

Senate Bill 1078

Sponsored by Senator BURDICK; Senators DECKERT, GORDLY, METSGER, MORRISETTE, RINGO, SHIELDS, WALKER

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**.

Allows school district boards to prohibit persons with concealed handgun licenses from carrying firearms in certain public buildings.

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

Creates crime of unlawful storage of firearm.

Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Punishes second and subsequent convictions by maximum of five years' imprisonment, \$125,000 fine, or both.

Prohibits sale, delivery or transfer of firearm to person convicted of unlawful storage of firearm for five-year period after conviction.

Requires gun dealers to post notice concerning obligation to store firearms in safe manner.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.262, 166.360, 166.370 and
3 166.470.

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

5 **SECTION 1.** ORS 166.370 is amended to read:

6 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
7 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
8 guilty of a Class C felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (4) The exceptions listed in subsection (3)(b) to (f) of this section constitute affirmative defenses
9 to a charge of violating subsection (1) of this section.

10 **(5) A school district board may prohibit persons licensed under ORS 166.291 and 166.292**
11 **from possessing firearms in or on a public building that is a public school, school bus or**
12 **school activity vehicle controlled by the school district board. A notice of a prohibition on**
13 **the possession of a firearm adopted under this subsection must be posted outside the public**
14 **entrances to each school to which the prohibition applies.**

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

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

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

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

22 [(6)] **(7)** Notwithstanding the fact that a person's conduct in a single criminal episode constitutes
23 a violation of both subsections (1) and [(5)] **(6)** of this section, the district attorney may charge the
24 person with only one of the offenses.

25 [(7)] **(8)** As used in this section, "dangerous weapon" means a dangerous weapon as that term
26 is defined in ORS 161.015.

27 **SECTION 2.** ORS 166.370, as amended by section 36, chapter 666, Oregon Laws 2001, and sec-
28 tion 6, chapter 614, Oregon Laws 2003, is amended to read:

29 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
30 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
31 guilty of a Class C felony.

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

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

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

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

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

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

45 (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace,

1 while the summoned person is engaged in assisting the officer.

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

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

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

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

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

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

11 (4) The exceptions listed in subsection (3)(b) to (f) of this section constitute affirmative defenses
12 to a charge of violating subsection (1) of this section.

13 **(5) A school district board may prohibit persons licensed under ORS 166.291 and 166.292**
14 **from possessing firearms in or on a public building that is a public school, school bus or**
15 **school activity vehicle controlled by the school district board. A notice of a prohibition on**
16 **the possession of a firearm adopted under this subsection must be posted outside the public**
17 **entrances to each school to which the prohibition applies.**

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

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

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

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

25 [(6)] **(7)** Any weapon carried in violation of this section is subject to the forfeiture provisions
26 of ORS 166.279.

27 [(7)] **(8)** Notwithstanding the fact that a person's conduct in a single criminal episode constitutes
28 a violation of both subsections (1) and [(5)] **(6)** of this section, the district attorney may charge the
29 person with only one of the offenses.

30 [(8)] **(9)** As used in this section, "dangerous weapon" means a dangerous weapon as that term
31 is defined in ORS 161.015.

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

33 166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

34 (1) "Capitol building" means the Capitol, the State Office Building, the State Library Building,
35 the Labor and Industries Building, the State Transportation Building, the Agriculture Building or
36 the Public Service Building and includes any new buildings which may be constructed on the same
37 grounds as an addition to the group of buildings listed in this subsection.

38 (2) "Court facility" means a courthouse or that portion of any other building occupied by a
39 circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by
40 personnel related to the operations of those courts, or in which activities related to the operations
41 of those courts take place.

42 (3) "Loaded firearm" means:

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

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

3 (4) "Public building" means a hospital, a capitol building, a public or private school, as defined
4 in ORS 339.315, a college or university, a city hall [or], the residence of any state official elected
5 by the state at large, and the grounds adjacent to each such building, **a school bus or a school**
6 **activity vehicle**. The term also includes that portion of any other building occupied by an agency
7 of the state or a municipal corporation, as defined in ORS 297.405, other than a court facility.

