

A-Engrossed
Senate Bill 844

Ordered by the Senate April 28
Including Senate Amendments dated April 28

Sponsored by Senator DECKERT

SUMMARY

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

[Increases penalty for dog keeper who maintains public nuisance by keeping dog that bites person. Makes first offense punishable by 30 days' imprisonment, \$1,250 fine, or both. Makes subsequent offense punishable by one year's imprisonment, \$6,250 fine, or both. Makes punishment for maintaining public nuisance by keeping dog that bites person applicable throughout state, regardless of local law. Increases penalty for dog keeper who maintains public nuisance by keeping dog that chases or menaces person to maximum \$360 fine.]

[Requires county animal control agency to establish registry for dog breeders. Requires breeder of pit bull or pit bull mix dogs to register. Makes failure to register subject to fine not to exceed \$50. Requires county to adopt fees to fund registration program.]

Makes dog keeper strictly liable for economic damages incurred by person physically injured by dog. Creates exceptions.

Defines potentially dangerous dog and dangerous dog.

Modifies authority of law enforcement officers, dog control boards, county governments and courts relating to impoundment and disposition of certain dogs. Requires counties to establish registry of dogs determined to be potentially dangerous or dangerous.

Makes first offense of maintaining potentially dangerous dog punishable by maximum \$360 fine. Makes subsequent offense punishable by 30 days' imprisonment, \$1,250 fine, or both.

Makes first offense of maintaining dangerous dog punishable by maximum \$360 fine. Makes subsequent offense punishable by one year's imprisonment, \$6,250 fine, or both.

Increases penalty for dog keeper who maintains dog that is public nuisance to maximum \$360 fine. Modifies conditions constituting public nuisance.

A BILL FOR AN ACT

1
2 Relating to dogs; creating new provisions; amending ORS 609.015, 609.090, 609.095 and 609.990; and
3 repealing ORS 609.093 and 609.097.

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

5 **SECTION 1. (1) As used in this section, "keeper" has the meaning given that term in ORS**
6 **609.010.**

7 **(2) Except as provided in subsection (3) of this section, if a dog causes physical injury to**
8 **a person, the keeper of the dog is strictly liable to the person for any economic damages**
9 **resulting from the injury.**

10 **(3) Subsection (2) of this section does not apply if a dog causes physical injury to a person**
11 **wrongfully assaulting the dog or the dog's keeper or to a person who trespasses upon**
12 **premises from which the keeper may lawfully exclude others.**

13 **SECTION 2. As used in ORS 609.090 and 609.990 and sections 2 to 9 of this 2005 Act:**

14 **(1) "Dangerous" means a dog that:**

15 **(a) Without provocation and in an aggressive manner inflicts serious bodily injury on or**
16 **kills a person;**

