

Senate Bill 69

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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 **as introduced**.

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 ORS 480.110 is repealed and section 2 of this 2011 Act is enacted in lieu**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 less than 500 grams 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 with an inside diameter of three-**
19 **fourths inch (19 mm), or less, that:**

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

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

23 (c) **Is provided with a means for restraining the behavior of the item, such as a spike for**
24 **insertion into the ground, a wood or plastic base for placing on the ground or, if designed to**
25 **be handheld, a wood or cardboard handle.**

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 (4) “Display fireworks” means pyrotechnic devices that:

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

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

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

8 (5) “Exempt fireworks” means the following:

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

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

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

15 (d) Novelties and trick noisemakers.

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

18 (f) Blank cartridges of a type used:

19 (A) For theater or other shows;

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

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

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

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

26 (6) “Explosive mixture” means a substance arranged in a manner to allow burning in less
27 than one second.

28 (7)(a) “Fireworks” means:

29 (A) Consumer fireworks;

30 (B) Display fireworks;

31 (C) Exempt fireworks;

32 (D) Special effects; and

33 (E) Other pyrotechnic devices that:

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

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

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

40 (8) “Fireworks display” means an entertainment feature at which the public or a private
41 group is allowed to view a display or discharge that uses or explodes display fireworks.

42 (9) “Flitter sparkler” means a narrow paper tube that:

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

44 (b) Produces colored sparks upon ignition; and

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

- 1 (10) “Ground spinner” means a small device similar to a wheel in design and effect that:
 2 (a) Contains 60 grams or less of pyrotechnic composition; and
 3 (b) When placed on the ground and ignited, spins rapidly and produces a shower of col-
 4 ored sparks.
- 5 (11) “Illegal fireworks” means:
 6 (a) Consumer fireworks that:
 7 (A) Travel or expand vertically into the air 12 or more inches or travel horizontally six
 8 or more feet;
 9 (B) Explode; or
 10 (C) Behave in an uncontrolled or unpredictable manner;
 11 (b) Any other items, other than exempt fireworks, containing less than 500 grams of
 12 pyrotechnic composition that the State Fire Marshal recognizes by rule to be unsuitable for
 13 retail sale to members of the general public for individual use; or
 14 (c) Consumer fireworks or display fireworks that are modified or altered to enhance ex-
 15 plosive or auditory effect.
- 16 (12) “Illuminating torch” means a cylindrical tube that:
 17 (a) Contains 100 grams or less of pyrotechnic composition; and
 18 (b) Is provided with a means for restraining the behavior of the item, such as a spike for
 19 insertion into the ground, a wood or plastic base for placing on the ground or, if designed to
 20 be handheld, a wood or cardboard handle.
- 21 (13) “Local government” has the meaning given that term in ORS 174.116.
- 22 (14)(a) “Manufacture” means to make, construct, fabricate or produce fireworks.
 23 (b) “Manufacture” does not mean:
 24 (A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or
 25 (B) Actions taken within the scope of a certification for conducting fireworks displays
 26 or for a pyrotechnic operator.
- 27 (15) “Modified or altered” means caused to change or transform or otherwise made dif-
 28 ferent in a manner that increases potential for injury or other hazard.
- 29 (16) “Pyrotechnic composition” means a mixture that is:
 30 (a) Composed of a metal powder having a high combustion temperature and an oxidant;
 31 and
 32 (b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.
- 33 (17) “Pyrotechnic device” means consumer fireworks, display fireworks, special effects
 34 and bird and animal control devices, and other combinations or compositions of materials,
 35 that produce audible, visual, mechanical or thermal effects.
- 36 (18) “Special effects” means articles containing pyrotechnic composition that, subject to
 37 authorization from the appropriate jurisdiction, are:
 38 (a) Manufactured, assembled, designed or discharged in connection with television, thea-
 39 ter or motion picture productions, concerts or conference centers; or
 40 (b) Used for commercial, industrial, educational, recreational or entertainment purposes.
- 41 (19) “Wheel” means a pyrotechnic device that:
 42 (a) Is designed to be attached to a post or tree by means of a nail or string;
 43 (b) Contains six or fewer driver units or tubes, with each unit or tube not exceeding an
 44 inside diameter of one-half inch (12.5 mm) and not containing more than 60 grams of
 45 pyrotechnic composition; and

1 (c) Upon ignition revolves and produces a shower of colored sparks and may produce a
2 whistling effect.

