

A-Engrossed
Senate Bill 69

Ordered by the Senate March 25
Including Senate Amendments dated March 25

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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.

Revises provisions regulating sale, possession, use and explosion of fireworks. Revises fireworks law definitions, prohibitions and penalties. Sets forth requirements for wholesaler permit. Changes deadlines for submitting applications for retail sales permits or display permits. Expands local government authority to regulate fireworks.

Expands types of properties on which fireworks expressly may be used to repel birds or other animals. *[Makes use of fireworks to repel birds or other animals subject to approval by local government bodies having responsibility for animal protection.]*

Reduces penalty for most fireworks law violations to maximum fine of \$720. Makes violation involving sale, possession, use or explosion of illegal fireworks having 50 pounds or more gross weight punishable by maximum of \$6,250 fine, one year's imprisonment, or both.

A BILL FOR AN ACT

1
2 Relating to fireworks; creating new provisions; amending ORS 164.055, 166.660, 480.152, 480.154,
3 480.156, 480.165, 480.200 and 480.990; and repealing ORS 480.110, 480.120, 480.122, 480.127,
4 480.130, 480.150 and 480.160.

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

6 **SECTION 1. ORS 480.110 is repealed and section 2 of this 2011 Act is enacted in lieu**
7 **thereof.**

8 **SECTION 2. As used in ORS 480.110 to 480.165 and 480.990:**

9 (1) **"Cone fountain" means a cardboard or heavy paper cone that:**

10 (a) **Contains 50 grams or less of pyrotechnic composition; and**

11 (b) **Upon ignition has the same effect as a cylindrical fountain.**

12 (2) **"Consumer fireworks" means:**

13 (a) **A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illu-**
14 **minating torch or a wheel, or a combination of two or more of those items; and**

15 (b) **Any other items, other than exempt fireworks, containing 500 grams or less of**
16 **pyrotechnic composition that the State Fire Marshal recognizes by rule to be suitable for**
17 **retail sale to members of the general public for individual use.**

18 (3) **"Cylindrical fountain" means a cylindrical tube that:**

19 (a) **Contains 75 grams or less of pyrotechnic composition;**

20 (b) **Upon ignition produces a shower of colored sparks and may produce a whistling ef-**
21 **fect; and**

22 (c) **Is provided with a means for restraining the behavior of the item, such as a spike for**

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 insertion into the ground, a wood or plastic base for placing on the ground or, if designed to
2 be handheld, a wood or cardboard handle.

3 (4) "Display fireworks" means pyrotechnic devices that:

4 (a) Are designed for travel into the air or to project effects from a fixed position; and

5 (b)(A) Are classified by the United States Department of Transportation as Division 1.3
6 compatibility group G explosives or Division 1.4 compatibility group G explosives; or

7 (B) Contain more than 500 grams of pyrotechnic composition and are classified by the
8 United States Department of Transportation as Division 1.4 compatibility group E or S ex-
9 plosives.

10 (5) "Exempt fireworks" means the following:

11 (a) Paper caps containing 0.25 grains or less of explosive mixture and toy guns, canes or
12 other devices designed for firing those caps.

13 (b) Snakes or similar smoke-producing items containing 100 grains or less of combustible
14 substances.

15 (c) Model rockets and model rocket motors that are used to propel recoverable models
16 of rocket.

17 (d) Novelties and trick noisemakers.

18 (e) Emergency signaling devices, if used in railroad, boat, motor vehicle or other means
19 of transportation for warning or illumination purposes.

20 (f) Blank cartridges of a type used:

21 (A) For theater or other shows;

22 (B) For signaling or ceremonial purposes in athletics or sports; or

23 (C) By the militia, an organization of war veterans or other organizations, if parading
24 an armed color guard.

25 (g) Cartridges, shells or gunpowder for use in legally permitted types of firearms.

26 (h) Other items that in the judgment of the State Fire Marshal do not require regulation
27 or restrictions on sale.

28 (6) "Explosive mixture" means a substance arranged in a manner to allow burning in less
29 than one second.

