

B-Engrossed Senate Bill 69

Ordered by the Senate April 29
Including Senate Amendments dated March 25 and April 29

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of State Police)

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.

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, 480.127, 480.130,
3 480.152, 480.154, 480.156, 480.165, 480.200 and 480.990; and repealing ORS 480.110, 480.120,
4 480.122, 480.150 and 480.160.

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

6 **SECTION 1. Sections 2 to 7 of this 2011 Act are added to and made a part of ORS 480.110**
7 **to 480.165.**

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**
23 **insertion into the ground, a wood or plastic base for placing on the ground or, if designed to**

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 be handheld, a wood or cardboard handle.

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

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

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

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

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

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

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

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

16 (d) Novelties and trick noisemakers.

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

19 (f) Blank cartridges of a type used:

20 (A) For theater or other shows;

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

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

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

25 (h) Military pyrotechnic and signaling devices classified by the United States Department
26 of Transportation as Division 1.4 compatibility group S explosives that are assigned to and
27 in the possession of the Armed Forces of the United States or an authorized agent of the
28 armed forces as inventory for use by the armed forces or agent in training active members
29 of the armed forces in their duties.

30 (i) Other items that in the judgment of the State Fire Marshal do not require regulation
31 or restrictions on sale.

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

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

35 (A) Consumer fireworks;

36 (B) Display fireworks;

37 (C) Exempt fireworks;

38 (D) Pyrotechnic articles;

39 (E) Special effects; and

40 (F) Other pyrotechnic devices that:

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

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

45 (b) "Fireworks" does not mean a candle, flaming club, flaming baton or other device that

1 is designed to keep the flame and thermal radiation in close proximity to the device.

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

5 (9) "Flitter sparkler" means a narrow paper tube that:

6 (a) Contains 100 grams or less of pyrotechnic composition;

7 (b) Produces colored sparks upon ignition; and

8 (c) Is activated by igniting paper located at one end of the tube.

9 (10) "Ground spinner" means a small device similar to a wheel in design and effect that:

10 (a) Contains 20 grams or less of pyrotechnic composition; and

11 (b) When placed on the ground and ignited, spins rapidly and produces a shower of col-
12 ored sparks.

13 (11) "Illegal fireworks" means:

14 (a) Consumer fireworks that:

15 (A) Travel or expand vertically into the air 12 or more inches or travel horizontally more
16 than 15 feet;

17 (B) Explode; or

18 (C) Behave in an uncontrolled or unpredictable manner;

19 (b) Any other items, other than exempt fireworks, containing more than 500 grams of
20 pyrotechnic composition that the State Fire Marshal recognizes by rule to be unsuitable for
21 retail sale to members of the general public for individual use; or

22 (c) Consumer fireworks, display fireworks or pyrotechnic articles, that are modified or
23 altered to enhance explosive or auditory effect.

24 (12) "Illuminating torch" means a cylindrical tube that:

25 (a) Contains 100 grams or less of pyrotechnic composition; and

26 (b) Is provided with a means for restraining the behavior of the item, such as a spike for
27 insertion into the ground, a wood or plastic base for placing on the ground or, if designed to
28 be handheld, a wood or cardboard handle.

29 (13) "Local government" has the meaning given that term in ORS 174.116.

30 (14)(a) "Manufacture" means to make, construct, fabricate or produce fireworks.

31 (b) "Manufacture" does not mean:

32 (A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or

33 (B) Actions taken within the scope of a certification for conducting fireworks displays
34 or for a pyrotechnics operator.

35 (15) "Modified or altered" means caused to change or transform or otherwise made dif-
36 ferent in a manner that increases potential for injury or other hazard.

37 (16) "Pyrotechnic articles" means devices that:

38 (a) Are designed for professional use;

39 (b) Are similar to consumer fireworks in chemical composition and construction;

40 (c) Contain 500 grams or less of pyrotechnic composition;

41 (d) Are not labeled as consumer fireworks; and

42 (e) Have identification numbers UN0431 or UN0432 in the United States Department of
43 Transportation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment
44 or replacement of that identification standard recognized by the State Fire Marshal.

45 (17) "Pyrotechnic composition" means a mixture that is:

1 (a) Composed of a metal powder having a high combustion temperature and an oxidant;
2 and

3 (b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.