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

- 1 (b) After being determined under section 4 of this 2005 Act to be potentially dangerous:
2 (A) Commits any act described in subsection (3) of this section; or
3 (B) Is maintained by the keeper in a manner that does not comply with the restrictions
4 or conditions imposed by an animal control authority or a court; or
5 (c) Is used as a weapon in the commission of a crime.
6 (2) "Keeper" has the meaning given that term in ORS 609.010.
7 (3) "Potentially dangerous" means a dog that:
8 (a) Without provocation and while not on property from which the keeper may lawfully
9 exclude others, engages in behavior that requires a person to take defensive measures to
10 avoid the infliction of bodily injury;
11 (b) Without provocation, inflicts bodily injury on a person that is less severe than a se-
12 rious bodily injury; or
13 (c) Without provocation and while not on property from which the keeper may lawfully
14 exclude others, inflicts injury on or kills a domestic animal.
15 (4) "Proper enclosure" means:
16 (a) A secure confinement indoors; or
17 (b) A secure confinement outdoors that:
18 (A) Provides the dog with protection from wind, rain, snow or sun and has adequate
19 bedding to protect against cold and dampness;
20 (B) Prevents entry by children 12 years of age or younger;
21 (C) Is not less than six feet wide and 12 feet long and has a fence at least six feet high;
22 and
23 (D) Is enclosed on top if the enclosure contains a dog house or if the dog is capable of
24 climbing the fence.
25 (5) "Serious bodily injury" means physical damage that results in muscle tears or broken
26 bones or results in lacerations that require plastic surgery or multiple sutures.
27 **SECTION 3.** (1) The keeper of a dog maintains a potentially dangerous dog if the dog
28 commits an act described in section 2 (3) of this 2005 Act.
29 (2) Maintaining a potentially dangerous dog is punishable as described in ORS 609.990.
30 **SECTION 4.** If a dog control board, county governing body or court determines that a
31 dog is a potentially dangerous dog:
32 (1) The dog may be released from impound only if the dog is:
33 (a) Licensed and has a current rabies vaccination;
34 (b) Photographed;
35 (c) Implanted with an unencrypted identifying microchip;
36 (d) Spayed or neutered; and
37 (e) Placed in the keeping of an adult.
38 (2) The board, governing body or court may require that the dog be enrolled in obedience
39 training, socialization or behavior modification programs designated by the board, body or
40 court.
41 (3) The dog must be kept in a proper enclosure. Signs must be posted near the enclosure
42 warning that the dog is potentially dangerous. The signs must be readable by a person with
43 normal vision from a distance of 30 feet.
44 (4) The dog, when not in a proper enclosure, must be under the control of an adult, re-
45 strained with a substantial leash not more than five feet in length and fitted with a muzzle

1 that prevents the dog from biting a person or animal.

2 (5) The keeper of the dog is responsible for all licensing, vaccination, microchipping,
3 spaying, neutering or other costs required to allow release of the impounded dog under this
4 section. The keeper has 30 days following the determination to comply with any restrictions
5 or conditions imposed on keeping the dog.

6 (6) The keeper shall send notice if the location at which the dog is kept changes. The
7 keeper shall, no later than two days after the change in location, send the notice by first
8 class mail to the county in which the dog is registered. If the new location is in a different
9 county, the keeper shall also send notice to the county of the new location.

10 (7) Possession of the dog may not be transferred to a minor. If physical or legal pos-
11 session of the dog is transferred to another keeper, the transferor shall send notice of the
12 change by first class mail not later than two days after the transfer of possession. The
13 transferor shall send the notice of the transfer to the county in which the dog is registered.
14 Notice that possession of the dog has transferred may be combined with a notice sent under
15 subsection (6) of this section.

16 (8) The county in which the dog is located shall place the dog on the registry created
17 under section 8 of this 2005 Act. The county may charge the keeper of the dog fees to cover
18 the additional registry and record keeping costs incurred by the county.

19 (9) The keeper may petition the county to have the dog removed from the registry if,
20 during the three years following the date the dog is determined to be potentially dangerous,
21 the dog is not the subject of further action under ORS 609.090, 609.095 or 609.990.

22 **SECTION 5.** (1) The keeper of a dog maintains a dangerous dog if the dog commits an
23 act described in section 2 (1) of this 2005 Act or if the keeper fails to comply with restrictions
24 or conditions imposed by section 4 or 6 of this 2005 Act or imposed by a dog control board,
25 county governing body or court under ORS 609.990 or section 4 or 6 of this 2005 Act.

26 (2) Maintaining a dangerous dog is punishable as described in ORS 609.990.

27 **SECTION 6.** If a dog control board, county governing body or court determines that a
28 dog is a dangerous dog:

29 (1) The dog shall be euthanized if the board, governing body or court determines that
30 release of the dog from impound would create a significant threat to the public health and
31 safety.

32 (2) The dog shall be euthanized if the dog has killed a person or if the dog, in inflicting
33 serious bodily injury, demonstrated aggression of a heightened degree. As used in this sub-
34 section, aggression of a heightened degree includes, but is not limited to, an attack:

35 (a) That demonstrates predatory behavior;

36 (b) Committed against a child 12 years of age or younger; or

37 (c) In which the dog was properly leashed at commencement of the attack but could not
38 be restrained from attacking by the keeper.