30 (7)(a) "Fireworks" means:

31 (A) Consumer fireworks;

32 (B) Display fireworks;

33 (C) Exempt fireworks;

34 (D) Pyrotechnic articles;

35 (E) Special effects; and

36 (F) Other pyrotechnic devices that:

37 (i) Are capable of producing audible, visual, mechanical or thermal effects through com-
38 bustion, deflagration or detonation; and

39 (ii) Contain chemical elements and compounds that are capable of burning independently
40 of atmospheric oxygen or contain flammable liquid mixtures or flammable gas mixtures.

41 (b) "Fireworks" does not mean a candle, flaming club, flaming baton or other device that
42 is designed to keep the flame and thermal radiation in close proximity to the device.

43 (8) "Fireworks display" means an entertainment feature at which the public or a private
44 group is allowed to view a display or discharge that uses or explodes display fireworks or
45 pyrotechnic articles.

- 1 (9) "Flitter sparkler" means a narrow paper tube that:
2 (a) Contains 100 grams or less of pyrotechnic composition;
3 (b) Produces colored sparks upon ignition; and
4 (c) Is activated by igniting paper located at one end of the tube.
- 5 (10) "Ground spinner" means a small device similar to a wheel in design and effect that:
6 (a) Contains 20 grams or less of pyrotechnic composition; and
7 (b) When placed on the ground and ignited, spins rapidly and produces a shower of col-
8 ored sparks.
- 9 (11) "Illegal fireworks" means:
10 (a) Consumer fireworks that:
11 (A) Travel or expand vertically into the air 12 or more inches or travel horizontally more
12 than 15 feet;
13 (B) Explode; or
14 (C) Behave in an uncontrolled or unpredictable manner;
15 (b) Any other items, other than exempt fireworks, containing more than 500 grams of
16 pyrotechnic composition that the State Fire Marshal recognizes by rule to be unsuitable for
17 retail sale to members of the general public for individual use; or
18 (c) Consumer fireworks, display fireworks or pyrotechnic articles, that are modified or
19 altered to enhance explosive or auditory effect.
- 20 (12) "Illuminating torch" means a cylindrical tube that:
21 (a) Contains 100 grams or less of pyrotechnic composition; and
22 (b) Is provided with a means for restraining the behavior of the item, such as a spike for
23 insertion into the ground, a wood or plastic base for placing on the ground or, if designed to
24 be handheld, a wood or cardboard handle.
- 25 (13) "Local government" has the meaning given that term in ORS 174.116.
- 26 (14)(a) "Manufacture" means to make, construct, fabricate or produce fireworks.
27 (b) "Manufacture" does not mean:
28 (A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or
29 (B) Actions taken within the scope of a certification for conducting fireworks displays
30 or for a pyrotechnic operator.
- 31 (15) "Modified or altered" means caused to change or transform or otherwise made dif-
32 ferent in a manner that increases potential for injury or other hazard.
- 33 (16) "Pyrotechnic articles" means devices that:
34 (a) Are designed for professional use;
35 (b) Are similar to consumer fireworks in chemical composition and construction;
36 (c) Contain 500 grams or less of pyrotechnic composition;
37 (d) Are not labeled as consumer fireworks; and
38 (e) Have identification numbers UN0431 or UN0432 in the United States Department of
39 Transportation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment
40 or replacement of that identification standard recognized by the State Fire Marshal.
- 41 (17) "Pyrotechnic composition" means a mixture that is:
42 (a) Composed of a metal powder having a high combustion temperature and an oxidant;
43 and
44 (b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.
- 45 (18) "Pyrotechnic device" means consumer fireworks, display fireworks, pyrotechnic ar-

1 ticles, special effects and bird and animal control devices, and other combinations or com-
2 positions of materials, that produce audible, visual, mechanical or thermal effects.

3 (19) "Special effects" means articles containing pyrotechnic composition that, subject to
4 authorization from the appropriate jurisdiction, are:

5 (a) Manufactured, assembled, designed or discharged in connection with television, thea-
6 ter or motion picture productions, concerts or conference centers; or

7 (b) Used for commercial, industrial, educational, recreational or entertainment purposes.