4 (18) "Pyrotechnic device" means consumer fireworks, display fireworks, pyrotechnic ar-
5 ticles, special effects and bird and animal control devices, and other combinations or com-
6 positions of materials, that produce audible, visual, mechanical or thermal effects.

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

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

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

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

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

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

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

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

19 **SECTION 3.** (1) The State Fire Marshal may adopt rules for the sale of fireworks by a
20 wholesaler permit holder.

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

24 (3) A wholesaler permit is not required for the retail sale of consumer fireworks to the
25 general public as described in section 5 (1)(h) of this 2011 Act or for the sale of exempt fire-
26 works.

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

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

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

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

45 (2) If multiple cylindrical fountains are mounted on a common base, the total amount of

1 pyrotechnic composition in the fountains may not exceed 200 grams unless the fountain
2 tubes are in compliance with section 3.5 of American Pyrotechnics Association Standard 87-1
3 (2001) or with an amendment or replacement of that standard recognized by the State Fire
4 Marshal.

5 **SECTION 5.** (1) A person may sell, make available for sale, possess, use, explode or have
6 exploded any fireworks within this state only in carrying out the following activities:

7 (a) Sales by a fireworks manufacturer to the holder of a wholesaler permit issued under
8 section 3 of this 2011 Act;

9 (b) Sales by a wholesaler to a person holding a permit issued under section 6 of this 2011
10 Act;

11 (c) The possession, use or explosion of fireworks as authorized by a permit issued under
12 section 6 of this 2011 Act;

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

15 (e) Sales of fireworks by a wholesaler to persons or organizations possessing a permit
16 issued under ORS 480.130 for supervised display;

17 (f) The possession, use or explosion of fireworks by persons or organizations possessing
18 a permit issued under ORS 480.130 to conduct a fireworks display;

19 (g) Sales of consumer fireworks by a wholesaler to the holder of a retail sales permit
20 issued under ORS 480.127;

21 (h) Sales of consumer fireworks by the holder of a retail sales permit issued under ORS
22 480.127 for personal use by individual members of the general public who take direct delivery
23 of the consumer fireworks at the time of sale;

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

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

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

28 (2) State or local law enforcement officers shall enforce the provisions of ORS 480.110 to
29 480.165.

30 **SECTION 6.** (1) The State Fire Marshal may adopt rules for the use of fireworks to repel
31 birds or other animals.

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

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

41 (a) Farms;

42 (b) Forests;

43 (c) Waste and recycling facilities;

44 (d) Airports; and

45 (e) Golf courses.

1 (4) Fireworks for use as described in this section must be purchased from a person pos-
2 sessing a wholesaler permit issued under section 3 of this 2011 Act.

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

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

12 **SECTION 7.** (1) The State Fire Marshal may adopt reasonable rules for issuing retail
13 sales permits under ORS 480.127 or display permits under ORS 480.130.

14 (2) A local government may require the holder of a permit issued under ORS 480.127 or
15 480.130 to have liability insurance, an irrevocable letter of credit issued by an insured insti-
16 tution as defined in ORS 706.008 or another form of indemnity deemed adequate by the local
17 government in a sum not less than \$1 million, conditioned for payment of all damages to
18 people or property that are caused by the authorized sale or display of fireworks and arise
19 from any acts of the permit holder or agents, employees or subcontractors of the permit
20 holder.

21 (3) The State Fire Marshal or a local government may revoke a permit issued under ORS
22 480.127 or 480.130 if the State Fire Marshal or the local government determines that the
23 permit holder or an authorized display is not in compliance with applicable state or federal
24 laws, State Fire Marshal rules or any applicable insurance requirement imposed by the local
25 government under this section.

26 (4) If a permit issued under ORS 480.127 or 480.130 is revoked, and the State Fire Marshal
27 or local government finds that the circumstances of the permit holder's failure to comply
28 with applicable state or federal laws or with State Fire Marshal rules presented a significant
29 fire hazard or other public safety danger, the State Fire Marshal or local government may
30 include in the revocation order a provision prohibiting the holder of the revoked permit from
31 applying for or obtaining another such permit. The prohibition may not be for a period of
32 more than three years from the revocation date.

33 (5) If a permit issued under ORS 480.127 or 480.130 is revoked, the fees for the permit are
34 not refundable.