39 (3) An order for euthanizing the dog may be carried out no earlier than 30 days after the
40 keeper receives notice of the determination by the board, body or court.

41 (4) Except as provided in subsections (1) and (2) of this section, the dog may be released
42 subject to the same restrictions and conditions specified in section 4 (1) to (8) of this 2005
43 Act for release of a potentially dangerous dog and to any additional conditions imposed by
44 the board, governing body or court.

45 (5) The keeper may petition the county to have the dog reclassified as a potentially dan-

1 gerous dog if, during the three years following the date the dog is determined to be a dan-
2 gerous dog, the dog is not the subject of further action under ORS 609.090, 609.095 or 609.990.

3 **SECTION 7.** (1) A dog control board, county governing body or court may not determine
4 a dog to be a potentially dangerous dog or a dangerous dog if the dog inflicts injury on or
5 kills:

6 (a) A person wrongfully assaulting the keeper of the dog;

7 (b) A person wrongfully assaulting the dog or abusing or tormenting the dog;

8 (c) A person committing a trespass on premises from which the keeper of the dog may
9 lawfully exclude others;

10 (d) A person or domestic animal while the dog is performing duties as a law enforcement
11 animal as defined in ORS 167.310; or

12 (e) A domestic animal while the dog is acting as a hunting dog, herding dog or predator
13 control dog on the property of the keeper, if the domestic animal was of a type the dog would
14 be expected to hunt, herd or control.

15 (2) The restrictions and conditions described in sections 4 and 6 of this 2005 Act do not
16 apply to a person keeping the dog at:

17 (a) A licensed business primarily intended to obtain a profit from the kenneling of dogs;

18 (b) A humane society or other nonprofit animal shelter;

19 (c) A facility impounding dogs on behalf of a city or county; or

20 (d) A veterinary facility.

21 **SECTION 8.** Each county shall establish a registry of dogs located in the county that
22 have been determined by a dog control board, county governing body or court to be poten-
23 tially dangerous dogs or dangerous dogs. The county shall determine appropriate fees in
24 amounts that are sufficient to cover the cost to the county of establishing and maintaining
25 the registry. The county shall charge the fees to the keepers of the registered potentially
26 dangerous dogs and dangerous dogs. The registry shall, at a minimum, contain the informa-
27 tion contained on the microchip implanted in the dog. A county shall make the information
28 contained in the registry accessible by the public without charge.

29 **SECTION 9.** (1) Before a dog control board or county governing body makes a determi-
30 nation under ORS 609.090 (8) whether a dog is a potentially dangerous dog or a dangerous
31 dog, the board or governing body shall give notice to the keeper, if known, by personal ser-
32 vice or by certified mail with return receipt requested. The notice shall include:

33 (a) A description of the probable cause for believing the dog is a potentially dangerous
34 dog or a dangerous dog.

35 (b) A description of the possible disposition of the dog and restrictions on and conditions
36 for keeping the dog if the dog is determined to be a potentially dangerous dog or a dangerous
37 dog.

38 (c) A statement that the keeper may request a hearing on the matter by delivery of a
39 hearing request to the board or governing body no later than five days after the keeper re-
40 ceives the notice.

41 (2) Notwithstanding subsection (1) of this section, if the board or governing body makes
42 a good faith attempt to give notice under subsection (1) of this section both by personal
43 service and by certified mail with return receipt requested, and is unable to provide notice
44 to the keeper, the board or governing body may give the notice by mailing the notice by first
45 class mail. If notice is sent to the keeper under this subsection, the keeper is conclusively

1 **presumed to have received the notice on the third day following the date of mailing.**

2 **(3) If the time period for a keeper to request a hearing under this section has expired,**
3 **the board or governing body may determine whether the dog is a potentially dangerous dog**
4 **or a dangerous dog. If the keeper requests a hearing, the hearing must be held no earlier**
5 **than five days and no later than 10 days after delivery of the hearing request. If the dog is**
6 **determined to be a potentially dangerous dog, disposition of the dog is subject to section 4**
7 **of this 2005 Act. If the dog is determined to be a dangerous dog, disposition of the dog is**
8 **subject to section 6 of this 2005 Act.**

