

Senate Bill 1528

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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**.

Requires Oregon Liquor Control Commission inspector or investigator enforcing laws related to liquor to obtain Department of Public Safety Standards and Training certification as liquor enforcement inspector. Creates exceptions. Revises and specifies duties, functions and powers of liquor enforcement inspector. Modifies certain offenses to include conduct directed toward liquor enforcement inspector.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to liquor enforcement inspectors; creating new provisions; amending ORS 133.005, 133.525,
3 133.721, 133.726, 153.005, 161.015, 163.095, 165.805, 166.070, 181.010, 181.610, 181.645, 181.665,
4 238.005, 471.001, 471.360, 471.375, 471.675, 471.775, 659A.320 and 802.250; and declaring an
5 emergency.

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

LIQUOR CONTROL ACT

7
8 **SECTION 1.** ORS 471.001 is amended to read:

9 471.001. As used in this chapter and ORS chapter 473:

10 (1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than
11 one-half of one percent alcohol by volume and capable of being consumed by a human being.

12 (2) "Commercial establishment" means a place of business:

13 (a) Where food is cooked and served;

14 (b) That has kitchen facilities adequate for the preparation and serving of meals;

15 (c) That has dining facilities adequate for the serving and consumption of meals; and

16 (d) That:

17 (A) If not a for-profit private club, serves meals to the general public; or

18 (B) If a for-profit private club, serves meals to the club's members and guests and complies with
19 any minimum membership and food service requirements established by Oregon Liquor Control
20 Commission rules.

21 (3) "Commission" means the Oregon Liquor Control Commission.

22 (4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage.
23 "Distilled liquor" includes distilled spirits.

24 (5) "Licensee" means any person holding a license issued under this chapter.

25 (6) **"Liquor enforcement inspector" means a full-time employee of the commission who**
26 **is authorized to act as an agent of the commission in conducting inspections or investi-**
27 **gations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations**
28 **for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095 and 474.115, com-**

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 **mission rules and any other statutes the commission considers related to alcoholic liquor.**

2 [(6)(a)] (7)(a) “Malt beverage” means an alcoholic beverage obtained by the fermentation of
3 grain that contains not more than 14 percent alcohol by volume.

4 (b) “Malt beverage” includes:

5 (A) Beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent
6 alcohol by volume;

7 (B) Malt beverages containing six percent or less alcohol by volume and that contain at least
8 51 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49
9 percent of the beverage’s overall alcohol content is obtained from flavors and other added
10 nonbeverage ingredients containing alcohol; and

11 (C) Malt beverages containing more than six percent alcohol by volume that derive not more
12 than 1.5 percent of the beverage’s overall alcohol content by volume from flavors and other added
13 nonbeverage ingredients containing alcohol.

14 (c) “Malt beverage” does not include cider or an alcoholic beverage obtained primarily by
15 fermentation of rice, such as sake.

16 [(7)] (8) “Manufacturer” means every person who produces, brews, ferments, manufactures or
17 blends an alcoholic beverage within this state or who imports or causes to be imported into this
18 state an alcoholic beverage for sale or distribution within the state.

19 [(8)] (9) “Permittee” means a person holding a permit issued under ORS 471.360 to 471.390.

20 [(9)] (10) “Premises” or “licensed premises” means a location licensed under this chapter and
21 includes all enclosed areas at the location that are used in the business operated at the location,
22 including offices, kitchens, rest rooms and storerooms, including all public and private areas where
23 patrons are permitted to be present. “Premises” or “licensed premises” includes areas outside of a
24 building that the commission has specifically designated as approved for alcoholic beverage service
25 or consumption.

26 [(10)] (11) “Wine” means any fermented vinous liquor or fruit juice, or other fermented beverage
27 fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent
28 of alcohol by volume and not more than 21 percent of alcohol by volume. “Wine” includes fortified
29 wine. “Wine” does not include cider.

30 **SECTION 2.** ORS 471.360 is amended to read:

31 471.360. (1) Except as otherwise provided in ORS 471.375:

32 (a) Any person employed by a licensee of the Oregon Liquor Control Commission who partic-
33 ipates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the
34 premises where served or sold shall have a valid service permit issued by the commission.

35 (b) [No] A licensee of the commission [shall] **may not** permit any person to mix, sell or serve
36 any alcoholic liquor for consumption on licensed premises unless [such] **the** person has a valid ser-
37 vice permit issued by the commission.

38 (c) A permittee shall make the service permit available at any time while on duty for immediate
39 inspection by any [inspector or investigator employed by the commission] **liquor enforcement in-**
40 **spector** or by any other peace officer.

41 (2) The commission may waive the requirement for a service permit for an employee of a
42 licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited
43 to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

44 **SECTION 3.** ORS 471.375 is amended to read:

45 471.375. (1) Any person who has not had a permit refused or revoked or whose permit is not

1 under suspension may mix, sell or serve alcoholic beverages for consumption on licensed premises
 2 if the person prepares in duplicate an application for a service permit prior to mixing, selling or
 3 serving any alcoholic beverage for consumption on licensed premises and the application is indorsed
 4 as required under subsection (2) of this section. A copy of the indorsed application must be kept on
 5 the licensed premises by any licensee for whom the person mixes, sells or serves alcoholic beverages
 6 and must be made available for immediate inspection by any [*inspector or investigator employed by*
 7 *the Oregon Liquor Control Commission*] **liquor enforcement inspector** or by any other peace officer
 8 until the applicant receives the service permit.

9 (2) An application for a service permit under subsection (1) of this section must be indorsed by
 10 one of the following persons:

11 (a) The licensee under whose license the applicant will mix, sell or serve alcoholic beverages.
 12 If a licensee indorses an application, the licensee must immediately transmit the application to the
 13 commission with the fee required by subsection (3) of this section.

14 (b) An officer or employee of a company that provides servers to licensees on a temporary basis.
 15 The commission must give a company written approval to indorse service permit applications before
 16 an application may be indorsed under this paragraph.

17 (c) An employee of the commission designated by the commission to accept and indorse appli-
 18 cations under this section. The applicant must personally appear before the employee of the com-
 19 mission and provide identification as may be required by commission rule.

20 (d) An employee of an alcohol server education course provider that has been certified by the
 21 commission under ORS 471.542 (8). The employee must be specifically designated by the provider to
 22 indorse applications under this section.

23 (3) An applicant for a service permit must be 18 years of age or over. Application for a service
 24 permit shall be made on a form supplied by the commission. The applicant shall truly answer all
 25 questions, provide any further information required, and pay a fee not to exceed \$10. The commis-
 26 sion shall either set the fee to cover only the administrative costs of the service permit program,
 27 or apply any excess to the Alcohol Education Program established under ORS 471.541.

28 **SECTION 4.** ORS 471.675 is amended to read:

29 471.675. [*No person shall*] **A person may not** forcibly resist lawful arrest, or by physical contact
 30 recklessly interfere with an investigation of any infringement of the Liquor Control Act [*or the*
 31 *Oregon Distilled Liquor Control Act*] or with any lawful search or seizure being made by [*an officer*
 32 *or inspector of the Oregon Liquor Control Commission, when such person knows or should know that*
 33 *such acts are being performed by an officer or inspector of the commission.*] **a peace officer, a liquor**
 34 **enforcement inspector or an authorized agent of the Oregon Liquor Control Commission if**
 35 **the person knows or should know that the investigation, search or seizure is being performed**
 36 **by a peace officer, liquor enforcement inspector or authorized agent of the commission.**

37 **SECTION 5.** ORS 471.775 is amended to read:

38 471.775. (1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of
 39 the Oregon Liquor Control Commission or any of its authorized agents.

40 (2) [*Inspectors and investigators employed by the commission shall have all the authority given by*
 41 *statute to peace officers of this state, including authority to serve and execute warrants of arrest and*
 42 *warrants of search and seizure.*] **Liquor enforcement inspectors have authority as provided un-**
 43 **der this chapter, ORS chapter 153, ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721**
 44 **to 133.739, 161.235, 161.239 and 161.245 and chapter 743, Oregon Laws 1971, to conduct in-**
 45 **spections or investigations, make arrests and seizures, aid in prosecutions for offenses, issue**

1 **criminal citations and citations for violations and otherwise enforce this chapter, ORS**
 2 **474.005 to 474.095 and 474.115, commission rules and any other laws of this state that the**
 3 **commission considers related to alcoholic liquor, including but not limited to laws regarding**
 4 **the manufacture, importation, transportation, possession, distribution, sale or consumption**
 5 **of alcoholic beverages, the manufacture or use of false identification or the entry of premises**
 6 **licensed to sell alcoholic liquor.**

7
 8 **INVESTIGATIONS, ARRESTS AND CITATIONS**
 9

10 **SECTION 6.** ORS 133.005 is amended to read:

11 133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires
 12 otherwise:

13 (1) "Arrest" means to place a person under actual or constructive restraint or to take a person
 14 into custody for the purpose of charging that person with an offense. A "stop" as authorized under
 15 ORS 131.605 to 131.625 is not an arrest.