3 **SECTION 3.** Section 4 of this 2011 Act is added to and made a part of ORS 480.110 to
4 480.165.

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

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

10 (3) A wholesaler permit is not required for the retail sale of consumer fireworks to the
11 general public as described in section 6 (1)(h) of this 2011 Act or for the sale of exempt fire-
12 works.

13 (4) The holder of a wholesaler permit may not sell fireworks under the permit in, or for
14 delivery to, a jurisdiction in which the sale or delivery is prohibited by a local law or ordi-
15 nance.

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

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

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

34 **SECTION 5.** ORS 480.120 is repealed and section 6 of this 2011 Act is enacted in lieu
35 thereof.

36 **SECTION 6.** (1) Except as provided in this subsection, a person may not sell, make
37 available for sale, possess, use, explode or have exploded any fireworks within this state. The
38 prohibition in this subsection does not apply to the following:

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

41 (b) Sales by a wholesaler to a person holding a permit issued under section 8 of this 2011
42 Act;

43 (c) The possession, use or explosion of fireworks as authorized by a permit issued under
44 section 8 of this 2011 Act;

45 (d) Sales in accordance with ORS 480.156 by a wholesaler to a person residing outside this

1 state;

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

4 (f) The possession, use or explosion of fireworks by persons or organizations possessing
5 a permit issued under section 12 of this 2011 Act to conduct a fireworks display;

6 (g) Sales of consumer fireworks by a wholesaler to the holder of a retail sales permit
7 issued under section 10 of this 2011 Act;

8 (h) Sales of consumer fireworks by the holder of a retail sales permit issued under sec-
9 tion 10 of this 2011 Act for personal use by individual members of the general public who take
10 direct delivery of the consumer fireworks at the time of sale;

11 (i) Sales, possession, use or explosion of exempt fireworks;

12 (j) The possession, use and explosion of consumer fireworks; or

13 (k) The possession, use and explosion of fireworks described in section 2 (7)(a)(D) or (E)
14 of this 2011 Act by persons possessing a permit issued by the State Fire Marshal or an ap-
15 propriate local government.

16 (2) State or local law enforcement officers shall enforce the provisions of ORS 480.110 to
17 480.165.

18 SECTION 7. ORS 480.122 is repealed and section 8 of this 2011 Act is enacted in lieu
19 thereof.

20 SECTION 8. (1) The State Fire Marshal may adopt rules for the use of fireworks to repel
21 birds or other animals.

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

27 (3) After obtaining a permit described in subsection (2) of this section and receiving ap-
28 proval from any local government bodies having responsibility for animal protection within
29 the jurisdiction, an owner or lessee of property located outside an incorporated city may
30 purchase, possess, use and explode fireworks on the owned or leased property for the purpose
31 of repelling birds or other animals from the property. Properties on which fireworks may be
32 used and exploded under this section include, but are not limited to:

33 (a) Farms;

34 (b) Waste and recycling facilities;

35 (c) Airports; and

36 (d) Golf courses.

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

39 (5) The State Fire Marshal may adopt rules establishing fees for permits issued under
40 this section. The fees established by the State Fire Marshal under this section are subject
41 to the prior approval of the Oregon Department of Administrative Services and, if their
42 adoption occurs between regular sessions of the Legislative Assembly, a report to the
43 Emergency Board. The fees may not exceed the cost of administering the regulatory program
44 of the State Fire Marshal pertaining to the purpose for which the fees are established, as
45 authorized by the Legislative Assembly within the State Fire Marshal's budget, as that

1 budget may be modified by the Emergency Board.

