

House Bill 2636

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

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**.

Exempts employee or agent of United States Department of Agriculture in course of lawful taking of wildlife from criminal laws related to possession and discharge of firearms.

A BILL FOR AN ACT

1
2 Relating to taking wildlife; amending ORS 166.171, 166.172, 166.173, 166.176, 166.220, 166.370 and
3 166.630.

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

5 **SECTION 1.** ORS 166.171 is amended to read:

6 166.171. (1) A county may adopt ordinances to regulate, restrict or prohibit the discharge of
7 firearms within their boundaries.

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

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

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

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

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

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

18 **(f) An agent or employee of the United States Department of Agriculture, acting within**
19 **the scope of the agency or employment, discharging a firearm in the course of the lawful**
20 **taking of wildlife.**

21 **SECTION 2.** ORS 166.172 is amended to read:

22 166.172. (1) A city may adopt ordinances to regulate, restrict or prohibit the discharge of
23 firearms within the city's boundaries.

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

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

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

28 **(c) An agent or employee of the United States Department of Agriculture, acting within**
29 **the scope of the agency or employment, discharging a firearm in the course of the lawful**
30 **taking of wildlife.**

31 **SECTION 3.** ORS 166.173 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.

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

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

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

5 (b) A member of the military in the performance of official duty.

6 (c) A person licensed to carry a concealed handgun.

7 (d) A person authorized to possess a loaded firearm while in or on a public building or court
8 facility under ORS 166.370.

9 **(e) An agent or employee of the United States Department of Agriculture, acting within**
10 **the scope of the agency or employment, who possesses a loaded firearm in the course of the**
11 **lawful taking of wildlife.**

12 **SECTION 4.** ORS 166.176 is amended to read:

13 166.176. (1) Nothing in ORS 166.170 or 166.171 is intended to preempt, invalidate or in any way
14 affect the operation of any provision of a county ordinance that was in effect on November 2, 1995,
15 to the extent that the provision:

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

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

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

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

22 **(b) An agent or employee of the United States Department of Agriculture, acting within**
23 **the scope of the agency or employment, discharging a firearm in the course of the lawful**
24 **taking of wildlife.**

25 **SECTION 5.** ORS 166.220 is amended to read:

26 166.220. (1) A person commits the crime of unlawful use of a weapon if the person:

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

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

33 (2) This section does not apply to:

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

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

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

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

41 **(e) An agent or employee of the United States Department of Agriculture, acting within**
42 **the scope of the agency or employment, discharging a firearm in the course of the lawful**
43 **taking of wildlife.**

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

45 **SECTION 6.** ORS 166.370 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

24 **(f) An agent or employee of the United States Department of Agriculture, acting within**
 25 **the scope of the agency or employment, who possesses a firearm in the course of the lawful**
 26 **taking of wildlife.**

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

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

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

30 (4) The exceptions listed in subsection (3)(b) to [(f)] (g) of this section constitute affirmative de-
 31 fenses to a charge of violating subsection (1) of this section.

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

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

36 (A) As part of a program approved by a school in the school by an individual who is partic-
 37 ipating in the program; [or]

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

39 **(C) By an agent or employee of the United States Department of Agriculture, acting**
 40 **within the scope of the agency or employment, in the course of the lawful taking of wildlife.**

41 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
 42 166.279.

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

1 (8) As used in this section, “dangerous weapon” means a dangerous weapon as that term is de-
2 fined in ORS 161.015.

3 **SECTION 7.** ORS 166.630 is amended to read:

4 166.630. (1) Except as provided in ORS 166.220, any person is guilty of a violation who dis-
5 charges or attempts to discharge any blowgun, bow and arrow, crossbow, air rifle or firearm:

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

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

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

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

16 (b) **The discharge of firearms by an agent or employee of the United States Department**
17 **of Agriculture acting within the scope of the agency or employment in the course of the**
18 **lawful taking of wildlife.**

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

21 (4) As used in this section:

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

24 (b) “Public utility” has the meaning given that term in ORS 164.365 (2).

25 (c) “Railroad” has the meaning given that term in ORS 824.020.

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