8 (20) "Wheel" means a pyrotechnic device that:

9 (a) Is designed to be attached to a post or tree by means of a nail or string;

10 (b) Has one or more driver units or tubes, each containing not more than 60 grams of
11 pyrotechnic composition;

12 (c) Contains a total of not more than 200 grams of pyrotechnic composition; and

13 (d) Upon ignition revolves and produces a shower of colored sparks and may produce a
14 whistling effect.

15 **SECTION 3.** Sections 4 and 5 of this 2011 Act are added to and made a part of ORS 480.110
16 to 480.165.

17 **SECTION 4.** (1) The State Fire Marshal may adopt rules for the sale of fireworks by a
18 wholesaler permit holder.

19 (2) Except as provided in this section, a person may not engage in the sale of fireworks
20 for delivery in this state unless the person possesses a wholesaler permit issued by the State
21 Fire Marshal.

22 (3) A wholesaler permit is not required for the retail sale of consumer fireworks to the
23 general public as described in section 7 (1)(h) of this 2011 Act or for the sale of exempt fire-
24 works.

25 (4) The holder of a wholesaler permit may not knowingly sell fireworks under the permit
26 in, or for delivery to, a jurisdiction in which the sale or delivery is prohibited by a local law
27 or ordinance.

28 (5) The State Fire Marshal may adopt rules establishing fees for wholesaler permits is-
29 sued under this section. The fees established by the State Fire Marshal under this section
30 are subject to the prior approval of the Oregon Department of Administrative Services and,
31 if their adoption occurs between regular sessions of the Legislative Assembly, a report to the
32 Emergency Board. The fees may not exceed the cost of administering the regulatory program
33 of the State Fire Marshal pertaining to the purpose for which the fees are established, as
34 authorized by the Legislative Assembly within the State Fire Marshal's budget, as that
35 budget may be modified by the Emergency Board.

36 (6) The holder of a wholesaler permit shall store fireworks in accordance with any fire
37 codes that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks.
38 When adopting storage rules the State Fire Marshal shall consider any relevant standards
39 for hazardous materials storage established by a national association for fire protection. A
40 local government has concurrent authority with the State Fire Marshal to enforce State Fire
41 Marshal storage requirements within the jurisdiction of the local government.

42 (7) The State Fire Marshal may revoke a wholesaler permit issued under this section if
43 the State Fire Marshal determines that the wholesaler permit holder has violated state or
44 federal law regarding fireworks, rules adopted by the State Fire Marshal or the terms and
45 conditions of the permit.

1 **SECTION 5.** (1) If multiple cone fountains are mounted on a common base, the total
2 amount of pyrotechnic composition in the fountains may not exceed 200 grams unless the
3 fountain tubes are in compliance with section 3.5 of American Pyrotechnics Association
4 Standard 87-1 (2001) or with an amendment or replacement of that standard recognized by
5 the State Fire Marshal.

6 (2) If multiple cylindrical fountains are mounted on a common base, the total amount of
7 pyrotechnic composition in the fountains may not exceed 200 grams unless the fountain
8 tubes are in compliance with section 3.5 of American Pyrotechnics Association Standard 87-1
9 (2001) or with an amendment or replacement of that standard recognized by the State Fire
10 Marshal.

11 **SECTION 6.** ORS 480.120 is repealed and section 7 of this 2011 Act is enacted in lieu
12 thereof.

