Chapter 167

2023 EDITION

Offenses Against General Welfare and Animals

PROSTITUTION AND RELATED OFFENSES

167.002 Definitions for ORS 167.002 to 167.027
167.007 Prostitution
167.008 Commercial sexual solicitation
167.012 Promoting prostitution
167.017 Compelling prostitution
167.027 Evidence required to show place of prostitution

OBSCENITY AND RELATED OFFENSES

167.051 Definitions for ORS 167.057
167.057 Luring a minor
167.060 Definitions for ORS 167.060 to 167.095
167.062 Sadomasochistic abuse or sexual conduct in live show
167.075 Exhibiting an obscene performance to a minor
167.080 Displaying obscene materials to minors
167.085 Defenses in prosecutions under ORS 167.075 and 167.080
167.090 Publicly displaying nudity or sex for advertising purposes
167.095 Defenses in prosecutions under ORS 167.090
167.100 Application of ORS 167.060 to 167.100

GAMBLING OFFENSES

167.108 Definitions for ORS 167.109 and 167.112
167.109 Internet gambling
167.112 Liability of certain entities engaged in certain financial transactions
167.114 Application of ORS 167.109 and 167.112 to Oregon Racing Commission
167.116 Rulemaking for certain exceptions under ORS 167.117
167.117 Definitions for ORS 167.108 to 167.164 and 464.270 to 464.530
167.118 Certain games or events conducted by charitable, fraternal or religious organizations; rules
167.121 Local authorization of social games
167.122 Unlawful gambling in the second degree
167.127 Unlawful gambling in the first degree
167.132 Possession of gambling records in the second degree
167.137 Possession of gambling records in the first degree
167.142 Defense to possession of gambling records
167.147 Possession of a gambling device; defense
167.153 Proving occurrence of sporting event in prosecutions of gambling offenses
167.158 Lottery prizes forfeited to county; exception; action by county to recover
167.162 Gambling device as public nuisance; defense; seizure and destruction
167.164 Possession of a gray machine; disposition of machine; defense
167.166 Removal of unauthorized video lottery game terminal
167.167 Cheating

OFFENSES INVOLVING CONTROLLED SUBSTANCES

167.203 Definitions for ORS 167.212 to 167.252
167.212 Tampering with drug records
167.222 Frequenting a place where controlled substances are used
167.238 Prima facie evidence permitted in prosecutions of drug offenses
167.243 Exemption contained in drug laws as defense to drug offenses
167.248 Search and seizure of conveyance in which drugs unlawfully transported or possessed
167.252 Preclusion of state prosecution
167.262 Use of minor in controlled substance or marijuana item offense

OFFENSES AGAINST ANIMALS

167.305 Legislative findings
167.310 Definitions for ORS 167.310 to 167.351
167.312 Research and animal interference
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
167.332 Prohibition against possession of same genus or domestic animal; prohibition period reduction; waiver procedure
167.333 Sexual assault of an animal
167.334 Evaluation of person convicted of violating ORS 167.333
167.335 Exemption from ORS 167.315 to 167.333
167.337 Interfering with law enforcement animal
167.339 Assaulting a law enforcement animal
167.340 Animal abandonment
167.341 Encouraging sexual assault of an animal
167.343 Unlawful tethering
167.345 Authority to enter premises or motor vehicle; search warrant; notice of impoundment of animal; damage resulting from entry
167.347 Forfeiture of animal to animal care agency prior to disposition of criminal action
167.348 Placement of forfeited animal
167.349 Encouraging animal abuse
167.350 Forfeiture of rights in mistreated animal; costs; disposition of animal
167.351 Trading in nonambulatory livestock

167.352 Interfering with an assistance, a search and rescue or a therapy animal
167.355 Involvement in animal fighting
167.360 Definitions for ORS 167.360 to 167.372
167.365 Dogfighting
167.370 Participation in dogfighting
167.372 Possessing dogfighting paraphernalia
167.374 Possession or control of dogs for purpose of reproduction; records; exceptions
167.376 Standards of care applicable to dog breeders; records; exceptions
167.383 Equine tripping
167.385 Unauthorized use of a livestock animal
167.387 Definitions for ORS 167.387 and 167.388
167.388 Interference with livestock production
167.390 Commerce in fur of domestic cats and dogs prohibited; exception

OFFENSES INVOLVING FIGHTING BIRDS

167.426 Definitions for ORS 167.426 to 167.439
167.428 Cockfighting
167.431 Participation in cockfighting
167.433 Seizure of fighting birds or source birds; procedure
167.435 Forfeiture of rights in fighting birds, source birds or property; public nuisance
167.437 Constructive possession of fighting birds or source birds; procedure
167.439 Forcible recovery of a fighting bird

OFFENSES INVOLVING UNUSED PROPERTY MARKETS

167.500 Definitions for ORS 167.502, 167.506 and 167.508
167.502 Sale of certain items at unused property market prohibited; exceptions
167.506 Recordkeeping requirements
167.508 Exemptions from ORS 167.502 and 167.506

OFFENSES INVOLVING TOBACCO PRODUCTS AND INHALANT DELIVERY SYSTEMS

167.747 Definitions for ORS 167.750 to 167.780
167.750 Definition for ORS 167.755 and 431A.175
167.755 Selling tobacco products or inhalant delivery systems to person under 21 years of age; penalties
167.760 Purchase or attempted purchase of tobacco products or inhalant delivery system by person under 21 years of age
167.763 Entry or attempted entry of premises by person under 21 years of age for purpose of assisting with investigation
167.765 Retail store location of tobacco products or inhalant delivery systems; penalty
167.770 Display of sign; penalty
167.775 Local regulation of vending machines
167.780 Sale or dispensing of tobacco products or inhalant delivery systems by vending machine

MISCELLANEOUS

167.808 Unlawful possession of inhalants
167.810 Creating a hazard
167.820 Concealing the birth of an infant
167.822 Improper repair of a vehicle inflatable restraint system
167.824 Unlawful possession of undeployed air bags or air bag canisters
167.830 Employment of minors in place of public entertainment
167.840 Application of ORS 167.830 limited

PROSTITUTION AND RELATED OFFENSES

167.002 Definitions for ORS 167.002 to 167.027. As used in ORS 167.002 to 167.027, unless the context requires otherwise:

(1) "Place of prostitution" means any place where prostitution is practiced.

(2) "Prostitute" means a male or female person who engages in sexual conduct or sexual contact for a fee.

(3) "Prostitution enterprise" means an arrangement whereby two or more prostitutes are organized to conduct prostitution activities.

(4) "Sexual conduct" means sexual intercourse or oral or anal sexual intercourse.

(5) "Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party. [1971 c.743 §249; 1973 c.699 §5; 2017 c.318 §14]

167.005 [Repealed by 1971 c.743 §432]

167.007 Prostitution. (1) A person commits the crime of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact in return for a fee.

(2) Prostitution is a Class A misdemeanor.

(3) It is an affirmative defense to prosecution under this section that the defendant, at the time of the alleged offense, was a victim of the crime of trafficking in persons as described in ORS 163.266 (1)(b) or (c). [1971 c.743 §250; 1973 c.52 §1; 1973 c.699 §6; 2011 c.151 §1; 2017 c.246 §1]

167.008 Commercial sexual solicitation. (1) A person commits the crime of commercial sexual solicitation if the person pays, or offers or agrees to pay, a fee to engage in sexual conduct or sexual contact.

(2) Commercial sexual solicitation is a Class A misdemeanor. [2011 c.151 §3; 2013 c.720 §2; 2015 c.98 §1]

167.010 [Repealed by 1971 c.743 §432]

167.012 Promoting prostitution. (1) A person commits the crime of promoting prostitution if, with intent to promote prostitution, the person knowingly:

(a) Owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise;

(b) Induces or causes a person to engage in prostitution or to remain in a place of prostitution;

(c) Receives or agrees to receive money, goods, property, services or something else of value, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money, goods, property, services or something else of value is derived from a prostitution activity; or

(d) Engages in any conduct that institutes, aids or facilitates an act or enterprise of prostitution.

(2) Promoting prostitution is a Class C felony. [1971 c.743 §251; 2016 c.10 §1]

167.015 [Repealed by 1971 c.743 §432]

167.017 Compelling prostitution. (1) A person commits the crime of compelling prostitution if the person knowingly:

(a) Uses force or intimidation to compel another to engage in prostitution or attempted prostitution;

(b) Induces or causes a person under 18 years of age to engage in prostitution;

(c) Aids or facilitates the commission of prostitution or attempted prostitution by a person under 18 years of age; or

(d) Induces or causes the spouse, child or stepchild of the person to engage in prostitution.

(2) Compelling prostitution is a Class B felony.

(3) In a prosecution under subsection (1)(b) or (c) of this section, the state is not required to prove that the defendant knew the other person was under 18 years of age and it is no defense that the defendant did not know the person's age or that the defendant reasonably believed the person to be older than 18 years of age. [1971 c.743 §252; 2011 c.334 §1; 2013 c.271 §1]

167.020 [Repealed by 1971 c.743 §432]

167.022 [1971 c.743 §253; repealed by 1979 c.248 §1]

167.025 [Repealed by 1971 c.743 §432]

167.027 Evidence required to show place of prostitution. (1) On the issue of whether a place is a place of prostitution as defined in ORS 167.002, its general repute and repute of persons who reside in or frequent the place shall be competent evidence.

(2) Notwithstanding ORS 136.655, in any prosecution under ORS 167.012 and 167.017, spouses are competent and compellable witnesses for or against either party. [1971 c.743 §254]

167.030 [Repealed by 1971 c.743 §432]

167.035 [Repealed by 1971 c.743 §432]

167.040 [Repealed by 1971 c.743 §432]

167.045 [1953 c.641 §§1,7; 1955 c.636 §6; repealed by 1971 c.743 §432]

167.050 [1953 c.641 §7; 1955 c.636 §7; 1963 c.353 §1; repealed by 1971 c.743 §432]

OBSCENITY AND RELATED OFFENSES

167.051 Definitions for ORS 167.057. As used in ORS 167.057:

(1) "Furnishes" means to sell, give, rent, loan or otherwise provide.

(2) "Minor" means a person under 18 years of age.

