
2017 SUMMARY OF LEGISLATION



JUDICIARY

Patent Holder Liability for Genetically Engineered Organisms

Chief Sponsors: Rep. Barnhart

Committees: House Judiciary, House Rules

Background and Current Law: A “GMO” is a genetically modified organism. Genetic changes are achieved through laboratory techniques, including the manipulation of existing genetic material or the introduction of modified genetic material into the organism. Crops may be genetically altered to be resistant to pesticides and herbicides, to combat disease and parasites, or to increase nutritional value. Several countries ban producing or importing genetically modified crops and local farmers and agricultural operations may be concerned about accidental contamination of nonmodified crops.

Bill Summary: House Bill 2739 would have allowed lawsuits against GMO patent holders if their products were discovered on land without permission. If a GMO was found on public land, any person within the jurisdiction of the public body owning the land would have been authorized to bring an action if the public body declined to do so. The measure also provided an affirmative defense if a GMO was present on land through an intentional act without the patent holder’s permission.

Transit Violations Administrative Resolutions

Chief Sponsors: Rep. Barker; Sen. Dembrow

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Public transit riders who fail to pay the fare or who commit other transit-related violations may be issued citations to appear in court the same as with ordinary traffic violations, and may be subject to fines.

Bill Summary: House Bill 2777 authorizes mass transit districts to create an optional, alternative administrative process for resolving transit violations that allows them to reduce fines through an in-house hearing, or order community service as an alternative to fines, in order to permit riders to avoid court if they wish. If a violation is not resolved through the administrative process within 90 days, the individual will be required to appear in court.

Oregon Laws 2017: Chapter 427

[House Bill 2793-A](#)

Not Enacted

Consequences of Conviction of Commercial Sexual Solicitation

At the Request of: House Committee on Judiciary

Committees: House Judiciary, House Rules

Background and Current Law: One approach to reducing prostitution is to impose harsher penalties on those who buy sexual services while offering aid and support services to sex workers and individuals being trafficked.

Bill Summary: House Bill 2793-A would have increased the consequences of a conviction for commercial sexual solicitation by requiring offenders to disclose all licenses, certificates, permits, and registrations they held, and the court to notify issuing entities of the conviction. The measure would also have revoked any hunting or angling tags or licenses held by offenders for one year. Finally, House Bill 2793-A would have created a “john school” where offenders would have been required to complete courses as a condition of diversion or probation.

[House Bill 2794-A](#)

Not Enacted

Modification of Crime for Unlawful Use of a Vehicle

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: In prosecutions for the unlawful use of a vehicle, which frequently involve allegations that the vehicle was stolen, one of the elements the state must prove beyond a reasonable doubt is the defendant’s mental state: that they knew the vehicle was operated without the owner’s consent. Judges and juries reach conclusions about whether or not the elements of a crime have been proven based on direct evidence and on reasonable inferences drawn from circumstantial evidence. The Oregon Court of Appeals has reversed a number of convictions for lack of evidence of mental state in particular, which often involves circumstantial evidence. As a result, some counties are prosecuting fewer stolen car cases.

Bill Summary: House Bill 2794-A would have relaxed the mental state needed to steal a car, requiring the state to prove beyond a reasonable doubt that a defendant failed to be aware of a substantial and unjustifiable risk that the vehicle owner did not consent to its use.

Cap Raised on Noneconomic Damages in Certain Civil Cases

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Damages available in civil actions may be economic or noneconomic. Economic damages are for objectively verifiable losses, such as health care costs and lost wages. Noneconomic damages cover subjective losses, such as pain and suffering and emotional distress. Since 1987, Oregon has capped noneconomic damage awards at \$500,000. However, the cap has been challenged repeatedly in court as violating one or both clauses of the Oregon Constitution that guarantee rights to a jury trial and to a remedy. Court decisions over time essentially eroded the cap's applicability, leaving it intact primarily for wrongful death cases. However, in a 2016 case, the Oregon Supreme Court modified some of its previous reasoning and opened the door to permit application of the cap to more claims on a case-by-case basis.

Bill Summary: House Bill 2807-B would have raised the \$500,000 cap on noneconomic damages in certain personal injury cases to \$10 million with annual adjustments for inflation. The cap would have remained intact for wrongful death cases and claims brought under the Tort Claims Act or the Workers' Compensation system. The measure would also have required affidavits in support of personal injury settlements for minors, incapacitated persons, and decedents to remain confidential absent a court order after a showing of good cause.

Graduated Penalties for Harassment When Children Present

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: The crime of harassment can be committed when a person intentionally harasses or annoys another person by subjecting the other person to offensive physical contact. Harassment is ordinarily a Class B misdemeanor, punishable by up to six months' imprisonment and a \$2,500 fine.

Bill Summary: House Bill 2988 elevates this form of harassment to a Class A misdemeanor, punishable by imprisonment of up to one year and a \$6,250 fine, when the crime constitutes domestic violence and the harassment is committed in the immediate presence of, or is witnessed by, a minor child or stepchild of, or a minor child residing with, the defendant or the victim. House Bill 2988 also classifies this elevated form of harassment as a "person Class A misdemeanor" for purposes of the offender's criminal history under Oregon's felony sentencing guidelines.