13 **SECTION 7.** (1) A person may sell, make available for sale, possess, use, explode or have
14 exploded any fireworks within this state only in carrying out the following activities:

15 (a) Sales by a fireworks manufacturer to the holder of a wholesaler permit issued under
16 section 4 of this 2011 Act;

17 (b) Sales by a wholesaler to a person holding a permit issued under section 9 of this 2011
18 Act;

19 (c) The possession, use or explosion of fireworks as authorized by a permit issued under
20 section 9 of this 2011 Act;

21 (d) Sales in accordance with ORS 480.156 by a wholesaler to a person residing outside this
22 state;

23 (e) Sales of fireworks by a wholesaler to persons or organizations possessing a permit
24 from the State Fire Marshal for supervised display;

25 (f) The possession, use or explosion of fireworks by persons or organizations possessing
26 a permit issued under section 13 of this 2011 Act to conduct a fireworks display;

27 (g) Sales of consumer fireworks by a wholesaler to the holder of a retail sales permit
28 issued under section 11 of this 2011 Act;

29 (h) Sales of consumer fireworks by the holder of a retail sales permit issued under sec-
30 tion 11 of this 2011 Act for personal use by individual members of the general public who take
31 direct delivery of the consumer fireworks at the time of sale;

32 (i) Sales, possession, use or discharge of exempt fireworks;

33 (j) The possession, use and discharge of consumer fireworks; or

34 (k) The possession, use and explosion of fireworks described in section 2 (7)(a)(D) to (F)
35 of this 2011 Act by persons possessing a permit issued by the State Fire Marshal.

36 (2) State or local law enforcement officers shall enforce the provisions of ORS 480.110 to
37 480.165.

38 **SECTION 8.** ORS 480.122 is repealed and section 9 of this 2011 Act is enacted in lieu
39 thereof.

40 **SECTION 9.** (1) The State Fire Marshal may adopt rules for the use of fireworks to repel
41 birds or other animals.

42 (2) An owner or lessee of property located outside an incorporated city that desires to
43 use and explode fireworks to repel birds or other animals may apply to the State Fire Mar-
44 shal for a permit. If the State Fire Marshal finds that the proposed use conforms with state
45 and federal law and State Fire Marshal rules, the State Fire Marshal shall issue the permit.

1 (3) After obtaining a permit described in subsection (2) of this section, an owner or lessee
2 of property located outside an incorporated city may purchase, possess, use and explode
3 fireworks on the owned or leased property for the purpose of repelling birds or other animals
4 from the property. Properties on which fireworks may be used and exploded under this sec-
5 tion include, but are not limited to:

- 6 (a) Farms;
- 7 (b) Forests;
- 8 (c) Waste and recycling facilities;
- 9 (d) Airports; and
- 10 (e) Golf courses.

11 (4) Fireworks for use as described in this section must be purchased from a person pos-
12 sesseding a wholesaler permit issued under section 4 of this 2011 Act.

13 (5) A permit holder shall store fireworks obtained under this section in accordance with
14 any fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those
15 fireworks. When adopting storage rules the State Fire Marshal shall consider any relevant
16 standards for hazardous materials storage established by a national association for fire pro-
17 tection. A local government has concurrent authority with the State Fire Marshal to enforce
18 State Fire Marshal storage requirements within the jurisdiction of the local government.

19 (6) The State Fire Marshal may revoke a permit issued under this section if the State
20 Fire Marshal determines that the permit holder has violated state or federal law regarding
21 fireworks, rules adopted by the State Fire Marshal or the terms and conditions of the permit.

22 SECTION 10. ORS 480.127 is repealed and section 11 of this 2011 Act is enacted in lieu
23 thereof.

24 SECTION 11. (1) A person that desires to sell consumer fireworks at retail to individual
25 members of the general public for personal use must first obtain a retail sales permit for
26 consumer fireworks from the State Fire Marshal. A written application for the retail sales
27 permit must be submitted to the State Fire Marshal at least 30 days in advance of the pro-
28 posed sale. If the State Fire Marshal finds that the applicant is qualified to conduct the
29 proposed sale and that the proposed sale conforms with ORS 480.110 to 480.165, State Fire
30 Marshal rules and any applicable insurance requirement imposed by a local government un-
31 der section 15 of this 2011 Act, the State Fire Marshal shall issue the retail sales permit.