35 **SECTION 8.** ORS 480.127 is amended to read:

36 480.127. (1) Any person who desires to sell [*cylindrical fountains, cone fountains, illuminating*
37 *torches, wheels, ground spinners, flitter sparklers or combination items*] **consumer fireworks** at retail
38 to individual members of the general public for personal use shall apply in writing to the State Fire
39 Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall
40 issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the
41 proposed sale and that the proposed sale will conform to the provisions of ORS 480.110 to 480.165
42 and any rules [*promulgated pursuant thereto*] **adopted under ORS 480.110 to 480.165**. A fee may be
43 charged for the permit. Subject to prior approval by the Oregon Department of Administrative Ser-
44 vices and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall
45 be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the admin-

1 istrative expenses incurred under this section and shall be within the budget authorized by the
2 Legislative Assembly as that budget may be modified by the Emergency Board.

3 [(2) *The permit required by subsection (1) of this section shall not be valid for more than one year*
4 *from the date of issuance and shall authorize sales only between midnight June 22 and midnight July*
5 *6 of any given calendar year.*]

6 [(3) *Notwithstanding any other provision of law, the State Fire Marshal shall not prescribe limi-*
7 *tations on the aggregate amount of items described in subsection (4) of this section at a sales facility*
8 *operated by a person who holds the permit referred to in this section. However, such items shall be*
9 *stored in accordance with such fire codes as the State Fire Marshal by rule may prescribe to insure*
10 *safe storage of such materials. In prescribing such rules the State Fire Marshal may consider, among*
11 *other matters, requirements of the United States Department of Transportation regarding the storage*
12 *of hazardous materials.*]

13 [(4) *As used in this section:*]

14 [(a) *“Combination item” means a device that contains combinations of two or more of the effects*
15 *described in paragraphs (b) to (g) of this subsection.*]

16 [(b) *“Cone fountain” means a cardboard or heavy paper cone containing not more than 50 grams*
17 *of pyrotechnic composition. The effect upon ignition is the same as that of a cylindrical fountain.*]

18 [(c) *“Cylindrical fountain” means a cylindrical tube not more than three-fourths inch (19 mm) inside*
19 *diameter and containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower*
20 *of colored sparks and sometimes a whistling effect is produced. This device may be provided with a*
21 *spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or*
22 *cardboard handle if intended to be handheld.*]

23 [(d) *“Flitter sparkler” means a narrow paper tube containing not more than 100 grams of*
24 *pyrotechnic composition that produces colored sparks upon ignition. The paper at one end of the tube*
25 *is ignited to make the device function.*]

26 [(e) *“Ground spinner” means a small device similar to a wheel in design and effect and containing*
27 *not more than 60 grams of pyrotechnic composition. When placed on the ground and ignited, a shower*
28 *of colored sparks is produced by the rapidly spinning device.*]

29 [(f) *“Illuminating torch” means a cylindrical tube containing not more than 100 grams of*
30 *pyrotechnic composition. This device may be provided with a spike for insertion into the ground, a*
31 *wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be*
32 *handheld.*]

33 [(g) *“Wheel” means a pyrotechnic device attached to a post or tree by means of a nail or string.*
34 *Each wheel may contain not more than six driver units or tubes not exceeding one-half inch (12.5 mm)*
35 *inside diameter and containing not more than 60 grams of pyrotechnic composition. Upon ignition, the*
36 *wheel revolves and produces a shower of colored sparks, and sometimes a whistling effect.*]

37 **(2) A retail sales permit issued under this section authorizes the sale of consumer fire-**
38 **works only in the year for which the permit is issued during the period that begins on June**
39 **23 and ends on July 6 of the year for which the permit is issued. A local government may**
40 **limit the hours during which the sale of consumer fireworks is allowed within the jurisdiction**
41 **of the local government.**

42 **(3) A retail sales permit holder shall store consumer fireworks in accordance with any**
43 **fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fire-**
44 **works. When adopting storage rules, the State Fire Marshal shall consider any relevant**
45 **standards for hazardous materials storage established by a national association for fire pro-**

1 **tection. A local government has concurrent authority with the State Fire Marshal to enforce**
2 **State Fire Marshal storage requirements within the jurisdiction of the local government.**

3 **SECTION 9.** ORS 480.130 is amended to read:

