

House Bill 2488

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

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**.

Authorizes public body to issue permits for operation of locations where paintball guns may be used. Requires permittee to meet certain safety requirements.

Creates offense of unlawfully operating paintball field. Punishes failure to obtain permit by maximum of 30 days' imprisonment, \$1,250 fine, or both.

Creates offense of unlawfully discharging paintball gun. Punishes by maximum of 6 months' imprisonment, \$2,500 fine, or both.

Creates offense of unlawfully trading in paintball guns. Punishes by maximum fine of \$1,000.

Prescribes manner in which paintball gun may be transported in vehicle. Punishes violation by maximum of 30 days' imprisonment, \$1,250 fine, or both.

Creates presumption in favor of expulsion when elementary or secondary school student possesses paintball gun on school property or at school activity.

A BILL FOR AN ACT

1
2 Relating to paintball guns; creating new provisions; and amending ORS 339.250.

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

4 **SECTION 1. (1) As used in sections 1 to 5 of this 2011 Act:**

5 (a) **"Paintball field" means any location where paintball gun use is the primary activity.**

6 (b) **"Paintball gun" means a device that is designed to expel a breakable ball containing**
7 **colored paint or ink by means of a compressed gas.**

8 (c) **"Public body" has the meaning given that term in ORS 174.109.**

9 (d) **"Safety equipment" means devices that provide eye, ear and face protection.**

10 (2) **A public body may:**

11 (a) **Designate locations on property owned by the public body for use as a paintball field**
12 **under terms and conditions determined by the public body; and**

13 (b) **Issue permits authorizing any person to operate a paintball field on private property**
14 **or on property designated for use as a paintball field under paragraph (a) of this subsection.**

15 (3) **A permit issued under this section must require the permittee to:**

16 (a) **Inspect each paintball gun before the gun is used at the paintball field to ensure that**
17 **the gun does not discharge projectiles at a speed in excess of 300 feet per second; and**

18 (b) **Inspect each participant to ensure that the participant is equipped with safety**
19 **equipment that meets or exceeds the ASTM International standard F1776.**

20 (4) **A public body may charge a fee for a permit issued under this section.**

21 (5) **Nothing in sections 1 to 5 of this 2011 Act prohibits a public body from adopting rules,**
22 **ordinances or policies regulating the operation of a paintball field or the possession, use or**
23 **sale of paintball guns.**

24 **SECTION 2. (1) A person commits the offense of unlawfully operating a paintball field if**
25 **the person:**

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 (a) Operates a paintball field for profit without a valid permit issued under section 1 of
2 this 2011 Act; or

3 (b) Operates a paintball field pursuant to a permit issued under section 1 of this 2011 Act
4 in violation of the requirements described in section 1 (3) of this 2011 Act.

5 (2) Unlawfully operating a paintball field is a Class C misdemeanor.

6 **SECTION 3.** (1) A person commits the offense of unlawfully discharging a paintball gun
7 if the person discharges a paintball gun:

8 (a) On property owned by a public body that has not been designated for use as a
9 paintball field under section 1 of this 2011 Act;

10 (b) On private property without the consent of the property owner;

11 (c) On private property with the consent of the owner, if the paintball is propelled onto
12 the property of another person without the consent of the other person;

13 (d) That propels projectiles at a speed in excess of 300 feet per second; or

14 (e) From a motor vehicle.

15 (2) Unlawfully discharging a paintball gun:

16 (a) Under subsection (1)(a) to (d) of this section is a Class C misdemeanor.

17 (b) Under subsection (1)(e) of this section is a Class B misdemeanor.

18 **SECTION 4.** (1) A person commits the offense of unlawfully trading in paintball guns if
19 the person:

20 (a) Sells or otherwise transfers a paintball gun for consideration to a person under 18
21 years of age;

22 (b) Is under 18 years of age and the person purchases or otherwise provides consideration
23 for a paintball gun; or

24 (c) Sells or otherwise transfers for consideration a paintball gun that propels projectiles
25 in excess of 300 feet per second.

