

# House Bill 3046

Sponsored by Representatives HASS, GARRARD; Representatives BERGER, BRUUN, DALTO, FARR, MACPHERSON

## SUMMARY

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

Prohibits sending, receiving, possessing and breeding of exotic animals. Punishes violation of prohibition by maximum of \$2,500 fine, six months' imprisonment, or both. Creates exception for possession of exotic animal by person holding personal possession permit issued by animal control agency. Exempts certain institutions, organizations and facilities. Eliminates state policy on regulating possession of exotic animals.

Provides for animal control agencies to administer and enforce regulation of exotic animals. Requires animal control agencies to establish fees to cover cost of exotic animal regulation. Terminates State Department of Agriculture regulation of exotic animals.

## A BILL FOR AN ACT

1  
2 Relating to exotic animals; creating new provisions; amending ORS 609.205, 609.329 and 609.992; and  
3 repealing ORS 609.305, 609.309, 609.312, 609.315, 609.319, 609.325 and 609.335.

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

5 **SECTION 1. As used in sections 2 to 15 of this 2005 Act and ORS 609.205, 609.329 and**  
6 **609.992:**

7 (1) "Animal control agency" means an entity that has been charged by the governing  
8 body of a county or municipality with primary responsibility to act for the county or  
9 municipality in administering animal control laws or, if no agency is so charged, the county  
10 sheriff.

11 (2) "Exotic animal" means a:

12 (a) Member of the family Felidae not indigenous to Oregon, except the domestic cat  
13 species *Felis catus*;

14 (b) Nonhuman primate;

15 (c) Wolf, species *Canis lupus*;

16 (d) Nonwolf member of the family Canidae not indigenous to Oregon, except the domestic  
17 dog species *Canis familiaris*;

18 (e) Bear, except the black bear species *Ursus americanus*;

19 (f) Crocodile, alligator or caiman; and

20 (g) Member of the reptile family Viperidae.

21 (3) "Possessor" means a person who owns, keeps, harbors, brings into the state, has in  
22 the person's possession, acts as custodian for or otherwise has custody or control of an ex-  
23 otic animal.

24 (4) "Wildlife sanctuary":

25 (a) Means a nonprofit organization described in section 501(c)(3) of the Internal Revenue  
26 Code, as amended and in effect on the effective date of this 2005 Act, that operates a place  
27 of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned or displaced

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 exotic animals are provided care for the animals' lifetimes or until released back into the  
2 wild.

3 (b) Does not mean an organization that:

4 (A) Involves an exotic animal in an activity not inherent to an animal's nature;

5 (B) Uses exotic animals for a type of entertainment;

6 (C) Sells, trades or barter exotic animals or exotic animal body parts; or

7 (D) Breeds exotic animals.

8 **SECTION 2.** It is unlawful to:

9 (1) Import an exotic animal into this state.

10 (2) Receive an exotic animal from a source outside this state.

11 (3) Possess an exotic animal without a personal possession permit issued under section  
12 3 of this 2005 Act for the animal.

13 (4) Breed an exotic animal.

14 **SECTION 3.** (1) A person may obtain a personal possession permit for an exotic animal  
15 only if the person receives the animal through a transfer described in section 7 of this 2005  
16 Act and applies for the permit no later than 10 days after receiving physical possession of  
17 the animal. An application for a personal possession permit must be filed with the animal  
18 control agency for the location where the exotic animal is confined. If the applicant is a  
19 person described in section 7 (1) of this 2005 Act, an animal control agency shall issue a  
20 personal possession permit.

21 (2) Application for a personal possession permit shall be made on forms provided by the  
22 animal control agency. The application must include the following information:

23 (a) The person's name, address, telephone number and date of birth.

24 (b) A description of the exotic animal, including the species, the number and manufact-  
25 rurer of any microchip implanted in the animal, the address of the exact location where the  
26 animal is confined and the sex, age, color, weight, scars and any distinguishing markings or  
27 characteristics that might aid in identifying the animal.

28 (c) The name, address and personal possession permit information for the transferring  
29 possessor, including but not limited to, the name and address of the animal control agency  
30 that issued the permit to the transferring possessor.

31 (d) The date physical possession of the exotic animal was transferred.