16 (2) "Federal officer" means a special agent or law enforcement officer employed by a federal
 17 agency who is empowered to effect an arrest with or without a warrant for violations of the United
 18 States Code and who is authorized to carry firearms in the performance of duty.

19 (3) "Peace officer" means:

20 (a) A member of the Oregon State Police;

21 (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer
 22 commissioned by a university under ORS 352.383;

23 (c) An investigator of a district attorney's office if the investigator is or has been certified as
 24 a peace officer in this or any other state;

25 (d) An investigator of the Criminal Justice Division of the Department of Justice of the State
 26 of Oregon; [or]

27 (e) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws
 28 2011[.]; **or**

29 **(f) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

30 (4) "Reserve officer" means an officer or member of a law enforcement agency who is:

31 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,
 32 school district, mass transit district, county, county service district authorized to provide law
 33 enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice,
 34 the Oregon State Lottery Commission or the Governor or a member of the Department of State
 35 Police;

36 (b) Armed with a firearm; and

37 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-
 38 nances relating to airport security.

39 **SECTION 7.** ORS 133.005, as amended by section 39, chapter 644, Oregon Laws 2011, is
 40 amended to read:

41 133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires
 42 otherwise:

43 (1) "Arrest" means to place a person under actual or constructive restraint or to take a person
 44 into custody for the purpose of charging that person with an offense. A "stop" as authorized under
 45 ORS 131.605 to 131.625 is not an arrest.

1 (2) “Federal officer” means a special agent or law enforcement officer employed by a federal
 2 agency who is empowered to effect an arrest with or without a warrant for violations of the United
 3 States Code and who is authorized to carry firearms in the performance of duty.

4 (3) “Peace officer” means:

5 (a) A member of the Oregon State Police;

6 (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer
 7 commissioned by a university under ORS 352.383;

8 (c) An investigator of a district attorney’s office if the investigator is or has been certified as
 9 a peace officer in this or any other state; [*or*]

10 (d) An investigator of the Criminal Justice Division of the Department of Justice of the State
 11 of Oregon[.]; **or**

12 (e) **A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

13 (4) “Reserve officer” means an officer or member of a law enforcement agency who is:

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

19 (b) Armed with a firearm; and

20 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-
 21 nances relating to airport security.

22 **SECTION 8.** ORS 133.525 is amended to read:

23 133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

24 (1) “Judge” means any judge of the circuit court, the Court of Appeals, the Supreme Court, any
 25 justice of the peace or municipal judge authorized to exercise the powers and perform the duties
 26 of a justice of the peace.

27 (2) “Police officer” means:

28 (a) A member of the Oregon State Police;

29 (b) A sheriff or municipal police officer, a police officer commissioned by a university under ORS
 30 352.383 or an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

31 (c) An investigator of a district attorney’s office if the investigator is or has been certified as
 32 a peace officer in this or any other state; [*or*]

33 (d) An investigator of the Criminal Justice Division of the Department of Justice[.]; **or**

34 (e) **A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

35 **SECTION 9.** ORS 133.525, as amended by section 40, chapter 644, Oregon Laws 2011, is
 36 amended to read:

37 133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

38 (1) “Judge” means any judge of the circuit court, the Court of Appeals, the Supreme Court, any
 39 justice of the peace or municipal judge authorized to exercise the powers and perform the duties
 40 of a justice of the peace.

41 (2) “Police officer” means:

42 (a) A member of the Oregon State Police;

43 (b) A sheriff or municipal police officer or a police officer commissioned by a university under
 44 ORS 352.383;

45 (c) An investigator of a district attorney’s office if the investigator is or has been certified as

1 a peace officer in this or any other state; [or]

2 (d) An investigator of the Criminal Justice Division of the Department of Justice[.]; **or**

3 **(e) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

4 **SECTION 10.** ORS 133.721 is amended to read:

5 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

6 (1) "Aggrieved person" means a person who was a party to any wire, electronic or oral com-
7 munication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was
8 directed and who alleges that the interception was unlawful.

9 (2) "Contents," when used with respect to any wire, electronic or oral communication, includes
10 any information concerning the identity of the parties to such communication or the existence,
11 substance, purport or meaning of that communication.

12 (3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds,
13 data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic,
14 photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

15 (a) Any oral communication or any communication that is completely by wire; or

16 (b) Any communication made through a tone-only paging device.

17 (4) "Electronic, mechanical or other device" means any device or apparatus that can be used
18 to intercept a wire, electronic or oral communication other than:

19 (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that
20 is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its
21 business and that is being used by the subscriber or user in the ordinary course of its business or
22 being used by a telecommunications carrier in the ordinary course of its business, or by an investi-
23 gative or law enforcement officer in the ordinary course of official duties; or

24 (b) A hearing aid or similar device being used to correct subnormal hearing to not better than
25 normal.

26 (5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire,
27 electronic or oral communication through the use of any electronic, mechanical or other device.

28 (6) "Investigative or law enforcement officer" means:

29 (a) An officer or other person employed to investigate or enforce the law by:

30 (A) A county sheriff or municipal police department, or a police department established by a
31 university under ORS 352.383;

32 (B) The Oregon State Police, the Department of Corrections, the Attorney General or a district
33 attorney; or

34 (C) Law enforcement agencies of other states or the federal government; [or]

35 (b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws
36 2011[.]; **or**

37 **(c) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

38 (7) "Oral communication" means:

39 (a) Any oral communication, other than a wire or electronic communication, uttered by a person
40 exhibiting an expectation that such communication is not subject to interception under circum-
41 stances justifying such expectation; or

42 (b) An utterance by a person who is participating in a wire or electronic communication, if the
43 utterance is audible to another person who, at the time the wire or electronic communication oc-
44 curs, is in the immediate presence of the person participating in the communication.

45 (8) "Telecommunications carrier" means:

1 (a) A telecommunications utility as defined in ORS 759.005; or

2 (b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications
3 services.

4 (9) "Telecommunications service" has the meaning given that term in ORS 759.005.

5 (10) "Wire communication" means any communication made in whole or in part through the use
6 of facilities for the transmission of communications by the aid of wire, cable or other like connection
7 between the point of origin and the point of reception, whether furnished or operated by a public
8 utility or privately owned or leased.

9 **SECTION 11.** ORS 133.721, as amended by section 70, chapter 644, Oregon Laws 2011, is
10 amended to read:

11 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

12 (1) "Aggrieved person" means a person who was a party to any wire, electronic or oral com-
13 munication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was
14 directed and who alleges that the interception was unlawful.

15 (2) "Contents," when used with respect to any wire, electronic or oral communication, includes
16 any information concerning the identity of the parties to such communication or the existence,
17 substance, purport or meaning of that communication.

18 (3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds,
19 data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic,
20 photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

21 (a) Any oral communication or any communication that is completely by wire; or

22 (b) Any communication made through a tone-only paging device.

23 (4) "Electronic, mechanical or other device" means any device or apparatus that can be used
24 to intercept a wire, electronic or oral communication other than:

25 (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that
26 is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its
27 business and that is being used by the subscriber or user in the ordinary course of its business or
28 being used by a telecommunications carrier in the ordinary course of its business, or by an investi-
29 gative or law enforcement officer in the ordinary course of official duties; or

30 (b) A hearing aid or similar device being used to correct subnormal hearing to not better than
31 normal.

32 (5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire,
33 electronic or oral communication through the use of any electronic, mechanical or other device.

34 (6) "Investigative or law enforcement officer" means:

35 (a) An officer or other person employed to investigate or enforce the law by:

36 [(a)] (A) A county sheriff or municipal police department, or a police department established by
37 a university under ORS 352.383;

38 [(b)] (B) The Oregon State Police, the Department of Corrections, the Attorney General or a
39 district attorney; or

40 [(c)] (C) Law enforcement agencies of other states or the federal government[.]; or

41 (b) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).