32 (2) The State Fire Marshal may adopt rules establishing fees for retail sales permits is-
33 sued under this section. The fees established by the State Fire Marshal under this section
34 are subject to the prior approval of the Oregon Department of Administrative Services and,
35 if their adoption occurs between regular sessions of the Legislative Assembly, a report to the
36 Emergency Board. The fees may not exceed the cost of administering the regulatory program
37 of the State Fire Marshal pertaining to the purpose for which the fees are established, as
38 authorized by the Legislative Assembly within the State Fire Marshal's budget, as that
39 budget may be modified by the Emergency Board.

40 (3) A retail sales permit issued under this section authorizes the sale of consumer fire-
41 works only in the year for which the permit is issued during the period that begins on June
42 23 and ends on July 6 of the year for which the permit is issued. A local government may
43 limit the hours during which the sale of consumer fireworks is allowed within the jurisdiction
44 of the local government.

45 (4) A retail sales permit holder shall store consumer fireworks in accordance with any

1 fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fire-
2 works. When adopting storage rules the State Fire Marshal shall consider any relevant
3 standards for hazardous materials storage established by a national association for fire pro-
4 tection. A local government has concurrent authority with the State Fire Marshal to enforce
5 State Fire Marshal storage requirements within the jurisdiction of the local government.

6 **SECTION 12.** ORS 480.130 is repealed and section 13 of this 2011 Act is enacted in lieu
7 thereof.

8 **SECTION 13.** (1) A person, local government, organization or group of individuals that
9 desires to conduct a fireworks display must first obtain a permit for the display from the
10 State Fire Marshal. A written application for the display permit must be submitted to the
11 State Fire Marshal at least 15 days in advance of the proposed display. However, the State
12 Fire Marshal may waive the 15-day requirement on a case-by-case basis. If the State Fire
13 Marshal finds that the applicant is qualified to conduct the proposed display and that the
14 proposed display conforms with state and federal law, State Fire Marshal rules and any ap-
15 plicable insurance requirement imposed by a local government under section 15 of this 2011
16 Act, the State Fire Marshal shall issue the display permit.

17 (2) The State Fire Marshal may adopt rules establishing fees for display permits issued
18 under this section. The fees established by the State Fire Marshal under this section are
19 subject to the prior approval of the Oregon Department of Administrative Services and, if
20 their adoption occurs between regular sessions of the Legislative Assembly, a report to the
21 Emergency Board. The fees may not exceed the cost of administering the regulatory program
22 of the State Fire Marshal pertaining to the purpose for which the fees are established, as
23 authorized by the Legislative Assembly within the State Fire Marshal's budget, as that
24 budget may be modified by the Emergency Board.

25 (3) The State Fire Marshal shall specify the period for which a display permit is valid. A
26 display permit may authorize only one fireworks display during that period.

27 (4) A display permit holder shall store display fireworks in accordance with any fire codes
28 that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. When
29 adopting storage rules the State Fire Marshal shall consider any relevant standards for
30 hazardous materials storage established by a national association for fire protection. A local
31 government has concurrent authority with the State Fire Marshal to enforce State Fire
32 Marshal storage requirements within the jurisdiction of the local government.

33 **SECTION 14.** ORS 480.150 is repealed and section 15 of this 2011 Act is enacted in lieu
34 thereof.

35 **SECTION 15.** (1) The State Fire Marshal may adopt reasonable rules for granting retail
36 sales permits under section 11 of this 2011 Act or display permits issued under section 13 of
37 this 2011 Act.

38 (2) A local government may require the holder of a permit issued under section 11 or 13
39 of this 2011 Act to have liability insurance, an irrevocable letter of credit issued by an in-
40 sured institution as defined in ORS 706.008 or another form of indemnity deemed adequate
41 by the local government in a sum not less than \$1 million, conditioned for payment of all
42 damages to people or property that are caused by the authorized sale or display of fireworks
43 and arise from any acts of the permit holder or agents, employees or subcontractors of the
44 permit holder.

45 (3) The State Fire Marshal or a local government may revoke a permit issued under

1 section 11 or 13 of this 2011 Act if the State Fire Marshal or the local government determines
 2 that the permit holder or an authorized display is not in compliance with applicable state or
 3 federal laws, State Fire Marshal rules or any applicable insurance requirement imposed by
 4 the local government under this section.