32 (e) A recapture plan as described in section 9 (3) of this 2005 Act.

33 (f) Any other information the animal control agency considers necessary for the admin-  
34 istration and enforcement of sections 2 to 15 of this 2005 Act.

35 (3) If an animal control agency denies a personal possession permit, the agency shall  
36 provide written notice to the person stating the reason for the denial. The denial shall be-  
37 come final 10 days after the date of the notice unless appealed. A person denied a personal  
38 possession permit may appeal the denial by filing a hearing request with the animal control  
39 agency no later than 10 days after the date of the written notice of denial by the agency. The  
40 governing body of the county or municipality on whose behalf the animal control agency acts,  
41 or a designee, shall conduct the hearing and may affirm, overturn or modify the agency's  
42 decision denying the permit.

43 (4) If denial of a person's application for a personal possession permit becomes final by  
44 law or on appeal, the person must transfer possession of the animal to a person described  
45 in section 7 (1) of this 2005 Act no later than 10 days after the denial becomes final.

1 (5) A separate personal possession permit is required for each exotic animal possessed  
 2 by a person.

3 **SECTION 4.** (1) A personal possession permit issued by an animal control agency under  
 4 section 3 of this 2005 Act shall contain the following information:

5 (a) The name, address, telephone number and date of birth of the personal possession  
 6 permit holder;

7 (b) A description of the exotic animal, including the species, the number and manufac-  
 8 turer of any microchip implanted in the animal, the address of the exact location where the  
 9 animal is confined and the name, sex, age, color, weight, scars and any distinguishing  
 10 markings or characteristics that might aid in identifying the animal;

11 (c) The name, address and telephone number of the veterinarian who provides veterinary  
 12 care to the exotic animal; and

13 (d) Any other information the animal control agency considers necessary for the admin-  
 14 istration and enforcement of sections 2 to 15 of this 2005 Act.

15 (2) An animal control agency shall keep a current record of all personal possession per-  
 16 mits issued by the agency. The personal possession permit holder must promptly notify the  
 17 animal control agency if the permit information changes or if the exotic animal dies.

18 **SECTION 5.** The governing body of each county shall adopt standards for the confine-  
 19 ment of exotic animals. An animal control agency shall require the holder of a personal  
 20 possession permit to comply with the county standards and may impose additional specific  
 21 requirements for confining the exotic animal. The standards and requirements shall be de-  
 22 signed to ensure the health, welfare and safety of the exotic animal and the security of the  
 23 facility in which the animal is confined, and designed to avoid undue physical or financial risk  
 24 to the public.

25 **SECTION 6.** An animal control agency shall establish application, permit and inspection  
 26 fees for persons registering exotic animals. The animal control agency shall establish the  
 27 fees in an amount sufficient to cover the cost to the agency of administering and enforcing  
 28 the agency's exotic animal registration and control programs.

29 **SECTION 7.** (1) The possessor of an exotic animal may transfer physical possession of  
 30 the animal to:

31 (a) A person with a valid personal possession permit issued under section 3 of this 2005  
 32 Act for a similar species of animal;

33 (b) A person outside the state; or

34 (c) A person that is exempt under section 15 of this 2005 Act.

35 (2) The possessor of an exotic animal shall, no later than 10 days after transferring  
 36 physical possession of the animal to another person, provide notice of the transfer to the  
 37 animal control agency that issued the possessor a personal possession permit. The notice  
 38 shall include the name and address of the person receiving possession of the exotic animal  
 39 and the date that physical possession of the animal was transferred.

40 (3) If physical possession of an exotic animal is transferred to a person with a valid per-  
 41 sonal possession permit issued under section 3 of this 2005 Act for a similar species of ani-  
 42 mal, the person receiving the animal must apply for a personal possession permit under  
 43 section 3 of this 2005 Act for the animal no later than 10 days after receiving the animal.  
 44 Notwithstanding section 2 of this 2005 Act, the person's possession of the exotic animal  
 45 without a personal possession permit is lawful:

- 1 (a) During the 10 days after transfer of physical possession of the exotic animal;
- 2 (b) While the application for a personal possession permit is pending; or
- 3 (c) Within 10 days after a denial of a personal possession permit has become final.

