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INITIATIVE PETITION

The Elections Division received a certified ballot title from the Attorney General on June 13, 2022, for Initiative Petition **2024-003**, proposed for the November 5, 2024, General Election.

Caption

Criminalizes injuring or killing animals, including killing for food, hunting, fishing; criminalizes breeding practices. Exceptions

Chief Petitioners

David Michelson 25 NW 23rd Place Suite 6, #402 Portland, Oregon 97210

Isaac Farias 25 NW 23rd Place Suite 6, #402 Portland, Oregon 97210

Antonio Pirozzi 25 NW 23rd Place Suite 6, #402 Portland, Oregon 97210

Appeal Period

Any registered voter, who submitted timely written comments on the draft ballot title and is dissatisfied with the certified ballot title issued by the Attorney General, may petition the Oregon Supreme Court to review the ballot title.

If a registered voter petitions the Supreme Court to review the ballot title, the voter must notify the Elections Division by completing and filing form [SEL 324 Notice of Ballot Title Challenge](#). If this notice is not timely filed, the petition to the Supreme Court may be dismissed.

Appeal Due

June 28, 2022

How to Submit Appeal

Refer to Oregon Rules of Appellate Procedure, Rule 11.30 or contact the Oregon Supreme Court for more information at 503.986.5555.

Notice Due

1st business day after appeal filed with Supreme Court, 5 pm

How to Submit Notice

Scan and Email: irrlistnotifier.sos@sos.oregon.gov

Fax: 503.373.7414

Mail: 255 Capitol St NE Ste 501, Salem OR 97310

More information, including the certified ballot title and the Secretary of State's determination that the proposed initiative petition is in compliance with the procedural requirements established in the Oregon Constitution for initiative petitions, is contained in the [IRR Database](#) available at www.oregonvotes.gov.



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CONSTITUTIONAL REQUIREMENT RULING

Initiative Petition No.	Date Filed	Comment Deadline	Certified Ballot Title Due
2024-003	March 16, 2022	May 26, 2022	June 13, 2022

Draft Ballot Title Caption

Criminalizes injuring or killing animals, including killing for food, hunting, fishing; criminalizes breeding practices. Exceptions

Chief Petitioners

David Michelson 25 NW 23rd Place Suite 6 #402, Portland, OR 97210

Isaac Farias 25 NW 23rd Place Suite 6 #402, Portland, OR 97210

Antonio Pirozzi P.O. Box 96321, Portland, OR 97296

Procedural Constitutional Requirement Commentor

None

Certification

I have reviewed the above-captioned initiative petition, including any comments submitted regarding constitutional requirements, and find that:

It **complies** with the procedural constitutional requirements.

It **does not comply** with the procedural constitutional requirements.

Shemia Fagan, Secretary of State

Dated



DEPARTMENT OF JUSTICE
APPELLATE DIVISION

June 13, 2022

Deborah Scroggin
Director, Elections Division
Office of the Secretary of State
255 Capitol St. NE, Ste. 501
Salem, OR 97301

Re: Proposed Initiative Petition — Criminalizes Injuring or Killing Animals, Including Killing for Food, Hunting, Fishing; Criminalizes Breeding Practices. Exceptions.

DOJ File #BT-03-22; Elections Division #2024-003

Dear Ms. Scroggin:

We received comments about the draft ballot title for the above-referenced measure from 21 electors or groups representing electors. We have reviewed each and every comment. Some commenters do not challenge the draft ballot title in any manner. Rather, they simply state opposition to the proposed measure. Those commenters were Ralph Wiley, George Stevenson, Joan Mellies, Russell Bohanon, and Kate Schoenhals. Two commenters, Russell Bohanon and Mark Anderson, erroneously attribute the title placed on the Initiative Petition by the Chief Petitioners (“Abuse, Neglect, and Assault Exemption Modification and Improvement Act”) to the Attorney General and Secretary of State. The Chief Petitioners’ language will not appear on the ballot nor is that title in any way attributable to the Secretary of State or the Attorney General. Many of the remaining comments presented similar themes or arguments, and we address those common concerns in this letter. To the extent that comments raise substantive concerns with the draft ballot title, we address each of the comments in this letter.

We have used the comments to refine our thinking about this measure, and we have made changes to the result statements and the summary.

This letter summarizes the substantive comments, our responses to those comments, and the reasons why we altered or declined to alter the draft ballot title in response to the comments. ORAP 11.30(7) requires this letter to be included in the record if the Oregon Supreme Court is asked to review the ballot title.

