

# House Bill 2704

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for American Federation of State, County and Municipal Employees)

## 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 Department of Public Safety Standards and Training to certify inspectors and investigators employed by Oregon Liquor Control Commission.

Modifies crimes of assaulting public safety officer and aggravated harassment to include conduct committed against inspector or investigator employed by Oregon Liquor Control Commission.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to persons employed by the Oregon Liquor Control Commission; creating new provisions; amending ORS 163.208, 166.070, 181.610 and 181.651; and declaring an emergency.

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

**SECTION 1.** ORS 181.610 is amended to read:

181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given the term in ORS 107.705.

(2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) "Commissioned" means an authorization granting the power to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member of a law enforcement unit who is employed full-time thereby and is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light

**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 and heavy rescue services, search and rescue services or hazardous materials incident response.  
 2 “Fire service professional” does not include forest fire protection agency personnel.

3 (12)(a) “Law enforcement unit” means a police force or organization of the state, a city, port,  
 4 school district, mass transit district, county, county service district authorized to provide law  
 5 enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the De-  
 6 partment of Justice, the Department of Corrections, the Oregon State Lottery Commission or com-  
 7 mon carrier railroad whose primary duty, as prescribed by law, ordinance or directive, is any one  
 8 or more of the following:

9 (A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating  
 10 to airport security;

11 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal  
 12 offense and confined to a place of incarceration or detention other than a place used exclusively for  
 13 incarceration or detention of juveniles; or

14 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced  
 15 to probation and investigation of adult offenders on parole or probation or being considered for  
 16 parole or probation.

17 (b) “Law enforcement unit” also means:

18 (A) A police force or organization of a private entity with a population of more than 1,000 res-  
 19 idents in an unincorporated area whose employees are commissioned by a county sheriff;

20 (B) A district attorney’s office; and

21 (C) A private, nonprofit animal care agency that has maintained an animal welfare investigation  
 22 department for at least five years and has had officers commissioned as special agents by the Gov-  
 23 ernor.

24 **(13) “Liquor control agent” means an inspector or investigator employed by the Oregon**  
 25 **Liquor Control Commission.**

26 ~~[(13)]~~ (14) “Parole and probation officer” means:

27 (a) Any officer who is employed full-time by the Department of Corrections, a county or a court  
 28 and who is charged with and performs the duty of:

29 (A) Community protection by controlling, investigating, supervising and providing or making  
 30 referrals to reformative services for adult parolees or probationers or offenders on post-prison  
 31 supervision; or

32 (B) Investigating adult offenders on parole or probation or being considered for parole or pro-  
 33 bation; or

34 (b) Any officer who:

35 (A) Is certified and has been employed as a full-time parole and probation officer for more than  
 36 one year;

37 (B) Is employed part-time by the Department of Corrections, a county or a court; and

38 (C) Is charged with and performs the duty of:

39 (i) Community protection by controlling, investigating, supervising and providing or making re-  
 40 ferrals to reformative services for adult parolees or probationers or offenders on post-prison super-  
 41 vision; or

42 (ii) Investigating adult offenders on parole or probation or being considered for parole or pro-  
 43 bation.

44 ~~[(14)]~~ (15) “Police officer” means an officer, member or employee of a law enforcement unit who  
 45 is employed full-time as a peace officer commissioned by a city, port, school district, mass transit

1 district, county, county service district authorized to provide law enforcement services under ORS  
 2 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon  
 3 State Lottery Commission or the Governor or who is a member of the Department of State Police  
 4 and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating  
 5 to airport security or is an investigator of a district attorney's office if the investigator is or has  
 6 been certified as a peace officer in this or any other state.

7 [(15)] (16) "Public or private safety agency" means any unit of state or local government, a  
 8 special purpose district or a private firm which provides, or has authority to provide, fire fighting,  
 9 police, **liquor control**, ambulance or emergency medical services.

10 [(16)] (17) "Public safety personnel" and "public safety officer" include corrections officers,  
 11 youth correction officers, emergency medical dispatchers, parole and probation officers, police offi-  
 12 cers, certified reserve officers, telecommunicators, **liquor control agents** and fire service profes-  
 13 sionals.

14 [(17)] (18) "Reserve officer" means an officer or member of a law enforcement unit:

15 (a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned  
 16 by a city, port, school district, mass transit district, county, county service district authorized to  
 17 provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Divi-  
 18 sion of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is  
 19 a member of the Department of State Police;

20 (b) Who is armed with a firearm; and

21 (c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or  
 22 ordinances relating to airport security.

23 [(18)] (19) "Telecommunicator" means any person employed as an emergency telephone worker  
 24 as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, pro-  
 25 cessing and transmitting public safety information received through a 9-1-1 emergency reporting  
 26 system as defined in ORS 403.105.

27 [(19)] (20) "Youth correction officer" means an employee of the Oregon Youth Authority who is  
 28 charged with and primarily performs the duty of custody, control or supervision of youth offenders  
 29 confined in a youth correction facility.