42 (7) "Oral communication" means:

43 (a) Any oral communication, other than a wire or electronic communication, uttered by a person
44 exhibiting an expectation that such communication is not subject to interception under circum-
45 stances justifying such expectation; or

1 (b) An utterance by a person who is participating in a wire or electronic communication, if the
 2 utterance is audible to another person who, at the time the wire or electronic communication oc-
 3 curs, is in the immediate presence of the person participating in the communication.

4 (8) "Telecommunications carrier" means:

5 (a) A telecommunications utility as defined in ORS 759.005; or

6 (b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications
 7 services.

8 (9) "Telecommunications service" has the meaning given that term in ORS 759.005.

9 (10) "Wire communication" means any communication made in whole or in part through the use
 10 of facilities for the transmission of communications by the aid of wire, cable or other like connection
 11 between the point of origin and the point of reception, whether furnished or operated by a public
 12 utility or privately owned or leased.

13 **SECTION 12.** ORS 133.726 is amended to read:

14 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
 15 law enforcement officer is authorized to intercept an oral communication to which the officer or a
 16 person under the direct supervision of the officer is a party, without obtaining an order for the in-
 17 terception of a wire, electronic or oral communication under ORS 133.724.

18 (2) For purposes of this section and ORS 133.736, a person is a party to an oral communication
 19 if the oral communication is made in the person's immediate presence and is audible to the person
 20 regardless of whether the communication is specifically directed to the person.

21 (3) An ex parte order for intercepting an oral communication in any county of this state under
 22 this section may be issued by any judge as defined in ORS 133.525 upon written application made
 23 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the
 24 district attorney for the county in which the order is sought or upon the oath or affirmation of any
 25 peace officer as defined in ORS 133.005. The application shall include:

26 (a) The name of the applicant and the applicant's authority to make the application;

27 (b) A statement demonstrating that there is probable cause to believe that a person whose oral
 28 communication is to be intercepted is engaged in committing, has committed or is about to commit
 29 a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral
 30 communication will yield evidence thereof; and

31 (c) The identity of the person, if known, suspected of committing the crime and whose oral
 32 communication is to be intercepted.

33 (4) The judge may require the applicant to furnish further testimony or documentary evidence
 34 in support of the application.

35 (5) Upon examination of the application and evidence, the judge may enter an ex parte order,
 36 as requested or as modified, authorizing or approving the interception of an oral communication
 37 within the state if the judge determines on the basis of the facts submitted by the applicant that:

38 (a) There is probable cause to believe that a person is engaged in committing, has committed
 39 or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

40 (b) There is probable cause to believe that the oral communication to be obtained will contain
 41 evidence concerning that crime.

42 (6) An order authorizing or approving the interception of an oral communication under this
 43 section must specify:

44 (a) The identity of the person, if known, whose oral communication is to be intercepted;

45 (b) A statement identifying the particular crime to which the oral communication is expected

1 to relate;

2 (c) The agency authorized under the order to intercept the oral communication;

3 (d) The name and office of the applicant and the signature and title of the issuing judge;

4 (e) A period of time after which the order shall expire; and

5 (f) A statement that the order authorizes only the interception of an oral communication to
6 which a law enforcement officer or a person under the direct supervision of a law enforcement of-
7 ficer is a party.

8 (7) An order under ORS 133.724 or this section is not required when a law enforcement officer
9 intercepts an oral communication to which the officer or a person under the direct supervision of
10 the officer is a party if the oral communication is made by a person whom the officer has probable
11 cause to believe has committed, is engaged in committing or is about to commit:

12 (a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 or as a
13 misdemeanor under ORS 167.007 or 167.008; or

14 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-
15 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order
16 under ORS 133.724 or this section.

17 (8) A law enforcement officer who intercepts an oral communication pursuant to this section
18 may not intentionally fail to record and preserve the oral communication in its entirety. A law
19 enforcement officer, or a person under the direct supervision of the officer, who is authorized under
20 this section to intercept an oral communication is not required to exclude from the interception an
21 oral communication made by a person for whom probable cause does not exist if the officer or the
22 person under the officer's direct supervision is a party to the oral communication.

23 (9) A law enforcement officer may not divulge the contents of an oral communication intercepted
24 under this section before a preliminary hearing or trial in which an oral communication is going to
25 be introduced as evidence against a person except:

26 (a) To a superior officer or other official with whom the law enforcement officer is cooperating
27 in the enforcement of the criminal laws of this state or the United States;

28 (b) To a magistrate;

29 (c) In a presentation to a federal or state grand jury; or

30 (d) In compliance with a court order.

31 (10) A law enforcement officer may intercept an oral communication under this section only
32 when acting within the scope of the officer's employment and as a part of assigned duties.

33 (11) As used in this section, "law enforcement officer" means:

34 (a) An officer employed to enforce criminal laws by:

35 (A) The United States, this state or a municipal government within this state;

36 (B) A political subdivision, agency, department or bureau of the governments described in sub-
37 paragraph (A) of this paragraph; or

38 (C) A police department established by a university under ORS 352.383; [*or*]

39 (b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws
40 2011[.]; **or**

41 **(c) A liquor enforcement inspector as defined in ORS 471.001.**

42 (12) Violation of subsection (9) of this section is a Class A misdemeanor.

43 **SECTION 13.** ORS 133.726, as amended by section 71, chapter 644, Oregon Laws 2011, is
44 amended to read:

45 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a

1 law enforcement officer is authorized to intercept an oral communication to which the officer or a
2 person under the direct supervision of the officer is a party, without obtaining an order for the in-
3 terception of a wire, electronic or oral communication under ORS 133.724.

4 (2) For purposes of this section and ORS 133.736, a person is a party to an oral communication
5 if the oral communication is made in the person's immediate presence and is audible to the person
6 regardless of whether the communication is specifically directed to the person.

7 (3) An ex parte order for intercepting an oral communication in any county of this state under
8 this section may be issued by any judge as defined in ORS 133.525 upon written application made
9 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the
10 district attorney for the county in which the order is sought or upon the oath or affirmation of any
11 peace officer as defined in ORS 133.005. The application shall include:

12 (a) The name of the applicant and the applicant's authority to make the application;

13 (b) A statement demonstrating that there is probable cause to believe that a person whose oral
14 communication is to be intercepted is engaged in committing, has committed or is about to commit
15 a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral
16 communication will yield evidence thereof; and

17 (c) The identity of the person, if known, suspected of committing the crime and whose oral
18 communication is to be intercepted.

19 (4) The judge may require the applicant to furnish further testimony or documentary evidence
20 in support of the application.

21 (5) Upon examination of the application and evidence, the judge may enter an ex parte order,
22 as requested or as modified, authorizing or approving the interception of an oral communication
23 within the state if the judge determines on the basis of the facts submitted by the applicant that:

24 (a) There is probable cause to believe that a person is engaged in committing, has committed
25 or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

26 (b) There is probable cause to believe that the oral communication to be obtained will contain
27 evidence concerning that crime.

28 (6) An order authorizing or approving the interception of an oral communication under this
29 section must specify:

30 (a) The identity of the person, if known, whose oral communication is to be intercepted;

31 (b) A statement identifying the particular crime to which the oral communication is expected
32 to relate;

33 (c) The agency authorized under the order to intercept the oral communication;

34 (d) The name and office of the applicant and the signature and title of the issuing judge;

35 (e) A period of time after which the order shall expire; and

36 (f) A statement that the order authorizes only the interception of an oral communication to
37 which a law enforcement officer or a person under the direct supervision of a law enforcement of-
38 ficer is a party.

39 (7) An order under ORS 133.724 or this section is not required when a law enforcement officer
40 intercepts an oral communication to which the officer or a person under the direct supervision of
41 the officer is a party if the oral communication is made by a person whom the officer has probable
42 cause to believe has committed, is engaged in committing or is about to commit:

43 (a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 or as a
44 misdemeanor under ORS 167.007 or 167.008; or

45 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-

1 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order
2 under ORS 133.724 or this section.

3 (8) A law enforcement officer who intercepts an oral communication pursuant to this section
4 may not intentionally fail to record and preserve the oral communication in its entirety. A law
5 enforcement officer, or a person under the direct supervision of the officer, who is authorized under
6 this section to intercept an oral communication is not required to exclude from the interception an
7 oral communication made by a person for whom probable cause does not exist if the officer or the
8 person under the officer's direct supervision is a party to the oral communication.