8 (5) **"School activity vehicle" has the meaning given that term in ORS 801.455.**

9 (6) **"School bus" has the meaning given that term in ORS 801.460.**

10 [(5)] (7) "Weapon" means:

11 (a) A firearm;

12 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife
13 other than an ordinary pocket knife, the use of which could inflict injury upon a person or property;

14 (c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

15 (d) An electrical stun gun or any similar instrument;

16 (e) A tear gas weapon as defined in ORS 163.211;

17 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any
18 similar instrument, the use of which could inflict injury upon a person or property; or

19 (g) A dangerous or deadly weapon as those terms are defined in ORS 161.015.

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

21 166.262. (1) A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a)
22 or (b) or, **except as provided in subsection (2) of this section, for violating ORS 166.370 (1)** if
23 the person has in the person's immediate possession a valid license to carry a firearm as provided
24 in ORS 166.291 and 166.292.

25 (2) **If a school district board has prohibited the possession of firearms under ORS 166.370**
26 **(5), a peace officer may arrest or charge a person for violating ORS 166.370 (1),**
27 **notwithstanding the fact that the person has in the person's immediate possession a valid**
28 **license to carry a firearm as provided in ORS 166.291 and 166.292.**

29 **SECTION 5.** (1) A person commits the crime of unlawful storage of a firearm if:

30 (a) **The person, with criminal negligence, stores or leaves a firearm in a location where**
31 **the person knows, or reasonably should know, that a minor who is younger than 16 years**
32 **of age is likely to gain access to the firearm;**

33 (b) **A minor who is younger than 16 years of age gains access to the firearm; and**

34 (c) **The minor:**

35 (A) **Possesses the firearm in a public place;**

36 (B) **Exhibits the firearm in a careless, angry or threatening manner; or**

37 (C) **Injures or kills a person by means of the firearm.**

38 (2)(a) **Unlawful storage of a firearm is a Class A misdemeanor.**

39 (b) **Notwithstanding paragraph (a) of this subsection, unlawful storage of a firearm is a**
40 **Class C felony if the defendant has at least one prior conviction under this section.**

41 (3) **Subsection (1) of this section does not apply if:**

42 (a) **The minor obtains and possesses the firearm while under the direct supervision of the**
43 **minor's parent or guardian;**

44 (b) **The minor obtains possession of the firearm:**

45 (A) **In a lawful act of self-defense or defense of another; or**

1 (B) Through the illegal act of any person other than the person referred to in subsection
2 (1)(a) of this section;

3 (c) The firearm is equipped with a trigger lock or other safe storage device;

4 (d) The firearm is stored in a securely locked container or in a location that a reasonable
5 person would believe to be secure;

6 (e) The firearm is rendered inoperable by the removal of an essential component of the
7 firing mechanism; or

8 (f) The person is a peace officer or member of the military forces of this state or the
9 United States and the minor obtained the firearm during, or incidental to, the performance
10 of the person's duties.

11 (4) As used in this section:

12 (a) "Firearm" has the meaning given that term in ORS 166.210.

13 (b) "Public place" has the meaning given that term in ORS 161.015.

14 **SECTION 6.** A gun dealer shall post in a prominent location in the gun dealer's place of
15 business a notice in block letters not less than one inch in height that states: "The purchaser
16 of a firearm has an obligation to store firearms in a safe manner and to prevent unsuper-
17 vised access to a firearm by a minor. If a minor obtains access to a firearm and the owner
18 failed to store the firearm in a safe manner, the owner may be guilty of a crime."

19 **SECTION 7.** ORS 166.470 is amended to read:

20 166.470. (1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction
21 laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell,
22 deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that
23 the recipient:

24 (a) Is under 18 years of age;

25 (b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a
26 felony;

27 (c) Has any outstanding felony warrants for arrest;

28 (d) Is free on any form of pretrial release for a felony;

29 (e) Was committed to the Department of Human Services under ORS 426.130;

30 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
31 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
32 illness; [or]

33 (g) Has been convicted of unlawful storage of a firearm under section 5 of this 2005 Act
34 within the five years immediately preceding the date of the attempted sale, delivery or
35 transfer; or

36 [(g)] (h) Has been convicted of a misdemeanor involving violence or found guilty, except for in-
37 sanity under ORS 161.295, of a misdemeanor involving violence within the previous four years. As
38 used in this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS
39 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b).

40 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
41 reasonably should know is stolen.

42 (3) Subsection (1)(a) of this section does not prohibit:

43 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
44 minor from transferring to the minor a firearm, other than a handgun; or

45 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other

1 lawful purpose.

2 (4) Violation of this section is a Class A misdemeanor.

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