(3) "Sexual conduct" means:

(a) Human masturbation or sexual intercourse;

(b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;

(c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or as part of a personal hygiene practice; or

(d) Touching of the genitals, pubic areas or buttocks of the human male or female or of the breasts of the human female. [2007 c.869 §1; 2011 c.681 §1]

Note: 167.051 and 167.057 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.054 [2007 c.869 §2; repealed by 2011 c.681 §10]

167.055 [1955 c.636 §9; 1963 c.513 §1; repealed by 1971 c.743 §432]

167.057 Luring a minor. (1) A person commits the crime of luring a minor if the person:

(a) Furnishes to, or uses with, a minor, a police officer posing as a minor or an agent of a police officer posing as a minor, a visual representation or explicit verbal description or narrative account of sexual conduct for the purpose of inducing the minor or purported minor to engage in sexual conduct; or

(b) Engages in sexual conduct in the immediate presence of a minor for the purpose of inducing the minor to engage in sexual conduct.

(2) A person is not liable to prosecution for violating subsection (1) of this section if the person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise nonoffending whole and serves some purpose other than titillation.

(3) In a prosecution under subsection (1) of this section, it is an affirmative defense:

(a) That the representation, description or account was furnished or used for the purpose of psychological or medical treatment and was furnished by a treatment provider or by another person acting on behalf of the treatment provider;

(b) That the defendant had reasonable cause to believe that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used, or the person in the immediate presence of whom the defendant engaged in sexual conduct, was not a minor; or

(c) That the defendant was less than three years older than the minor or, in the case of a police officer or agent of a police officer posing as a minor, the age of the purported minor as reported to the defendant at the time of the alleged offense.

(4) Luring a minor is a Class C felony.

(5)(a) The court may designate luring a minor as a sex crime under ORS 163A.005 if the court determines that:

(A) The offender reasonably believed the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor to be more than five years younger than the offender or under 16 years of age; and

(B) Given the nature of the offense, the age of the minor or purported minor as reported to the defendant and the person's criminal history, designation of the offense as a sex crime is necessary for the safety of the community.

(b) The court shall indicate the designation and the findings supporting the designation in the judgment.

(6) As used in this section, "police officer" has the meaning given that term in ORS 181A.355. [2007 c.869 §3; 2011 c.681 §2; 2013 c.293 §1; 2015 c.101 §1; 2023 c.198 §2]

Note: See note under 167.051.

167.060 Definitions for ORS 167.060 to 167.095. As used in ORS 167.060 to 167.095, unless the context requires otherwise:

(1) "Advertising purposes" means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service, or the commercial exhibition of an entertainment.

(2) "Displays publicly" means the exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot or vehicle.

(3) "Furnishes" means to sell, give, rent, loan or otherwise provide.

(4) "Minor" means an unmarried person under 18 years of age.

(5) "Nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

(6) "Obscene performance" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

(7) "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

(8) "Public thoroughfare, depot or vehicle" means any street, highway, park, depot or transportation platform, or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public.

(9) "Sadomasochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(10) "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(11) "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity. [1971 c.743 §255]

167.062 Sadomasochistic abuse or sexual conduct in live show. (1) It is unlawful for any person to knowingly engage in sadomasochistic abuse or sexual conduct in a live public show.

(2) Violation of subsection (1) of this section is a Class A misdemeanor.

(3) It is unlawful for any person to knowingly direct, manage, finance or present a live public show in which the participants engage in sadomasochistic abuse or sexual conduct.

(4) Violation of subsection (3) of this section is a Class C felony.

(5) As used in ORS 167.002, 167.007 and this section unless the context requires otherwise:

(a) "Live public show" means a public show in which human beings, animals, or both appear bodily before spectators or customers.

(b) "Public show" means any entertainment or exhibition advertised or in some other fashion held out to be accessible to the public or member of a club, whether or not an admission or other charge is levied or collected and whether or not minors are admitted or excluded. [1973 c.699 §§2,3; 2007 c.869 §9]

167.065 [1971 c.743 §256; repealed by 2007 c.869 §11]

167.070 [1971 c.743 §257; repealed by 2007 c.869 §11]

167.075 Exhibiting an obscene performance to a minor. (1) A person commits the crime of exhibiting an obscene performance to a minor if the minor is unaccompanied by the parent or lawful guardian of the minor, and for a monetary consideration or other valuable commodity or service, the person knowingly or recklessly:

(a) Exhibits an obscene performance to the minor; or

(b) Sells an admission ticket or other means to gain entrance to an obscene performance to the minor; or

(c) Permits the admission of the minor to premises whereon there is exhibited an obscene performance.

(2) No employee is liable to prosecution under this section or under any city or home-rule county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of regular employment at a showing open to the public.

(3) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if the person has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where the person is regularly

employed, but does not include a manager of the motion picture theater.

(4) Exhibiting an obscene performance to a minor is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding $10,000. [1971 c.743 §258]

167.080 Displaying obscene materials to minors. (1) A person commits the crime of displaying obscene materials to minors if, being the owner, operator or manager of a business or acting in a managerial capacity, the person knowingly or recklessly permits a minor who is not accompanied by the parent or lawful guardian of the minor to enter or remain on the premises, if in that part of the premises where the minor is so permitted to be, there is visibly displayed:

(a) Any picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse; or

(b) Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, that reveals a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse.

(2) Displaying obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding $10,000. [1971 c.743 §259]

167.085 Defenses in prosecutions under ORS 167.075 and 167.080. In any prosecution under ORS 167.075 and 167.080, it is an affirmative defense for the defendant to prove:

(1) That the defendant was in a parental or guardianship relationship with the minor;

(2) That the defendant was a bona fide school, museum or public library, or was acting in the course of employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization;

(3) That the defendant was charged with furnishing, showing, exhibiting or displaying an item, those portions of which might otherwise be contraband forming merely an incidental part of an otherwise nonoffending whole, and serving some purpose therein other than titillation; or

(4) That the defendant had reasonable cause to believe that the person involved was not a minor. [1971 c.743 §260; 1993 c.18 §27; 2001 c.607 §1]

167.087 [1973 c.699 §4; repealed by 2007 c.869 §11]

167.089 [1975 c.272 §2; repealed by 2007 c.869 §11]

167.090 Publicly displaying nudity or sex for advertising purposes. (1) A person commits the crime of publicly displaying nudity or sex for advertising purposes if, for advertising purposes, the person knowingly:

(a) Displays publicly or causes to be displayed publicly a picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct or sexual excitement, or any page, poster or other written or printed matter bearing such representation or a verbal description or narrative account of such items or activities, or any obscenities; or

(b) Permits any display described in this section on premises owned, rented or operated by the person.

(2) Publicly displaying nudity or sex for advertising purposes is a Class A misdemeanor. [1971 c.743 §261]

167.095 Defenses in prosecutions under ORS 167.090. In any prosecution for violation of ORS 167.090, it shall be an affirmative defense for the defendant to prove:

(1) That the public display, even though in connection with a commercial venture, was primarily for artistic purposes or as a public service; or

(2) That the public display was of nudity, exhibited by a bona fide art, antique or similar gallery or exhibition, and visible in a normal display setting. [1971 c.743 §262]

167.100 Application of ORS 167.060 to 167.100. ORS 167.060 to 167.100 shall be applicable and uniform throughout the state and all political subdivisions and municipalities therein, and no local authority shall enact any ordinances, rules or regulations in conflict with the provisions thereof. [1971 c.743 §262a]

167.105 [Repealed by 1971 c.743 §432]

GAMBLING OFFENSES

167.108 Definitions for ORS 167.109 and 167.112. As used in ORS 167.109 and 167.112:

(1) "Credit" and "credit card" have the meaning given those terms under the federal Consumer Credit Protection Act (P.L. 90-321, 82 Stat. 146, 15 U.S.C. 1601).

(2) "Electronic funds transfer" has the meaning given that term in ORS 293.525.

(3) "Financial institution" has the meaning given that term in ORS 706.008.

(4) "Money transmission" has the meaning given that term in ORS 717.200. [2001 c.502 §4]

167.109 Internet gambling. (1) A person engaged in an Internet gambling business may not knowingly accept, in connection with the participation of another person in unlawful gambling using the Internet:

(a) Credit, or the proceeds of credit, extended to or on behalf of such other person, including credit extended through the use of a credit card;

(b) An electronic funds transfer or funds transmitted by or through a money transmission business, or the proceeds of an electronic funds transfer or money transmission service, from or on behalf of the other person;

(c) Any check, draft or similar instrument that is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or

(d) The proceeds of any other form of financial transaction that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.

(2) Violation of subsection (1) of this section is a Class C felony. [2001 c.502 §2]

167.110 [Repealed by 1971 c.743 §432]

167.112 Liability of certain entities engaged in certain financial transactions. Notwithstanding any other provision of law, a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic funds transfer may be initiated, money transmission business or any national, regional or local network utilized to effect a credit transaction, electronic funds transfer or money transmission service that is not liable under ORS 167.109:

(1) May collect on any debt arising out of activities that are illegal under ORS 167.109;

(2) Shall not be deemed to be participating in any activities that are illegal under ORS 167.109 by reason of their processing transactions arising out of such activities or collecting debts arising out of such activities; and

(3) Shall not be liable under any provision of ORS 166.715 to 166.735, 336.184 or 646.605 to 646.652 by reason of their processing transactions arising out of activities that are illegal under ORS 167.109 or collecting debts arising out of such activities. [2001 c.502 §3]

167.114 Application of ORS 167.109 and 167.112 to Oregon Racing Commission. ORS 167.109 and 167.112 do not apply to activities licensed and regulated by the Oregon Racing Commission under ORS chapter 462. [2001 c.502 §5]

167.115 [Repealed by 1971 c.743 §432]

167.116 Rulemaking for certain exceptions under ORS 167.117. (1) The Oregon State Lottery Commission shall adopt rules to carry out the provisions of ORS 167.117 (9)(c)(E) and (20)(b).

(2) Devices authorized by the Oregon State Lottery Commission for the purposes described in ORS 167.117 (9)(c)(E) and (20)(b) are exempted from the provisions of 15 U.S.C. 1172. [1999 c.193 §2; 2001 c.502 §6]

Note: 167.116 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.117 Definitions for ORS 167.108 to 167.164 and 464.270 to 464.530. As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless the context requires otherwise:

(1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.

(2) "Bookmaker" means a person who unlawfully accepts a bet from a member of the public upon the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish on the wager.

