

House Bill 2330

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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**.

Applies defense to crime of felon in possession of firearm to certain other crimes predicated on person's status as felon.

A BILL FOR AN ACT

1
2 Relating to felons; creating new provisions; and amending ORS 166.260, 166.270 and 166.470.

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

4 **SECTION 1.** ORS 166.270 is amended to read:

5 166.270. (1) Any person who has been convicted of a felony under the law of this state or any
6 other state, or who has been convicted of a felony under the laws of the Government of the United
7 States, who owns or has in the person's possession or under the person's custody or control any
8 firearm commits the crime of felon in possession of a firearm.

9 (2) Any person who has been convicted of a felony under the law of this state or any other state,
10 or who has been convicted of a felony under the laws of the Government of the United States, who
11 owns or has in the person's possession or under the person's custody or control any instrument or
12 weapon having a blade that projects or swings into position by force of a spring or by centrifugal
13 force or any blackjack, slungshot, sandclub, sandbag, sap glove or metal knuckles, or who carries
14 a dirk, dagger or stiletto, commits the crime of felon in possession of a restricted weapon.

15 (3) For the purposes of this section, a person "has been convicted of a felony" if, at the time
16 of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it
17 was committed. Such conviction shall not be deemed a conviction of a felony if:

18 (a) The court declared the conviction to be a misdemeanor at the time of judgment; or

19 (b) The offense was possession of marijuana and the conviction was prior to January 1, 1972.

20 (4) [*Subsection (1) of*] This section does not apply to any person who has been:

21 (a) Convicted of only one felony under the law of this state or any other state, or who has been
22 convicted of only one felony under the laws of the United States, which felony did not involve
23 criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon
24 having a blade that projects or swings into position by force of a spring or by centrifugal force, and
25 who has been discharged from imprisonment, parole or probation for said offense for a period of 15
26 years prior to the date of alleged violation of subsection (1) of this section; or

27 (b) Granted relief from the disability under 18 U.S.C. 925(c) or has had the person's record
28 expunged under the laws of this state or equivalent laws of another jurisdiction.

29 (5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted
30 weapon is a Class A misdemeanor.

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

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.

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

2 (a) Sheriffs, constables, marshals, police officers, whether active or honorably retired, parole and

3 probation officers or other duly appointed peace officers.

4 (b) Any person summoned by any such officer to assist in making arrests or preserving the

5 peace, while said person so summoned is actually engaged in assisting the officer.

6 (c) The possession or transportation by any merchant of unloaded firearms as merchandise.

7 (d) Active or reserve members of the Army, Navy, Air Force, Coast Guard or Marine Corps of

8 the United States, or of the National Guard, when on duty.

9 (e) Organizations which are by law authorized to purchase or receive weapons described in ORS

10 166.250 from the United States, or from this state.

11 (f) Duly authorized military or civil organizations while parading, or the members thereof when

12 going to and from the places of meeting of their organization.

13 (g) A corrections officer while transporting or accompanying an individual convicted of or ar-

14 rested for an offense and confined in a place of incarceration or detention while outside the confines

15 of the place of incarceration or detention.

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

17 (2) Except for persons who are otherwise prohibited from possessing a firearm under ORS

18 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

19 (a) Members of any club or organization, for the purpose of practicing shooting at targets upon

20 the established target ranges, whether public or private, while such members are using any of the

21 firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such

22 ranges.

23 (b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or re-

24 turning from a hunting or fishing expedition.

25 (3) The exceptions listed in subsection (1)(b) to (h) of this section constitute affirmative defenses

26 to a charge of violating ORS 166.250.

27 **(4) ORS 166.250 (1)(c)(C) does not apply to or affect a person described in ORS 166.270 (4).**

28 **SECTION 3.** ORS 166.470 is amended to read:

29 166.470. (1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction

30 laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell,

31 deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that

32 the recipient:

33 (a) Is under 18 years of age;

34 (b) Has been convicted of a felony or found guilty[,] except for insanity under ORS 161.295[,] of

35 a felony;

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

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

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

39 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130

40 that the person be prohibited from purchasing or possessing a firearm as a result of that mental

41 illness; or

42 (g) Has been convicted of a misdemeanor involving violence or found guilty[,] except for insanity

43 under ORS 161.295[,] of a misdemeanor involving violence within the previous four years. As used

44 in this paragraph, “misdemeanor involving violence” means a misdemeanor described in ORS

45 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b).

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

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

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

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

8 **(4) Subsection (1)(b) of this section does not prohibit a person from transferring a**
9 **firearm to a person described in ORS 166.270 (4)(a).**

10 [~~4~~] (5) Violation of this section is a Class A misdemeanor.

11 **SECTION 4. The amendments to ORS 166.260, 166.270 and 166.470 by sections 1 to 3 of this**
12 **2009 Act apply to conduct occurring on or after the effective date of this 2009 Act.**

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