4 (4) If the possessor is unable to transfer an exotic animal to a person described under  
 5 subsection (1) of this section, the possessor shall contact the animal control agency that is-  
 6 sued the personal possession permit for the animal. An animal control agency contacted  
 7 under this subsection may offer placement assistance to the possessor, including but not  
 8 limited to accepting possession of the exotic animal.

9 **SECTION 8.** Except as otherwise provided in this section, an exotic animal kept in this  
 10 state must be implanted with a microchip identifying the animal. The microchip must be  
 11 implanted by or under the supervision of a veterinarian. Implantation of a microchip is not  
 12 required if the veterinarian determines that implanting the microchip will endanger the  
 13 health of the exotic animal.

14 **SECTION 9.** (1) A person may not tether or leash an exotic animal, chain an exotic ani-  
 15 mal outdoors or allow an exotic animal to run at large.

16 (2) A person transporting an exotic animal by vehicle must keep the animal securely  
 17 caged.

18 (3) A person possessing an exotic animal under a personal possession permit shall have  
 19 and maintain a plan for the quick and safe recapture of the animal if the animal escapes.  
 20 The plan must provide for the destruction of the exotic animal if recapture is impossible.  
 21 The person must obtain approval of the animal control agency before adopting a plan that  
 22 varies from the plan submitted to the agency with the personal possession permit application  
 23 under section 3 of this 2005 Act.

24 **SECTION 10.** The possessor of an exotic animal must conspicuously post a sign at each  
 25 entrance to the premises where the animal is confined indicating that an exotic animal is  
 26 on the premises. The animal control agency having jurisdiction may establish standards for  
 27 the size and content of the signs.

28 **SECTION 11.** Except when bringing an exotic animal to a veterinarian or a veterinary  
 29 hospital or clinic, a person may not bring the animal to any public property or commercial  
 30 or retail establishment.

31 **SECTION 12.** (1) A possessor issued a personal possession permit for an exotic animal  
 32 shall, at all reasonable times, allow the animal control agency that issued the permit to enter  
 33 the premises where the animal is confined to ensure compliance with the permit terms and  
 34 conditions and with sections 9 and 10 of this 2005 Act.

35 (2) The animal control agency may issue a warning to the possessor or may suspend or  
 36 revoke a personal possession permit issued under section 3 of this 2005 Act if the agency is  
 37 denied reasonable entry or if the agency finds that the possessor is in violation of the permit  
 38 terms and conditions or of section 2, 9 or 10 of this 2005 Act. The animal control agency shall  
 39 give written notice of a permit suspension or revocation, including the reasons for the sus-  
 40 pension or revocation. The suspension or revocation shall become effective 10 days after the  
 41 date of the notice unless appealed. A person may appeal a suspension or revocation by filing  
 42 a hearing request with the animal control agency no later than 10 days after the date of the  
 43 written notice of permit suspension or revocation by the agency. The governing body of the  
 44 county or municipality on whose behalf the animal control agency acts, or a designee, shall  
 45 conduct the hearing and may affirm, overturn or modify the agency decision to suspend or

1 revoke the personal possession permit.

2 (3) If the suspension or revocation of a personal possession permit becomes final by law  
 3 or on appeal, the person must transfer possession of the exotic animal to a person described  
 4 in section 7 (1) of this 2005 Act no later than 10 days after the suspension or revocation be-  
 5 comes final.

6 **SECTION 13.** (1) An animal control agency may immediately seize an exotic animal if a  
 7 violation of personal possession permit terms and conditions, or of section 2, 9 or 10 of this  
 8 2005 Act, presents a clear, imminent and substantial danger of serious harm to the health  
 9 or safety of the animal or the health or safety of the public. An animal control agency seizing  
 10 an exotic animal under this section shall immediately apply to a court for an order allowing  
 11 the agency to continue seizing the animal. If a court does not issue an order within 12 hours  
 12 after the seizure commences, the animal control agency shall immediately return the exotic  
 13 animal to the person from whom the animal was seized. The return of an exotic animal under  
 14 this subsection does not prevent the animal control agency from pursuing the suspension or  
 15 revocation of a personal possession permit based on the condition that prompted the seizure.