(3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

(4) "Casino game" means any of the traditional gambling-based games commonly known as dice, faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-'em, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panquinqui, red dog, acey-deucey, or any other gambling-based game similar in form or content.

(5)(a) "Charitable, fraternal or religious organization" means any person that is:

(A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes; and

(B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes.

(b) The fact that contributions to an organization profiting from a contest of chance do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

(6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(7) "Gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

(a) Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(b) Engaging in contests of chance under the following conditions:

(A) The contest is played for some token other than money;

(B) An individual contestant may not purchase more than $100 worth of tokens for use in the contest during any 24-hour period;

(C) The tokens may be exchanged only for property other than money;

(D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within 50 miles thereof; and

(E) Except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or employee profits in any manner from operation of the contest.

(c) Social games.

(d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530 to operate such games.

(e) Savings promotion raffles, as defined in ORS 708A.660.

(8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices other than gray machines, that do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.

(9)(a) "Gray machine" means any electrical or electromechanical device, whether or not it is in working order or some act of manipulation, repair, adjustment or modification is required to render it operational, that:

(A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch capable of removing or recording the removal of credits earned by a player, other than removal during the course of continuous play; or

(B) Plays, emulates or simulates a casino game, bingo or keno.

(b) A device is no less a gray machine because, apart from its use or adaptability as such, it may also sell or deliver something of value on the basis other than chance.

(c) "Gray machine" does not include:

(A) Any device commonly known as a personal computer, including any device designed and marketed solely for home entertainment, when used privately and not for a fee and not used to facilitate any form of gambling;

(B) Any device operated under the authority of the Oregon State Lottery;

(C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who has been approved under rules adopted by the Oregon State Lottery Commission;

(D) A slot machine;

(E) Any device authorized by the Oregon State Lottery Commission for:

(i) Display and demonstration purposes only at trade shows; or

(ii) Training and testing purposes by the Department of State Police; or

(F) Any device used to operate bingo in compliance with ORS 167.118 by a charitable, fraternal or religious organization licensed to operate bingo pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530.

(10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto or raffle games, the value of raffle chances sold or the total amount collected from the sale of imitation money during Monte Carlo events.

(11) "Internet" means an interactive computer service or system or an information service, system or access software provider that provides or enables computer access by multiple users to a computer server and includes, but is not limited to, an information service, system or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to a World Wide Web page, newsgroup, message board, mailing list or chat area on any interactive computer service or system or other online service.

(12) "Lottery" or "policy" means an unlawful gambling scheme in which:

(a) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones;

(b) The winning chances are to be determined by a drawing or by some other method; and

(c) The holders of the winning chances are to receive something of value.

(13) "Monte Carlo event" means a gambling event at which wagers are placed with imitation money upon contests of chance in which players compete against other players or against the house. As used in this subsection, "imitation money" includes imitation currency, chips or tokens.

(14) "Numbers scheme or enterprise" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event otherwise unrelated to the particular scheme.

(15) "Operating expenses" means those expenses incurred in the operation of a bingo, lotto or raffle game, including only the following:

(a) Salaries, employee benefits, workers' compensation coverage and state and federal employee taxes;

(b) Security services;

(c) Legal and accounting services;

(d) Supplies and inventory;

(e) Rent, repairs, utilities, water, sewer and garbage;

(f) Insurance;

(g) Equipment;

(h) Printing and promotions;

(i) Postage and shipping;

(j) Janitorial services and supplies; and

(k) Leasehold improvements.

(16) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

(17) "Profits from unlawful gambling" means that a person, acting other than solely as a player, accepts or receives money or other property pursuant to an agreement or understanding with another person whereby the person participates or is to participate in the proceeds of unlawful gambling.

(18) "Promotes unlawful gambling" means that a person, acting other than solely as a player, engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature includes, but is not limited to, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person promotes unlawful gambling if, having control or right of control over premises being used with the knowledge of the person for purposes of unlawful gambling, the person permits the unlawful gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

(19) "Raffle" means a lottery operated by a charitable, fraternal or religious organization wherein the players pay something of

value for chances, represented by numbers or combinations thereof or by some other medium, one or more of which chances are to be designated the winning ones or determined by a drawing and the player holding the winning chance is to receive something of value.

(20)(a) "Slot machine" means a gambling device that as a result of the insertion of a coin or other object operates, either completely automatically, or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value or otherwise entitle the player to something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on the basis other than chance.

(b) "Slot machine" does not include any device authorized by the Oregon State Lottery Commission for:

(A) Display and demonstration purposes only at trade shows; or

(B) Training and testing purposes by the Department of State Police.

(21) "Social game" means:

(a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

(b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

(22) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein.

(23) "Trade show" means an exhibit of products and services that is:

(a) Not open to the public; and

(b) Of limited duration.

(24) "Unlawful" means not specifically authorized by law. [1971 c.669 §3a; 1971 c.743 §263; 1973 c.788 §1; 1974 c.7 §1; 1975 c.421 §1; 1977 c.850 §1; 1983 c.813 §1; 1987 c.914 §1; 1991 c.962 §7; 1995 c.577 §2; 1997 c.867 §1; 1999 c.193 §1; 2001 c.228 §1; 2001 c.502 §7; 2005 c.57 §1; 2005 c.355 §2; 2015 c.137 §3]

167.118 Certain games or events conducted by charitable, fraternal or religious organizations; rules. (1) When a charitable, fraternal or religious organization is licensed by the Department of Justice to conduct bingo, lotto or raffle games or Monte Carlo events, only the organization or an employee of the organization authorized by the department may receive money or property or otherwise directly profit from the operation of the games, except that:

(a) The organization operating the games may present a prize of money or other property to any player not involved in the administration or management of the games.

(b) An organization licensed to conduct Monte Carlo events may contract with a licensed supplier of Monte Carlo event equipment to operate the event, including the provision of equipment, supplies and personnel, provided that the licensed supplier is paid a fixed fee to conduct the event and the imitation money is sold to players by employees or volunteers of the licensed charitable, fraternal or religious organization.

(c) A person may sell, rent or lease equipment, including electronic equipment, proprietary computer software and real property to a licensed charitable, fraternal or religious organization. Rent or lease payments must be made in compliance with the provisions of ORS 464.510.

(d) An organization licensed by the department may act as an escrow agent to receive money or property to be awarded as prizes.

(2) A charitable, fraternal or religious organization may not operate bingo, lotto or raffle games or Monte Carlo events except at locations and upon days and for periods of time as the department authorizes pursuant to this section and ORS 464.250 to 464.380, 464.420 and 464.450 to 464.530.

(3)(a) An organization licensed by the department to operate bingo or lotto games may not award a prize exceeding $5,000 in value in any one game. An organization licensed by the department to operate a Monte Carlo event may not present any prize of money, or a cash equivalent, to any player.

(b) Notwithstanding any provision of ORS 167.108 to 167.164 and 464.270 to 464.530 to the contrary, a bingo licensee may operate two games per year with a prize not to exceed $10,000 per game and, if approved by the department, may also participate in a linked progressive game involving only Oregon licensees, without regard to the number of games or the size of the prize awarded.

(4) Each charitable, fraternal or religious organization that maintains, conducts or operates any bingo, lotto or raffle game or

Monte Carlo event under license of the department must operate the game or event in accordance with rules adopted by the department.

(5) It is unlawful for a licensee to permit the operating expenses of the games to exceed 22 percent of the annual handle of its bingo, lotto and raffle operation.

(6) It is unlawful for a charitable, fraternal or religious organization licensed by the department to operate bingo, lotto or raffle games if:

(a) The handle of the games and events exceeds $250,000 in a year; and

(b) The games and events do not generate for the organization's purposes, after the cost of prizes and operating expenses are deducted from the handle, an amount that equals or exceeds five percent of the handle. [1987 c.914 §3; 1991 c.274 §2; 1995 c.331 §1; 1997 c.867 §2; 1999 c.218 §1; 2001 c.228 §2; 2003 c.417 §1; 2017 c.60 §1]

167.119 [1973 c.788 §3; repealed by 1974 c.7 §2]

167.120 [Amended by 1955 c.514 §1; 1969 c.404 §1; repealed by 1971 c.743 §432]

167.121 Local authorization of social games. Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized. [1974 c.7 §3]

Note: 167.121 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.122 Unlawful gambling in the second degree. (1) A person commits the crime of unlawful gambling in the second degree if the person knowingly:

(a) Places a bet with a bookmaker; or

(b) Participates or engages in unlawful gambling as a player.

(2) Unlawful gambling in the second degree is a Class A misdemeanor. [1971 c.743 §264; 1997 c.867 §21]

167.125 [Amended by 1969 c.404 §2; repealed by 1971 c.743 §432]

167.127 Unlawful gambling in the first degree. (1) A person commits the crime of unlawful gambling in the first degree if the person knowingly promotes or profits from unlawful gambling.

(2) Unlawful gambling in the first degree is a Class C felony. [1971 c.743 §265; 1997 c.867 §22]

167.130 [Repealed by 1971 c.743 §432]

167.132 Possession of gambling records in the second degree. (1) A person commits the crime of possession of gambling records in the second degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise; or

(b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise.

(2) Possession of gambling records in the second degree is a Class A misdemeanor. [1971 c.743 §266]

167.135 [Repealed by 1971 c.743 §432]

167.137 Possession of gambling records in the first degree. (1) A person commits the crime of possession of gambling records in the first degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than $500; or

(b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise, and constituting, reflecting or representing more than 500 plays or chances therein.

(2) Possession of gambling records in the first degree is a Class C felony. [1971 c.743 §267]

167.140 [Repealed by 1971 c.743 §432]

167.142 Defense to possession of gambling records. In any prosecution under ORS 167.132 or 167.137 it is a defense if the writing, paper, instrument or article possessed by the defendant is neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or numbers scheme or enterprise. [1971 c.743 §268]

167.145 [Repealed by 1971 c.743 §432]

167.147 Possession of a gambling device; defense. (1) A person commits the crime of possession of a gambling device if, with knowledge of the character thereof, the person manufactures, sells, transports, places or possesses, or conducts or negotiates a transaction affecting or designed to affect ownership, custody or use of:

(a) A slot machine; or

(b) Any other gambling device, believing that the device is to be used in promoting unlawful gambling activity.

(2) Possession of a gambling device is a Class A misdemeanor.

