

Senate Bill 549

Sponsored by Senator THATCHER (Presession filed.)

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**.

Modifies certain law enforcement defenses that apply to certain firearms-related crimes. Provides honorably retired parole and probation officers with protections provided to Oregon concealed handgun license holders if officers do not have disqualifying convictions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to applying the protections afforded to concealed handgun license holders to retired parole
3 and probation officers; creating new provisions; amending ORS 166.173, 166.260, 166.262, 166.370,
4 166.663 and 821.240; and declaring an emergency.

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

6 **SECTION 1.** ORS 166.173 is amended to read:

7 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
8 session of loaded firearms in public places as defined in ORS 161.015.

9 (2) Ordinances adopted under subsection (1) of this section do not apply to or affect:

10 (a) A law enforcement officer.

11 (b) A member of the military in the performance of official duty.

12 (c) A person licensed to carry a concealed handgun.

13 (d) A person authorized to possess a loaded firearm while in or on a public building or court
14 facility under ORS 166.370.

15 (e) An employee of the United States Department of Agriculture, acting within the scope of
16 employment, who possesses a loaded firearm in the course of the lawful taking of wildlife.

17 (f) An honorably retired law enforcement officer **or an honorably retired parole and probation**
18 **officer**, unless the person who is a retired law enforcement officer **or retired parole and probation**
19 **officer** has been convicted of an offense that would make the person ineligible to obtain a concealed
20 handgun license under ORS 166.291 and 166.292.

21 **SECTION 2.** ORS 166.260 is amended to read:

22 166.260. (1) ORS 166.250 does not apply to or affect:

23 (a) A parole and probation officer, police officer or reserve officer, as those terms are defined
24 in ORS 181A.355.

25 (b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections of-
26 ficer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer
27 or corrections officer is acting within the scope of employment.

28 (c) An honorably retired law enforcement officer **or an honorably retired parole and pro-**
29 **bation officer**, unless the person who is a retired law enforcement officer **or retired parole and**
30 **probation officer** has been convicted of an offense that would make the person ineligible to obtain

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 a concealed handgun license under ORS 166.291 and 166.292.

2 (d) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to
3 assist in making arrests or preserving the peace, while the summoned person is engaged in assisting
4 the officer.

5 (e) The possession or transportation by any merchant of unloaded firearms as merchandise.

6 (f) Active or reserve members of:

7 (A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the
8 National Guard, when on duty;

9 (B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

10 (C) The Public Health Service of the United States Department of Health and Human Services,
11 when detailed by proper authority for duty with the Army or Navy of the United States.

12 (g) Organizations which are by law authorized to purchase or receive weapons described in ORS
13 166.250 from the United States, or from this state.

14 (h) Duly authorized military or civil organizations while parading, or the members thereof when
15 going to and from the places of meeting of their organization.

16 (i) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

17 (2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has
18 been granted relief from the disability under ORS 166.274.

19 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
20 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

21 (a) Members of any club or organization, for the purpose of practicing shooting at targets upon
22 the established target ranges, whether public or private, while such members are using any of the
23 firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such
24 ranges.

25 (b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or re-
26 turning from a hunting or fishing expedition.

27 (4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses
28 to a charge of violating ORS 166.250.

29 **SECTION 3.** ORS 166.262 is amended to read:

30 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
31 (b) or 166.370 (1) if the person has in the person's immediate possession:

32 (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292;

33 (2) Proof that the person is a law enforcement officer; or

34 (3) Proof that the person is an honorably retired law enforcement officer **or an honorably re-**
35 **tired parole and probation officer**, unless the person has been convicted of an offense that would
36 make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

37 **SECTION 4.** ORS 166.370 is amended to read:

38 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
39 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
40 guilty of a Class C felony.

41 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
42 tionally possesses:

43 (A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who
44 intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement
45 officer.

1 (B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon
2 to a law enforcement officer or to immediately remove it from the court facility. A person who fails
3 to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

4 (C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to
5 the offense, the presiding judge of the local court facility entered an order prohibiting firearms in
6 the area in which the court conducts business and during the hours in which the court operates.

7 (b) The presiding judge of a judicial district or a municipal court may enter an order permitting
8 the possession of specified weapons in a court facility.

9 (c) Within a shared court facility, the presiding judge of a municipal court or justice of the
10 peace district may not enter an order concerning the possession of weapons in the court facility that
11 is in conflict with an order entered by the presiding judge of the circuit court.