A. Current Law

In analyzing the effects of the proposed measure, we believe that it is helpful to consider the measure in the context of current laws regarding animal abuse and neglect. The proposed measure amends ORS 167.315, ORS 167.320, ORS 167.325, ORS 167.330, ORS 167.333, and

ORS 167.335. Under ORS 167.315, it is a misdemeanor to intentionally, knowingly, or recklessly injure an animal. Good animal husbandry practices are exempted, as are numerous practices set forth in ORS 167.335, including transportation of animals; rodeos; growing of poultry; the slaughter of animals by methods authorized by law; fishing, hunting, and trapping; lawful wildlife management; lawful scientific or agricultural research; control of vermin or pests; and reasonable handling and training techniques. The proposed measure removes all of those exceptions.

Under ORS 167.320, it is a crime, and may be a felony, to intentionally, knowingly, or recklessly cause serious physical injury to an animal, or to cruelly cause the death of an animal, subject to the same exceptions included in ORS 167.315 and 167.335. Once again, the proposed measure removes all of those exceptions. It would therefore be a crime, under this proposal, to slaughter livestock for food, or to kill rats, mice, or other vermin and pests.

Under ORS 167.325, it is a crime to intentionally, knowingly, recklessly, or with criminal negligence fail to provide minimum care for an animal in a person's custody or control, or to tether a domestic animal in a way that causes physical injury. ORS 167.330 provides greater penalties if that conduct results in serious physical injury or death of a domestic animal. The proposed measure removes the exception to these provisions for practices that are otherwise authorized by law.

ORS 167.333 makes sexual assault of an animal a felony. As currently defined, the crime applies to touching of the mouth, anus, or sex organs of an animal for the purpose of arousing or gratifying the sexual desire of a person. The statute does not apply to the use of animal products, and thus allows, for example, artificial insemination. The proposed measure would make many current practices for breeding pets, livestock, and horses a criminal offense.

The proposed measure would thus criminalize many common farming and ranching practices, as well as recreational and commercial hunting, fishing, and trapping, pest control, and many other practices that are now specifically authorized by law. Commenters noted this would be a far-reaching change to the laws currently governing treatment of animals.

B. General Comments

Some commenters address their comments to the ballot title as a whole, rather than the required sections (caption, result statements, and summary) in particular. For example, commenter Dion Rodgers is concerned that the ballot title does not communicate the full impact of the measure on the dairy industry beyond breeding, including the collection of milk. It is not clear to us what, if any, application the measure might have on such practices, or on other practices such as the shearing of sheep. Such speculative impacts are beyond the scope of a ballot title under ORS 250.035. Similarly, Mr. Rodgers is concerned about the impact of the measure on pet ownership, including end-of-life care. Again, we are uncertain about the scope of such impacts.

Commenter Jeff Price found the use of italics and bold typeface in the measure to be confusing. It is common practice in the drafting of legislation that amends existing statutes to indicate material to be repealed in italics and new provisions in bold type.

The Rocky Mountain Elk Foundation expressed general concerns about the impact of the measure on wildlife management, including pest removal and the ability to do research and monitor populations of species such as wolves. It is simply impossible, within the word limitations imposed by ORS 250.035 to include every impact that the proposed measure might have. The ballot title attempts to inform voters about the major effects of the measure, in terms broad enough to make the reader aware that there may be such effects.

Commenter Owen Bacon expresses concern that the ballot title insufficiently describes how people, especially those with low incomes, would obtain adequate protein. The ballot title as written properly focuses on the direct effects of the proposed measure. Mr. Bacon is also concerned that the ballot title fails to communicate the negative impact that would result from eliminating funding for ODFW; the draft summary does refer to those effects.

C. The Caption

Under ORS 250.035(2)(a), a ballot tile for a state measure must include “[a] caption of not more than 15 words which reasonably identifies the subject of the state measure.” The draft caption prepared for IP 3 was as follows:

Criminalizes injuring or killing animals, including killing for food, hunting, fishing; criminalizes breeding practices. Exceptions

A number of commenters, including Safari Club International, the Oregon Hunters Association, the Backcountry Hunters and Anglers, Ducks Unlimited, Inc., American Kennel Club, and Congressional Sportsmen’s Foundation have suggested that the caption should include a reference to accidental injury or killing of animals. We disagree. The major effect of the measure is to criminalize various activities or omissions related to animals when committed intentionally, knowingly, or with criminal recklessness. Stating that the measure applies to accidental deaths or injuries overstates the breadth of the measure.

The National Wild Turkey Federation suggests that the caption be rearranged, and that impact on wildlife management be included. We believe that the current caption complies with ORS 250.035(1(a)).

Commenter Jeff Price argues that the caption should provide greater emphasis for the impact on fishing. We believe that the current caption adequately addresses fishing impacts.

