

LC 1264
11/29/04 (VV/vl/ps)

DRAFT

SUMMARY

Allows school district boards to prohibit persons with concealed handgun licenses from carrying firearms on school property.

Expands definition of "public building" for purposes of laws relating to possession of firearms on public property.

A BILL FOR AN ACT

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Relating to concealed weapons on school property; amending ORS 166.262, 166.360 and 166.370.

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

SECTION 1. ORS 166.370 is amended to read:

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

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

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

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

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

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

(a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while acting within the scope of employment.

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.

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1 (b) A person summoned by a peace officer to assist in making an arrest
2 or preserving the peace, while the summoned person is engaged in assisting
3 the officer.

4 (c) An active or reserve member of the military forces of this state or the
5 United States, when engaged in the performance of duty.

6 (d) **Except as otherwise provided in subsection (5) of this section, a**
7 **person who is licensed under ORS 166.291 and 166.292 to carry a concealed**
8 **handgun.**

9 (e) A person who is authorized by the officer or agency that controls the
10 public building to possess a firearm or dangerous weapon in that public
11 building.

12 (f) Possession of a firearm on school property if the firearm:

13 (A) Is possessed by a person who is not otherwise prohibited from pos-
14 sessed the firearm; and

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

16 (4) The exceptions listed in subsection (3)(b) to (f) of this section consti-
17 tute affirmative defenses to a charge of violating subsection (1) of this sec-
18 tion.

19 (5) **A school district board may prohibit persons licensed under ORS**
20 **166.291 and 166.292 from possessing firearms in or on a public building**
21 **that is a public school or the site or premises of any student program**
22 **or activity that is sponsored or sanctioned by a public school.**

23 [(5)(a)] (6)(a) Any person who knowingly, or with reckless disregard for
24 the safety of another, discharges or attempts to discharge a firearm at a
25 place that the person knows is a school shall upon conviction be guilty of
26 a Class C felony.

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

29 (A) As part of a program approved by a school in the school by an indi-
30 vidual who is participating in the program; or

31 (B) By a law enforcement officer acting in the officer's official capacity.

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

5 [(7)] (8) As used in this section, "dangerous weapon" means a dangerous
6 weapon as that term is defined in ORS 161.015.

7 **SECTION 2.** ORS 166.370, as amended by section 36, chapter 666, Oregon
8 Laws 2001, and section 6, chapter 614, Oregon Laws 2003, is amended to read:

9 166.370. (1) Any person who intentionally possesses a loaded or unloaded
10 firearm or any other instrument used as a dangerous weapon, while in or on
11 a public building, shall upon conviction be guilty of a Class C felony.

12 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a
13 person who intentionally possesses:

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

17 (B) A weapon, other than a firearm, in a court facility may be required
18 to surrender the weapon to a law enforcement officer or to immediately re-
19 move it from the court facility. A person who fails to comply with this sub-
20 paragraph is guilty, upon conviction, of a Class C felony.

21 (b) The presiding judge of a judicial district may enter an order permit-
22 ting the possession of specified weapons in a court facility.

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

24 (a) A sheriff, police officer, other duly appointed peace officers or a cor-
25 rections officer while acting within the scope of employment.

26 (b) A person summoned by a peace officer to assist in making an arrest
27 or preserving the peace, while the summoned person is engaged in assisting
28 the officer.

29 (c) An active or reserve member of the military forces of this state or the
30 United States, when engaged in the performance of duty.

31 (d) **Except as otherwise provided in subsection (5) of this section, a**

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1 person who is licensed under ORS 166.291 and 166.292 to carry a concealed
2 handgun.

3 (e) A person who is authorized by the officer or agency that controls the
4 public building to possess a firearm or dangerous weapon in that public
5 building.

6 (f) Possession of a firearm on school property if the firearm:

7 (A) Is possessed by a person who is not otherwise prohibited from pos-
8 sessing the firearm; and

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

10 (4) The exceptions listed in subsection (3)(b) to (f) of this section consti-
11 tute affirmative defenses to a charge of violating subsection (1) of this sec-
12 tion.