(3) It is a defense to a charge of possession of a gambling device if the slot ma-

chine or gambling device that caused the charge to be brought was manufactured:

(a) Prior to 1900 and is not operated for purposes of unlawful gambling; or

(b) More than 25 years before the date on which the charge was brought and:

(A) Is located in a private residence;

(B) Is not operated for the purposes of unlawful gambling; and

(C) Has permanently affixed to it by the manufacturer, the manufacturer's name and either the date of manufacture or the serial number. [1971 c.743 §269; 1977 c.264 §1; 1983 c.403 §1; 1993 c.781 §1; 1995 c.577 §1]

167.150 [Repealed by 1961 c.579 §2]

167.151 [1961 c.579 §1; 1963 c.480 §1; repealed by 1971 c.743 §432]

167.152 [1955 c.494 §1; repealed by 1971 c.743 §432]

167.153 Proving occurrence of sporting event in prosecutions of gambling offenses. In any prosecution under ORS 167.117 and 167.122 to 167.147 in which it is necessary to prove the occurrence of a sporting event, the following shall be admissible in evidence and shall be prima facie evidence of the occurrence of the event:

(1) A published report of its occurrence in a daily newspaper, magazine or other periodically printed publication of general circulation; or

(2) Evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of ORS 167.117 and 167.122 to 167.147 is alleged to have been committed. [1971 c.743 §270]

167.155 [Repealed by 1961 c.503 §3]

167.157 [1969 c.169 §1; repealed by 1971 c.743 §432]

167.158 Lottery prizes forfeited to county; exception; action by county to recover. (1) Except for bingo or lotto operated by a charitable, fraternal or religious organization, all sums of money and every other valuable thing drawn as a prize in any lottery or pretended lottery, by any person within this state, are forfeited to the use of the county in which it is found, and may be sued for and recovered by a civil action.

(2) Nothing contained in ORS 105.550 to 105.600 shall interfere with the duty of officers to take possession of property as provided by subsection (1) of this section. [1971 c.743 §271; 1977 c.850 §3; 1989 c.846 §14]

167.160 [Repealed by 1961 c.503 §3]

167.162 Gambling device as public nuisance; defense; seizure and destruction. (1) A gambling device is a public nuisance. Any peace officer shall summarily seize any such device that the peace officer finds and deliver it to the custody of the law enforcement agency that employs the officer, which shall hold it subject to the order of the court having jurisdiction.

(2) Whenever it appears to the court that the gambling device has been possessed in violation of ORS 167.147, the court shall adjudge forfeiture thereof and shall order the law enforcement agency holding the gambling device to destroy the device and to deliver any coins taken therefrom to the county treasurer, who shall deposit them to the general fund of the county. However, when the defense provided by ORS 167.147 (3) is raised by the defendant, the gambling device or slot machine shall not be forfeited or destroyed until after a final judicial determination that the defense is not applicable. If the defense is applicable, the gambling device or slot machine shall be returned to its owner.

(3) The seizure of the gambling device or operating part thereof constitutes sufficient notice to the owner or person in possession thereof. The law enforcement agency shall make return to the court showing that the law enforcement agency has complied with the court's order.

(4) Whenever, in any proceeding in court for the forfeiture of any gambling device except a slot machine seized for a violation of ORS 167.147, a judgment for forfeiture is entered, the court shall have exclusive jurisdiction to remit or mitigate the forfeiture.

(5) In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until the claimant proves that the claimant:

(a) Has an interest in the gambling device, as owner or otherwise, that the claimant acquired in good faith.

(b) At no time had any knowledge or reason to believe that it was being or would be used in violation of law relating to gambling.

(6) In any proceeding in court for the forfeiture of any gambling device except a slot machine seized for a violation of law relating to gambling, the court may in its discretion order delivery thereof to any claimant who shall establish the right to the immediate possession thereof, and shall execute, with one or more sureties, or by a surety company, approved by the court, and deliver to the court, a bond in such sum as the court shall determine, running to the State of Oregon, and conditioned to return such gambling device at the time of trial, and conditioned further that, if the gambling device be not returned at the time of trial, the bond may in the discretion of the court stand in lieu of and be forfeited in the same manner as such gambling device. [1971 c.743 §272; 1977 c.264 §2; 1999 c.59 §32; 2003 c.576 §391; 2005 c.22 §117; 2009 c.835 §9]

167.164 Possession of a gray machine; disposition of machine; defense. (1) A person commits the crime of possession of a gray machine if the person manufactures, sells, leases, transports, places, possesses or services a gray machine or conducts or negotiates a transaction affecting or designed to affect the ownership, custody or use of a gray machine.

(2) Possession of a gray machine is a Class C felony.

(3) If any device is seized by a law enforcement agency based on a contention that the device is a gray machine, and a motion for return or restoration of the device is filed under ORS 133.633, the burden of proof is on the state to establish that the device is in fact a gray machine.

(4) Violation of, solicitation to violate, attempt to violate or conspiracy to violate subsection (1) of this section constitutes prohibited conduct for purposes of ORS chapter 131A. A device that is claimed to be a gray machine may be destroyed or otherwise disposed of only if a judgment of forfeiture has been entered under ORS 131.550 to 131.600 or ORS chapter 131A.

(5) It is a defense to a charge of possession of a gray machine if the machine that caused the charge to be brought was manufactured prior to 1958 and was not operated for purposes of unlawful gambling. [1991 c.962 §5; 1999 c.59 §33; 2009 c.78 §58; 2013 c.128 §1]

167.165 [Repealed by 1963 c.340 §1 (167.170 enacted in lieu of 167.165)]

167.166 Removal of unauthorized video lottery game terminal. On and after December 1, 1991, any video lottery game terminal that is not authorized by the Oregon State Lottery Commission must be removed from the State of Oregon. [1991 c.962 §8]

Note: 167.166 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.167 Cheating. (1) A person commits the crime of cheating if the person, while in the course of participating or attempting to participate in any legal or illegal gambling activity, directly or indirectly:

(a) Employs or attempts to employ any device, scheme or artifice to defraud any other participant or any operator;

(b) Engages in any act, practice or course of operation that operates or would operate as a fraud or deceit upon any other participant or any operator;

(c) Engages in any act, practice or course of operation with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or

(d) Causes, aids, abets or conspires with another person to cause any other person to violate paragraphs (a) to (c) of this subsection.

(2) As used in this section, "deceit," "defraud" and "fraud" are not limited to common law deceit or fraud.

(3) Cheating is a Class C felony. [1997 c.867 §20]

167.170 [1963 c.340 §2 (enacted in lieu of 167.165); repealed by 1971 c.743 §432]

167.202 [1971 c.743 §273; 1974 s.s. c.67 §1; repealed by 1977 c.745 §3 (167.203 enacted in lieu of 167.202)]

OFFENSES INVOLVING CONTROLLED SUBSTANCES

167.203 Definitions for ORS 167.212 to 167.252. As used in ORS 167.212 to 167.252, unless the context requires otherwise:

(1) "Apothecary" means a pharmacist, as defined by ORS 689.005, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist.

(2) "Controlled substance" and "manufacture" have the meaning given those terms by ORS 475.005.

(3) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Internal Revenue, under any laws of the United States making provision therefor, if such order form is not provided, then on an official form provided for that purpose by the State Board of Pharmacy.

(4) "Practitioner" has the meaning given that term by ORS 475.005.

(5) "Wholesaler" means a person who supplies controlled substances that the wholesaler has not produced or prepared, on official written orders, but not on prescriptions.

(6) "Unlawfully" means in violation of any provision of ORS 475.005 to 475.285 and 475.752 to 475.980. [1977 c.745 §33 (enacted in lieu of 167.202); 1979 c.777 §44; 1995 c.440 §14]

167.205 [Amended by 1961 c.333 §1; repealed by 1971 c.743 §432]

167.207 [1971 c.743 §274; 1973 c.680 §1; 1974 c.67 §2; repealed by 1977 c.745 §54]

167.210 [Repealed by 1971 c.743 §432]

167.212 Tampering with drug records. (1) A person commits the crime of tampering with drug records if the person knowingly:

(a) Alters, defaces or removes a controlled substance label affixed by a manufacturer, wholesaler or apothecary, except that it shall not be unlawful for an apothecary to

remove or deface such a label for the purpose of filling prescriptions;

(b) Affixes a false or forged label to a package or receptacle containing controlled substances;

(c) Makes or utters a false or forged prescription or false or forged official written order for controlled substances; or

(d) Makes a false statement in any controlled substance prescription, order, report or record required by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2) Tampering with drug records is a Class C felony. [1971 c.743 §275; 1977 c.745 §34; 1995 c.440 §15]

167.215 [Repealed by 1971 c.743 §432]

167.217 [1971 c.743 §276; 1973 c.680 §2; 1974 c.67 §3; repealed by 1977 c.745 §54]

167.220 [Amended by 1957 c.403 §8; 1961 c.261 §2; repealed by 1971 c.743 §432]

167.222 Frequenting a place where controlled substances are used. (1) A person commits the offense of frequenting a place where controlled substances are used if the person keeps, maintains, frequents, or remains at a place, while knowingly permitting persons to use controlled substances in such place or to keep or sell them in violation of ORS 475.005 to 475.285 and 475.752 to 475.980.

(2) Frequenting a place where controlled substances are used is a Class A misdemeanor.

(3) As used in this section, "frequents" means repeatedly or habitually visits, goes to or resorts to. [1971 c.743 §277; 1974 c.43 §1; 1977 c.745 §35; 1979 c.641 §1; 1991 c.67 §41; 1993 c.469 §3; 1995 c.440 §16; 1999 c.1051 §160; 2017 c.21 §47]

167.225 [Repealed by 1971 c.743 §432]

167.227 [1969 c.655 §2; repealed by 1971 c.743 §432]

167.228 [1971 c.743 §278; repealed by 1977 c.745 §54]

167.230 [Repealed by 1971 c.743 §432]

167.232 [1971 c.743 §278a; repealed by 1977 c.745 §54]

167.235 [Amended by 1967 c.527 §1; repealed by 1971 c.743 §432]

167.237 [1967 c.527 §2; repealed by 1971 c.743 §432]

167.238 Prima facie evidence permitted in prosecutions of drug offenses. (1) Proof of unlawful manufacture, cultivation, transportation or possession of a controlled substance is prima facie evidence of knowledge of its character.

