

House Bill 2991

Sponsored by Representative CLEM

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits animal rescue entity from euthanizing animal or transferring custody of animal for purpose of euthanasia. Imposes penalties for violation. Creates exceptions.

A BILL FOR AN ACT

1
2 Relating to animal rescue entity euthanasia of animals; creating new provisions; and amending ORS
3 475.190, 609.090, 609.415 and 609.420.

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

5 **SECTION 1. (1) As used in this section, "animal rescue entity" has the meaning given**
6 **that term in ORS 609.415.**

7 **(2) Except as provided in this section, an animal rescue entity may not euthanize an an-**
8 **imal that is in the legal custody of the entity or transfer custody of an animal for the pur-**
9 **pose of euthanizing the animal.**

10 **(3) This section does not prohibit an animal rescue entity from euthanizing an animal or**
11 **releasing an animal for euthanasia:**

12 **(a) Pursuant to an Oregon Health Authority order under ORS 433.350;**

13 **(b) As provided under ORS 609.090 (7), 609.162 or 609.990; or**

14 **(c) If a veterinarian licensed in this state determines that the animal is in severe pain**
15 **or distress due to disease, debilitation or injury and that death from the disease, debilitation**
16 **or injury is imminent.**

17 **(4) This section does not prohibit an animal rescue entity from returning an animal in**
18 **the temporary care of the entity to its lawful owner.**

19 **(5) This section does not prohibit an animal rescue entity from transferring custody of**
20 **livestock as defined in ORS 609.125.**

21 **SECTION 2. ORS 475.190 is amended to read:**

22 475.190. (1) Notwithstanding the provisions of ORS 475.185, upon registration with the State
23 Board of Pharmacy, a humane society or animal control agency may purchase, possess and, subject
24 to subsection (4) of this section **and section 1 of this 2017 Act**, administer sodium pentobarbital to
25 euthanize [*injured, sick, homeless or unwanted*] domestic pets and other animals.

26 (2) The State Board of Pharmacy, after consultation with the Oregon State Veterinary Medical
27 Examining Board, shall adopt rules according to ORS 183.325 to 183.410 establishing requirements
28 for registration, renewal of registration and revocation or suspension of registration under sub-
29 section (1) of this section. Those rules shall include a provision that the State Board of Pharmacy
30 will suspend or revoke the registration of any humane society or animal control agency that allows
31 a person who is not certified under subsection (4) of this section to administer sodium pentobarbital.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (3) Any person who is registered under ORS 475.005 to 475.285 and 475.752 to 475.980 to deliver
 2 or dispense controlled substances may deliver or dispense sodium pentobarbital to a humane society
 3 or animal control agency registered under subsections (1) and (2) of this section.

4 (4) The Oregon State Veterinary Medical Examining Board, after consultation with the State
 5 Board of Pharmacy, shall adopt rules establishing requirements for certification of persons to ad-
 6 minister sodium pentobarbital. Those rules may require that a person complete certain educational
 7 or training programs in order to be certified. No person shall administer sodium pentobarbital unless
 8 the person is certified by the Oregon State Veterinary Medical Examining Board.

9 **SECTION 3.** ORS 609.090 is amended to read:

10 609.090. (1) A law enforcement officer or dog control officer may cite a keeper, impound a dog,
 11 or both if:

12 (a) The dog is found running at large in violation of ORS 609.060;

13 (b) The dog is a public nuisance as described by ORS 609.095; or

14 (c) The officer has probable cause to believe that the dog is a dangerous dog as defined in ORS
 15 609.098.

16 (2) All dogs impounded under this section and ORS 609.030 shall be held in an adequate and
 17 sanitary pound to be provided by the county governing body from the general fund or out of funds
 18 obtained from dog licenses and from the redemption of dogs so impounded. However, in lieu of the
 19 establishment of a dog pound, the county governing body may contract for the care of the dogs.
 20 Unless claimed by its keeper, a dog shall be impounded for at least three days if the dog is without
 21 a license or identification tag and for at least five days if it has a license or identification tag. A
 22 reasonable effort shall be made to notify the keeper of a dog before the dog is removed from
 23 impoundment.

24 (3) Unless the dog control board or county governing body provides otherwise, if the keeper
 25 appears and redeems the dog, the keeper shall pay a sum of not less than \$10 for the first
 26 impoundment and not less than \$20 for each subsequent impoundment and also pay the expense of
 27 keeping the dog during the time it was impounded. If the dog is unlicensed the keeper shall also
 28 purchase a license and pay the applicable penalty for failure to have a license. If the keeper is not
 29 the owner of the dog, the keeper may request that a license purchased by the keeper under this
 30 subsection be issued in the name of the dog owner.