5 (4) If a permit is revoked, and the State Fire Marshal or local government finds that the
 6 circumstances of the permit holder's failure to comply with applicable state or federal laws,
 7 State Fire Marshal rules or presents a significant fire hazard or other public safety danger,
 8 the State Fire Marshal or local government may include in the revocation order a provision
 9 prohibiting the holder of the revoked permit from applying for or obtaining another such
 10 permit. The prohibition may not be for a period of more than three years from the revoca-
 11 tion date.

12 (5) If a permit issued under section 11 or 13 of this 2011 Act is revoked, the fees for the
 13 permit are not refundable.

14 **SECTION 16.** ORS 480.152 is amended to read:

15 480.152. (1) *[No person shall]* **A person may not** publish or cause to be published:

16 (a) Any advertisement for the sale of fireworks the use or possession of which is declared un-
 17 lawful by ORS 480.110 to 480.165.

18 (b) Any advertisement for the sale of *[items described in ORS 480.127 in any county, municipality*
 19 *or fire protection district]* **consumer fireworks within the jurisdiction of a local government** that
 20 by law or ordinance has *[declared]* **prohibited** the sale or use of *[such items is prohibited]* **consumer**
 21 **fireworks.**

22 (2) Subsection (1) of this section does not apply to any advertising medium *[which]* **that** accepts
 23 such advertising in good faith, without knowledge of the violation of law.

24 **SECTION 17.** ORS 480.154 is amended to read:

25 480.154. (1) Each manufacturer or wholesaler of fireworks *[or items described in ORS 480.127]*
 26 shall keep a record of all sales showing the name and address of the purchaser, the state of desti-
 27 nation, license and permit numbers, the state and date of permit issuance and a list of the type and
 28 quantity of fireworks *[or items]* sold.

29 (2) All shipments of fireworks *[or items described in ORS 480.127]* coming into this state must
 30 show the appropriate permit number of the addressee on the outside of the package. If the permit
 31 number is not so shown, *[such]* **the** shipment may be confiscated by a law enforcement officer or fire
 32 protection enforcement authority having jurisdiction.

33 **SECTION 18.** ORS 480.156 is amended to read:

34 480.156. *[(1) It is unlawful for any person to sell fireworks or items described in ORS 480.127, at*
 35 *wholesale to any out-of-state resident who does not possess and present to the seller for inspection at*
 36 *the time of sale a valid license or permit issued in the name of such out-of-state resident, if such license*
 37 *or permit is required to purchase, possess, transport, store, distribute, sell or otherwise deal with or*
 38 *use fireworks or items described in ORS 480.127, by the laws of such other state.]*

39 (1) **A person may not knowingly sell fireworks at wholesale to an out-of-state resident**
 40 **unless the out-of-state resident presents the person with proof that the out-of-state resident**
 41 **has complied with any license or permit requirement of the other state for the purchase of**
 42 **the fireworks at wholesale and for the possession, transportation, storage, distribution or**
 43 **sale of the fireworks or other actions involving the fireworks or use of the fireworks.**

44 (2) The burden of ascertaining whether the laws of *[such other]* **another** state require a license
 45 or permit and whether the purchaser possesses *[such]* a valid license or permit *[shall be entirely]* **is**

1 on the seller. Each seller shall record, in a manner prescribed by the State Fire Marshal, each sale
 2 described in this section. The record *[shall]* **must** include the identification of type and quantity of
 3 fireworks sold, name of purchaser, state of destination, state issuing license or permit and number
 4 or other identifying description and date of issue of license or permit. **The seller shall make the**
 5 **records available to the State Fire Marshal upon request.**

6 **SECTION 19. ORS 480.160 is repealed and section 20 of this 2011 Act is enacted in lieu**
 7 **thereof.**

8 **SECTION 20. (1) ORS 480.110 to 480.165, or permits that are issued under ORS 480.110 to**
 9 **480.165, do not authorize the manufacture, sale, use or explosion of fireworks within the ju-**
 10 **risdiction of a local government that by local law or ordinance has prohibited that manu-**
 11 **facture, sale, use or explosion. A local government may not authorize the sale or use of any**
 12 **fireworks prohibited by the provisions of ORS 480.110 to 480.165.**