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

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

11 SECTION 9. ORS 480.127 is repealed and section 10 of this 2011 Act is enacted in lieu
12 thereof.

13 SECTION 10. (1) A person that desires to sell consumer fireworks at retail to individual
14 members of the general public for personal use must first obtain a retail sales permit for
15 consumer fireworks from the State Fire Marshal. A written application for the retail sales
16 permit must be submitted to the State Fire Marshal at least 30 days in advance of the pro-
17 posed sale. If the State Fire Marshal finds that the applicant is qualified to conduct the
18 proposed sale and that the proposed sale conforms with ORS 480.110 to 480.165, State Fire
19 Marshal rules and any applicable insurance requirement imposed by a local government un-
20 der section 14 of this 2011 Act, the State Fire Marshal shall issue the retail sales permit.

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

29 (3) A retail sales permit issued under this section authorizes the sale of consumer fire-
30 works only in the year for which the permit is issued during the period that begins on June
31 23 and ends on July 6 of the year for which the permit is issued. A local government may
32 limit the hours during which the sale of consumer fireworks is allowed within the jurisdiction
33 of the local government.

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

40 SECTION 11. ORS 480.130 is repealed and section 12 of this 2011 Act is enacted in lieu
41 thereof.

42 SECTION 12. (1) A person, local government, organization or group of individuals that
43 desires to conduct a fireworks display must first obtain a permit for the display from the
44 State Fire Marshal. A written application for the display permit must be submitted to the
45 State Fire Marshal at least 15 days in advance of the proposed display. However, the State

1 Fire Marshal may waive the 15-day requirement on a case-by-case basis. If the State Fire
2 Marshal finds that the applicant is qualified to conduct the proposed display and that the
3 proposed display conforms with state and federal law, State Fire Marshal rules and any ap-
4 plicable insurance requirement imposed by a local government under section 14 of this 2011
5 Act, the State Fire Marshal shall issue the display permit.

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

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

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

22 SECTION 13. ORS 480.150 is repealed and section 14 of this 2011 Act is enacted in lieu
23 thereof.

24 SECTION 14. (1) The State Fire Marshal may adopt reasonable rules for granting retail
25 sales permits under section 10 of this 2011 Act or display permits issued under section 12 of
26 this 2011 Act.

27 (2) A local government may require the holder of a permit issued under section 10 or 12
28 of this 2011 Act to have liability insurance, an irrevocable letter of credit issued by an in-
29 sured institution as defined in ORS 706.008 or another form of indemnity deemed adequate
30 by the local government in a sum not less than \$1 million, conditioned for payment of all
31 damages to people or property that are caused by the authorized sale or display of fireworks
32 and arise from any acts of the permit holder or agents, employees or subcontractors of the
33 permit holder.

34 (3) The State Fire Marshal or a local government may revoke a permit issued under
35 section 10 or 12 of this 2011 Act if the State Fire Marshal or the local government determines
36 that the permit holder or an authorized display is not in compliance with applicable state or
37 federal laws, State Fire Marshal rules or any applicable insurance requirement imposed by
38 the local government under this section.

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

1 (5) If a permit issued under section 10 or 12 of this 2011 Act is revoked, the fees for the
2 permit are not refundable.

3 **SECTION 15.** ORS 480.152 is amended to read:

4 480.152. (1) *[No person shall]* **A person may not** publish or cause to be published:

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

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

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

13 **SECTION 16.** ORS 480.154 is amended to read:

14 480.154. (1) Each manufacturer or wholesaler of fireworks *[or items described in ORS 480.127]*
15 shall keep a record of all sales showing the name and address of the purchaser, the state of desti-
16 nation, license and permit numbers, the state and date of permit issuance and a list of the type and
17 quantity of fireworks *[or items]* sold.