13 (5) A school district board may prohibit persons licensed under ORS
14 166.291 and 166.292 from possessing firearms in or on a public building
15 that is a public school or the site or premises of any student program
16 or activity that is sponsored or sanctioned by a public school.

17 [(5)(a)] (6)(a) Any person who knowingly, or with reckless disregard for
18 the safety of another, discharges or attempts to discharge a firearm at a
19 place that the person knows is a school shall upon conviction be guilty of
20 a Class C felony.

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

23 (A) As part of a program approved by a school in the school by an indi-
24 vidual who is participating in the program; or

25 (B) By a law enforcement officer acting in the officer's official capacity.

26 [(6)] (7) Any weapon carried in violation of this section is subject to the
27 forfeiture provisions of ORS 166.279.

28 [(7)] (8) Notwithstanding the fact that a person's conduct in a single
29 criminal episode constitutes a violation of both subsections (1) and [(5)] (6)
30 of this section, the district attorney may charge the person with only one
31 of the offenses.

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1 [(8)] (9) As used in this section, "dangerous weapon" means a dangerous
2 weapon as that term is defined in ORS 161.015.

3 **SECTION 3.** ORS 166.360 is amended to read:

4 166.360. As used in ORS 166.360 to 166.380, unless the context requires
5 otherwise:

6 (1) "Capitol building" means the Capitol, the State Office Building, the
7 State Library Building, the Labor and Industries Building, the State Trans-
8 portation Building, the Agriculture Building or the Public Service Building
9 and includes any new buildings which may be constructed on the same
10 grounds as an addition to the group of buildings listed in this subsection.

11 (2) "Court facility" means a courthouse or that portion of any other
12 building occupied by a circuit court, the Court of Appeals, the Supreme
13 Court or the Oregon Tax Court or occupied by personnel related to the op-
14 erations of those courts, or in which activities related to the operations of
15 those courts take place.

16 (3) "Loaded firearm" means:

17 (a) A breech-loading firearm in which there is an unexpended cartridge
18 or shell in or attached to the firearm including but not limited to, in a
19 chamber, magazine or clip which is attached to the firearm.

20 (b) A muzzle-loading firearm which is capped or primed and has a powder
21 charge and ball, shot or projectile in the barrel or cylinder.

22 (4) "Public building" means a hospital, a capitol building, a public or
23 private school, as defined in ORS 339.315, a college or university, a city hall
24 [or], the residence of any state official elected by the state at large, and the
25 grounds adjacent to each such building, the site or premises of any stu-
26 dent program or activity that is sponsored or sanctioned by a public
27 or private school or a school bus. The term also includes that portion of
28 any other building occupied by an agency of the state or a municipal cor-
29 poration, as defined in ORS 297.405, other than a court facility.

30 (5) "School bus" has the meaning given that term in ORS 801.460.

31 [(5)] (6) "Weapon" means:

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- 1 (a) A firearm;
- 2 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar
3 instrument or a knife other than an ordinary pocket knife, the use of which
4 could inflict injury upon a person or property;
- 5 (c) Mace, tear gas, pepper mace or any similar deleterious agent as de-
6 fined in ORS 163.211;
- 7 (d) An electrical stun gun or any similar instrument;
- 8 (e) A tear gas weapon as defined in ORS 163.211;
- 9 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku,
10 nightstick, truncheon or any similar instrument, the use of which could in-
11 flict injury upon a person or property; or
- 12 (g) A dangerous or deadly weapon as those terms are defined in ORS
13 161.015.

14 **SECTION 4.** ORS 166.262 is amended to read:

- 15 166.262. (1) A peace officer may not arrest or charge a person for violating
16 ORS 166.250 (1)(a) or (b) or, **except as provided in subsection (2) of this**
17 **section, for violating ORS 166.370 (1) if the person has in the person's im-**
18 **mediate possession a valid license to carry a firearm as provided in ORS**
19 **166.291 and 166.292.**
- 20 (2) **If a school district board has prohibited the possession of**
21 **firearms under ORS 166.370 (5), a peace officer may arrest or charge**
22 **a person for violating ORS 166.370 (1), notwithstanding the fact that**
23 **the person has in the person's immediate possession a valid license to**
24 **carry a firearm as provided in ORS 166.291 and 166.292.**

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