

Senate Bill 573

Sponsored by Senator BOQUIST

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**.

Modifies circumstances under which person may petition for relief from prohibition on possession of firearms.

A BILL FOR AN ACT

Relating to firearms; amending ORS 166.260, 166.270 and 166.274.

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

SECTION 1. ORS 166.274 is amended to read:

166.274. (1) A person barred from possessing a firearm under ORS 166.250 (1)(c)[(A), (B), (D) or (E)] **or 166.270** or barred from purchasing a firearm under ORS 166.470 may file a petition for relief from the bar in:

(a) A justice court in the petitioner's county of residence that is reasonably accessible to the petitioner; or

(b) If no justice court is reasonably accessible, the circuit court.

(2) A person may apply once per calendar year for relief under the provisions of this section.

(3)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

(A) The city chief of police if the court in which the petition is filed is located in a city; or

(B) The sheriff of the county in which the court is located.

(b) The copy of the petition shall be served on the chief of police or sheriff at the same time the petition is filed at the court.

(4)(a) When a petition is denied, the judge shall cause that information to be entered into the Department of State Police computerized criminal history files.

(b) When a petition is granted, the judge shall cause that information and a fingerprint card of the petitioner to be entered into the Department of State Police computerized criminal history files.

If, after a petition is granted, the petitioner is arrested and convicted of a crime that would disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall notify the court that granted relief under this section. The court shall review the order granting relief and determine whether to rescind the order. The Department of State Police may charge a reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

(5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.

(6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner.

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 (7) A person barred from possessing or purchasing a firearm because the person, while a minor,
 2 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
 3 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
 4 igible to petition for relief under this section until more than four years have passed since the
 5 person was discharged from the jurisdiction of the juvenile court.

6 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 7 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
 8 then make findings and conclusions and issue a judgment based on the findings and conclusions in
 9 accordance with the requirements of law.

10 (9) Filing fees shall be as for any civil action filed in the court.

11 (10)(a) Initial appeals of petitions shall be heard de novo.

12 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the
 13 same manner as for any other civil action.

14 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall
 15 be ordered to pay the attorney fees for the prevailing party.

16 **SECTION 2.** ORS 166.270 is amended to read:

17 166.270. (1) Any person who has been convicted of a felony under the law of this state or any
 18 other state, or who has been convicted of a felony under the laws of the Government of the United
 19 States, who owns or has in the person’s possession or under the person’s custody or control any
 20 firearm commits the crime of felon in possession of a firearm.

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

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

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

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

32 (4) Subsection (1) of this section does not apply to any person who has been:

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

39 (b) Granted relief from the disability under 18 U.S.C. 925(c) or **ORS 166.274** or has had the
 40 person’s record expunged under the laws of this state or equivalent laws of another jurisdiction.

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

43 **SECTION 3.** ORS 166.260 is amended to read:

44 166.260. (1) ORS 166.250 does not apply to or affect:

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

1 probation officers or other duly appointed peace officers.

2 (b) Any person summoned by any such officer to assist in making arrests or preserving the
3 peace, while said person so summoned is actually engaged in assisting the officer.

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

5 (d) Active or reserve members of the Army, Navy, Air Force, Coast Guard or Marine Corps of
6 the United States, or of the National Guard, when on duty.

7 (e) Organizations which are by law authorized to purchase or receive weapons described in ORS
8 166.250 from the United States, or from this state.

9 (f) Duly authorized military or civil organizations while parading, or the members thereof when
10 going to and from the places of meeting of their organization.

11 (g) A corrections officer while transporting or accompanying an individual convicted of or ar-
12 rested for an offense and confined in a place of incarceration or detention while outside the confines
13 of the place of incarceration or detention.

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

15 **(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the**
16 **person has been granted relief from the disability under ORS 166.274.**

17 [(2)] **(3)** 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)] **(4)** The exceptions listed in subsection (1)(b) to (h) of this section constitute affirmative
26 defenses to a charge of violating ORS 166.250.

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