31 (4) In addition to any payment required pursuant to subsection (3) of this section, a dog control
 32 board or county governing body may require as a condition for redeeming the dog that the keeper
 33 agree to reasonable restrictions on the keeping of the dog. The keeper must pay the cost of com-
 34 plying with the reasonable restrictions. As used in this subsection, "reasonable restrictions" may
 35 include, but is not limited to, sterilization.

36 (5) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable
 37 restrictions imposed under subsection (4) of this section or if a keeper fails to provide acceptable
 38 proof of compliance to the dog control board or county governing body on or before the 10th day
 39 after issuance of the order imposing the restrictions. If the board or governing body finds the proof
 40 submitted by the keeper unacceptable, the board or governing body shall send notice of that finding
 41 to the keeper no later than five days after the proof is received.

42 (6) If no keeper appears to redeem a dog within the allotted time, the [*dog may be killed in a*
 43 *humane manner. The*] dog control board or county governing body may release the dog to a re-
 44 sponsible person upon receiving assurance that the person will properly care for the dog and upon
 45 payment of a sum established by the county governing body plus cost of keep during its impounding,

1 and purchase of a license if required. The person shall thereafter be the keeper of the dog for pur-
 2 poses of ORS 609.035 to 609.110.

3 (7) If the keeper of a dog is not charged with violating ORS 609.095 (2) or (3) or ORS 609.098,
 4 and the dog control board or county governing body finds that the dog has menaced or chased a
 5 person when on premises other than the premises from which the keeper may lawfully exclude oth-
 6 ers or has bitten a person, the dog control board or county governing body may order that the dog
 7 be killed in a humane manner. Before ordering that the dog be killed, the board or governing body
 8 shall consider the factors described in ORS 609.093 and issue written findings on those factors.
 9 Notwithstanding ORS 34.030, if the disposition order issued by the board or governing body provides
 10 that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than
 11 the 10th day after the dog control board or county governing body sends notice of the order to the
 12 keeper. Notwithstanding ORS 19.270, 19.330 and 34.070, the order for the killing of the dog may not
 13 be carried out during the period that the order is subject to review or appeal. If the dog is not
 14 killed, the board or governing body may impose reasonable restrictions on the keeping of the dog.
 15 The keeper must pay the cost of complying with the reasonable restrictions.

16 (8) If the keeper of a dog is charged with violating ORS 609.095 (2) or (3) or 609.098, upon con-
 17 viction of the keeper the court may determine the disposition of the dog as provided under ORS
 18 609.990.

19 (9) Notwithstanding subsections (2), (3), (6), (7) and (8) of this section, any dog impounded for
 20 biting a person shall be held for at least 10 days before redemption or destruction to determine if
 21 the dog is rabid.

22 (10) Notwithstanding subsections (2) and (3) of this section, if the keeper is charged with vio-
 23 lating ORS 609.098, the dog shall be kept in impoundment pending resolution of the charges. A court
 24 may order the keeper to post a deposit with the dog control board or county governing body to
 25 cover the cost of keeping the dog in impoundment. If the keeper is convicted of violating ORS
 26 609.098, the court may order the deposit forfeited to the board or governing body.

27 (11) A dog control board or county governing body may impose lesser fees or penalties under
 28 subsections (3) and (6) of this section for certain senior citizens under certain circumstances.

29 **SECTION 4.** ORS 609.415 is amended to read:

30 609.415. (1) As used in this section and ORS 609.420:

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

32 (b) "Animal rescue entity" means an individual or organization, including but not limited to an
 33 animal control agency, humane society, animal shelter, animal sanctuary or boarding kennel not
 34 subject to ORS 167.374, but excluding a veterinary facility, that keeps, houses and maintains in its
 35 legal custody 10 or more animals, whether physically located at a facility operated by the entity or
 36 kept, housed or maintained elsewhere, and that solicits or accepts donations in any form.

37 (c) "Enforcing agency" means the agency that operates a city or county dog licensing and con-
 38 trol program under ORS 609.035 to 609.110 or under any city or county ordinances or regulations
 39 that operate in lieu of ORS 609.035 to 609.110, or any other agency designated the enforcing agency
 40 by the city or county governing body.

41 (2) Any animal rescue entity shall comply with all of the following record-keeping requirements:

42 (a) Maintain a record for each animal that identifies:

43 (A) The date of birth for the animal or, if the date of birth is unknown, the approximate age of
 44 the animal;

45 (B) The date the animal rescue entity acquired possession, control or charge of the animal and

1 the source of the animal;

2 (C) The number of offspring the animal produced while in the possession or control of the animal
3 rescue entity, if applicable;

4 (D) The disposition the animal rescue entity makes of each animal possessed by, controlled by
5 or in the charge of the animal rescue entity, including the date of disposition, manner of disposition
6 and the name and address for any individual or organization taking possession, control or charge
7 of an animal;

8 (E) The source of the animal, date of acquisition, age, sex, breed type and weight of the animal
9 at intake; and

10 (F) A photograph of the animal taken within 24 hours of intake by the animal rescue entity.