30 **SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS 181.610 to**  
 31 **181.712.**

32 **SECTION 3. (1) Except for a person who has requested and obtained an extension from**  
 33 **the Department of Public Safety Standards and Training pursuant to subsection (2) of this**  
 34 **section, no person may be employed as an inspector or investigator by the Oregon Liquor**  
 35 **Control Commission for more than 18 months unless the person has been certified as quali-**  
 36 **fied as a liquor control agent under the provisions of ORS 181.610 to 181.712 and the certif-**  
 37 **ication has neither lapsed nor been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1)**  
 38 **and not been reissued under ORS 181.664.**

39 **(2) The department, upon the facts contained in an affidavit accompanying the request**  
 40 **for an extension, may find good cause for failure to obtain certification within the time pe-**  
 41 **riod described in subsection (1) of this section. If the department finds that there is good**  
 42 **cause for such failure, the department may extend for up to one year the period that a per-**  
 43 **son may serve as a liquor control agent without certification. The grant or denial of such**  
 44 **an extension is within the sole discretion of the department.**

45 **SECTION 4. ORS 181.651 is amended to read:**

1 181.651. (1) Notwithstanding any other provision of law, any full-time employee of the Depart-  
 2 ment of Public Safety Standards and Training who possesses the requisite qualifications may be  
 3 certified or recertified as a police officer, certified reserve officer, corrections officer, parole and  
 4 probation officer, fire service professional, telecommunicator, **liquor control agent** or emergency  
 5 medical dispatcher.

6 (2) A department employee who is certified as a police, certified reserve, corrections or parole  
 7 and probation officer **or a liquor control agent** may exercise the authority granted by law to such  
 8 officers **or agents**. This includes, but is not limited to, the authority to possess material that is  
 9 otherwise contraband under the laws of this state in the performance of official duties and the au-  
 10 thority to carry a firearm or other weapon concealed.

11 (3) A department employee who is certified as a police, certified reserve, corrections or parole  
 12 and probation officer, a fire service professional, a telecommunicator, **a liquor control agent** or an  
 13 emergency medical dispatcher is considered to be employed as a full-time public safety officer in the  
 14 discipline in which certification is held under this section for the following purposes:

15 (a) Denying, suspending or revoking certification under ORS 181.661, 181.662 and 181.664;

16 (b) Determining eligibility to apply for benefits from the Public Safety Memorial Fund under  
 17 ORS 243.954 to 243.974; and

18 (c) Determining eligibility to be honored at the memorial created pursuant to section 1, chapter  
 19 508, Oregon Laws 1987.

20 **SECTION 5.** ORS 163.208 is amended to read:

21 163.208. (1) A person commits the crime of assaulting a public safety officer if the person in-  
 22 tentiously or knowingly causes physical injury to the other person, knowing the other person to  
 23 be a peace officer, corrections officer, youth correction officer, parole and probation officer, **in-**  
 24 **spectator or investigator employed by the Oregon Liquor Control Commission**, animal control  
 25 officer, firefighter or staff member, and while the other person is acting in the course of official  
 26 duty.

27 (2) Assaulting a public safety officer is a Class C felony.

28 (3)(a) Except as otherwise provided in paragraph (b) of this subsection, a person convicted under  
 29 this section shall be sentenced to not less than seven days of imprisonment and shall not be granted  
 30 bench parole or suspension of sentence nor released on a sentence of probation before serving at  
 31 least seven days of the sentence of confinement.

32 (b) A person convicted under this section shall be sentenced to not less than 14 days of  
 33 imprisonment and shall not be granted bench parole or suspension of sentence nor released on a  
 34 sentence of probation before serving at least 14 days of the sentence of confinement if the victim is  
 35 a peace officer.

36 (4) As used in this section:

37 (a) "Animal control officer" has the meaning given that term in ORS 609.500; and

38 (b) "Staff member" means:

39 (A) A corrections officer as defined in ORS 181.610, a youth correction officer, a Department  
 40 of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a con-  
 41 tract with the department or youth authority to work with, or in the vicinity of, inmates or youth  
 42 offenders; and

43 (B) A volunteer authorized by the department, youth authority or other entity in charge of a  
 44 corrections facility to work with, or in the vicinity of, inmates or youth offenders.

45 **SECTION 6.** ORS 166.070 is amended to read:

1       166.070. (1) A person commits the crime of aggravated harassment if the person, knowing that  
2 the other person is a:

3       (a) Staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous sub-  
4 stance at the staff member while the staff member is acting in the course of official duty or as a  
5 result of the staff member's official duties; or

6       (b) Public safety officer, knowingly propels blood, urine, semen or feces at the public safety of-  
7 ficer while the public safety officer is acting in the course of official duty or as a result of the public  
8 safety officer's official duties.

9       (2) Aggravated harassment is a Class C felony. When a person is convicted of violating sub-  
10 section (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose  
11 a term of incarceration in a state correctional facility.

12       (3) As used in this section:

13       (a) "Public safety officer" means:

14       (A) An emergency medical technician as defined in ORS 682.025;

15       (B) **An inspector or investigator employed by the Oregon Liquor Control Commission;** or

16       (C) A fire service professional, a parole and probation officer or a police officer as those terms  
17 are defined in ORS 181.610.

18       (b) "Staff member" has the meaning given that term in ORS 163.165.

19       **SECTION 7. (1) The amendments to ORS 163.208 and 166.070 by sections 5 and 6 of this**  
20 **2011 Act apply to conduct occurring on or after the effective date of this 2011 Act.**

21       **(2) Section 3 of this 2011 Act and the amendments to ORS 181.610 and 181.651 by sections**  
22 **1 and 4 of this 2011 Act become operative on January 1, 2012.**

23       **(3) The Department of Public Safety Standards and Training or the Oregon Liquor Con-**  
24 **trol Commission may adopt rules or take any other action before the operative date specified**  
25 **in subsection (2) of this section that is necessary to enable the department or commission**  
26 **to exercise, on or after the operative date specified in subsection (2) of this section, all the**  
27 **duties, functions and powers conferred on the department or commission by this 2011 Act.**

28       **SECTION 8. This 2011 Act being necessary for the immediate preservation of the public**  
29 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
30 **on its passage.**

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