(2) Proof of possession of a controlled substance not in the container in which it was originally delivered, sold or dispensed, when a prescription or order of a practitioner is required under the provisions of ORS 475.005 to 475.285 and 475.752 to 475.980, is prima facie evidence that the possession is unlawful unless the possessor also has in possession a label prepared by the pharmacist for the drug dispensed or the possessor is authorized by ORS 475.005 to 475.285 and 475.752 to 475.980 to possess the controlled substance. [1971 c.743 §279; 1977 c.745 §36; 1995 c.440 §17]

167.240 [Repealed by 1971 c.743 §432]

167.242 [1971 c.743 §280; 1977 c.745 §37; 1995 c.440 §18; repealed by 1997 c.592 §6 (167.243 enacted in lieu of 167.242)]

167.243 Exemption contained in drug laws as defense to drug offenses. In any prosecution under ORS 167.212 and 167.222, any exception, excuse, proviso or exemption contained in ORS 475.005 to 475.285 and 475.752 to 475.980 shall be an affirmative defense. [1989 c.791 §16; 1995 c.440 §19; enacted in lieu of 167.242 in 1997]

167.245 [Amended by 1955 c.504 §1; 1959 c.322 §1; repealed by 1971 c.743 §432]

167.247 [1971 c.743 §281; 1977 c.745 §38; 1995 c.440 §20; repealed by 1997 c.592 §6 (167.248 enacted in lieu of 167.247)]

167.248 Search and seizure of conveyance in which drugs unlawfully transported or possessed. A district attorney or peace officer charged with the enforcement of ORS 167.212 and 167.222, having personal knowledge or reasonable information that controlled substances are being unlawfully transported or possessed in any boat, vehicle or other conveyance, may search the same without warrant and without an affidavit being filed. If controlled substances are found in or upon such conveyance, the district attorney or peace officer may seize them, arrest any person in charge of the conveyance and as soon as possible take the arrested person and the seized controlled substances before any court in the county in which the seizure is made. The district attorney or peace officer shall also, without delay, make and file a complaint for any crime justified by the evidence obtained. [1989 c.791 §17; enacted in lieu of 167.247 in 1997]

167.250 [Amended by 1959 c.322 §2; repealed by 1971 c.743 §432]

167.252 Preclusion of state prosecution. No person shall be prosecuted under ORS 167.203 to 167.222 if the person has been acquitted or convicted under the federal narcotic laws of the same act or omission which it is alleged constitutes a violation of ORS 167.203 to 167.222. [1971 c.743 §282]

167.255 [Repealed by 1959 c.322 §3]

167.260 [Repealed by 1959 c.322 §3]

167.262 Use of minor in controlled substance or marijuana item offense. (1) It is unlawful for an adult to knowingly use as an aider or abettor or to knowingly solicit, force, compel, coerce or employ a minor, with or without compensation to the minor:

(a) To manufacture a controlled substance or a marijuana item as defined in ORS 475C.009; or

(b) To transport, carry, sell, give away, prepare for sale or otherwise distribute a controlled substance or a marijuana item as defined in ORS 475C.009.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, violation of this section is a Class A felony.

(b) Violation of this section is a Class A misdemeanor if the violation involves delivery for no consideration of less than one ounce of usable marijuana as defined in ORS 475C.009. [1991 c.834 §1; 2017 c.21 §48]

Note: 167.262 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.265 [Repealed by 1959 c.322 §3]

167.270 [Repealed by 1959 c.322 §3]

167.275 [Repealed by 1959 c.322 §3]

167.280 [Repealed by 1959 c.322 §3]

167.285 [Repealed by 1959 c.322 §3]

167.290 [Repealed by 1959 c.322 §3]

167.295 [Amended by 1963 c.314 §1; repealed by 1971 c.743 §432]

167.300 [Repealed by 1971 c.743 §432]

OFFENSES AGAINST ANIMALS

167.305 Legislative findings. The Legislative Assembly finds and declares that:

(1) Animals are sentient beings capable of experiencing pain, stress and fear;

(2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;

(3) The suffering of animals can be mitigated by expediting the disposition of abused animals that would otherwise languish in cages while their defendant owners await trial;

(4) The suffering of animals at the hands of unlicensed animal rescue organizations that are unable to provide sufficient food and care for the animals can be reduced by requiring such organizations to comply with regulations;

(5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred by a government agency, a humane investigation agency or its agent or a person that provides treatment for impounded animals;

(6) A government agency, a humane investigation agency or its agent or a person that provides care and treatment for impounded or seized animals:

(a) Has an interest in mitigating the costs of the care and treatment in order to ensure the swift and thorough rehabilitation of the animals; and

(b) May mitigate the costs of the care and treatment through funding that is separate from, and in addition to, any recovery of reasonable costs that a court orders a defendant to pay while a forfeiture proceeding is pending or subsequent to a conviction;

(7) Use of preconviction civil remedies is not an affront to the presumption of innocence; and

(8) Amendments to current law are needed to ensure that interested parties are afforded adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien foreclosure and preconviction forfeiture processes through unfounded due process claims. [2013 c.719 §1; 2017 c.677 §1]

Note: 167.305 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.310 Definitions for ORS 167.310 to 167.351. As used in ORS 167.310 to 167.351:

(1) "Adequate bedding" means bedding of sufficient quantity and quality to permit a 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 a 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) "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, 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)(a) "Livestock," except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125.

(b) "Livestock" does not include psittacines.

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

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

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

(13) "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)(a) "Tethering" means to restrain a 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 a 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]

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. [1991 c.843 §2; 2001 c.147 §2; 2001 c.554 §1]

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. [1985 c.662 §2]

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 one 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.

(5) 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]

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 and the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

(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. [1995 c.663 §2; 2001 c.926 §9; 2013 c.719 §3]

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:

(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 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. 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]

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:

(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 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]

167.332 Prohibition against possession of same genus or domestic animal; prohibition period reduction; waiver procedure. (1) Except as provided in subsections (3) and (4) of this section:

(a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 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.

(b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 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. However, the sentencing court may reduce the prohibition period if the person successfully completes mental health treatment approved by the court.

(2) A person who possesses an animal in violation of this section commits a Class 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 and as a condition of the person's probation may prohibit the person from possessing any animal of the same genus that the person unlawfully possessed under this section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed.

(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, 167.320, 167.322, 167.325,

167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 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 (2)(c);

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

(iii) Animal neglect as described in ORS 167.325 or 167.330 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]

167.333 Sexual assault of an 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 C felony. [2001 c.926 §5b; 2003 c.428 §1; 2015 c.324 §3]

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. [2001 c.926 §5c]

Note: 167.334 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.335 Exemption from ORS 167.315 to 167.333. (1) Except as provided in subsection (2) of this section, unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:

(a) The treatment of livestock being transported by owner or common carrier;

(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;

(f) Animals subject to good veterinary practices as described in ORS 686.030;

(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. [1985 c.662 §6; 1995 c.663 §4; 2001 c.926 §10a; 2018 c.19 §4]

167.337 Interfering with law enforcement 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. [Formerly 164.369; 2009 c.555 §1; 2011 c.597 §167]

167.339 Assaulting 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. [2003 c.543 §3; 2009 c.555 §2; 2011 c.597 §168]

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 or an equine at a location without providing minimum 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. [1985 c.662 §8; 2001 c.926 §11; 2009 c.233 §1]

167.341 Encouraging sexual assault of an animal. (1) A person commits the crime of encouraging sexual assault of an animal if the person:

(a) Knowingly possesses or controls, for the purpose of arousing or satisfying the sexual desires of the person or another person, a visual recording of a person engaged in sexual conduct with an animal; and

(b) Knows or is aware of and consciously disregards the fact that the creation of the visual recording involved the sexual assault of an animal as described in ORS 167.333.

(2) Encouraging sexual assault of an animal is a Class A misdemeanor.

(3) As used in this section:

(a) "Sexual conduct" means touching or contacting the mouth, anus or sex organs of an animal or animal carcass, or causing 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.

(b) "Visual recording" includes, but is not limited to, photographs, films, videotapes and computer and other digital pictures, regardless of the manner in which the recording is stored. [2015 c.324 §2]

167.343 Unlawful tethering. (1) A person commits the offense of unlawful tethering if the person tethers a domestic animal in the person's custody or control:

(a) With a tether that is not a reasonable length given the size of the domestic animal and available space and that allows the domestic animal to become entangled in a manner that risks the health or safety of the domestic animal;

(b) With a collar that pinches or chokes the domestic animal when pulled;

(c) For more than 10 hours in a 24-hour period; or

(d) For more than 15 hours in a 24-hour period if the tether is attached to a running line, pulley or trolley system.

(2) A person does not violate this section if the person tethers a domestic animal:

(a) While the domestic animal remains in the physical presence of the person who owns, possesses, controls or otherwise has charge of the domestic animal;

(b) Pursuant to the requirements of a campground or other recreational area;

(c) For the purpose of engaging in an activity that requires licensure in this state, including but not limited to hunting;

(d) To allow the person to transport the domestic animal; or

(e) That is a dog kept for herding, protecting livestock or dogsledding.

(3) Unlawful tethering is a Class B violation. [2013 c.382 §2]

167.345 Authority to enter premises or motor vehicle; search warrant; notice of impoundment of animal; damage resulting from entry. (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, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises or motor vehicle 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 or motor vehicle 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) 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.

(b) A court may order a fighting bird impounded under subsection (2) of this section to be held on the property of the owner, possessor or keeper of the fighting bird in accordance with ORS 167.433. [Formerly 167.860; 1993 c.519 §1; 1995 c.663 §5; 2001 c.926 §12; 2009 c.550 §1; 2015 c.177 §1]

167.347 Forfeiture of animal to animal care agency prior to disposition of criminal action. (1)(a) If an 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 a criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to the final disposition of the criminal action, the county or other animal care agency or, on behalf of the county or other animal care agency, the district attorney, 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 the final disposition of the criminal action. The petitioner shall serve a true copy of the petition upon the defendant and, unless the district attorney has filed the petition on behalf of the county or other animal care agency, the district attorney.

(b) A petition may be filed in the criminal action under paragraph (a) of this subsection concerning any animal impounded under ORS 167.345 and held pending the outcome of the criminal action, regardless of whether the specific animal is the subject of a criminal charge, or named in the charging instrument, in the criminal action.

(2)(a) 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.

