

Enrolled
House Bill 2636

Sponsored by Representative KRIEGER; Representatives BENTZ, CAMERON, ESQUIVEL, GARRARD, GILMAN, HUFFMAN, JENSON, OLSON, THATCHER, THOMPSON, WEIDNER, WHISNANT, WINGARD

CHAPTER

AN ACT

Relating to taking wildlife; amending ORS 166.171, 166.172, 166.173, 166.176, 166.220, 166.370 and 166.630.

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

SECTION 1. ORS 166.171 is amended to read:

166.171. (1) A county may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within their boundaries.

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

(a) A person discharging a firearm in the lawful defense of person or property.

(b) A person discharging a firearm in the course of lawful hunting.

(c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger adjacent persons or property.

(d) A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.

(e) A person discharging a firearm in the course of target shooting on public land that is not inside an urban growth boundary or the boundary of a city, if the discharge will not endanger persons or property.

(f) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife.

SECTION 2. ORS 166.172 is amended to read:

166.172. (1) A city may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within the city's boundaries.

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

(a) A person discharging a firearm in the lawful defense of person or property.

(b) A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.

(c) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife.

SECTION 3. ORS 166.173 is amended to read:

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

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

(a) A law enforcement officer in the performance of official duty.

- (b) A member of the military in the performance of official duty.
- (c) A person licensed to carry a concealed handgun.
- (d) A person authorized to possess a loaded firearm while in or on a public building or court facility under ORS 166.370.

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

SECTION 4. ORS 166.176 is amended to read:

166.176. (1) Nothing in ORS 166.170 or 166.171 is intended to preempt, invalidate or in any way affect the operation of any provision of a county ordinance that was in effect on November 2, 1995, to the extent that the provision:

(a) Established a procedure for regulating, restricting or prohibiting the discharge of firearms; or

(b) Regulated, restricted or prohibited the discharge of firearms.

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

(a) Ordinances regulating, restricting or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or other area designed and built for the purpose of target shooting.

(b) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife.

SECTION 5. ORS 166.220 is amended to read:

166.220. (1) A person commits the crime of unlawful use of a weapon if the person:

(a) Attempts to use unlawfully against another, or carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon as defined in ORS 161.015; or

(b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge.

(2) This section does not apply to:

(a) Police officers or military personnel in the lawful performance of their official duties;

(b) Persons lawfully defending life or property as provided in ORS 161.219;

(c) Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices upon public or private shooting ranges, shooting galleries or other areas designated and built for the purpose of target shooting; [or]

(d) Persons lawfully engaged in hunting in compliance with rules and regulations adopted by the State Department of Fish and Wildlife; or

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

(3) Unlawful use of a weapon is a Class C felony.

SECTION 6. 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.

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

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

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

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

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

[(f)] **(g)** Possession of a firearm on school property if the firearm:

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

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

(4) The exceptions listed in subsection (3)(b) to [(f)] **(g)** of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.

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

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

(A) As part of a program approved by a school in the school by an individual who is participating in the program; [or]

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

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

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

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

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

SECTION 7. ORS 166.630 is amended to read:

166.630. (1) Except as provided in ORS 166.220, any person is guilty of a violation who discharges or attempts to discharge any blowgun, bow and arrow, crossbow, air rifle or firearm:

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605.

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility, telecommunications utility or railroad within range of the weapon.

(2) Any blowgun, bow and arrow, crossbow, air rifle or firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon. This section does not prevent:

(a) The discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation.

(b) The discharge of firearms by an employee of the United States Department of Agriculture acting within the scope of employment in the course of the lawful taking of wildlife.

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section.

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

- (b) "Public utility" has the meaning given that term in ORS 164.365 (2).
- (c) "Railroad" has the meaning given that term in ORS 824.020.

Passed by House May 8, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 3, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State