13 **(2) A person may not deliver or cause the delivery of consumer fireworks into the juris-**
 14 **isdiction of any local government for the purpose of sale for personal use by individual mem-**
 15 **bers of the general public if a local law or ordinance prohibits the sale or use of consumer**
 16 **fireworks.**

17 **SECTION 21. ORS 480.165 is amended to read:**

18 480.165. (1) In addition to any other penalty provided by law, any person *[who]* **that** violates any
 19 provision of ORS 480.110 to 480.165, or any rule adopted by the State Fire Marshal *[pursuant*
 20 *thereto]* **under ORS 480.110 to 480.165,** is subject to a civil penalty imposed by the State Fire
 21 Marshal in an amount not to exceed \$500 per violation. *[However, an individual member of the gen-*
 22 *eral public who possesses fireworks of a retail value less than \$50 is not subject to a civil penalty.]*
 23 Each day a violation continues shall be considered a separate offense.

24 **(2) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal**
 25 **Fund.**

26 **(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.**

27 **SECTION 22. ORS 480.990 is amended to read:**

28 480.990. (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.

29 (2) Violation of any provision of ORS 480.050, 480.060 or 480.290 is a Class C misdemeanor.

30 (3) Violation of ORS 480.070 is a Class A misdemeanor.

31 (4) Violation of ORS 480.085 is a Class B violation.

32 **(5)(a) Except as provided in paragraph (b) of this subsection,** violation of any provision of
 33 ORS 480.110 to 480.165 is a *[Class B misdemeanor]* **Class A violation.**

34 **(b) A violation of section 7 of this 2011 Act involving the sale, possession, use or explosion**
 35 **of illegal fireworks having a gross weight of 50 pounds or more is a Class A misdemeanor.**

36 **(c) Violations *[thereof]* of ORS 480.110 to 480.165 may be prosecuted in *[state or municipal***
 37 ***courts when]* **the circuit court, or may be prosecuted in a municipal court if the violations oc-**
 38 **cur within the municipality served *[thereby]* by the court.** Justice courts shall have concurrent ju-
 39 risdiction with circuit courts in all proceedings arising within ORS 480.110 to 480.165.**

40 (6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and
 41 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.

42 (7) Violation of any provision of ORS 480.420 to 480.460 is a Class B violation.

43 (8) Subject to ORS 153.022, violation of any provision of ORS 480.510 to 480.670, or any rule
 44 promulgated pursuant thereto, is a Class A misdemeanor. Whenever the Board of Boiler Rules has
 45 reason to believe that any person is liable to punishment under this subsection, it may certify the

1 facts to the Attorney General, who may cause an appropriate proceeding to be brought.

2 **SECTION 23.** ORS 164.055 is amended to read:

3 164.055. (1) A person commits the crime of theft in the first degree if, by means other than
4 extortion, the person commits theft as defined in ORS 164.015 and:

5 (a) The total value of the property in a single or aggregate transaction is \$1,000 or more;

6 (b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an
7 area affected by the riot, fire, explosion, catastrophe or other emergency;

8 (c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the
9 security of the property;

10 (d) The subject of the theft is a firearm or explosive;

11 (e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed
12 from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or

13 (f) The subject of the theft is a precursor substance.

14 (2) As used in this section:

15 (a) "Companion animal" means a dog or cat possessed by a person, business or other entity for
16 purposes of companionship, security, hunting, herding or providing assistance in relation to a phys-
17 ical disability.

18 (b) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
19 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
20 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
21 blasting caps and nitrojelly, but excluding fireworks as defined in [ORS 480.110 (1)] **section 2 of**
22 **this 2011 Act**, black powder, smokeless powder, small arms ammunition and small arms ammunition
23 primers.

24 (c) "Firearm" has the meaning given that term in ORS 166.210.