12 (3) Subsection (1) of this section does not apply to:

13 (a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

14 (b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation
15 officer is acting within the scope of employment.

16 (c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections of-
17 ficer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer
18 or corrections officer is acting within the scope of employment.

19 (d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to
20 assist in making an arrest or preserving the peace, while the summoned person is engaged in as-
21 sisting the officer.

22 (e) An honorably retired law enforcement officer **or an honorably retired parole and pro-**
23 **bation officer.**

24 (f) An active or reserve member of the military forces of this state or the United States, when
25 engaged in the performance of duty.

26 (g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

27 (h) A person who is authorized by the officer or agency that controls the public building to
28 possess a firearm or dangerous weapon in that public building.

29 (i) An employee of the United States Department of Agriculture, acting within the scope of em-
30 ployment, who possesses a firearm in the course of the lawful taking of wildlife.

31 (j) Possession of a firearm on school property if the firearm:

32 (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

33 (B) Is unloaded and locked in a motor vehicle.

34 (4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative de-
35 fenses to a charge of violating subsection (1) of this section.

36 (b) A person may not use the affirmative defense described in subsection (3)(e) of this section
37 if the person has been convicted of an offense that would make the person ineligible to obtain a
38 concealed handgun license under ORS 166.291 and 166.292.

39 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges
40 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-
41 viction be guilty of a Class C felony.

42 (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

43 (A) As part of a program approved by a school in the school by an individual who is partic-
44 ipating in the program;

45 (B) By a law enforcement officer acting in the officer's official capacity; or

1 (C) By an employee of the United States Department of Agriculture, acting within the scope of
2 employment, in the course of the lawful taking of wildlife.

3 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
4 166.279.

5 (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a
6 violation of both subsections (1) and (5) of this section, the district attorney may charge the person
7 with only one of the offenses.

8 (8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is de-
9 fined in ORS 161.015.

10 **SECTION 5.** ORS 166.663 is amended to read:

11 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
12 possession or in the immediate physical presence of the person a bow and arrow or a firearm.

13 (2) Subsection (1) of this section does not apply to a person casting an artificial light:

14 (a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.

15 (b) When the bow and arrow or firearm that the person has in the possession or immediate
16 physical presence of the person is disassembled or stored, or in the trunk or storage compartment
17 of the motor vehicle.

18 (c) When the ammunition or arrows are stored separate from the weapon.

19 (d) On land owned or lawfully occupied by that person.

20 (e) On publicly owned land when that person has an agreement with the public body to use that
21 property.

22 (f) When the person is a peace officer, or is a government employee engaged in the performance
23 of official duties.

24 (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a con-
25 cealed handgun.

26 (h) When the person is an honorably retired law enforcement officer **or an honorably retired**
27 **parole and probation officer**, unless the person has been convicted of an offense that would make
28 the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

29 (3) A peace officer may issue a citation to a person for a violation of subsection (1) of this sec-
30 tion when the violation is committed in the presence of the peace officer or when the peace officer
31 has probable cause to believe that a violation has occurred based on a description of the vehicle
32 or other information received from a peace officer who observed the violation.

33 (4) Violation of subsection (1) of this section is punishable as a Class B violation.

34 (5) As used in this section, "peace officer" has the meaning given that term in ORS 161.015.

35 **SECTION 6.** ORS 821.240 is amended to read:

36 821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle
37 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with
38 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all
39 arrows are in a quiver.

40 (2) Subsection (1) of this section does not apply to:

41 (a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun;

42 (b) A law enforcement officer; or

43 (c) An honorably retired law enforcement officer **or an honorably retired parole and pro-**
44 **bation officer**, unless the person who is a retired law enforcement officer **or retired parole and**
45 **probation officer** has been convicted of an offense that would make the person ineligible to obtain

1 a concealed handgun license under ORS 166.291 and 166.292.

2 (3) As used in this section, “unloaded” means:

3 (a) If the firearm is a revolver, that there is no live cartridge in the chamber that is aligned
4 with the hammer of the revolver;

5 (b) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or

6 (c) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live
7 cartridge in the chamber.

8 (4) The offense described in this section, operating a snowmobile or an all-terrain vehicle while
9 carrying a firearm or bow, is a Class B traffic violation.

10 **SECTION 7. The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.663 and 821.240**
11 **by sections 1 to 6 of this 2017 Act apply to conduct that occurs on or after the effective date**
12 **of this 2017 Act.**

13 **SECTION 8. This 2017 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
15 **on its passage.**

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