Commenters representing the Oregon Farm Bureau and the Oregon Dairy Farmers Association assert that the caption should be drafted in reference to a previous proposed measure that was withdrawn, and should therefore refer to penalties that are increased from the prior proposal. Since most voters will be unaware of the earlier proposal, which was not included on any previous ballot, we believe such a reference would likely be confusing. These comments also propose using the term “cultural” as a substitute for hunting and fishing; such a substitution would be unclear to many voters.

The Chief Petitioners suggest that the caption be modified to include a reference to a post-conviction bar on any ownership of animals for a period of years. Given the breadth of this measure and the many effects it would have, we do not agree that the caption must contain such a reference. The Chief Petitioners also suggest that the caption be modified to make clear that any intentional injury and killing would be criminal offenses, rather than specifying only certain types of intentional conduct. Again, given the breadth of the measure, we believe that a reasonable identification of the subject of the measure should include a reference to the greatest effects.

Finally, the Chief Petitioners argue that the caption should include a reference to two specific breeding practices, impregnation and masturbation. We believe that the current reference to breeding practices, with exceptions, reasonably identifies the subject matter of the measure.

We decline to modify the draft caption, and certify that caption as written.

D. The Result Statements

ORS 250.035(2)(b) and (c) requires “[a] simple and understandable statement of not more than 25 words that describes the result if the state measure is approved, and “[a] simple and understandable statement of not more than 25 words that describes the result if the state measure is rejected.” The draft result statements were as follows:

Result of “Yes” Vote: “Yes” vote criminalizes injuring or killing animals, including farming, ranching, hunting, fishing, trapping, pest control, research/teaching. Exceptions for veterinary practices, self-defense. Criminalizes breeding practices.

Result of “No” Vote: “No” vote retains current law allowing injury/death in various circumstances, including for purposes of farming for food, hunting, fishing, trapping, pest control, animal research.

Many of the commenters simply repeated their comments on the caption, and those comments are addressed above.

The Safari Club International argues that the proposed measure would criminalize training, handling, and care of pets, wildlife, livestock, and horses. Other commenters, including Jeff Price and the American Kennel Club, voice similar concerns. To be sure, the measure may apply to some techniques currently used by pet or animal owners, but it is not accurate to say that the measure criminalizes training and handling techniques in general. We decline to make such a change to the result statements.

The Oregon Hunters Association asserts that the result statements should reference impacts on wildlife management practices. Although we agree that those impacts are real, they are consequences of the bigger and more direct impact of criminalizing hunting and fishing. We do not see a way to adequately describe them in the results statements while also adequately

explaining more direct effects. Other commenters, including the Backcountry Hunters and Anglers and the Wild Turkey Federation, make similar comments. The summary, described below, does include reference to wildlife management.

The National Wild Turkey Federation suggests that it would be more accurate to note that the proposed measure exempts “some” veterinary practices, rather than “good” veterinary practices. We agree. Many practices that are currently lawful and accepted as good practice would apparently be unlawful under this proposal. Other commenters, including the Wild Sheep Foundation, make similar comments. We have modified the “yes” statement accordingly.

The American Kennel Club comments that the “no” statement inaccurately describes current law as allowing blatant, intentional harm to animals. The draft no statement simply notes, correctly, that injuring or killing animals is allowed in some circumstances, many involving intentional human conduct. But on consideration, we have revised the “no” statement to reflect current law in parallel to the “yes” statement.

We certify the following result statements:

Result of “Yes” Vote: “Yes” vote criminalizes injuring or killing animals, including farming, ranching, hunting, fishing, trapping, pest control, research/teaching. Exempts some veterinary practices, self-defense. Criminalizes breeding practices.

Result of “No” Vote: “No” vote retains current laws allowing farming, ranching for food, hunting, fishing, trapping, pest control, animal research, common animal husbandry practices, and accepted veterinary practices.

D. The Summary

The summary of a ballot tile consists of “[a] concise and impartial statement of not more than 125 words summarizing the state measure and its major effect.” The draft summary was as follows:

Summary: Under current law, many activities that do or may kill or injure animals are lawful, including animal husbandry practices; slaughtering livestock and poultry; animal breeding practices; fishing, hunting, and trapping; wildlife management practices; rodeos; scientific and agricultural research and teaching; control of vermin and nuisance animals; reasonable handling, training techniques. Proposed measure would make those practices, and other common practices involving animals, criminal offenses if injury/death occurs. Criminalizes animal breeding practices for domestic, livestock, and equine animals that involve impregnation; masturbation; touching mouth, anus, or sexual organs of the animal. Exception for “good veterinary practices” (undefined) and self-defense. Applies to mammals, birds, reptiles, amphibians, fish. Eliminating hunting/fishing licenses would remove funding from wildlife conservation efforts by Department of Fish and Wildlife. Other provisions.