16 (2) The person from whom an exotic animal is seized is liable for the costs of the care  
 17 of the animal while the animal is in the possession of the animal control agency. If the per-  
 18 son appeals the court's seizure order, the person must post a security bond or cash with the  
 19 animal control agency sufficient to cover all reasonable expenses the agency expects to incur  
 20 in caring and providing for the exotic animal for 30 days. The court hearing the appeal may  
 21 order additional security as the court deems appropriate. If the animal control agency re-  
 22 turns the seized exotic animal under subsection (3) of this section, the agency shall refund  
 23 any unused portion of the security bond or cash.

24 (3) An exotic animal that is seized under this section may be returned to the person from  
 25 whom the animal was seized if the person demonstrates to the satisfaction of the animal  
 26 control agency that the person has:

- 27 (a) A personal possession permit issued under section 3 of this 2005 Act for the exotic  
 28 animal;
- 29 (b) Corrected any conditions that caused the seizure; and
- 30 (c) Paid the animal control agency for the cost of caring and providing for the exotic  
 31 animal while the animal was under the care and control of the agency.

32 (4) If an exotic animal is not returned to the person from whom the animal was seized,  
 33 the animal control agency may transfer the exotic animal to the possession of a person de-  
 34 scribed in section 7 (1) of this 2005 Act or euthanize the animal. The person from whom the  
 35 exotic animal was seized is responsible for the costs of transferring or euthanizing the ani-  
 36 mal.

37 **SECTION 14.** An exotic animal that has escaped and cannot be safely recaptured may be  
 38 killed. If an animal control agency cannot determine the identity of the person authorized  
 39 to possess an exotic animal, the agency may place the animal in the possession of a person  
 40 described in section 7 (1) of this 2005 Act or may euthanize the animal. A person performing  
 41 an action authorized under this section is not liable for the resulting loss to any person  
 42 claiming an interest in the exotic animal.

43 **SECTION 15.** Section 2 of this 2005 Act does not apply to the following:

- 44 (1) An institution accredited or mentored by a nonprofit national or international asso-  
 45 ciation of zoos dedicated to advancing conservation and education.

1       **(2) An exotic animal protection organization incorporated under ORS chapter 65 that**  
 2 **houses an exotic animal at the written request of state or local government.**

3       **(3) Animal control agency or law enforcement agency facilities.**

4       **(4) A wildlife rehabilitation center operating under a valid permit issued by the State Fish**  
 5 **and Wildlife Commission under ORS 497.308.**

6       **(5) A licensed veterinary hospital or clinic.**

7       **(6) A wildlife sanctuary.**

8       **(7) A licensed or accredited research or medical institution.**

9       **(8) A licensed or accredited educational institution.**

10       **(9) A lawful circus or rodeo.**

11       **(10) A person transporting an exotic animal through the state if the transit time does**  
 12 **not exceed 96 hours and the animal is maintained at all times within a cage, structure or**  
 13 **other facility sufficient to prevent the animal from escaping.**

14       **SECTION 16.** ORS 609.205 is amended to read:

15       609.205. Notwithstanding the provisions of ORS chapters 496, 497 and 498 relating to wildlife,  
 16 and [ORS 609.305 to 609.335 and 609.992] **section 3 of this 2005 Act** relating to exotic animals, a  
 17 city or county may prohibit by ordinance the keeping of wildlife, as defined in ORS 496.004, and may  
 18 prohibit by ordinance the keeping of exotic animals [*as defined in ORS 609.305*].

19       **SECTION 17.** ORS 609.329 is amended to read:

20       609.329. (1) [A *keeper*] **The possessor** of an exotic animal is strictly liable for:

21       (a) Costs incurred by any person or city, county or state agency in attempting to remedy the  
 22 animal's escape from custody;

23       (b) Personal injury, property damage or similar loss directly or indirectly caused by the animal's  
 24 escape from custody, the lack of custody over the animal or efforts to remedy the animal's escape  
 25 from custody; and

26       (c) Personal injury directly caused by the animal while in custody.

27       (2) Notwithstanding subsection (1) of this section, if an injury or escape by an exotic animal is  
 28 in whole or in part the result of a willful unlawful act by a person other than the [*keeper*]  
 29 **possessor**, the [*keeper's*] **possessor's** liability for damages resulting from the escape or injury is the  
 30 amount of total damages multiplied by the percentage of fault attributable to the [*keeper's*]  
 31 **possessor's** negligence.