(b) To provide notice on any potential claimant who may have an interest in any animals impounded pursuant to ORS 167.345 and as an alternate form of service upon a defendant who cannot be personally served as required in subsection (1) of this section, a petitioner may publish notice of the filing of the petition, printed twice weekly for up to 14 consecutive days in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the hearing is to be held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the hearing is to be held. The notice of the filing of the petition required under this subsection shall contain a description of the impounded animal or animals, the name of the owner or reputed owner thereof, the location from which the animal or animals were impounded and the time and place of the hearing if the hearing has been set at the time of publication, or otherwise the name, address and phone number for the attorney for the petitioner, who shall upon request provide further details on the hearing date, place and time.

(3) 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, 167.340, 167.355, 167.365 or 167.428. The defendant or any other claimant shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant or any other claimant, 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.

(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 or any other claimant 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 any impounded animal from the date of initial impoundment to the date of final disposition of the animal in the related criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350 and 167.435 and ORS chapters 87 and 88. [1995 c.369 §2; 2001 c.926 §13; 2009 c.550 §2; 2011 c.455 §1; 2013 c.719 §7; 2017 c.279 §1]

167.348 Placement of forfeited animal. (1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the agency to which the animal was forfeited may place the animal with a new owner. The agency may 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. The agency may not, however, place the animal with family members or friends of the former owner who aided or abetted the criminal conduct underlying the forfeiture or had knowledge of the criminal conduct and failed to intervene. As a condition of placement, the agency shall require the new owner to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the former owner to possess the animal constitutes a crime.

(2) Notwithstanding subsection (1) of this section, the agency may not place the animal with any person who resides with the former owner. [1995 c.369 §3; 2009 c.273 §1; 2013 c.719 §8]

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. [2009 c.273 §3]

167.350 Forfeiture of rights in mistreated animal; costs; disposition of animal. (1)(a) 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, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person prior to judgment in caring for each animal associated with the criminal proceeding.

(b) If a government agency or a humane investigation agency or its agent provides care and treatment for impounded or seized animals, a court that orders a defendant to repay reasonable costs of care under paragraph (a) of this subsection may not reduce the incurred cost amount based on the agency having received donations or other funding for the care.

(2)(a) 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. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) 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. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime.

(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 any reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person in providing minimum care to the animal that are not included in a repayment order under subsection (1) of this section.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 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, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435. [Formerly 167.862; 1993 c.519 §2; 1995 c.663 §6; 2001 c.666 §29; 2001 c.926 §§14a,14b; 2005 c.830 §28; 2009 c.273 §2; 2009 c.550 §3; 2017 c.677 §4]

167.351 Trading in nonambulatory livestock. (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. [2003 c.287 §2]

167.352 Interfering with an assistance, a search and rescue or a 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 disability; 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" has the meaning given that term in ORS 659A.143.

(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 an animal other than an assistance animal that 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. [1993 c.312 §3; 2007 c.70 §37; 2013 c.530 §6]

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 C felony. [Formerly 167.865; 1987 c.249 §6; 2003 c.484 §9; 2009 c.796 §2]

167.360 Definitions for ORS 167.360 to 167.372. As used in ORS 167.360 to 167.372:

(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) A breaking stick;

(b) A springpole;

(c) A cat mill;

(d) A treadmill;

(e) A fighting pit;

(f) A leather or mesh collar with a strap more than two inches in width;

(g) A weighted or unweighted chain collar weighing 10 pounds or more; or

(h) An 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.

(8) "Treadmill" means:

(a) A carpet mill made of narrow sections of carpet;

(b) A modified electric treadmill for the purpose of conditioning dogs; or

(c) A slat mill with a running surface constructed of slats made of wood, fiberglass, plastic or other similar material. [1987 c.249 §1; 2005 c.467 §1; 2008 c.42 §3]

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. [1987 c.249 §2]

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 that the person knows or reasonably should know will be used for the purpose of training and handling a fighting dog.

(2) Participation in dogfighting is a Class C felony. [1987 c.249 §3; 2008 c.42 §1]

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 C felony. [2005 c.467 §3; 2008 c.42 §2]

167.374 Possession or control of dogs for purpose of reproduction; records; exceptions. (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, barters 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. [2009 c.297 §1]

167.375 [1987 c.249 §4; repealed by 2009 c.550 §7]

167.376 Standards of care applicable to dog breeders; records; exceptions. (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. [2009 c.297 §2]

167.379 [2001 c.666 §54; repealed by 2005 c.830 §48]

167.380 [1987 c.249 §5; repealed by 2001 c.666 §56]

167.383 Equine tripping. (1) As used in this section, "equine" means any member of the family Equidae.

(2) Except as provided in subsection (3) of this section, a person commits the offense of equine tripping if, for purposes of a rodeo, contest, exhibition, entertainment or sport or as practice for a rodeo, contest, exhibition, entertainment or sport, the person intentionally ropes or lassos the legs of an equine, intentionally causing the equine to trip or fall.

(3) Subsection (2) of this section does not apply to a person who causes an equine to trip or fall for the purpose of allowing veterinary care for the equine.

(4) The offense of equine tripping is a Class B misdemeanor. [2013 c.616 §2]

Note: 167.383 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.385 Unauthorized use of a 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. [1993 c.252 §1]

167.387 Definitions for ORS 167.387 and 167.388. 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 estray animals, as that term is defined in ORS 607.007. [1993 c.252 §4; 1999 c.756 §14]

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. [1993 c.252 §§2,3; 2001 c.554 §2]

167.390 Commerce in fur of domestic cats and dogs prohibited; exception. (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. [1999 c.995 §§1,2]

167.400 [1991 c.970 §1; 1999 c.1051 §161; 2015 c.158 §7; 2017 c.701 §9; renumbered 167.785 in 2017]

167.401 [1999 c.1077 §8; 2011 c.355 §20; 2011 c.597 §168a; 2015 c.158 §8; repealed by 2017 c.701 §27]

167.402 [1991 c.970 §2; 1999 c.1051 §162; 2009 c.600 §1; 2015 c.158 §9; 2017 c.701 §6; renumbered 167.780 in 2017]

167.404 [1991 c.970 §3; 2015 c.158 §10; 2017 c.701 §7; renumbered 167.775 in 2017]

167.405 [Repealed by 1971 c.743 §432]

167.407 [2003 c.804 §84; 2015 c.158 §11; 2017 c.701 §8; renumbered 167.765 in 2017]

167.410 [Repealed by 1971 c.743 §432]

167.415 [Repealed by 1971 c.743 §432]

167.420 [Repealed by 1971 c.743 §432]

167.425 [Repealed by 1971 c.743 §432]

OFFENSES INVOLVING FIGHTING BIRDS

167.426 Definitions for ORS 167.426 to 167.439. As used in ORS 167.426 to 167.439:

(1) "Cockfight" means a fight between two or more birds that is arranged by a person and that has the purpose or probable result of one bird inflicting injury to another bird.

(2) "Constructive possession" means an exercise of dominion and control over the location and treatment of property without taking physical possession of the property.

(3) "Fighting bird" means a bird that is intentionally reared or trained for use in, or that actually is used in, a cockfight.

(4) "Gaff" means an artificial steel spur designed for attachment to the leg of a fighting bird in replacement of the bird's natural spurs.

(5) "Slasher" means a steel weapon resembling a curved knife blade designed for attachment to the foot of a fighting bird.

(6) "Source bird" means:

(a) A hen used to produce one or more chicks intended for eventual use as fighting birds; or

(b) A chick being reared with the intent that the chick eventually be used as a fighting bird or as a hen described in paragraph (a) of this subsection. [2003 c.484 §1; 2017 c.276 §1]

Note: 167.426 to 167.439 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.428 Cockfighting. (1) A person commits the crime of cockfighting if the person knowingly:

(a) Owns, possesses, keeps, rears, trains, buys, sells or advertises or otherwise offers to sell a fighting bird.

(b) Promotes or participates in, or performs services in furtherance of, the conducting of a cockfight. As used in this paragraph, "services in furtherance" includes, but is not limited to, transporting spectators to a cockfight, handling fighting birds, organizing, advertising or refereeing a cockfight and providing, or acting as stakeholder for, money wagered on a cockfight.

(c) Keeps, uses or manages, or accepts payment of admission to, a place for the conducting of a cockfight.

(d) Suffers or permits a place in the possession or control of the person to be occupied, kept or used for the conducting of a cockfight.

(2) Subsection (1)(a) of this section does not apply to the owning, possessing, keeping, rearing, buying, selling, advertising or otherwise offering for sale of a bird for purposes other than training the bird as a fighting bird, using or intending to use the bird in cockfighting or supplying the bird knowing that the bird is intended to be used in cockfighting.

(3) Cockfighting is a Class C felony. [2003 c.484 §2; 2018 c.19 §1]

Note: See note under 167.426.

167.430 [Amended by 1961 c.648 §8; repealed by 1971 c.743 §432]

167.431 Participation in cockfighting. (1) A person commits the crime of participation in cockfighting if the person knowingly:

(a) Attends a cockfight or pays admission at any location to view or bet on a cockfight; or

(b) Manufactures, buys, sells, barters, exchanges, possesses, advertises or otherwise offers to sell a gaff, slasher or other sharp implement designed for attachment to a fighting bird, or other equipment, with the intent that the gaff, slasher, implement or equipment be used in training or handling a fighting bird or for enhancing the fighting ability of a fighting bird.

(2) Participation in cockfighting is a Class C felony. [2003 c.484 §3; 2009 c.796 §1; 2018 c.19 §2]

Note: See note under 167.426.

167.433 Seizure of fighting birds or source birds; procedure. (1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of an alleged fighting bird or source bird owned, possessed or kept by any person.

(2) A judge ordering the seizure of an alleged fighting bird or source bird under subsection (1) of this section may order that the bird be impounded on the property of the owner, possessor or keeper of the bird. If a judge orders an alleged fighting bird or source bird impounded on the property of the owner, possessor or keeper of the bird, the court shall order the owner, possessor or keeper to provide all necessary care for the bird and to allow regular and continuing inspection of the bird by a person designated by the court, or the agent of a person designated by the court. The owner, possessor or keeper shall pay the costs of conducting the inspections. The court shall further order the owner, possessor or keeper not to sell or otherwise dispose of the bird unless the court authorizes the sale or disposition, or until the seized bird is forfeited pursuant to an order under ORS 167.435 or restored to the person pursuant to an order under ORS 133.643. [2003 c.484 §4; 2017 c.276 §2]

Note: See note under 167.426.