Once again, many commenters repeated their comments as to the previous sections. Consistent with those comments, and in an effort to include the major effects of the measure, we have modified the summary to include a description of animal husbandry practices that are eliminated, consistent with comments by the Backcountry Hunters and Anglers.

Attorney Nathan Rietmann, on behalf of elector Kip Krebs, comments that the ballot title should be framed in plain language rather than technical terms, and should describe those activities which would become crimes at the outset. We believe that the summary, as modified, will be easily understood.

The National Wild Turkey Federation contends that the reference to both scientific and agricultural research implies that the latter is not scientific. No such implication is likely, and current law, ORS 167.335(1)(i), refers to both scientific or agricultural research. We have replaced "and" in the summary with "or."

The Chief Petitioners again comment that conviction under the new provisions would lead to a ban on animal ownership. While that is certainly an effect of the proposed measure, it is one among many. We believe that the summary, as modified, encompasses the major effects of the measure. They also suggest that the summary should refer to the measure's requirements for adequate bedding, shelter, and space for farmed animals. We believe this is a lesser effect of the measure, particularly given the likely result of the major effects of the proposed measure would be a steep decline in the numbers of farm animals.

The Chief Petitioners also take issue with the reference to good veterinary practices as undefined. As they note, such practices are defined in ORS 686.030, as incorporated into the criminal law in ORS 167.335. We have eliminated that description.

The Chief Petitioners also argue that the summary inaccurately describes the activities of the Department of Fish and Wildlife, many of which would be unnecessary if hunting and fishing are barred, and only a small percentage of which are directed to conservation. We have changed the reference in the summary from conservation efforts to management efforts, which would remain necessary and would likely increase as species such as deer and elk multiply. We believe that effect warrants mention in the summary.

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Summary: Under current law, activities that do or may kill or injure animals are lawful, including animal husbandry practices such as dehorning, docking, castration, or neutering; slaughtering livestock and poultry; animal breeding practices; fishing, hunting, and trapping; wildlife management practices; rodeos; scientific or agricultural research and teaching; control of vermin and nuisance animals; reasonable handling, training techniques. Proposed measure would make those practices, and other common practices involving animals, criminal offenses if injury/death occurs. Criminalizes breeding practices for domestic, livestock, and equine animals including impregnation and masturbation. Exception for “good veterinary practices” and self-defense. Applies to mammals (including vermin), birds, reptiles, amphibians, fish. Eliminating hunting/ fishing licenses would remove funding from wildlife management, enforcement efforts by Department of Fish and Wildlife. Other provisions.

As modified, we certify the ballot title.

Sincerely,

/s/ Denise G. Fjordbeck

Denise G. Fjordbeck
Attorney-in-Charge
Civil/Administrative Appeals
denise.fjordbeck@doj.state.or.us

Enclosure

Sent via email

Ralph Wiley
Joan Mellies
Kate Schoenhals
David Michelson
Antonio Pirozzi
Amy Patrick
Nathan Rietmann
Mark Anderson
Jeff Price
Owen Bacon
Keely Hopkins
Danny Newman

George Stevenson
Russell Bohanon
Jeremy Coburn
Isaac Farias
Scott Dion Rodgers
Bill Richardson
Chris Henry
Ian Isaacson
Edward M. May
James S. Corbett
Kevin Martin

Certified by Attorney General on June 13, 2022.

/s/ Denise Fjordbeck
Attorney-in-Charge

BALLOT TITLE

Criminalizes injuring or killing animals, including killing for food, hunting, fishing; criminalizes breeding practices. Exceptions

Result of “Yes” Vote: “Yes” vote criminalizes injuring or killing animals, including farming, ranching, hunting, fishing, trapping, pest control, research/teaching. Exempts some veterinary practices, self-defense. Criminalizes breeding practices.

Result of “No” Vote: “No” vote retains current laws allowing farming, ranching for food, hunting, fishing, trapping, pest control, animal research, common animal husbandry practices, and accepted veterinary practices.

Summary: Under current law, activities that do or may kill or injure animals are lawful, including animal husbandry practices such as dehorning, docking, castration, or neutering; slaughtering livestock and poultry; animal breeding practices; fishing, hunting, and trapping; wildlife management practices; rodeos; scientific or agricultural research and teaching; control of vermin and nuisance animals; reasonable handling, training techniques. Proposed measure would make those practices, and other common practices involving animals, criminal offenses if injury/death occurs. Criminalizes breeding practices for domestic, livestock, and equine animals including impregnation and masturbation. Exception for “good veterinary practices” and self-defense. Applies to mammals (including vermin), birds, reptiles, amphibians, fish. Eliminating hunting/fishing licenses would remove funding from wildlife management, enforcement efforts by Department of Fish and Wildlife. Other provisions.