9 **(4) A keeper who requests a hearing under this section may appeal a determination to**
10 **the circuit court for the county no later than 30 days after the keeper receives notice of the**
11 **determination. If the keeper files an appeal, the dog shall be kept in impound pending the**
12 **appeal. If the determination is upheld on appeal, the keeper may be required to pay the cost**
13 **of boarding the impounded dog during the appeal.**

14 **SECTION 10.** ORS 609.015 is amended to read:

15 609.015. (1) ORS 609.030 and 609.040 to 609.110 apply in every county except as otherwise pro-
16 vided by county charter or ordinance. ORS 609.030 and 609.040 to 609.110 do not limit the powers
17 of cities and counties to adopt ordinances and regulations relating to the control of dogs.

18 (2) A county dog licensing and control program [*shall*] **may** not apply within the limits of a city
19 that has its own dog licensing and control program.

20 **(3) Notwithstanding subsection (1) of this section, regardless of any contrary provision**
21 **in a county charter or ordinance, ORS 609.090 (1), (4), (8) and (9) apply in every county.**

22 **SECTION 11.** ORS 609.090 is amended to read:

23 609.090. [(1) *When a dog is found running at large in a county, precinct or city that is subject to*
24 *ORS 609.040 to 609.110 or when a dog is a public nuisance described by ORS 609.095 or subsection*
25 *(5) of this section, a constable, sheriff, deputy, police officer or dog control officer shall impound it or*
26 *cite the keeper to court or do both.*]

27 **(1) A law enforcement officer or dog control officer may impound a dog if:**

28 **(a) The dog is found running at large in a county, precinct or city that is subject to ORS**
29 **609.040 to 609.110;**

30 **(b) The dog is a public nuisance described by ORS 609.095;**

31 **(c) The officer has probable cause to believe that the dog is a potentially dangerous dog**
32 **or a dangerous dog; or**

33 **(d) The officer has probable cause to believe the keeper of the dog is failing to comply**
34 **with restrictions or conditions described in section 4 or 6 of this 2005 Act or imposed by or-**
35 **der of a dog control board, county governing body or court under ORS 609.990 or section 4**
36 **or 6 of this 2005 Act.**

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

45 **(3) Except as provided in subsections (8) and (9) of this section and unless the dog control**

1 board or county governing body provides otherwise, if the keeper appears and redeems the dog, the
 2 keeper shall pay a sum of not less than \$10 for the first impoundment and not less than \$20 for each
 3 subsequent impoundment and also pay the expense of keeping the dog during the time it was
 4 impounded. If the dog is unlicensed the keeper shall also purchase a license and pay the applicable
 5 penalty for failure to have a license. If the keeper is not the owner of the dog, the keeper may re-
 6 quest that a license purchased by the keeper under this subsection be issued in the name of the dog
 7 owner.

8 **(4) In addition to any probable cause described in subsection (1) of this section, if the dog**
 9 **has been impounded for running at large and the dog has previously been impounded within**
 10 **the preceding 12 months for running at large, the dog control board or county governing**
 11 **body has probable cause to believe that the dog is potentially dangerous or dangerous.**

12 [(4)] (5) In addition to any payment required pursuant to subsection (3) of this section, a dog
 13 control board or county governing body may require as a condition for redeeming the dog that the
 14 keeper agree to reasonable restrictions on the keeping of the dog. The keeper must pay the cost of
 15 complying with the reasonable restrictions. As used in this subsection, “reasonable restrictions” may
 16 include, but is not limited to, sterilization.

17 [(5)] (6) A keeper of a dog maintains a public nuisance if the keeper fails to comply with rea-
 18 sonable restrictions imposed under subsection [(4)] (5) of this section. If a keeper fails to provide
 19 acceptable proof of compliance to the dog control board or county governing body on or before the
 20 10th day after issuance of the order imposing the restrictions, there is a rebuttable presumption that
 21 the keeper has failed to comply. If the board or governing body finds the proof submitted by the
 22 keeper unacceptable, the board or governing body shall send notice of that finding to the keeper
 23 no later than five days after the proof is received.

