

House Bill 2415

Sponsored by Representative BUTLER (Pre-session 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**.

Prohibits sale, delivery or transfer of firearm to visibly intoxicated person. Prohibits transfer of possession of explosive to visibly intoxicated person. Prohibits dispensing or transferring Class 1 flammable liquid to visibly intoxicated person. Prohibits sale, delivery, conveyance or transfer of possession of motor vehicle to visibly intoxicated person.

Punishes sale, delivery or transfer of firearm to visibly intoxicated person by maximum of one year's imprisonment, \$6,250 fine, or both. Punishes transfer of possession of explosive to visibly intoxicated person by maximum of six months' imprisonment, \$2,500 fine, or both. Punishes sale, delivery, conveyance or transfer of possession of motor vehicle to visibly intoxicated person by 30 days' imprisonment, \$1,250 fine, or both. Permits State Fire Marshal to impose civil penalty of not more than \$500 for each incident in which person dispenses or transfers Class 1 flammable liquid to visibly intoxicated person.

Provides that violation of provisions of this Act does not subject violator to civil action for damages.

A BILL FOR AN ACT

1
2 Relating to the transfer of items to visibly intoxicated persons; creating new provisions; and
3 amending ORS 166.470 and 480.215.

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

5 **SECTION 1.** ORS 166.470 is amended to read:

6 166.470. (1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction
7 laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell,
8 deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that
9 the recipient:

10 (a) Is under 18 years of age;

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

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

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

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

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

19 (g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity
20 under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in
21 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
22 163.187, 163.190, 163.195 or 166.155 (1)(b)[.]; **or**

23 **(h) Is visibly intoxicated at the time of the sale, delivery or other transfer.**

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

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

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

4 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
5 lawful purpose.

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

7 **SECTION 2.** ORS 480.215 is amended to read:

8 **480.215. (1) A person may not transfer possession of an explosive to a transferee who is**
9 **visibly intoxicated.**

10 **(2) Subject to subsection (1) of this section, a person may not transfer** possession of an
11 explosive [*shall not be transferred*] unless:

12 [(1)] (a) The transferee holds a certificate of possession under ORS 480.235 and the certificate
13 is valid at the time of the transfer;

14 [(2)] (b) The transferee is licensed by the Bureau of Alcohol, Tobacco and Firearms as a man-
15 ufacturer of explosives or a dealer in explosives; or

16 [(3)] (c) The transferee is a consignee of explosives that have been transported under the juris-
17 diction of or in conformity with regulations adopted by the United States Department of Transpor-
18 tation.

19 **SECTION 3. An owner, operator or employee of a filling station, service station, garage**
20 **or other dispensary where Class 1 flammable liquids are dispensed at retail may not dispense**
21 **or otherwise transfer or permit another person to dispense or otherwise transfer a Class 1**
22 **flammable liquid to:**

23 (1) A person who is visibly intoxicated; or

24 (2) The fuel tank of the motor vehicle of a person who is visibly intoxicated.

25 **SECTION 4. (1) A person may not sell, convey, deliver or otherwise transfer possession**
26 **of a motor vehicle to another person if at the time of the sale, conveyance, delivery or**
27 **transfer of possession the other person is visibly intoxicated.**

28 (2) Violation of this section is a Class C misdemeanor.

29 **SECTION 5. Section 3 of this 2007 Act is added to and made a part of ORS 480.315 to**
30 **480.385.**

31 **SECTION 6. Violation of section 3 or 4 of this 2007 Act or the amendments to ORS 166.470**
32 **or 480.215 by sections 1 and 2 of this 2007 Act does not create a civil cause of action for the**
33 **violation or affect any common law cause of action that a person may have by reason of**
34 **conduct that constitutes a violation of section 3 or 4 of this 2007 Act or the amendments to**
35 **ORS 166.470 or 480.215 by sections 1 and 2 of this 2007 Act.**

36 **SECTION 7. (1) The amendments to ORS 166.470 by section 1 of this 2007 Act apply to**
37 **all sales, deliveries or transfers of firearms conducted on or after the effective date of this**
38 **2007 Act.**

39 (2) The amendments to ORS 480.215 by section 2 of this 2007 Act apply to all transfers
40 of explosives conducted on or after the effective date of this 2007 Act.

41 (3) Section 3 of this 2007 Act applies to the dispensing or transfer of Class 1 flammable
42 liquids on or after the effective date of this 2007 Act.

43 (4) Section 4 of this 2007 Act applies to all sales, conveyances, deliveries or other trans-
44 fers of possession of motor vehicles conducted on or after the effective date of this 2007 Act.