9 (9) A law enforcement officer may not divulge the contents of an oral communication intercepted
10 under this section before a preliminary hearing or trial in which an oral communication is going to
11 be introduced as evidence against a person except:

12 (a) To a superior officer or other official with whom the law enforcement officer is cooperating
13 in the enforcement of the criminal laws of this state or the United States;

14 (b) To a magistrate;

15 (c) In a presentation to a federal or state grand jury; or

16 (d) In compliance with a court order.

17 (10) A law enforcement officer may intercept an oral communication under this section only
18 when acting within the scope of the officer's employment and as a part of assigned duties.

19 (11) As used in this section, "law enforcement officer" means:

20 (a) An officer employed to enforce criminal laws by:

21 [(a)] (A) The United States, this state or a municipal government within this state;

22 [(b)] (B) A political subdivision, agency, department or bureau of the governments described in
23 [paragraph (a) of this subsection] **subparagraph (A) of this paragraph**; or

24 [(c)] (C) A police department established by a university under ORS 352.383[.]; or

25 **(b) A liquor enforcement inspector as defined in ORS 471.001.**

26 (12) Violation of subsection (9) of this section is a Class A misdemeanor.

27 **SECTION 14.** ORS 153.005 is amended to read:

28 153.005. As used in this chapter:

29 (1) "Enforcement officer" means:

30 (a) A member of the Oregon State Police.

31 (b) A sheriff or deputy sheriff.

32 (c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

33 (d) A police officer commissioned by a university under ORS 352.383.

34 (e) An investigator of a district attorney's office if the investigator is or has been certified as
35 a peace officer in this or any other state.

36 (f) An investigator of the Criminal Justice Division of the Department of Justice of the State
37 of Oregon.

38 (g) A Port of Portland peace officer.

39 (h) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

40 **(i) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

41 [(i)] (j) Any other person specifically authorized by law to issue citations for the commission of
42 violations.

43 (2) "Traffic offense" has the meaning given that term in ORS 801.555.

44 (3) "Violation" means an offense described in ORS 153.008.

45 (4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that

1 charges a person with commission of a violation.

2 **SECTION 15.** ORS 153.005, as amended by section 45, chapter 644, Oregon Laws 2011, is
 3 amended to read:

4 153.005. As used in this chapter:

5 (1) "Enforcement officer" means:

6 (a) A member of the Oregon State Police.

7 (b) A sheriff or deputy sheriff.

8 (c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

9 (d) A police officer commissioned by a university under ORS 352.383.

10 (e) An investigator of a district attorney's office if the investigator is or has been certified as
 11 a peace officer in this or any other state.

12 (f) An investigator of the Criminal Justice Division of the Department of Justice of the State
 13 of Oregon.

14 (g) A Port of Portland peace officer.

15 **(h) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).**

16 *[(h)]* (i) Any other person specifically authorized by law to issue citations for the commission
 17 of violations.

18 (2) "Traffic offense" has the meaning given that term in ORS 801.555.

19 (3) "Violation" means an offense described in ORS 153.008.

20 (4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that
 21 charges a person with commission of a violation.

22 **SECTION 16.** ORS 161.015 is amended to read:

23 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires
 24 otherwise:

25 (1) "Dangerous weapon" means any weapon, device, instrument, material or substance which
 26 under the circumstances in which it is used, attempted to be used or threatened to be used, is
 27 readily capable of causing death or serious physical injury.

28 (2) "Deadly weapon" means any instrument, article or substance specifically designed for and
 29 presently capable of causing death or serious physical injury.

30 (3) "Deadly physical force" means physical force that under the circumstances in which it is
 31 used is readily capable of causing death or serious physical injury.

32 (4) "Peace officer" means:

33 (a) A member of the Oregon State Police;

34 (b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS
 35 133.005, or a police officer commissioned by a university under ORS 352.383;

36 (c) An investigator of the Criminal Justice Division of the Department of Justice or investigator
 37 of a district attorney's office;

38 (d) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;
 39 *[and]*

40 **(e) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); and**

41 *[(e)]* **(f)** Any other person designated by law as a peace officer.

42 (5) "Person" means a human being and, where appropriate, a public or private corporation, an
 43 unincorporated association, a partnership, a government or a governmental instrumentality.

44 (6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas
 45 or mace.

1 (7) "Physical injury" means impairment of physical condition or substantial pain.

2 (8) "Serious physical injury" means physical injury which creates a substantial risk of death or
 3 which causes serious and protracted disfigurement, protracted impairment of health or protracted
 4 loss or impairment of the function of any bodily organ.

5 (9) "Possess" means to have physical possession or otherwise to exercise dominion or control
 6 over property.

7 (10) "Public place" means a place to which the general public has access and includes, but is
 8 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
 9 rooms or apartments designed for actual residence, and highways, streets, schools, places of
 10 amusement, parks, playgrounds and premises used in connection with public passenger transporta-
 11 tion.

12 **SECTION 17.** ORS 161.015, as amended by section 46, chapter 644, Oregon Laws 2011, is
 13 amended to read:

14 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires
 15 otherwise:

16 (1) "Dangerous weapon" means any weapon, device, instrument, material or substance which
 17 under the circumstances in which it is used, attempted to be used or threatened to be used, is
 18 readily capable of causing death or serious physical injury.

19 (2) "Deadly weapon" means any instrument, article or substance specifically designed for and
 20 presently capable of causing death or serious physical injury.

21 (3) "Deadly physical force" means physical force that under the circumstances in which it is
 22 used is readily capable of causing death or serious physical injury.

23 (4) "Peace officer" means:

24 (a) A member of the Oregon State Police;

25 (b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS
 26 133.005, or a police officer commissioned by a university under ORS 352.383;

27 (c) An investigator of the Criminal Justice Division of the Department of Justice or investigator
 28 of a district attorney's office; *[and]*

29 **(d) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); and**
 30 *[(d)]* **(e)** Any other person designated by law as a peace officer.

31 (5) "Person" means a human being and, where appropriate, a public or private corporation, an
 32 unincorporated association, a partnership, a government or a governmental instrumentality.

33 (6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas
 34 or mace.

35 (7) "Physical injury" means impairment of physical condition or substantial pain.

36 (8) "Serious physical injury" means physical injury which creates a substantial risk of death or
 37 which causes serious and protracted disfigurement, protracted impairment of health or protracted
 38 loss or impairment of the function of any bodily organ.

39 (9) "Possess" means to have physical possession or otherwise to exercise dominion or control
 40 over property.

41 (10) "Public place" means a place to which the general public has access and includes, but is
 42 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
 43 rooms or apartments designed for actual residence, and highways, streets, schools, places of
 44 amusement, parks, playgrounds and premises used in connection with public passenger transporta-
 45 tion.

1 **SECTION 18.** ORS 181.010 is amended to read:

2 181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires
3 otherwise:

4 (1) “Criminal justice agency” means:

5 (a) The Governor;

6 (b) Courts of criminal jurisdiction;

7 (c) The Attorney General;

8 (d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees
9 of the office of public defense services and nonprofit public defender organizations established under
10 contract with the Public Defense Services Commission;

11 (e) Law enforcement agencies;

12 (f) The Department of Corrections;

13 (g) The Oregon Youth Authority;

14 (h) The State Board of Parole and Post-Prison Supervision;

15 (i) The Department of Public Safety Standards and Training;

16 **(j) The Oregon Liquor Control Commission;**

17 [(j)] **(k)** Regional information systems that share programs to track, identify and remove cross-
18 jurisdictional criminal and terrorist conspiracies; and

19 [(k)] **(L)** Any other state or local agency with law enforcement authority.

20 (2) “Criminal offender information” includes records and related data as to physical description
21 and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders
22 and alleged offenders, records of arrests and the nature and disposition of criminal charges, includ-
23 ing sentencing, confinement, parole and release.

24 (3) “Department” means the Department of State Police established under ORS 181.020.

25 (4) “Deputy superintendent” means the Deputy Superintendent of State Police appointed under
26 ORS 181.220.

27 (5) “Designated agency” means any state, county or municipal government agency where Oregon
28 criminal offender information is required to implement a federal or state statute, executive order
29 or administrative rule that expressly refers to criminal conduct and contains requirements or ex-
30 clusions expressly based on such conduct or for agency employment purposes, licensing purposes or
31 other demonstrated and legitimate needs when designated by order of the Governor.

32 (6) “Disposition report” means a form or process prescribed or furnished by the department,
33 containing a description of the ultimate action taken subsequent to an arrest.