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

22 **SECTION 17.** ORS 480.156 is amended to read:

23 480.156. *[(1) It is unlawful for any person to sell fireworks or items described in ORS 480.127, at*
24 *wholesale to any out-of-state resident who does not possess and present to the seller for inspection at*
25 *the time of sale a valid license or permit issued in the name of such out-of-state resident, if such license*
26 *or permit is required to purchase, possess, transport, store, distribute, sell or otherwise deal with or*
27 *use fireworks or items described in ORS 480.127, by the laws of such other state.]*

28 (1) **A person may not sell fireworks at wholesale to an out-of-state resident unless the**
29 **out-of-state resident presents the person with proof that the out-of-state resident has com-**
30 **plied with any license or permit requirement of the other state for the purchase of the fire-**
31 **works at wholesale and for the possession, transportation, storage, distribution or sale of the**
32 **fireworks or other actions involving the fireworks or use of the fireworks.**

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

40 **SECTION 18.** ORS 480.160 is repealed and section 19 of this 2011 Act is enacted in lieu
41 thereof.

42 **SECTION 19.** (1) ORS 480.110 to 480.165, or permits that are issued under ORS 480.110 to
43 480.165, do not authorize the manufacture, sale, use or explosion of fireworks within the ju-
44 risdiction of a local government that by local law or ordinance has prohibited that manu-
45 facture, sale, use or explosion. A local government may not authorize the sale or use of any

1 fireworks prohibited by the provisions of ORS 480.110 to 480.165.

2 (2) A person may not deliver or cause the delivery of consumer fireworks into the juris-
3 diction of any local government for the purpose of sale for personal use by individual mem-
4 bers of the general public if a local law or ordinance prohibits the sale or use of consumer
5 fireworks.

6 **SECTION 20.** ORS 480.165 is amended to read:

7 480.165. (1) In addition to any other penalty provided by law, any person [*who*] **that** violates any
8 provision of ORS 480.110 to 480.165, or any rule adopted by the State Fire Marshal [*pursuant*
9 *thereto*] **under ORS 480.110 to 480.165**, is subject to a civil penalty imposed by the State Fire
10 Marshal in an amount not to exceed \$500 per violation. [*However, an individual member of the gen-*
11 *eral public who possesses fireworks of a retail value less than \$50 is not subject to a civil penalty.*]
12 Each day a violation continues shall be considered a separate offense.

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

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

16 **SECTION 21.** ORS 480.990 is amended to read:

17 480.990. (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.

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

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

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

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

23 (b) **A violation of section 6 of this 2011 Act involving the sale, possession, use or explosion**
24 **of illegal fireworks having a gross weight of 50 pounds or more is a Class A misdemeanor.**

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

29 (6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and
30 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.

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

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

36 **SECTION 22.** ORS 164.055 is amended to read:

37 164.055. (1) A person commits the crime of theft in the first degree if, by means other than
38 extortion, the person commits theft as defined in ORS 164.015 and:

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

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

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

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

45 (e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed

1 from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or

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

3 (2) As used in this section:

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

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

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

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

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

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

18 **SECTION 23.** ORS 166.660 is amended to read:

19 166.660. (1) A person commits the crime of unlawful paramilitary activity if the person:

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

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

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

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

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

40 (4) As used in this section:

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

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

45 (c) "Explosive" means a chemical compound, mixture or device that is commonly used or in-

1 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
2 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
3 blasting caps and nitrojelly, but excluding fireworks as defined in [ORS 480.110 (1)] **section 2 of**
4 **this 2011 Act**, black powder, smokeless powder, small arms ammunition and small arms ammunition
5 primers.

6 (d) "Law enforcement officer" means any duly constituted police officer of the United States,
7 any state, any political subdivision of a state or the District of Columbia, and also includes members
8 of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the or-
9 ganized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or
10 the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C.
11 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS
12 161.015 (4) when in the performance of official duties.

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

14 480.200. As used in ORS 480.200 to 480.290 unless the context requires otherwise:

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

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

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

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

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

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

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

31 **SECTION 25.** (1) **The amendments to ORS 164.055, 166.660 and 480.990 by sections 21 to**
32 **23 of this 2011 Act apply to violations and offenses committed on or after the effective date**
33 **of this 2011 Act.**

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

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