25 (d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule,
26 ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

27 (e) "Precursor substance" has the meaning given that term in ORS 475.940.

28 (3) Theft in the first degree is a Class C felony.

29 **SECTION 24.** ORS 166.660 is amended to read:

30 166.660. (1) A person commits the crime of unlawful paramilitary activity if the person:

31 (a) Exhibits, displays or demonstrates to another person the use, application or making of any
32 firearm, explosive or incendiary device or any technique capable of causing injury or death to per-
33 sons and intends or knows that such firearm, explosive or incendiary device or technique will be
34 unlawfully employed for use in a civil disorder; or

35 (b) Assembles with one or more other persons for the purpose of training with, practicing with
36 or being instructed in the use of any firearm, explosive or incendiary device or technique capable
37 of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive
38 or incendiary device or technique in a civil disorder.

39 (2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed
40 in the otherwise lawful performance of the officer's official duties.

41 (b) Nothing in this section makes unlawful any activity of the State Department of Fish and
42 Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such
43 as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful
44 activity related to firearms instruction and training intended to teach the safe handling and use of
45 firearms, or any other lawful sports or activities related to the individual recreational use or pos-

1 session of firearms, including but not limited to hunting activities, target shooting, self-defense,
2 firearms collection or any organized activity including, but not limited to any hunting club, rifle
3 club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450
4 or the knowledge of or the intent to cause or further a civil disorder.

5 (3) Unlawful paramilitary activity is a Class C felony.

6 (4) As used in this section:

7 (a) "Civil disorder" means acts of physical violence by assemblages of three or more persons
8 which cause damage or injury, or immediate danger thereof, to the person or property of any other
9 individual.

10 (b) "Firearm" has the meaning given that term in ORS 166.210.

11 (c) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
12 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
13 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
14 blasting caps and nitrojelly, but excluding fireworks as defined in [ORS 480.110 (1)] **section 2 of**
15 **this 2011 Act**, black powder, smokeless powder, small arms ammunition and small arms ammunition
16 primers.

17 (d) "Law enforcement officer" means any duly constituted police officer of the United States,
18 any state, any political subdivision of a state or the District of Columbia, and also includes members
19 of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the or-
20 ganized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or
21 the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C.
22 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS
23 161.015 (4) when in the performance of official duties.

24 **SECTION 25.** ORS 480.200 is amended to read:

25 480.200. As used in ORS 480.200 to 480.290 unless the context requires otherwise:

26 (1) "Certificate of possession" means a certificate issued under ORS 480.235 by the State Fire
27 Marshal to applicants who have met the requirements of ORS 480.200 to 480.290.

28 (2) "Certificate of registration" means a certificate of registration issued under ORS 480.244 by
29 the State Fire Marshal for an explosives magazine.

30 (3) "Explosive" means a chemical compound, mixture or device, the primary or common purpose
31 of which is to function by explosion. The term includes, but is not limited to, dynamite, pellet pow-
32 der, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters,
33 but excludes fireworks, as defined in [ORS 480.110 (1)] **section 2 of this 2011 Act**, black powder,
34 smokeless powder, small arms ammunition, small arms ammunition primers and fertilizer, as defined
35 in ORS 633.311.

36 (4) "Issuing authority" means the State Fire Marshal or an assistant appointed by the State Fire
37 Marshal under ORS 480.280 (2).

38 (5) "Magazine" means an approved facility for the storage of explosives.

39 (6) "Small arms ammunition" means a shotgun, rifle, pistol or revolver cartridge.

40 (7) "Small arms ammunition primers" means small percussion-sensitive explosive charges en-
41 cased in a cup and used to ignite propellant powder.

42 **SECTION 26.** (1) **The amendments to ORS 164.055, 166.660 and 480.990 by sections 22 to**
43 **24 of this 2011 Act apply to violations and offenses committed on or after the effective date**
44 **of this 2011 Act.**

45 (2) **The amendments to ORS 480.200 by section 25 of this 2011 Act apply to violations of**

1 **provisions of ORS 480.200 to 480.290 committed on or after the effective date of this 2011 Act.**

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