4 480.130. [(1) *All persons, municipalities, associations or organizations or groups of individuals*
5 *desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell items*
6 *described in ORS 480.127 (4) to persons who possess the permit referred to in ORS 480.127, shall apply*
7 *in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or*
8 *date of the display. The State Fire Marshal, upon receipt of such application, shall determine if the*
9 *proposed sale or display will conform to law and any rules promulgated thereunder. If the State Fire*
10 *Marshal finds that the applicant is qualified to conduct such sale or display and that the proposed sale*
11 *or display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit;*
12 *otherwise the State Fire Marshal shall refuse to issue it.*]

13 **(1) A person, local government, organization or group of individuals that desires to con-**
14 **duct a fireworks display must first obtain a permit for the display from the State Fire Mar-**
15 **shal. A written application for the display permit must be submitted to the State Fire**
16 **Marshal at least 15 days in advance of the proposed display. However, the State Fire Marshal**
17 **may waive the 15-day requirement on a case-by-case basis. If the State Fire Marshal finds**
18 **that the applicant is qualified to conduct the proposed display and that the proposed display**
19 **conforms with state and federal law, State Fire Marshal rules and any applicable insurance**
20 **requirement imposed by a local government under section 7 of this 2011 Act, the State Fire**
21 **Marshal shall issue the display permit.**

22 **(2) The fee for a permit for the public display of fireworks and each permit for sale of fireworks**
23 **[or items described in ORS 480.127 (4)] shall be established by rule by the State Fire Marshal, subject**
24 **to prior approval by the Oregon Department of Administrative Services and a report to the Emer-**
25 **gency Board prior to adopting the fee, and subsequently shall be adjusted to finance the adminis-**
26 **trative expenses incurred under this section and shall be within the budget authorized by the**
27 **Legislative Assembly as that budget may be modified by the Emergency Board. All fees collected**
28 **shall be deposited to the credit of the State Fire Marshal Fund.**

29 **[(3) *Sales permits for fireworks or items described in ORS 480.127 (4) shall not be valid for more***
30 ***than one year from date of issue. A public display permit shall not be valid for more than 10 days from***
31 ***date of issuance and shall authorize only one fireworks display during that period.*]**

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

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

40 **SECTION 10.** ORS 480.152 is amended to read:

41 480.152. (1) [No person shall] **A person may not** publish or cause to be published:

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

44 (b) Any advertisement for the sale of [items described in ORS 480.127] **consumer fireworks** in
45 any county, municipality or fire protection district that by law or ordinance has declared **that** the

1 sale or use of [*such items*] **consumer fireworks** is prohibited.

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

4 **SECTION 11.** ORS 480.154 is amended to read:

5 480.154. (1) Each manufacturer or wholesaler of fireworks [*or items described in ORS 480.127*]
6 shall keep a record of all sales showing the name and address of the purchaser, the state of desti-
7 nation, license and permit numbers, the state and date of permit issuance and a list of the type and
8 quantity of fireworks [*or items*] sold.

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

13 **SECTION 12.** ORS 480.156 is amended to read:

14 480.156. [(1) *It is unlawful for any person to sell fireworks or items described in ORS 480.127, at*
15 *wholesale to any out-of-state resident who does not possess and present to the seller for inspection at*
16 *the time of sale a valid license or permit issued in the name of such out-of-state resident, if such license*
17 *or permit is required to purchase, possess, transport, store, distribute, sell or otherwise deal with or*
18 *use fireworks or items described in ORS 480.127, by the laws of such other state.*]

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

24 (2) The burden of ascertaining whether the laws of [*such other*] **another** state require a license
25 or permit and whether the purchaser possesses [*such*] a valid license or permit [*shall be entirely*] **is**
26 on the seller. Each seller shall record, in a manner prescribed by the State Fire Marshal, each sale
27 described in this section. The record [*shall*] **must** include the identification of type and quantity of
28 fireworks sold, name of purchaser, state of destination, state issuing license or permit and number
29 or other identifying description and date of issue of license or permit. **The seller shall make the**
30 **records available to the State Fire Marshal upon request.**