24 [(6)] (7) If no keeper appears to redeem a dog within the allotted time, the dog may be killed in
 25 a humane manner. The dog control board or county governing body may release the dog to a re-
 26 sponsible person upon receiving assurance that the person will properly care for the dog and upon
 27 payment of a sum established by the county governing body plus cost of keep during its impounding,
 28 and purchase of a license if required. The person shall thereafter be liable as owner of the dog as
 29 provided by ORS 609.040 to 609.110.

30 [(7) *If the keeper of a dog is not charged with violating ORS 609.095 (2) or (3), upon finding that*
 31 *the dog has menaced or chased a person when on premises other than the premises occupied exclusively*
 32 *by the keeper or has bitten a person, the dog control board or county governing body may order that*
 33 *the dog be killed in a humane manner. Before ordering that the dog be killed, the board or governing*
 34 *body shall consider the factors described in ORS 609.093 and issue written findings on those factors.*
 35 *Notwithstanding ORS 34.030, if the disposition order issued by the board or governing body provides*
 36 *that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than the*
 37 *10th day after the dog control board or county governing body sends notice of the order to the keeper.*
 38 *Notwithstanding ORS 19.270, 19.330 and 34.070, the order for the killing of the dog may not be carried*
 39 *out during the period that the order is subject to review or appeal. If the dog is not killed, the board*
 40 *or governing body may impose reasonable restrictions on the keeping of the dog. The keeper must pay*
 41 *the cost of complying with the reasonable restrictions.]*

42 [(8) *If the keeper of a dog is charged with violating ORS 609.095 (2) or (3), upon conviction of the*
 43 *keeper the court may determine the disposition of the dog as provided under ORS 609.990.]*

44 [(9) *Notwithstanding the provisions of subsections (2), (3), (6), (7) and (8) of this section, any dog*
 45 *impounded for biting a person shall be held for not less than 10 days before redemption or destruction*

1 *to determine if the dog is rabid.]*

2 **(8) If probable cause exists to believe a dog is a potentially dangerous dog or dangerous**
 3 **dog, and a keeper of the dog is not charged under section 3 or 5 of this 2005 Act with main-**
 4 **taining a potentially dangerous dog or maintaining a dangerous dog, the dog control board**
 5 **or county governing body may determine whether the dog is a potentially dangerous dog or**
 6 **dangerous dog. Before making the determination, the board or governing body shall send**
 7 **notice to the keeper, if known, as provided in section 9 of this 2005 Act.**

8 **(9) If a keeper of a dog is charged under section 3 of this 2005 Act with maintaining a**
 9 **potentially dangerous dog or under section 5 of this 2005 Act with maintaining a dangerous**
 10 **dog, upon conviction of the keeper the court shall determine the disposition of the dog as**
 11 **provided under ORS 609.990 and sections 4 and 6 of this 2005 Act.**

12 (10) A dog control board or county governing body may impose lesser fees or penalties under
 13 subsections (3) and [(6)] (7) of this section for certain senior citizens under certain circumstances.
 14 **This subsection does not allow a board or governing body to avoid making a determination**
 15 **required under subsection (8) of this section.**

16 **SECTION 12.** ORS 609.095 is amended to read:

17 609.095. (1) A dog is a public nuisance if it:

18 [(a) *Bites a person;*]

19 [(b) *Chases or menaces persons or chases vehicles on premises other than premises occupied ex-*
 20 *clusively by the keeper of the dog;*]

21 **(a) Chases vehicles on premises other than premises from which the keeper may lawfully**
 22 **exclude others;**

23 [(c) (b) Damages or destroys property of persons other than the keeper of the dog;

24 [(d) (c) Scatters garbage on premises other than premises [*occupied exclusively by the keeper of*
 25 *the dog;*] **from which the keeper may lawfully exclude others;**

26 [(e) (d) Trespasses on private property of persons other than the keeper of the dog;

27 [(f) (e) Disturbs any person by frequent or prolonged noises; **or**

28 [(g) (f) Is a female in heat and running at large.]; *or*]