34 (7) “Law enforcement agency” means:

35 (a) County sheriffs, municipal police departments, police departments established by a university
36 under ORS 352.383 and State Police;

37 (b) Other police officers of this state or another state;

38 (c) A tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs
39 authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011; and

40 (d) Law enforcement agencies of the federal government.

41 (8) “State police” means the sworn members of the state police force appointed under ORS
42 181.250.

43 (9) “Superintendent” means the Superintendent of State Police appointed under ORS 181.200.

44 **SECTION 19.** ORS 181.010, as amended by section 49, chapter 644, Oregon Laws 2011, is
45 amended to read:

1 181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires
 2 otherwise:

3 (1) "Criminal justice agency" means:

4 (a) The Governor;

5 (b) Courts of criminal jurisdiction;

6 (c) The Attorney General;

7 (d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees
 8 of the office of public defense services and nonprofit public defender organizations established under
 9 contract with the Public Defense Services Commission;

10 (e) Law enforcement agencies;

11 (f) The Department of Corrections;

12 (g) The Oregon Youth Authority;

13 (h) The State Board of Parole and Post-Prison Supervision;

14 (i) The Department of Public Safety Standards and Training;

15 **(j) The Oregon Liquor Control Commission;**

16 [(j)] **(k)** Regional information systems that share programs to track, identify and remove cross-
 17 jurisdictional criminal and terrorist conspiracies; and

18 [(k)] **(L)** Any other state or local agency with law enforcement authority.

19 (2) "Criminal offender information" includes records and related data as to physical description
 20 and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders
 21 and alleged offenders, records of arrests and the nature and disposition of criminal charges, includ-
 22 ing sentencing, confinement, parole and release.

23 (3) "Department" means the Department of State Police established under ORS 181.020.

24 (4) "Deputy superintendent" means the Deputy Superintendent of State Police appointed under
 25 ORS 181.220.

26 (5) "Designated agency" means any state, county or municipal government agency where Oregon
 27 criminal offender information is required to implement a federal or state statute, executive order
 28 or administrative rule that expressly refers to criminal conduct and contains requirements or ex-
 29 clusions expressly based on such conduct or for agency employment purposes, licensing purposes or
 30 other demonstrated and legitimate needs when designated by order of the Governor.

31 (6) "Disposition report" means a form or process prescribed or furnished by the department,
 32 containing a description of the ultimate action taken subsequent to an arrest.

33 (7) "Law enforcement agency" means:

34 (a) County sheriffs, municipal police departments, police departments established by a university
 35 under ORS 352.383 and State Police;

36 (b) Other police officers of this state or another state; and

37 (c) Law enforcement agencies of the federal government.

38 (8) "State police" means the sworn members of the state police force appointed under ORS
 39 181.250.

40 (9) "Superintendent" means the Superintendent of State Police appointed under ORS 181.200.

41
 42 **INSPECTOR CERTIFICATION**

43
 44 **SECTION 20. Section 21 of this 2012 Act is added to and made a part of ORS 181.610 to**
 45 **181.712.**

1 **SECTION 21.** (1) Except for a person who has requested and obtained an extension from
 2 the Department of Public Safety Standards and Training under subsection (2) of this section,
 3 subject to subsection (3) of this section the Oregon Liquor Control Commission may not
 4 employ a person as a liquor enforcement inspector for more than 18 months unless the per-
 5 son is a citizen of the United States who has been certified under ORS 181.640 as being
 6 qualified as a liquor enforcement inspector and the certification has not:

7 (a) Lapsed; or

8 (b) Been revoked under ORS 181.661, 181.662 and 181.664 (1) and not reissued under ORS
 9 181.661 (2).

10 (2) The department, upon the facts contained in an affidavit accompanying the request
 11 for extension, may find good cause for failure to obtain certification within the time period
 12 described in subsection (1) of this section. If the department finds that there is good cause
 13 for the failure, the department may extend for up to one year the period that a person may
 14 serve as a liquor enforcement inspector without certification. The grant or denial of an ex-
 15 tension is within the sole discretion of the department.

16 (3) The citizenship requirement in subsection (1) of this section does not apply to a per-
 17 son employed as a liquor enforcement inspector on the effective date of this 2012 Act who
 18 continues to serve as a liquor enforcement inspector without a lapse under subsection (4)
 19 of this section.

20 (4) The certification of a liquor enforcement inspector shall lapse after three or more
 21 consecutive months of not being employed as a liquor enforcement inspector unless the li-
 22 quor enforcement inspector is on leave from the commission. Upon reemployment as a liquor
 23 enforcement inspector, the person whose certification has lapsed may apply to be certified
 24 under ORS 181.610 to 181.712.

25 (5) The commission shall pay the costs of training required for a liquor enforcement in-
 26 spector to be certified by the department.

27 **SECTION 22.** ORS 181.610 is amended to read:

28 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

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

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

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

35 (4) "Commissioned" means being authorized to perform various acts or duties of a police officer
 36 or certified reserve officer and acting under the supervision and responsibility of a county sheriff
 37 or as otherwise provided by law.

38 (5) "Corrections officer" means an officer or member employed full-time by a law enforcement
 39 unit who:

40 (a) Is charged with and primarily performs the duty of custody, control or supervision of indi-
 41 viduals convicted of or arrested for a criminal offense and confined in a place of incarceration or
 42 detention other than a place used exclusively for incarceration or detention of juveniles; or

43 (b) Has been certified as a corrections officer described in paragraph (a) of this subsection and
 44 has supervisory or management authority for corrections officers described in paragraph (a) of this
 45 subsection.

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

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

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

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

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

7 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member
8 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
9 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
10 and heavy rescue services, search and rescue services or hazardous materials incident response.
11 "Fire service professional" does not mean forest fire protection agency personnel.

12 (12) "Law enforcement unit" means:

13 (a) A police force or organization of the state, a city, university that has established a police
14 department under ORS 352.383, port, school district, mass transit district, county, county service
15 district authorized to provide law enforcement services under ORS 451.010, tribal government as
16 defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers
17 as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the De-
18 partment of Justice, the Department of Corrections, the Oregon State Lottery Commission or com-
19 mon carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one
20 or more of the following:

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

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

26 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced
27 to probation and investigation of adult offenders on parole or probation or being considered for
28 parole or probation;

29 (b) A police force or organization of a private entity with a population of more than 1,000 resi-
30 dents in an unincorporated area the employees of which are commissioned by a county sheriff;

31 (c) A district attorney's office; [or]

32 **(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors;**
33 **or**

34 [(d)] (e) A private, nonprofit animal care agency that has maintained an animal welfare inves-
35 tigation department for at least five years and has had officers commissioned as special agents by
36 the Governor.

37 **(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.**

38 [(13)] (14) "Parole and probation officer" means:

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

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

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

1 (b) An officer who:

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

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

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

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

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

11 [(14)] (15) "Police officer" means an officer, member or employee of a law enforcement unit
12 employed full-time as a peace officer who is:

13 (a)(A) Commissioned by a city, port, school district, mass transit district, county, county service
14 district authorized to provide law enforcement services under ORS 451.010, tribal government as
15 defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Depart-
16 ment of Justice, the Oregon State Lottery Commission, a university that has established a police
17 department under ORS 352.383, the Governor or the Department of State Police; and

18 (B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to
19 airport security; or

20 (b) An investigator of a district attorney's office if the investigator is or has been certified as
21 a peace officer in this or another state or is an authorized tribal police officer as defined in section
22 1, chapter 644, Oregon Laws 2011.

23 [(15)] (16) "Public or private safety agency" means a unit of state or local government, a special
24 purpose district or a private firm that provides, or has authority to provide, fire fighting, police,
25 ambulance or emergency medical services.

26 [(16)] (17) "Public safety personnel" and "public safety officer" include corrections officers,
27 youth correction officers, emergency medical dispatchers, parole and probation officers, police offi-
28 cers, certified reserve officers, telecommunicators, **liquor enforcement inspectors** and fire service
29 professionals.

30 [(17)] (18) "Reserve officer" means an officer or member of a law enforcement unit who is:

31 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,
32 school district, mass transit district, county, county service district authorized to provide law
33 enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644,
34 Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State
35 Lottery Commission, a university that has established a police department under ORS 352.383, the
36 Governor or the Department of State Police;

37 (b) Armed with a firearm; and

38 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-
39 nances relating to airport security.