31 **SECTION 13.** (1) **ORS 480.110 to 480.165, or permits that are issued under ORS 480.110 to**
32 **480.165, do not authorize the manufacture, sale, use or explosion of fireworks within the ju-**
33 **risdiction of a local government that by local law or ordinance has prohibited that manu-**
34 **facture, sale, use or explosion. A local government may not authorize the sale or use of any**
35 **fireworks prohibited by the provisions of ORS 480.110 to 480.165.**

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

40 **SECTION 14.** ORS 480.165 is amended to read:

41 480.165. (1) In addition to any other penalty provided by law, any person [*who*] **that** violates any
42 provision of ORS 480.110 to 480.165, or any rule adopted by the State Fire Marshal [*pursuant*
43 *thereto*] **under ORS 480.110 to 480.165**, is subject to a civil penalty imposed by the State Fire
44 Marshal in an amount not to exceed \$500 per violation. [*However, an individual member of the gen-*
45 *eral public who possesses fireworks of a retail value less than \$50 is not subject to a civil penalty.*]

1 Each day a violation continues shall be considered a separate offense.

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

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

5 **SECTION 15.** ORS 480.990 is amended to read:

6 480.990. (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.

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

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

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

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

12 **(b) A violation of section 5 of this 2011 Act involving the sale, possession, use or explosion**
13 **of illegal fireworks having a gross weight of 50 pounds or more is a Class A misdemeanor.**

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

18 (6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and
19 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.

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

21 (8) Subject to ORS 153.022, violation of any provision of ORS 480.510 to 480.670, or any rule
22 promulgated pursuant thereto, is a Class A misdemeanor. Whenever the Board of Boiler Rules has
23 reason to believe that any person is liable to punishment under this subsection, it may certify the
24 facts to the Attorney General, who may cause an appropriate proceeding to be brought.

25 **SECTION 16. ORS 480.110, 480.120, 480.122, 480.150 and 480.160 are repealed.**

26 **SECTION 17.** ORS 164.055 is amended to read:

27 164.055. (1) A person commits the crime of theft in the first degree if, by means other than
28 extortion, the person commits theft as defined in ORS 164.015 and:

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

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

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

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

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

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

38 (2) As used in this section:

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

42 (b) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
43 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
44 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
45 blasting caps and nitrojelly, but excluding fireworks as defined in [*ORS 480.110 (1)*] **section 2 of**

1 **this 2011 Act**, black powder, smokeless powder, small arms ammunition and small arms ammunition
2 primers.

3 (c) “Firearm” has the meaning given that term in ORS 166.210.

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

6 (e) “Precursor substance” has the meaning given that term in ORS 475.940.

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

8 **SECTION 18.** ORS 166.660 is amended to read:

9 166.660. (1) A person commits the crime of unlawful paramilitary activity if the person:

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

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

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

20 (b) Nothing in this section makes unlawful any activity of the State Department of Fish and
21 Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such
22 as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful
23 activity related to firearms instruction and training intended to teach the safe handling and use of
24 firearms, or any other lawful sports or activities related to the individual recreational use or pos-
25 session of firearms, including but not limited to hunting activities, target shooting, self-defense,
26 firearms collection or any organized activity including, but not limited to any hunting club, rifle
27 club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450
28 or the knowledge of or the intent to cause or further a civil disorder.

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

30 (4) As used in this section:

31 (a) “Civil disorder” means acts of physical violence by assemblages of three or more persons
32 which cause damage or injury, or immediate danger thereof, to the person or property of any other
33 individual.

34 (b) “Firearm” has the meaning given that term in ORS 166.210.

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

41 (d) “Law enforcement officer” means any duly constituted police officer of the United States,
42 any state, any political subdivision of a state or the District of Columbia, and also includes members
43 of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the or-
44 ganized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or
45 the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C.

1 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS
2 161.015 (4) when in the performance of official duties.

3 **SECTION 19.** ORS 480.200 is amended to read:

4 480.200. As used in ORS 480.200 to 480.290 unless the context requires otherwise:

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

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

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

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

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

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

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

21 **SECTION 20.** (1) **The amendments to ORS 164.055, 166.660 and 480.990 by sections 15, 17**
22 **and 18 of this 2011 Act apply to violations and offenses committed on or after the effective**
23 **date of this 2011 Act.**

24 (2) **The amendments to ORS 480.200 by section 19 of this 2011 Act apply to violations of**
25 **provisions of ORS 480.200 to 480.290 committed on or after the effective date of this 2011 Act.**
26