii) One of the chief petitioners of this Act or a person appointed on their behalf.

(2) A quorum consists of seven members.

(3) The term of office for a member of the Council shall be four years. Vacancies shall be appointed for the unexpired term.

(4) (a) To the extent permissible by law, a member of the Council performing services for the Council may receive compensation from his or her employer for time spent performing services as a Council member.

(b) If a member of the Council is not compensated by their employer as set forth in subsection (4)(a) of this section, that member shall be entitled to compensation and expenses as provided in ORS 292.495.

(c) Nothing in subsection (4) of this section excuses or exempts a member of the Council from complying with any applicable provision of Oregon's ethics laws and regulations, including the provisions of ORS Chapter 244.

MISCELLANEOUS

Section 14. 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 9 become operative 30 days after the election at which the Act is approved.

Section 15. 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.