40 [(18)] (19) "Telecommunicator" means a person employed as an emergency telephone worker as
41 defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing
42 and transmitting public safety information received through a 9-1-1 emergency reporting system as
43 defined in ORS 403.105.

44 [(19)] (20) "Youth correction officer" means an employee of the Oregon Youth Authority who is
45 charged with and primarily performs the duty of custody, control or supervision of youth offenders

1 confined in a youth correction facility.

2 **SECTION 23.** ORS 181.610, as amended by section 50, chapter 644, Oregon Laws 2011, is
 3 amended to read:

4 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

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

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

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

11 (4) "Commissioned" means being authorized to perform various acts or duties of a police officer
 12 or certified reserve officer and acting under the supervision and responsibility of a county sheriff
 13 or as otherwise provided by law.

14 (5) "Corrections officer" means an officer or member employed full-time by a law enforcement
 15 unit who:

16 (a) Is charged with and primarily performs the duty of custody, control or supervision of indi-
 17 viduals convicted of or arrested for a criminal offense and confined in a place of incarceration or
 18 detention other than a place used exclusively for incarceration or detention of juveniles; or

19 (b) Has been certified as a corrections officer described in paragraph (a) of this subsection and
 20 has supervisory or management authority for corrections officers described in paragraph (a) of this
 21 subsection.

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

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

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

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

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

28 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member
 29 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
 30 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
 31 and heavy rescue services, search and rescue services or hazardous materials incident response.
 32 "Fire service professional" does not mean forest fire protection agency personnel.

33 (12) "Law enforcement unit" means:

34 (a) A police force or organization of the state, a city, university that has established a police
 35 department under ORS 352.383, port, school district, mass transit district, county, county service
 36 district authorized to provide law enforcement services under ORS 451.010, tribal government, the
 37 Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon
 38 State Lottery Commission or common carrier railroad the primary duty of which, as prescribed by
 39 law, ordinance or directive, is one or more of the following:

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

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

45 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced

1 to probation and investigation of adult offenders on parole or probation or being considered for
 2 parole or probation;

3 (b) A police force or organization of a private entity with a population of more than 1,000 resi-
 4 dents in an unincorporated area the employees of which are commissioned by a county sheriff;

5 (c) A district attorney’s office; [or]

6 **(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors;**
 7 **or**

8 [(d)] (e) A private, nonprofit animal care agency that has maintained an animal welfare inves-
 9 tigation department for at least five years and has had officers commissioned as special agents by
 10 the Governor.

11 **(13) “Liquor enforcement inspector” has the meaning given that term in ORS 471.001.**

12 [(13)] (14) “Parole and probation officer” means:

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

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

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

20 (b) An officer who:

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

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

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

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

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

30 [(14)] (15) “Police officer” means an officer, member or employee of a law enforcement unit
 31 employed full-time as a peace officer who is:

32 (a)(A) Commissioned by a city, port, school district, mass transit district, county, county service
 33 district authorized to provide law enforcement services under ORS 451.010, tribal government, the
 34 Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a
 35 university that has established a police department under ORS 352.383, the Governor or the De-
 36 partment of State Police; and

37 (B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to
 38 airport security; or

39 (b) An investigator of a district attorney’s office if the investigator is or has been certified as
 40 a peace officer in this or another state.

41 [(15)] (16) “Public or private safety agency” means a unit of state or local government, a special
 42 purpose district or a private firm that provides, or has authority to provide, fire fighting, police,
 43 ambulance or emergency medical services.

44 [(16)] (17) “Public safety personnel” and “public safety officer” include corrections officers,
 45 youth correction officers, emergency medical dispatchers, parole and probation officers, police offi-

1 cers, certified reserve officers, telecommunicators, **liquor enforcement inspectors** and fire service
2 professionals.

3 [(17)] (18) "Reserve officer" means an officer or member of a law enforcement unit who is:

4 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,
5 school district, mass transit district, county, county service district authorized to provide law
6 enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the
7 Department of Justice, the Oregon State Lottery Commission, a university that has established a
8 police department under ORS 352.383, the Governor or the Department of State Police;

9 (b) Armed with a firearm; and

10 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-
11 nances relating to airport security.

12 [(18)] (19) "Telecommunicator" means a person employed as an emergency telephone worker as
13 defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing
14 and transmitting public safety information received through a 9-1-1 emergency reporting system as
15 defined in ORS 403.105.

16 [(19)] (20) "Youth correction officer" means an employee of the Oregon Youth Authority who is
17 charged with and primarily performs the duty of custody, control or supervision of youth offenders
18 confined in a youth correction facility.

19 **SECTION 24.** ORS 181.645 is amended to read:

20 181.645. [No] A law enforcement unit in this state [shall] **may not** employ as a police officer,
21 corrections officer, [or] parole and probation officer **or liquor enforcement inspector**, or utilize
22 as a certified reserve officer, any person who has not yet attained the age of 21 years.

23 **SECTION 25.** ORS 659A.320 is amended to read:

24 659A.320. (1) Except as provided in subsection (2) of this section, it is an unlawful employment
25 practice for an employer to obtain or use for employment purposes information contained in the
26 credit history of an applicant for employment or an employee, or to refuse to hire, discharge, de-
27 mote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard
28 to promotion, compensation or the terms, conditions or privileges of employment based on informa-
29 tion in the credit history of the applicant or employee.

30 (2) Subsection (1) of this section does not apply to:

31 (a) Employers that are federally insured banks or credit unions;

32 (b) Employers that are required by state or federal law to use individual credit history for em-
33 ployment purposes;

34 (c) The application for employment or the employment of a public safety officer who will be or
35 who is:

36 (A) A member of a law enforcement unit;

37 (B) Employed as a peace officer commissioned by a city, port, school district, mass transit dis-
38 trict, county, university under ORS 352.383, Indian reservation, the Criminal Justice Division of the
39 Department of Justice, the Oregon State Lottery Commission or the Governor **or employed as a**
40 **liquor enforcement inspector by the Oregon Liquor Control Commission;** and

41 (C) Responsible for enforcing the criminal laws of this state or laws or ordinances related to
42 airport security; or

43 (d) The obtainment or use by an employer of information in the credit history of an applicant
44 or employee because the information is substantially job-related and the employer's reasons for the
45 use of such information are disclosed to the employee or prospective employee in writing.

1 (3) An employee or an applicant for employment may file a complaint under ORS 659A.820 for
 2 violations of this section and may bring a civil action under ORS 659A.885 and recover the relief
 3 as provided by ORS 659A.885 (1) and (2).

4 (4) As used in this section, “credit history” means any written or other communication of any
 5 information by a consumer reporting agency that bears on a consumer’s creditworthiness, credit
 6 standing or credit capacity.

7
 8 **OFFENSES AGAINST INSPECTORS**

9
 10 **SECTION 26.** ORS 163.095 is amended to read:

11 163.095. As used in ORS 163.105 and this section, “aggravated murder” means murder as defined
 12 in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

13 (1)(a) The defendant committed the murder pursuant to an agreement that the defendant receive
 14 money or other thing of value for committing the murder.

15 (b) The defendant solicited another to commit the murder and paid or agreed to pay the person
 16 money or other thing of value for committing the murder.

17 (c) The defendant committed murder after having been convicted previously in any jurisdiction
 18 of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115
 19 or manslaughter in the first degree as defined in ORS 163.118.

20 (d) There was more than one murder victim in the same criminal episode as defined in ORS
 21 131.505.

22 (e) The homicide occurred in the course of or as a result of intentional maiming or torture of
 23 the victim.

24 (f) The victim of the intentional homicide was a person under the age of 14 years.

25 (2)(a) The victim was one of the following and the murder was related to the performance of the
 26 victim’s official duties in the justice system:

27 (A) A police officer as defined in ORS 181.610;

28 (B) A correctional, parole and probation officer or other person charged with the duty of cus-
 29 tody, control or supervision of convicted persons;

30 (C) A member of the Oregon State Police;

31 (D) A judicial officer as defined in ORS 1.210;

32 (E) A juror or witness in a criminal proceeding;

33 (F) An employee or officer of a court of justice; [or]

34 (G) A member of the State Board of Parole and Post-Prison Supervision[.]; **or**

35 **(H) A liquor enforcement inspector.**

36 (b) The defendant was confined in a state, county or municipal penal or correctional facility or
 37 was otherwise in custody when the murder occurred.

38 (c) The defendant committed murder by means of an explosive as defined in ORS 164.055.

39 (d) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the
 40 homicide under the circumstances set forth in ORS 163.115 (1)(b).