11 (b) Permit an authorized representative of the enforcing agency to inspect records of the animal
12 rescue entity required by this subsection and furnish reports and information required by the en-
13 forcing agency, as provided under ORS 609.420.

14 (3) An animal rescue entity shall comply with the following licensing requirements:

15 (a) The entity shall obtain a license issued by the enforcing agency in accordance with this
16 section and any rules or policies adopted by the enforcing agency; and

17 (b) The entity shall pay a reasonable fee, as determined by the enforcing agency, for a license
18 or an annual renewal of the license to provide for the actual cost of enforcing this section and ORS
19 609.420.

20 (4) The enforcing agency may not issue or renew a license under this section unless the animal
21 rescue entity is in compliance with this section and ORS 609.420.

22 (5) An animal rescue entity may transfer a license issued under this section to another person
23 with the written consent of the enforcing agency, provided that the transferee otherwise qualifies
24 to be licensed as an animal rescue entity under this section and rules applicable to the transferee
25 and does not have a certified unpaid debt to the state. The transferee shall submit a signed release
26 to the enforcing agency permitting the performance of a background investigation of the transferee,
27 and the enforcing agency shall conduct the background investigation.

28 (6) An applicant for a license issued under this section shall demonstrate that the animal rescue
29 entity that is the subject of the application complies with all standards imposed under applicable
30 law.

31 (7) Any animal rescue entity is subject to inspection by the enforcing agency as provided in ORS
32 609.420.

33 (8)(a) A violation of this section **or section 1 of this 2017 Act** may result in imposition of civil
34 penalties to be determined by the enforcing agency, including but not limited to impoundment of all
35 animals under the animal rescue's control, the revocation of the animal rescue's license to operate
36 animal rescue operations and a civil penalty of not more than \$500 for each violation.

37 (b) Before a civil penalty may be imposed under this section, the enforcing agency shall adopt
38 rules or policies that:

39 (A) Ensure that a person who is the subject of an alleged violation receives notice of the
40 allegations and potential imposition of civil penalties;

41 (B) Allow for an opportunity for a hearing prior to the imposition of civil penalties; and

42 (C) Allow for the opportunity for judicial review of the imposition of civil penalties.

43 (9) Moneys raised by the enforcing agency under this section are dedicated to and shall be used
44 for enforcing agency operations undertaken pursuant to this section and ORS 609.420.

45 **SECTION 5.** ORS 609.420 is amended to read:

1 609.420. (1) Whenever an authorized representative of an enforcing agency is advised or has
 2 reason to believe that an animal rescue entity is operating without a license **or operating in vio-**
 3 **lation of section 1 of this 2017 Act**, the authorized representative may visit and conduct an on-site
 4 investigation of the premises of the animal rescue entity. The purpose of an investigation under this
 5 section is to determine whether the animal rescue entity is subject to the requirements of ORS
 6 609.415 **or is operating in violation of section 1 of this 2017 Act.**

7 (2) At any reasonable time, an authorized representative of an enforcing agency, a law enforce-
 8 ment agency or the United States Department of Agriculture may conduct an on-site investigation
 9 of the premises of any licensed animal rescue entity to determine whether the entity is in compli-
 10 ance with ORS 609.415 **or section 1 of this 2017 Act.**

11 (3) An authorized representative of the enforcing agency or a law enforcement agency shall
 12 conduct an on-site investigation of the premises of any licensed animal rescue entity if the agency
 13 receives a complaint about the animal rescue entity related to the failure to comply with the re-
 14 quirements of ORS 609.415 **or section 1 of this 2017 Act** that the agency determines is credible and
 15 serious. The investigation by the agency shall be limited to determining if the animal rescue entity
 16 has failed to comply with the requirements of ORS 609.415 **or section 1 of this 2017 Act.**

17 (4) Any state agency that receives a complaint about a licensed animal rescue entity shall notify
 18 the enforcing agency about the complaint and any subsequent action taken by the state agency
 19 based on that complaint.

20 (5) A licensed animal rescue entity shall permit an authorized representative of the enforcing
 21 agency to inspect records of the animal rescue entity and shall furnish any reports and information
 22 required by the enforcing agency.

23 (6) If, during the course of an inspection made under this section, the enforcing agency finds
 24 evidence of animal cruelty in violation of ORS 167.310 to 167.351, 167.352, 167.355 or 167.360 to
 25 167.372, the enforcing agency shall seize the evidence and report the violation to law enforcement.
 26 Evidence of animal cruelty found through a valid inspection under this section shall be presumed
 27 admissible in any subsequent criminal proceeding.

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