Oregon Laws 2017: Chapter 430

Expanded Drone Prohibitions

Chief Sponsors: Rep. Huffman

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Drones, or unmanned aircraft systems (UAS), are unmanned flying machines that range in size from that of a bird to a small airplane. It is a Class A misdemeanor in Oregon to intentionally, knowingly, or recklessly use drones that are capable of firing bullets or projectiles, or in a way that functions as a dangerous weapon.

Bill Summary: House Bill 3047 elevates this conduct to a Class C felony if the drone is used to fire bullets or projectiles, or as a dangerous weapon, and to a Class B felony if such use results in serious physical injury to another person. The measure also prohibits using drones that are capable of releasing projectiles for crowd management, and operating drones over privately owned premises to intentionally, knowingly, or recklessly harass or annoy the property's owner or occupant.

However, HB 3047 provides an exemption to the crime of weaponized UAS when a person has specific authorization from the Federal Aviation Administration; gives notice to the Department of Aviation, Oregon State Police, and any other agency that issues a permit or license for the activity; and provides reasonable notice to the public if the use is in a public area.

Finally, House Bill 3047 authorizes law enforcement to use drones to investigate accident scenes.

Oregon Laws 2017: Chapter 502

Criminal Sentencing and Offender Reentry

Chief Sponsors: Reps. Piluso, Sanchez, Williamson

Committees: House Judiciary, House Rules, Joint Ways and Means

Background and Current Law: The Department of Corrections (DOC) is required to administer a transitional leave program that helps eligible inmates approaching the end of incarceration to plan for successful reintegration into society. DOC works with inmates, and the supervisory entities in communities where they will be released, to apply for employment and arrange educational and other supports in advance.

Oregon provides increased penalties for repeat property offenders: presumptive prison sentences for persons who, at the time of sentencing for certain property crimes, have been convicted of other specified property crimes. Currently, persons convicted of identity theft or theft in the first degree can be subject to an 18-month presumptive sentence.

The Family Sentencing Alternative Pilot Program, established in 2015, is available to certain offenders who have been sentenced to probation in lieu of prison, who had physical custody of a minor child when they committed the crime. The program offers special probation conditions ranging from vocational training to parenting and life skills classes, to substance abuse and mental health treatment.

Bill Summary: House Bill 3078 increases the current maximum amount of available transitional leave for eligible inmates from 90 to 120 days. The measure also reduces the presumptive sentence for certain property crimes to 13 months, increases the number of specified predicate convictions necessary to trigger the presumptive sentence, and lifts a limitation on judicial discretion to allow courts to impose probation in lieu of prison when appropriate. The measure makes these changes permanent, eliminating scheduled reductions in the length of short term transitional leave and scheduled increases in the sentences applicable to identity theft and theft in the first degree. Finally, House Bill 3078 authorizes courts to consider an offender's eligibility for the Family Sentencing Alternative Pilot Program as reason to impose probation in lieu of prison, eliminates criminal history-based ineligibility for the program, and allows offenders who are pregnant or who have physical custody of a child at the time of sentencing to participate.

Oregon Laws 2017: Chapter 673

[House Bill 3242](#)

Effective Date: January 1, 2018

Minors Custodial Interview Recordings

Chief Sponsors: Reps. Gorsek, Piluso, Bynum

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Oregon law requires peace officers to electronically record custodial interviews that occur in law enforcement facilities if the interviews are part of an investigation into aggravated murder or certain other felonies, with some exceptions.

Bill Summary: House Bill 3242 expands the recording requirement to include custodial interviews of minors in connection with felony investigations and allows courts in juvenile delinquency proceedings to consider violations of this provision when making determinations about the evidentiary value of statements made by the minor.

Oregon Laws 2017: Chapter 431

[House Bill 3244](#)

Not Enacted

limitations of Law Enforcement Interview Techniques with Youth

Chief Sponsors: Reps. Gorsek, Piluso

Committee: House Judiciary

Background and Current Law: A false confession is when a person admits guilt for a crime they did not commit. One study, that examined 340 exonerations in the United States between 1989 and 2003, found that 33 cases involved minors, and that nearly half of those involved false confessions. It is suggested that certain interrogation techniques may contribute to false confessions.

Bill Summary: House Bill 3244 would have prohibited law enforcement from using deceit, trickery, artifice, or any other misleading interrogation technique when interviewing youth.

Animal Abuse and Neglect

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Senate Judiciary, Conference Committee

Background and Current Law: Individuals convicted of animal abuse or neglect in Oregon are barred from possessing certain animals for five or 15 years, depending on the conviction, and can be ordered to reimburse the cost of care provided to subject animals pending resolution of the criminal case.

Bill Summary: House Bill 3283 increases the prohibition against possessing certain animals from five to 15 years for persons convicted of animal neglect in the first or second degree, and authorizes courts to reduce that period if the offender successfully completes court-approved mental health treatment. The measure also prohibits donations or fundraising amounts received by entities caring for animals to be used to offset the amount owed by offenders, reclassifies parrots as “domestic animals” rather than “livestock” for purposes of animal abuse and neglect statutes, and provides that contracting with an individual to rent or lease animals and care for them does not constitute insurance for purposes of the Insurance Code.

Oregon Laws 2017: Chapter 677