41 (e) The murder was committed in an effort to conceal the commission of a crime, or to conceal
 42 the identity of the perpetrator of a crime.

43 (f) The murder was committed after the defendant had escaped from a state, county or municipal
 44 penal or correctional facility and before the defendant had been returned to the custody of the fa-
 45 cility.

SECTION 27. ORS 166.070 is amended to read:

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

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

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

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

(3) As used in this section:

(a) "Public safety officer" means an emergency medical services provider as defined in ORS 682.025, a **liquor enforcement inspector as defined in ORS 471.001** or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181.610.

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

CONFORMING AMENDMENTS

SECTION 28. ORS 165.805 is amended to read:

165.805. (1) A person commits the crime of misrepresentation of age by a minor if:

(a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

(b) Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

(3) In addition to and not in lieu of any other penalty established by law, a person who, using a driver permit or license or other identification issued by the Department of Transportation of this state or its equivalent in another state, commits the crime of misrepresentation of age by a minor in order to purchase or consume alcoholic liquor may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the department under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) The prohibitions of this section do not apply to any person acting under the direction of the Oregon Liquor Control Commission **or a liquor enforcement inspector** or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under a certain, specified age.

(5) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the

1 age of 21 years.

2 **SECTION 29.** ORS 181.665 is amended to read:

3 181.665. (1) Except for a person who has requested and obtained an extension from the Depart-
 4 ment of Public Safety Standards and Training pursuant to subsection (2) of this section, a person
 5 may not be employed as a police officer, or utilized as a certified reserve officer, by any law
 6 enforcement unit for more than 18 months unless:

7 (a) The person is a citizen of the United States; and

8 (b) The person has been certified as being qualified as a police officer or certified reserve officer
 9 under the provisions of ORS 181.610 to 181.712 and the certification has neither lapsed nor been
 10 revoked pursuant to ORS 181.661, 181.662 and 181.664 (1) and not been reissued under ORS 181.664
 11 (2).

12 (2) The department, upon the facts contained in an affidavit accompanying the request for an
 13 extension, may find good cause for failure to obtain certification within the time period described
 14 in subsection (1) of this section. If the department finds that there is good cause for such failure,
 15 the department may extend for up to one year the period that a person may serve as a police officer
 16 or reserve officer without certification. The grant or denial of such an extension is within the sole
 17 discretion of the department.

18 (3) Except as provided in subsection (4) of this section, a person employed as a police officer
 19 by any law enforcement unit shall commence the training necessary for certification under ORS
 20 181.610 to 181.712 at an academy operated by the department not later than the 90th day after the
 21 date of the officer's employment by the law enforcement unit.

22 (4) A law enforcement unit may delay the commencement of training of a police officer for up
 23 to 120 days from the date of the officer's employment when it considers the delay necessary. When
 24 a law enforcement unit delays commencement of a police officer's training under this subsection, it
 25 shall file a written statement of its reasons with the department.

26 (5) When a delay in the commencement of training necessary for certification under ORS 181.610
 27 to 181.712 at an academy operated by the department is caused by the inability of the department,
 28 for any reason, to provide that training, the period of such delay shall not be counted as part of the
 29 periods set forth in subsections (3) and (4) of this section within which the training must be com-
 30 menced.

31 (6) A person utilized as a certified reserve officer by a law enforcement unit must complete the
 32 training necessary for certification under ORS 181.610 to 181.712 at a site approved by the depart-
 33 ment.

34 (7) Notwithstanding any other provision of law, the law enforcement unit described in ORS
 35 181.610 [(12)(d)] **(12)(e)** shall bear the expense of training necessary for certification under ORS
 36 181.610 to 181.712.

37 **SECTION 30.** ORS 238.005 is amended to read:

38 238.005. For purposes of this chapter:

39 (1) "Active member" means a member who is presently employed by a participating public em-
 40 ployer in a qualifying position and who has completed the six-month period of service required by
 41 ORS 238.015.

42 (2) "Annuity" means payments for life derived from contributions made by a member as provided
 43 in this chapter.

44 (3) "Board" means the Public Employees Retirement Board.

45 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-

1 cember 31 following.

2 (5) "Continuous service" means service not interrupted for more than five years, except that
3 such continuous service shall be computed without regard to interruptions in the case of:

4 (a) An employee who had returned to the service of the employer as of January 1, 1945, and
5 who remained in that employment until having established membership in the Public Employees
6 Retirement System.

7 (b) An employee who was in the armed services on January 1, 1945, and returned to the service
8 of the employer within one year of the date of being otherwise than dishonorably discharged and
9 remained in that employment until having established membership in the Public Employees Retirement
10 System.

11 (6) "Creditable service" means any period of time during which an active member is being paid
12 a salary by a participating public employer and for which benefits under this chapter are funded by
13 employer contributions and earnings on the fund. For purposes of computing years of "creditable
14 service," full months and major fractions of a month shall be considered to be one-twelfth of a year
15 and shall be added to all full years. "Creditable service" includes all retirement credit received by
16 a member.

17 (7) "Earliest service retirement age" means the age attained by a member when the member
18 could first make application for retirement under the provisions of ORS 238.280.

19 (8) "Employee" includes, in addition to employees, public officers, but does not include:

20 (a) Persons engaged as independent contractors.

21 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
22 ployer or public employers do not total 600 hours in any calendar year.

23 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-
24 vided sheltered employment or made-work by a public employer in an employment or industries
25 program maintained for the benefit of such persons.

26 (d) Persons employed and paid from federal funds received under a federal program intended
27 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
28 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
29 to have the person so considered by an irrevocable written notice to the board.

30 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
31 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
32 shall be deemed to have been in effect since the inception of the system.

33 (9) "Final average salary" means whichever of the following is greater:

34 (a) The average salary per calendar year paid by one or more participating public employers to
35 an employee who is an active member of the system in three of the calendar years of membership
36 before the effective date of retirement of the employee, in which three years the employee was paid
37 the highest salary. The three calendar years in which the employee was paid the largest total salary
38 may include calendar years in which the employee was employed for less than a full calendar year.
39 If the number of calendar years of active membership before the effective date of retirement of the
40 employee is three or fewer, the final average salary for the employee is the average salary per cal-
41 endar year paid by one or more participating public employers to the employee in all of those years,
42 without regard to whether the employee was employed for the full calendar year.

43 (b) One-third of the total salary paid by a participating public employer to an employee who is
44 an active member of the system in the last 36 calendar months of active membership before the ef-
45 fective date of retirement of the employee.

- 1 (10) "Firefighter" does not include a volunteer firefighter, but does include:
- 2 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and
- 3 (b) An employee of the State Forestry Department who is certified by the State Forester as a
- 4 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
- 5 fires as described in ORS 477.064.
- 6 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
- 7 lowing.
- 8 (12) "Fund" means the Public Employees Retirement Fund.
- 9 (13) "Inactive member" means a member who is not employed in a qualifying position, whose
- 10 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
- 11 for service or disability.
- 12 (14) "Institution of higher education" means a public university listed in ORS 352.002, the
- 13 Oregon Health and Science University and a community college, as defined in ORS 341.005.
- 14 (15) "Member" means a person who has established membership in the system and whose mem-
- 15 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive
- 16 and retired members.
- 17 (16) "Member account" means the regular account and the variable account.
- 18 (17) "Normal retirement age" means:
- 19 (a) For a person who establishes membership in the system before January 1, 1996, as described
- 20 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
- 21 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.
- 22 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
- 23 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
- 24 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
- 25 firefighter.
- 26 (18) "Pension" means annual payments for life derived from contributions by one or more public
- 27 employers.
- 28 (19) "Police officer" includes:
- 29 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
- 30 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
- 31 persons committed to the custody of or transferred to the Department of Corrections and employees
- 32 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
- 33 whether or not such classification was authorized by law.
- 34 (b) Employees of the Department of State Police who are classified as police officers by the
- 35 Superintendent of State Police.
- 36 (c) Employees of the Oregon Liquor Control Commission who are classified as [*enforcement offi-*
- 37 *cers*] **liquor enforcement inspectors** by the administrator of the commission.
- 38 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
- 39 by the sheriff, are the regular duties of police officers or corrections officers.
- 40 (e) Police chiefs and police personnel of a city who are classified as police officers by the
- 41 council or other governing body of the city.
- 42 (f) Police officers who are commissioned by a university under ORS 352.383 and who are clas-
- 43 sified as police officers by the university.
- 44 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
- 45 bation officers who are transferred to county employment under ORS 423.549 and adult parole and

1 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes
2 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
3 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
4 ented by a labor organization, any proposal by the county to change that classification or to cease
5 to classify adult parole and probation officers as police officers for the purposes of this chapter is
6 a mandatory subject of bargaining.