167.435 Forfeiture of rights in fighting birds, source birds or property; public nuisance. (1) In addition to and not in lieu of any other penalty the court may impose upon a person convicted of cockfighting under ORS 167.428 or participation in cockfighting under ORS 167.431, the court shall include in the judgment an order for forfeiture to the city or county where the crime occurred of the person's rights in any property proved to have been used by the person as an instrumentality in the commission of the crime, including any fighting bird or source bird. This subsection does not limit the ability of the court to dispose of a fighting bird or source bird as provided under subsection (2) of this section.

(2) A fighting bird is a public nuisance, regardless of whether a person has been convicted of cockfighting or participation in cockfighting. If a fighting bird is ordered forfeited under subsection (1) of this section or is proved by a preponderance of the evidence in a forfeiture proceeding to be a fighting bird, the court shall order that the bird be destroyed or be otherwise disposed of. Upon the conviction of the person charged, the court shall adjudge all of the seized property of the person to be forfeited and shall order that the property be destroyed or otherwise disposed of. The court shall provide for a humane disposition of any source birds included in the forfeited property. [2003 c.484 §5; 2017 c.276 §3]

Note: See note under 167.426.

167.437 Constructive possession of fighting birds or source birds; procedure. (1) A peace officer having jurisdiction may, upon probable cause to believe that a bird is a fighting bird or source bird, take constructive possession of the bird on behalf of the law enforcement agency employing the officer.

(2) A peace officer who takes constructive possession of an alleged fighting bird or source bird pursuant to this section must do the following:

(a) Place a tag or other device approved by the law enforcement agency on the cage or other enclosure where the alleged fighting bird or source bird is located. The tag or other device must clearly state that it is unlawful to conceal, remove or release the bird for purposes of interfering with law enforcement agency control over the bird.

(b) Notify the owner, possessor or keeper of the bird that the bird has been seized by the law enforcement agency and may not be concealed, removed or released until authorized by a court or as provided in this section.

(c) Promptly apply to an appropriate court for an order described in ORS 167.433.

(3) If a law enforcement agency takes constructive possession of an alleged fighting bird or source bird under this section, the owner, possessor or keeper of the bird shall provide all necessary care for the bird.

(4) Constructive possession of an alleged fighting bird or source bird pursuant to this section terminates when a court order de-

scribed in ORS 167.433 is served on the owner, possessor or keeper of the bird, or after 24 hours, whichever occurs first. [2003 c.484 §6; 2017 c.276 §4]

Note: See note under 167.426.

167.439 Forcible recovery of a fighting bird. (1) A person commits the crime of forcible recovery of a fighting bird if the person knowingly dispossesses, or knowingly attempts to dispossess, a law enforcement agency of constructive possession of a fighting bird, a source bird or an alleged fighting bird or source bird.

(2) Forcible recovery of a fighting bird is a Class C felony. [2003 c.484 §7; 2017 c.276 §5]

Note: See note under 167.426.

OFFENSES INVOLVING UNUSED PROPERTY MARKETS

167.500 Definitions for ORS 167.502, 167.506 and 167.508. As used in ORS 167.502, 167.506 and 167.508:

(1) "Baby food" or "infant formula" means food manufactured, packaged and labeled specifically for sale for consumption by a child under the age of two years.

(2) "Medical device" means an object or substance that is:

(a) Required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician"; or

(b) Defined by federal law as a medical device and is intended:

(A) For use in the diagnosis of disease or other conditions in humans or animals;

(B) For use in the cure, mitigation, treatment or prevention of disease in humans or animals; or

(C) To affect the structure or a function of the bodies of humans or animals without achieving any of its principal intended purposes through metabolism or through chemical action within or on the bodies of humans or animals.

(3) "New and unused property" means tangible personal property:

(a) That was acquired by a person directly from a producer, manufacturer, wholesaler or retailer in the ordinary course of business and has not been used since its production or manufacture; or

(b) That was packaged when it was originally produced or manufactured and the property is in its original and unopened package.

(4)(a) "Nonprescription drugs" means drugs that may be sold without a prescription and that, in accordance with the requirements of the statutes and regulations of this state and the federal government, are:

(A) Prepackaged for use by a consumer;

(B) Prepared by a manufacturer or producer for use by a consumer; and

(C) Labeled and unadulterated.

(b) "Nonprescription drugs" does not include herbal products, dietary supplements, botanical extracts or vitamins.

(5) "Prior conviction" means a conviction that was entered prior to imposing sentence on the current crime, provided that the prior conviction is based on a crime committed in a separate criminal episode.

(6) "Unused property market" means an event:

(a) Where at least two persons offer new and unused property for sale or exchange and the person organizing or conducting the event charges a fee upon the sale or exchange of the new and unused property;

(b) Where at least two persons offer new and unused property for sale or exchange and a prospective buyer must pay a fee for admission to an area where new and unused property is offered for sale or exchange; or

(c) Where new and unused property is offered for sale or exchange for more than 12 days in one 12-month period. [2003 c.338 §1]

Note: 167.500, 167.502, 167.506 and 167.508 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.502 Sale of certain items at unused property market prohibited; exceptions. (1) Except as provided in subsection (2) of this section, a person may not offer for sale or exchange or knowingly permit the sale or exchange of baby food, infant formula, cosmetics, personal care products, nonprescription drugs or medical devices at an unused property market.

(2) A person may sell or exchange the items listed in subsection (1) of this section if the person:

(a) Has a written authorization that identifies the person as an authorized representative of the manufacturer or distributor of those items; and

(b) Makes the written authorization available for public inspection.

(3)(a) A person who violates this section commits a Class C misdemeanor.

(b) A person who violates this section and who has one prior conviction under this section that was entered within the last 10 years commits a Class B misdemeanor.

(c) A person who violates this section and who has two or more prior convictions under this section that were entered within the last 10 years commits a Class A misdemeanor. [2003 c.338 §2]

Note: See note under 167.500.

167.505 [Amended by 1959 c.530 §3; repealed by 1971 c.743 §432]

167.506 Recordkeeping requirements. (1) When a person purchases more than 10 items of new and unused property for resale at an unused property market, the person shall maintain a record for two years after the date of purchase.

(2) The record required in subsection (1) of this section must contain:

(a) The date of the purchase of the new and unused property;

(b) The name and address of the person from which the new and unused property was purchased;

(c) A description and identification of the new and unused property; and

(d) The price paid for the new and unused property.

(3) A person shall, upon request, provide the record described in subsection (2) of this section for the purpose of inspection within a reasonable time.

(4)(a) A person who violates this section commits a Class C misdemeanor.

(b) A person who violates this section and who has one prior conviction under this section that was entered within the last 10 years commits a Class B misdemeanor.

(c) A person who violates this section and who has two or more prior convictions under this section that were entered within the last 10 years commits a Class A misdemeanor. [2003 c.338 §3]

Note: See note under 167.500.

167.508 Exemptions from ORS 167.502 and 167.506. (1) ORS 167.502 and 167.506 do not apply to a person who:

(a) Sells or exchanges new and unused property that was not produced or manufactured within the last five years as indicated by the style of the packaging or of the material itself;

(b) Sells by sample, catalog or brochure for future delivery; or

(c) Makes a sales presentation to a consumer who received an individualized invitation to attend the sales presentation prior to the sales presentation from an owner or legal occupant of the premises where the sales presentation takes place.

(2) The recordkeeping requirements in ORS 167.506 do not apply to:

(a) A person who sells or exchanges new and unused property at an event that is organized and operated:

(A) For the exclusive benefit of a community chest, a fund, a foundation, an association or a corporation; and

(B) For religious, educational or charitable purposes.

(b) A person who sells or exchanges motor vehicles or trailers that are subject to state vehicle registration requirements.

(c) A person who sells or exchanges new and unused property at a gun show as defined in ORS 166.432.

(d) A person who sells or exchanges new and unused property at a livestock auction market as defined in ORS 599.205. [2003 c.338 §4]

Note: See note under 167.500.

167.510 [Amended by 1959 c.530 §4; repealed by 1971 c.743 §432]

167.515 [Repealed by 1971 c.743 §432]

167.520 [Repealed by 1971 c.743 §432]

167.525 [Repealed by 1971 c.743 §432]

167.530 [Repealed by 1971 c.743 §432]

167.535 [Amended by 1959 c.530 §5; repealed by 1971 c.743 §432]

167.540 [Repealed by 1971 c.743 §432]

167.545 [Repealed by 1971 c.743 §432]

167.550 [Amended by 1959 c.426 §8; repealed by 1971 c.743 §432]

167.555 [Repealed by 1971 c.743 §432]

167.605 [Amended by 1963 c.201 §1; repealed by 1971 c.743 §432]

167.610 [Repealed by 1971 c.743 §432]

167.615 [Repealed by 1971 c.743 §432]

167.620 [Repealed by 1971 c.743 §432]

167.625 [Repealed by 1971 c.743 §432]

167.630 [Repealed by 1971 c.743 §432]

167.635 [Repealed by 1971 c.743 §432]

167.640 [Repealed by 1971 c.743 §432]

167.645 [Repealed by 1971 c.743 §432]

167.705 [Amended by 1959 c.503 §6; repealed by 1971 c.743 §432]

167.710 [Repealed by 1971 c.743 §432]

167.715 [Repealed by 1971 c.743 §432]

167.720 [Repealed by 1971 c.743 §432]

167.725 [Repealed by 1971 c.743 §432]

167.730 [Repealed by 1971 c.743 §432]

167.735 [Repealed by 1971 c.743 §432]

167.740 [Amended by 1965 c.370 §1; repealed by 1971 c.743 §432]

167.745 [1959 c.200 §1; repealed by 1971 c.743 §432]

OFFENSES INVOLVING TOBACCO PRODUCTS AND INHALANT DELIVERY SYSTEMS

167.747 Definitions for ORS 167.750 to 167.780. As used in ORS 167.750 to 167.780:

(1) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(2) "Tobacco products" has the meaning given that term in ORS 431A.175. [2017 c.701 §1]

Note: 167.747 to 167.780 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.750 Definition for ORS 167.755 and 431A.175. For purposes of ORS 167.755 and 431A.175, "allows to be sold" includes the negligent omission of an act by a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the commission of which would have prevented the distribution or sale of the tobacco products or inhalant delivery system. [2017 c.701 §5]

Note: See note under 167.747.