26 (2) The offense of unlawfully trading in paintball guns:

27 (a) Under subsection (1)(a) or (b) of this section is a specific fine violation punishable by
28 a maximum fine of \$1,000.

29 (b) Under subsection (1)(c) of this section is a Class C misdemeanor.

30 **SECTION 5.** (1) It is unlawful for a person to possess a paintball gun in a vehicle on a
31 public highway, unless:

32 (a) The paintball gun is unloaded;

33 (b) The projectiles for the paintball gun are stored in a separate and closed container;

34 (c) The propellant source for the paintball gun is disconnected, disabled or turned off; and

35 (d) The paintball gun is:

36 (A) In a secure wrapper;

37 (B) Has a barrel blocking device installed; or

38 (C) Is not readily accessible, as described in ORS 166.250, to any person within the vehi-
39 cle.

40 (2) This section does not apply to a person while the person is transported by an operator
41 of a paintball field who has been issued a permit under section 1 of this 2011 Act, if the
42 person is being transported within the paintball field.

43 (3) Violation of this section is a Class C misdemeanor.

44 **SECTION 6.** ORS 339.250 is amended to read:

45 339.250. (1) Public school students shall comply with rules for the government of such schools,

1 pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' au-
 2 thority.

3 (2) Pursuant to the written policies of a district school board, an individual who is a teacher,
 4 administrator, school employee or school volunteer may use reasonable physical force upon a stu-
 5 dent when and to the extent the individual reasonably believes it necessary to maintain order in the
 6 school or classroom or at a school activity or event, whether or not it is held on school property.
 7 The district school board shall adopt written policies to implement this subsection and shall inform
 8 such individuals of the existence and content of these policies.

9 (3) The district school board may authorize the discipline, suspension or expulsion of any
 10 refractory student and may suspend or expel any student who assaults or menaces a school em-
 11 ployee or another student. The age of a student and the past pattern of behavior of a student shall
 12 be considered prior to a suspension or expulsion of a student. As used in this subsection "menace"
 13 means by word or conduct the student intentionally attempts to place a school employee or another
 14 student in fear of imminent serious physical injury.

15 (4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intim-
 16 idation, harassment or coercion against any fellow student or school employee, open defiance of a
 17 teacher's authority or use or display of profane or obscene language is sufficient cause for discipline,
 18 suspension or expulsion from school.

19 (b) District school boards shall develop policies on managing students who threaten violence or
 20 harm in public schools. The policies adopted by a school district shall include staff reporting meth-
 21 ods and shall require an administrator to consider:

22 (A) Immediately removing from the classroom setting any student who has threatened to injure
 23 another person or to severely damage school property.

24 (B) Placing the student in a setting where the behavior will receive immediate attention, in-
 25 cluding, but not limited to, the office of the school principal, vice principal, assistant principal or
 26 counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or
 27 the office of any licensed mental health professional.

28 (C) Requiring the student to be evaluated by a licensed mental health professional before al-
 29 lowing the student to return to the classroom setting.

30 (c) The administrator shall notify the parent or legal guardian of the student's behavior and the
 31 school's response.

32 (d) District school boards may enter into contracts with licensed mental health professionals to
 33 perform the evaluations required under paragraph (b) of this subsection.

34 (e) District school boards shall allocate any funds necessary for school districts to implement
 35 the policies adopted under paragraph (b) of this subsection.

36 (5) Expulsion of a student shall not extend beyond one calendar year and suspension shall not
 37 extend beyond 10 school days.

38 (6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that
 39 requires the expulsion from school for a period of not less than one year of any student who is de-
 40 termined to have:

41 (A) Brought a weapon to a school, to school property under the jurisdiction of the district or
 42 to an activity under the jurisdiction of the school district;

43 (B) Possessed, concealed or used a weapon in a school or on school property or at an activity
 44 under the jurisdiction of the district; or

45 (C) Brought to or possessed, concealed or used a weapon at an interscholastic activity admin-

1 istered by a voluntary organization approved by the State Board of Education under ORS 339.430.