7 (h) Police officers appointed under ORS 276.021 or 276.023.

8 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
9 missioners of the Port of Portland.

10 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
11 ficers by the Director of Agriculture.

12 (k) Employees of the Department of Public Safety Standards and Training who are classified by
13 the department as other than secretarial or clerical personnel.

14 (L) Investigators of the Criminal Justice Division of the Department of Justice.

15 (m) Corrections officers as defined in ORS 181.610.

16 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
17 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

18 (o) The Director of the Department of Corrections.

19 (p) An employee who for seven consecutive years has been classified as a police officer as de-
20 fined by this section, and who is employed or transferred by the Department of Corrections to fill
21 a position designated by the Director of the Department of Corrections as being eligible for police
22 officer status.

23 (q) An employee of the Department of Corrections classified as a police officer on or prior to
24 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
25 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
26 tem implemented pursuant to ORS 240.190 does not affect police officer status.

27 (r) Employees of a school district who are appointed and duly sworn members of a law
28 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
29 police officers commissioned by the district.

30 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
31 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
32 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
33 Department of Corrections or the Oregon Youth Authority.

34 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
35 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
36 in such facilities.

37 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
38 bation officers.

39 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
40 to (6) (1999 Edition).

41 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
42 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
43 created by one or more such governmental organizations to provide governmental services. For
44 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
45 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and

1 sue and be sued.

2 (22) "Qualifying position" means one or more jobs with one or more participating public em-
3 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
4 any service in a job for which a participating public employer does not provide benefits under this
5 chapter pursuant to an application made under ORS 238.035.

6 (23) "Regular account" means the account established for each active and inactive member un-
7 der ORS 238.250.

8 (24) "Retired member" means a member who is retired for service or disability.

9 (25) "Retirement credit" means a period of time that is treated as creditable service for the
10 purposes of this chapter.

11 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public
12 employer in return for services to the employer, plus the monetary value, as determined by the
13 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
14 other advantages the employer furnishes the employee in return for services.

15 (b) "Salary" includes but is not limited to:

16 (A) Payments of employee and employer money into a deferred compensation plan, which are
17 deemed salary paid in each month of deferral;

18 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary
19 paid in each month of participation;

20 (C) Retroactive payments described in ORS 238.008; and

21 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
22 652.190.

23 (c) "Salary" or "other advantages" does not include:

24 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
25 employer;

26 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
27 dependents, for which the employee has no cash option;

28 (C) Payments made on account of an employee's death;

29 (D) Any lump sum payment for accumulated unused sick leave;

30 (E) Any accelerated payment of an employment contract for a future period or an advance
31 against future wages;

32 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
33 gratuitous payment;

34 (G) Payments for periods of leave of absence after the date the employer and employee have
35 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
36 sick leave and vacation;

37 (H) Payments for instructional services rendered to public universities of the Oregon University
38 System or the Oregon Health and Science University when such services are in excess of full-time
39 employment subject to this chapter. A person employed under a contract for less than 12 months is
40 subject to this subparagraph only for the months to which the contract pertains; or

41 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
42 employee.

43 (27) "School year" means the period beginning July 1 and ending June 30 next following.

44 (28) "System" means the Public Employees Retirement System.

45 (29) "Variable account" means the account established for a member who participates in the

1 Variable Annuity Account under ORS 238.260.

2 (30) "Vested" means being an active member of the system in each of five calendar years.

3 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
4 hours of service per year.

5 **SECTION 31.** ORS 802.250 is amended to read:

6 802.250. (1) An eligible public employee may request that any driver or vehicle record kept by
7 the Department of Transportation that contains or is required to contain the eligible employee's
8 residence address contain instead the address of the public agency employing the eligible employee.
9 A request under this section shall:

10 (a) Be in a form specified by the department that provides for verification of the eligible
11 employee's employment.

12 (b) Contain verification by the employing public agency of the eligible employee's employment
13 with the public agency.

14 (2) Upon receipt of a request and verification under subsection (1) of this section, the depart-
15 ment shall remove the eligible employee's residence address from its records, if necessary, and sub-
16 stitute therefor the address of the public agency employing the eligible employee. The department
17 shall indicate on the records that the address shown is an employment address. While the request
18 is in effect, the eligible employee may enter the address of the public agency employing the eligible
19 employee on any driver or vehicle form issued by the department that requires an address.

20 (3) A public agency that verifies an eligible employee's employment under subsection (1) of this
21 section shall notify the department within 30 days if the eligible employee ceases to be employed
22 by the public agency. The eligible employee shall notify the department of a change of address as
23 provided in ORS 803.220 or 807.560.

24 (4) If an eligible employee is killed in the line of duty, a person who is a household member of
25 the eligible employee may request that any driver or vehicle record kept by the department that
26 contains or is required to contain the household member's residence address continue to contain the
27 address of the public agency that employed the eligible employee for up to four years after the date
28 of the death of the eligible employee. On or before the date on which the four-year period ends, the
29 household member shall notify the department of a change of address as provided in ORS 803.220
30 or 807.560. A request under this subsection shall be in a form specified by the department.

31 (5) As used in this section, "eligible employee" means:

32 (a) A member of the State Board of Parole and Post-Prison Supervision.

33 (b) The Director of the Department of Corrections and an employee of an institution defined in
34 ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the super-
35 intendent, include the custody of persons committed to the custody of or transferred to the institu-
36 tion.

37 (c) A parole and probation officer employed by the Department of Corrections and an employee
38 of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Re-
39 lease Center, include the custody of persons committed to the custody of or transferred to the Re-
40 lease Center.

41 (d) A police officer appointed under ORS 276.021 or 276.023.

42 (e) An employee of the State Department of Agriculture who is classified as a brand inspector
43 by the Director of Agriculture.

44 (f) An investigator of the Criminal Justice Division of the Department of Justice.

45 (g) A corrections officer as defined in ORS 181.610.

1 (h) A federal officer. As used in this paragraph, “federal officer” means a special agent or law
 2 enforcement officer employed by:

- 3 (A) The Federal Bureau of Investigation;
- 4 (B) The United States Secret Service;
- 5 (C) The United States Citizenship and Immigration Services;
- 6 (D) The United States Marshals Service;
- 7 (E) The Drug Enforcement Administration;
- 8 (F) The United States Postal Service;
- 9 (G) The United States Customs and Border Protection;
- 10 (H) The United States General Services Administration;
- 11 (I) The United States Department of Agriculture;
- 12 (J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;
- 13 (K) The Internal Revenue Service;
- 14 (L) The United States Department of the Interior; or

15 (M) Any federal agency if the person is empowered to effect an arrest with or without warrant
 16 for violations of the United States Code and is authorized to carry firearms in the performance of
 17 duty.

18 (i) An employee of the Department of Human Services or the Oregon Health Authority whose
 19 duties include personal contact with clients or patients of the department or the authority.

20 (j) Any judge of a court of this state.

21 (k) An employee of the Oregon Youth Authority whose duties include personal contact with
 22 persons committed to the legal or physical custody of the authority.

23 (L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

24 (m) An employee who provides educational services to persons who are clients or patients of the
 25 Department of Human Services or the Oregon Health Authority, who are under the jurisdiction of
 26 the Psychiatric Security Review Board or who are under the custody or supervision of the Depart-
 27 ment of Corrections, the State Board of Parole and Post-Prison Supervision, a community corrections
 28 agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph, “employee
 29 who provides educational services” means a person who provides instruction, or services related to
 30 the instruction, of a subject usually taught in an elementary school, a secondary school or a com-
 31 munity college or who provides special education and related services in other than a school setting
 32 and who works for:

33 (A) An education service district or a community college district; or

34 (B) A state officer, board, commission, bureau, department or division in the executive branch
 35 of state government that provides educational services.

36 (n) An employee of the Oregon Liquor Control Commission who is:

37 [(A) An *inspector*;

38 [(B) An *investigator*; or]

39 [(C) A *regulatory manager*.]

40 **(A) A liquor enforcement inspector; or**

41 **(B) A regulatory manager.**

42 (o) A police officer as defined in ORS 801.395.

43
 44 **TRANSITIONAL PROVISIONS**
 45