167.755 Selling tobacco products or inhalant delivery systems to person under 21 years of age; penalties. (1) A person commits the offense of selling tobacco products or inhalant delivery systems to a person under 21 years of age upon the occurrence of one of the following:

(a) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, tobacco products;

(b) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, an inhalant delivery system;

(c) If the person is a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the person is acting within the course and scope of the person's employment and the person has supervisory authority over a person who violates paragraph (a) or (b) of this subsection; or

(d) If the person is an owner of a business that sells tobacco products or inhalant delivery systems at retail, a violation of paragraph (a) or (b) of this subsection occurs at the business.

(2)(a) Violation of subsection (1)(a) or (b) of this section is a specific fine violation punishable by a fine not to exceed $50.

(b) Violation of subsection (1)(c) of this section is a specific fine violation punishable by a fine not to exceed:

(A) $250 for the first or second violation; or

(B) $500 for the third or subsequent violation.

(c) Violation of subsection (1)(d) of this section is a specific fine violation punishable by a fine not to exceed:

(A) $500 for the first or second violation; or

(B) $1,000 for the third or subsequent violation. [2017 c.701 §2]

Note: See note under 167.747.

167.760 Purchase or attempted purchase of tobacco products or inhalant delivery system by person under 21 years of age. (1) Except as provided in subsection (2) of this section, a person under 21 years of age may not purchase or attempt to purchase tobacco products or an inhalant delivery system.

(2) A person under 21 years of age who is acting under the supervision of a person 21 years of age or older may, for the purpose of testing compliance with a federal, state or local law or retailer policy limiting or regulating the distribution or sale of tobacco products or inhalant delivery systems to persons who are under 21 years of age:

(a) Purchase or attempt to purchase tobacco products or an inhalant delivery system; and

(b) Enter or attempt to enter an establishment, or portion of an establishment, where tobacco products or inhalant delivery systems are sold and that is posted or otherwise identified as being prohibited to the entry of persons under 21 years of age. [2017 c.701 §4; 2021 c.179 §1; 2021 c.191 §3]

Note: See note under 167.747.

167.763 Entry or attempted entry of premises by person under 21 years of age for purpose of assisting with investigation. The prohibitions provided in ORS 471.430 (3) and 475C.317 (2) do not apply to a person who is under 21 years of age and who is acting under the direction of the Oregon Health Authority, the Oregon Liquor and Cannabis Commission, a local public health authority as defined in ORS 431.003, a city or a state or local law enforcement agency for the purpose of investigating possible violations of federal, state or local laws that prohibit the sale of tobacco products or inhalant delivery systems to persons under 21 years of age. [2021 c.191 §2]

Note: See note under 167.747.

167.765 Retail store location of tobacco products or inhalant delivery systems; penalty. (1) A person having authority over the location of tobacco products or inhalant delivery systems in a retail store may not locate the tobacco products or inhalant delivery systems in a location in the

store where the tobacco products or inhalant delivery systems are accessible by store customers without assistance by a store employee.

(2) Violation of this section is a Class B violation. Each day that the person commits the violation constitutes a separate offense.

(3) This section does not apply to a person if the location at which the tobacco products or inhalant delivery systems are sold is a store or other establishment that prohibits persons under 21 years of age from entering the store or establishment. [Formerly 167.407]

Note: See note under 167.747.

167.770 Display of sign; penalty. (1) A person who sells tobacco products or inhalant delivery systems shall display a sign clearly stating that the sale of the tobacco products or inhalant delivery systems to persons under 21 years of age is prohibited by law.

(2) Failure to display a sign required by this section is a Class A violation. [2017 c.701 §3]

Note: See note under 167.747.

167.775 Local regulation of vending machines. Cities and counties by ordinance or resolution may not regulate vending machines that dispense tobacco products or inhalant delivery systems and that are in any manner accessible to persons under 21 years of age. [Formerly 167.404]

Note: See note under 167.747.

167.780 Sale or dispensing of tobacco products or inhalant delivery systems by vending machine. (1) As used in this section and ORS 167.775, "vending machine" means a device that, upon the insertion of tokens, money or another form of payment, dispenses tobacco products or inhalant delivery systems.

(2) A person may not sell or dispense tobacco products or inhalant delivery systems from a vending machine, except in an establishment where the premises are permanently and entirely off-limits to persons under 21 years of age as required by rules adopted by the Oregon Liquor and Cannabis Commission.

(3) A person who violates this section commits a Class B violation. Each day that the person commits the violation constitutes a separate offense. [Formerly 167.402; 2021 c.351 §6]

Note: See note under 167.747.

167.785 [Formerly 167.400; repealed by 2021 c.586 §19]

MISCELLANEOUS

167.808 Unlawful possession of inhalants. (1) For the purposes of this section:

(a) "Inhalant" means any glue, cement or other substance that is capable of causing intoxication and that contains one or more of the following chemical compounds:

(A) Acetone;

(B) Amyl acetate;

(C) Benzol or benzene;

(D) Butane;

(E) Butyl acetate;

(F) Butyl alcohol;

(G) Carbon tetrachloride;

(H) Chloroform;

(I) Cyclohexanone;

(J) Difluoroethane;

(K) Ethanol or ethyl alcohol;

(L) Ethyl acetate;

(M) Hexane;

(N) Isopropanol or isopropyl alcohol;

(O) Isopropyl acetate;

(P) Methyl cellosolve acetate;

(Q) Methyl ethyl ketone;

(R) Methyl isobutyl ketone;

(S) Nitrous oxide;

(T) Toluol or toluene;

(U) Trichloroethylene;

(V) Tricresyl phosphate;

(W) Xylol or xylene; or

(X) Any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors or fumes.

(b) "Intoxication" means any mental or physical impairment or incapacity.

(2) It is unlawful for a person to possess any inhalant if the person intends to use the inhalant for the purpose of inducing intoxication in the person who possesses the inhalant or for the purpose of inducing intoxication in any other person.

(3) A person may not use any inhalant for the purpose of inducing intoxication in the person using the inhalant or for the purpose of inducing intoxication in any other person.

(4) The prohibitions of this section do not apply to any substance that:

(a) Has been prescribed by a health practitioner, as described in ORS 31.740, and that is used in the manner prescribed by the health practitioner; or

(b) Is administered or used under the supervision of a health practitioner, as described in ORS 31.740.

(5)(a) Any person who violates this section commits a violation. Violation of this section is a Class C violation. In addition to or in lieu of a fine, a juvenile court may require that a minor who engages in conduct prohibited by this section be provided with treatment and counseling.

(b) Notwithstanding paragraph (a) of this subsection, a second or subsequent violation of this section by a person is a Class B misdemeanor. If a juvenile court finds that a minor has engaged in conduct prohibited by this section on a second or subsequent occasion, the court shall require that the minor receive treatment and counseling. [1999 c.229 §1; 1999 c.1051 §322f; 2011 c.597 §81]

Note: 167.808 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.810 Creating a hazard. (1) A person commits the crime of creating a hazard if:

(a) The person intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside; or

(b) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more, the owner intentionally fails or refuses to cover or fence it with a suitable protective construction.

(2) Creating a hazard is a Class B misdemeanor. [1971 c.743 §284]

167.820 Concealing the birth of an infant. (1) A person commits the crime of concealing the birth of an infant if the person conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.

(2) Concealing the birth of an infant is a Class A misdemeanor. [1971 c.743 §286]

167.822 Improper repair of a vehicle inflatable restraint system. (1) A person commits the crime of improper repair of a vehicle inflatable restraint system if the person knowingly:

(a) Installs as part of a vehicle inflatable restraint system an object that is not designed in accordance with federal safety regulations for the make, model and year of the motor vehicle; or

(b) If requested to repair or replace a vehicle inflatable restraint system, fails to install an object that is required to make a vehicle inflatable restraint system comply with federal safety regulations for the make, model and year of the motor vehicle.

(2) Improper repair of a vehicle inflatable restraint system is a Class A misdemeanor. [2001 c.439 §1]

Note: 167.822 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.824 Unlawful possession of undeployed air bags or air bag canisters. (1) A person may not possess more than two undeployed air bags or air bag canisters containing sodium azide that have been removed from a vehicle. This subsection does not apply to motor vehicle dealers, automobile repair facilities or dismantlers certified under ORS 822.110.

(2) A violation of subsection (1) of this section is a Class C misdemeanor. [2005 c.514 §2; 2005 c.654 §13b]

Note: 167.824 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.830 Employment of minors in place of public entertainment. Except as provided in ORS 167.840, any person operating or conducting a place of public amusement or entertainment, who employs or allows a child under the age of 18 years to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, commits a Class D violation. [1971 c.743 §292; 1987 c.905 §18; 1999 c.1051 §163]

167.840 Application of ORS 167.830 limited. (1) ORS 167.830 does not apply if:

(a) Alcoholic beverages are not permitted to be dispensed or consumed in the place of public amusement or entertainment open to the individuals attending the public dance;

(b) Alcoholic beverages are not permitted to be dispensed or consumed in any place connected by an entrance to the place of public amusement or entertainment;

(c) Applicable laws, regulations and ordinances for the protection of children under the age of 18 years are observed in the conduct of the dance; and

(d) At least one responsible adult is present at all times during the public dance to see that applicable laws, regulations and ordinances for the protection of children under 18 years of age are observed.

(2) ORS 167.830 does not apply if the child has the written permission of the judge of the juvenile court, for the county in which the child resides, to conduct or assist in conducting the public dance. The judge of the juvenile court shall grant such permission only if:

(a) The parents or legal guardians of the child have consented to the child's participation in such activity; and

(b) The judge has found that participation in such activity will not be inconsistent with the health, safety and morals of the child.

(3) This section is not intended to make lawful any activity that is prohibited within a political subdivision of this state by ordinance or other regulation of the political subdivision.

(4) The requirements of this section are in addition to, and not in lieu of, the requirements of ORS 653.315. [1971 c.743 §293]

167.850 [1971 c.743 §226; repealed by 1985 c.662 §15]

167.860 [1971 c.596 §1; 1973 c.836 §345; 1985 c.662 §7; renumbered 167.345]

167.862 [1983 c.648 §1; 1985 c.662 §9; renumbered 167.350]

167.865 [1977 c.539 §2; renumbered 167.355]

167.870 [1973 c.316 §1; repealed by 1999 c.729 §1]