

Senate Bill 1550

Sponsored by Senator BURDICK (Pre-session filed.)

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**.

Eliminates affirmative defense exempting concealed handgun licensees from crime applicable to possession of firearm or other instrument used as dangerous weapon, while on school grounds.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to weapons; amending ORS 166.173, 166.262, 166.360, 166.370 and 419A.004; repealing ORS
3 166.380; and declaring an emergency.

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

5 **SECTION 1.** ORS 166.370 is amended to read:

6 166.370. (1)(a) [*Any*] **A** person who intentionally possesses a [*loaded or unloaded*] firearm or any
7 other instrument used as a dangerous weapon, while in or on a public building, [*shall upon conviction*
8 *be guilty of*] **commits** a Class C felony.

9 **(b) A person who intentionally possesses a firearm or any other instrument used as a**
10 **dangerous weapon, while on school grounds, commits a Class C felony.**

11 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
12 tionally possesses:

13 (A) A firearm in a court facility [*is guilty, upon conviction, of*] **commits** a Class C felony. A
14 person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law
15 enforcement officer.

16 (B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon
17 to a law enforcement officer or to immediately remove it from the court facility. A person who fails
18 to comply with this subparagraph [*is guilty, upon conviction, of*] **commits** a Class C felony.

19 (b) The presiding judge of a judicial district may enter an order permitting the possession of
20 specified weapons in a court facility.

21 (3) Subsection (1) of this section does not apply to:

22 (a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while
23 acting within the scope of employment.

24 (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace,
25 while the summoned person is engaged in assisting the officer.

26 (c) An active or reserve member of the military forces of this state or the United States, when
27 engaged in the performance of duty.

28 [*(d) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.*]

29 [*(e)*] **(d)** A person who is authorized by the [*officer or agency*] **person or entity** that controls the
30 public building **or the school grounds** to possess a firearm or dangerous weapon in [*that*] **or on**
31 **the public building or on the school grounds.**

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 [(f) (e) An employee of the United States Department of Agriculture, acting within the scope
2 of employment, who possesses a firearm in the course of the lawful taking of wildlife.

3 **(4)(a) Subsection (1)(a) of this section does not apply to a person who is licensed under
4 ORS 166.291 and 166.292 to carry a concealed handgun.**

5 [(g) (b) **Subsection (1)(b) of this section does not apply to the** possession of a firearm [on
6 school property if the firearm:]

7 [(A) *Is possessed*] by a person who is not otherwise prohibited from possessing the firearm, **if
8 the firearm**[: and]

9 [(B) is unloaded and locked in a motor vehicle.

10 [(4) (5) The *exceptions listed*] **defenses described** in subsection (3)(b) to [(g) (e) and (4) of this
11 section *constitute*] **are** affirmative defenses *[to a charge of violating subsection (1) of this section]*.

12 [(5)(a) (6)(a) *[Any]* **A** person who knowingly, or with reckless disregard for the safety of an-
13 other, discharges or attempts to discharge a firearm at a place that the person knows is [a] **on**
14 school *[shall upon conviction be guilty of]* **grounds commits** a Class C felony.

15 (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

16 (A) As part of a program approved by a school in the school by an individual who is partic-
17 ipating in the program;

18 (B) By a law enforcement officer acting in the officer's official capacity; or

19 (C) By an employee of the United States Department of Agriculture, acting within the scope of
20 employment, in the course of the lawful taking of wildlife.

21 [(6) (7) Any weapon carried in violation of this section is subject to the forfeiture provisions
22 of ORS 166.279.

23 [(7) (8) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes
24 a violation of both subsections (1)(b) and [(5) (6) of this section, the district attorney may charge
25 the person with only one of the offenses.

26 [(8) (9) As used in this section, "dangerous weapon" means a dangerous weapon as that term
27 is defined in ORS 161.015.

28 **SECTION 2.** ORS 166.360 is amended to read:

29 166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

30 (1) "Capitol building" means the Capitol, the State Office Building, the State Library Building,
31 the Labor and Industries Building, the State Transportation Building, the Agriculture Building or
32 the Public Service Building and includes any new buildings which may be constructed on the same
33 grounds as an addition to the group of buildings listed in this subsection.