29 [(h) *Injures or kills a domestic animal as defined in ORS 167.310.*]

30 (2) The keeper of a dog in a county, precinct or city that is subject to ORS 609.030 and 609.040
 31 to 609.110 maintains a public nuisance if the dog commits an act described under subsection (1) of
 32 this section or the keeper does not comply with reasonable restrictions as described in subsection
 33 (3) of this section. [*Except as provided under ORS 609.990 (3), maintaining a dog that is a public*
 34 *nuisance is a violation.*]

35 (3) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable
 36 restrictions imposed under ORS [609.990] **609.090 (5) or 609.990 (2)**. If a keeper fails to provide ac-
 37 ceptable proof of compliance to the court on or before the 10th day after issuance of [*the*] **an** order
 38 imposing [*the*] restrictions **under ORS 609.990 (2)**, there is a rebuttable presumption that the keeper
 39 has failed to comply. If the court finds the proof submitted by the keeper unacceptable, the court
 40 shall send notice of that finding to the keeper no later than five days after the proof is received.

41 (4) Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance
 42 may complain, either orally or in writing, to the county, precinct or city. The receipt of any com-
 43 plaint is sufficient cause for the county, precinct or city to investigate the matter and determine
 44 whether the keeper of the dog is in violation of [*subsection (2) or (3) of*] this section.

45 **SECTION 13.** ORS 609.990 is amended to read:

1 609.990. (1) Violation of ORS 609.060 (2), 609.100 or 609.169 is a Class B violation.

2 [(2) *If a dog is a public nuisance for a reason or reasons not including chasing or menacing a*
3 *person on premises other than premises occupied exclusively by the keeper of the dog or biting a per-*
4 *son, maintaining a public nuisance in violation of ORS 609.095 (2) or (3) is punishable by a fine of*
5 *not more than \$250.*]

6 [(3) *Except as provided in this subsection, if a dog is a public nuisance because the dog chases or*
7 *menaces a person on premises other than premises occupied exclusively by the keeper of the dog or*
8 *because the dog bites a person, maintaining the public nuisance in violation of ORS 609.095 (2) or (3)*
9 *is punishable by a fine of not more than \$500. If a dog is a public nuisance because the dog chases*
10 *or menaces a person on premises other than premises occupied exclusively by the keeper of the dog or*
11 *because the dog bites a person, a dog keeper maintaining the public nuisance in violation of ORS*
12 *609.095 (2) or (3) commits a Class C misdemeanor if the keeper has previously been convicted of a vi-*
13 *olation or crime because of any dog chasing or menacing a person on premises other than premises*
14 *occupied exclusively by the keeper of the dog or because of any dog biting a person.*]

15 [(4) *Except as provided in subsection (5) of this section, in addition to any fine or sentence imposed*
16 *or restitution ordered of the keeper under this section, the court may impose reasonable restrictions on*
17 *the keeping of the dog to ensure the safety or health of the public. The keeper must pay the cost of*
18 *complying with reasonable restrictions. As used in this subsection, “reasonable restrictions” may in-*
19 *clude, but is not limited to, sterilization.*]

20 [(5) *In addition to any fine or sentence imposed or restitution ordered of the keeper under this*
21 *section, the court may order that a dog be killed in a humane manner if the dog has menaced or chased*
22 *a person when on premises other than the premises occupied exclusively by the keeper or has bitten a*
23 *person. In determining whether a dog is to be killed, the court must give consideration to the factors*
24 *described in ORS 609.093 and issue written findings on those factors. If the dog is not killed, the*
25 *court:*]

26 [(a) *Shall order that the dog undergo sterilization. The sterilization procedure shall be at the ex-*
27 *penditure of the keeper of the dog; and]*

28 [(b) *May impose reasonable restrictions on the keeping of the dog. The keeper must pay the cost*
29 *of complying with the reasonable restrictions. If the keeper maintains a public nuisance as described*
30 *in ORS 609.095 (3) by failing to comply with reasonable restrictions imposed pursuant to this para-*
31 *graph, the court may reconsider the determination made under this subsection and upon reconsideration*
32 *may include the failure to comply as evidence regarding the ability and inclination of the keeper to*
33 *prevent the dog from chasing or menacing another person on premises other than premises occupied*
34 *exclusively by the keeper or from biting another person.*]