2 (b) The policy shall allow an exception for courses, programs and activities approved by the
 3 school district that are conducted on school property, including but not limited to hunter safety
 4 courses, Reserve Officer Training Corps programs, weapons-related sports or weapons-related voca-
 5 tional courses. In addition, the State Board of Education may adopt by rule additional exceptions
 6 to be included in school district policies.

7 (c) The policy shall allow a superintendent to modify the expulsion requirement for a student
 8 on a case-by-case basis.

9 (d) The policy shall require a referral to the appropriate law enforcement agency of any student
 10 who is expelled under this subsection.

11 (e) For purposes of this subsection, “weapon” includes a:

12 (A) “Firearm” as defined in 18 U.S.C. 921;

13 (B) “Dangerous weapon” as defined in ORS 161.015; [or]

14 (C) “Deadly weapon” as defined in ORS 161.015; or

15 **(D) “Paintball gun” as defined in section 1 of this 2011 Act.**

16 (7) The Department of Education shall collect data on any expulsions required pursuant to
 17 subsection (6) of this section including:

18 (a) The name of each school;

19 (b) The number of students expelled from each school; and

20 (c) The types of weapons involved.

21 (8) Notwithstanding ORS 336.010, a school district may require a student to attend school during
 22 nonschool hours as an alternative to suspension.

23 (9) Unless a student is under expulsion for an offense that constitutes a violation of a school
 24 district policy adopted pursuant to subsection (6) of this section, a school district board shall con-
 25 sider and propose to the student prior to expulsion or leaving school, and document to the parent,
 26 legal guardian or person in parental relationship, alternative programs of instruction or instruction
 27 combined with counseling for the student that are appropriate and accessible to the student in the
 28 following circumstances:

29 (a) When a student is expelled pursuant to subsection (4) of this section;

30 (b) Following a second or subsequent occurrence within any three-year period of a severe dis-
 31 ciplinary problem with a student;

32 (c) When it has been determined that a student’s attendance pattern is so erratic that the stu-
 33 dent is not benefiting from the educational program; or

34 (d) When a parent or legal guardian applies for a student’s exemption from compulsory attend-
 35 ance on a semiannual basis as provided in ORS 339.030 (2).

36 (10) A school district board may consider and propose to a student who is under expulsion or
 37 to a student prior to expulsion for an offense that constitutes a violation of a school district policy
 38 adopted pursuant to subsection (6) of this section, and document to the parent, legal guardian or
 39 person in parental relationship, alternative programs of instruction or instruction combined with
 40 counseling for the student that are appropriate and accessible to the student.

41 (11) Information on alternative programs provided under subsections (9) and (10) of this section
 42 shall be in writing. The information need not be given to the student and the parent, guardian or
 43 person in parental relationship more often than once every six months unless the information has
 44 changed because of the availability of new programs.

45 (12)(a) The authority to discipline a student does not authorize the infliction of corporal pun-

1 ishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public
2 charter school or the Department of Education that permits or authorizes the infliction of corporal
3 punishment upon a student is void and unenforceable.

4 (b) As used in this subsection, "corporal punishment" means the willful infliction of, or willfully
5 causing the infliction of, physical pain on a student.

6 (c) As used in this subsection, "corporal punishment" does not mean:

7 (A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

8 (B) Physical pain or discomfort resulting from or caused by participation in athletic competition
9 or other such recreational activity, voluntarily engaged in by a student.

10 **SECTION 7. Sections 1 to 5 of this 2011 Act and the amendments to ORS 339.250 by sec-**
11 **tion 6 of this 2011 Act apply to conduct occurring on or after the effective date of this 2011**
12 **Act.**

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