32       **SECTION 18.** ORS 609.992 is amended to read:

33       609.992. (1) Violation of [ORS 609.319] **section 2 of this 2005 Act** is a Class B misdemeanor.

34       (2) In addition to [*and not in lieu of*] any jail sentence or fine it may impose, a court may require  
 35 a defendant convicted under [ORS 609.319] **section 2 of this 2005 Act** to forfeit any rights of the  
 36 defendant in any exotic animal [*kept*] **possessed** in violation [*thereof*] **of section 2 of this 2005 Act**  
 37 and to repay reasonable costs incurred by any person[, *city, county or state agency*] in caring for the  
 38 animal prior to judgment.

39       (3) When the court orders the defendant's rights in the exotic animal to be forfeited, the court  
 40 may further order that [*those rights be given over to an appropriate person or agency demonstrating*  
 41 *a willingness to accept and care for the animal or to the county or an appropriate animal care agency*  
 42 *for further disposition in accordance with accepted practices for humane treatment of animals. This*  
 43 *subsection shall not constitute or authorize any limitation upon the right of the person or agency to*  
 44 *whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights*  
 45 *under this subsection constitutes a transfer of ownership.*] **legal and physical possession of the an-**

1 imal be transferred to a person described in section 7 (1) of this 2005 Act.

2 **SECTION 19.** ORS 609.305, 609.309, 609.312, 609.315, 609.319, 609.325 and 609.335 are re-  
3 pealed.

4 **SECTION 20.** (1) An animal control agency may, upon application, issue a personal pos-  
5 session permit for an exotic animal to a person who, on the date immediately prior to the  
6 effective date of this 2005 Act, is in lawful possession of an exotic animal pursuant to a  
7 permit issued by the State Department of Agriculture. The application for the personal pos-  
8 session permit must include any applicable information described in section 3 of this 2005  
9 Act. Notwithstanding the 10-day limit described in section 3 of this 2005 Act, a personal  
10 possession permit application may be filed under this subsection at any time on or before  
11 March 1, 2006.

12 (2) An animal control agency may issue a personal possession permit for an exotic animal  
13 that was not yet born on the effective date of this 2005 Act if the animal was gestational at  
14 that time and the person applying for the personal possession permit possessed the mother  
15 animal on the date immediately prior to the effective date of this 2005 Act under a valid  
16 permit issued by the State Department of Agriculture. The application for a personal pos-  
17 session permit must include any applicable information described in section 3 of this 2005  
18 Act. The possessor of the newborn exotic animal shall file the application for a personal  
19 possession permit on or before the 10th day after the birth of the animal or March 1, 2006,  
20 whichever is later.

21 (3) An animal control agency may issue a personal possession permit for an exotic animal  
22 to a person who on the date immediately prior to the effective date of this 2005 Act possesses  
23 a crocodile, alligator or caiman or a member of the reptile family Viperidae. The application  
24 for the permit must include any applicable information described in section 3 of this 2005  
25 Act and proof sufficient to the animal control agency that the person possessed the exotic  
26 animal on the date immediately prior to the effective date of this 2005 Act. Notwithstanding  
27 the 10-day limit described in section 3 of this 2005 Act, a personal possession permit appli-  
28 cation may be filed under this subsection at any time on or before March 1, 2006.

29 (4) Notwithstanding section 2 (3) of this 2005 Act, for the period beginning January 1,  
30 2006, and ending March 1, 2006, it is lawful for a person described in this section to possess  
31 an exotic animal described in this section without a personal possession permit.

32 (5) A county governing body shall adopt exotic animal confinement standards under sec-  
33 tion 5 of this 2005 Act on or before March 1, 2006. In adopting the initial county standards  
34 under section 5 of this 2005 Act, the county governing body shall give consideration to any  
35 exotic animal confinement standards in use by the State Department of Agriculture imme-  
36 diately prior to the repeal of ORS 609.305, 609.309, 609.312, 609.315, 609.319, 609.325 and 609.335  
37 by section 19 of this 2005 Act.

38