35 [(6) *Notwithstanding ORS 19.270 and 19.330, subject to periodic advance payment of the cost of*
36 *keeping the dog in impoundment, the killing of a dog pursuant to an order under this section may not*
37 *be carried out during the period that the order is subject to the appeal process. Unless otherwise or-*
38 *dered by the Court of Appeals, the dog may be killed during the appeal period if the keeper fails to*
39 *maintain advance payment of the cost of keeping the dog impounded.*]

40 [(7) *If a circuit court orders a dog killed and the keeper does not make the dog available for that*
41 *purpose, the court may issue a search warrant for a property upon probable cause to believe that the*
42 *dog is located at that property.*]

43 **(2) Maintaining a public nuisance as described in ORS 609.095 is a Class B violation. In**
44 **addition to any fine or sentence imposed or restitution ordered, the court may impose rea-**
45 **sonable restrictions on the keeping of the dog to ensure the safety or health of the public.**

1 The keeper must pay the cost of complying with reasonable restrictions. Reasonable re-
2 strictions imposed under this subsection may include, but are not limited to, sterilization.

3 (3) Except as provided in subsection (4) of this section, maintaining a potentially dan-
4 gerous dog in violation of section 3 of this 2005 Act is a Class B violation. In addition to any
5 restrictions and conditions authorized by section 4 of this 2005 Act, the court may impose
6 reasonable restrictions or conditions on the keeping of a potentially dangerous dog to ensure
7 the safety or health of the public.

8 (4) Maintaining a potentially dangerous dog is a Class C misdemeanor if the keeper acts
9 knowingly and has a previous conviction in a separate criminal episode for maintaining a
10 potentially dangerous dog or for maintaining a dangerous dog.

11 (5) Except as provided in subsection (6) of this section, maintaining a dangerous dog in
12 violation of section 5 of this 2005 Act is a Class B violation. The court may also prohibit a
13 person convicted of maintaining a dangerous dog from keeping any dog for a period of up to
14 three years if the court finds that allowing the person to keep a dog would create a signif-
15 icant threat to public health and safety. The court shall determine the disposition of the dog
16 in accordance with section 6 of this 2005 Act. In addition to any restrictions and conditions
17 authorized by section 6 of this 2005 Act, a court may impose reasonable restrictions or con-
18 ditions on the keeping of a dangerous dog to ensure the safety or health of the public.

19 (6) Maintaining a dangerous dog is a Class A misdemeanor if the keeper acts knowingly
20 and has a previous conviction in a separate criminal episode for maintaining a potentially
21 dangerous dog or for maintaining a dangerous dog.

22 [(8)] (7) Violation of ORS 609.405 [constitutes] is a Class C misdemeanor.

23 **SECTION 14.** (1) Section 1 of this 2005 Act applies to economic damages arising from a
24 physical injury that is caused by a dog on or after the effective date of this 2005 Act.

25 (2) Sections 2 to 9 of this 2005 Act and the amendments to ORS 609.015, 609.090, 609.095
26 and 609.990 by sections 10 to 13 of this 2005 Act apply to acts by a dog that occur on or after
27 the effective date of this 2005 Act.

28 (3) The amendments to ORS 609.015, 609.090, 609.095 and 609.990 by sections 10 to 13 of
29 this 2005 Act and the repeal of ORS 609.093 and 609.097 by section 15 of this 2005 Act do not
30 affect any adjudication of a person pending on the effective date of this 2005 Act or affect
31 any determination pending on the effective date of this 2005 Act regarding the disposition
32 of a dog. Any adjudication or determination described in this subsection shall be in accord-
33 ance with ORS 609.015, 609.090, 609.093, 609.095, 609.097 and 609.990 as set forth in the 2003
34 Edition of Oregon Revised Statutes.

35 **SECTION 15.** ORS 609.093 and 609.097 are repealed.

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