34 (2) "Court facility" means a courthouse or that portion of any other building occupied by a
35 circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by
36 personnel related to the operations of those courts, or in which activities related to the operations
37 of those courts take place.

38 [(3) "Loaded firearm" means:]

39 [(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to
40 the firearm including but not limited to, in a chamber, magazine or clip which is attached to the
41 firearm.]

42 [(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot
43 or projectile in the barrel or cylinder.]

44 [(4) (3) "Public building" means a hospital, a capitol building, [a public or private school, as
45 defined in ORS 339.315, a college or university,] a city hall or the residence of any state official

1 elected by the state at large, and the grounds adjacent to each such building. The term also includes
 2 that portion of any other building occupied by an agency of the state or a municipal corporation,
 3 as defined in ORS 297.405, other than a court facility.

4 **(4) “School grounds” means the buildings that compose a community college, a college,**
 5 **a university or a school as defined in ORS 339.315, and the grounds adjacent to each such**
 6 **building.**

7 (5) “Weapon” means:

8 (a) A firearm;

9 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife
 10 other than an ordinary pocket knife, the use of which could inflict injury upon a person or property;

11 (c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

12 (d) An electrical stun gun or any similar instrument;

13 (e) A tear gas weapon as defined in ORS 163.211;

14 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any
 15 similar instrument, the use of which could inflict injury upon a person or property; or

16 (g) A dangerous or deadly weapon as those terms are defined in ORS 161.015.

17 **SECTION 3.** ORS 166.173 is amended to read:

18 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
 19 session of loaded firearms in public places as defined in ORS 161.015.

20 (2) Ordinances adopted under subsection (1) of this section do not apply to or affect:

21 (a) A law enforcement officer in the performance of official duty.

22 (b) A member of the military in the performance of official duty.

23 (c) A person licensed to carry a concealed handgun.

24 (d) A person authorized to possess a [loaded] firearm while in or on a public building, **on school**
 25 **grounds or in a court facility** under ORS 166.370.

26 (e) An employee of the United States Department of Agriculture, acting within the scope of
 27 employment, who possesses a loaded firearm in the course of the lawful taking of wildlife.

28 **SECTION 4.** ORS 166.262 is amended to read:

29 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
 30 (b) or 166.370 (1)(a) if the person has in the person’s immediate possession a valid license to carry
 31 a firearm as provided in ORS 166.291 and 166.292.

32 **SECTION 5.** ORS 419A.004 is amended to read:

33 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
 34 otherwise:

35 (1) “CASA Volunteer Program” means a program approved or sanctioned by the juvenile court
 36 to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

37 (2) “Child care center” means a residential facility for wards or youth offenders that is licensed
 38 under the provisions of ORS 418.240.

39 (3) “Community service” has the meaning given that term in ORS 137.126.

40 (4) “Conflict of interest” means a person appointed to a local citizen review board who has a
 41 personal or pecuniary interest in a case being reviewed by that board.

42 (5) “Counselor” means a juvenile department counselor or a county juvenile probation officer.

43 (6) “Court” means the juvenile court.

44 (7) “Court appointed special advocate” or “CASA” means a person appointed by the court pur-
 45 suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.

- 1 (8) “Court facility” has the meaning given that term in ORS 166.360.
- 2 (9) “Department” means the Department of Human Services.
- 3 (10) “Detention” or “detention facility” means a facility established under ORS 419A.010 to
4 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
5 pursuant to a judicial commitment or order.
- 6 (11) “Director” means the director of a juvenile department established under ORS 419A.010 to
7 419A.020 and 419A.050 to 419A.063.
- 8 (12) “Guardian” means guardian of the person and not guardian of the estate.
- 9 (13) “Indian child” means any unmarried person less than 18 years of age who is:
- 10 (a) A member of an Indian tribe; or
- 11 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-
12 dian tribe.
- 13 (14) “Juvenile court” means the court having jurisdiction of juvenile matters in the several
14 counties of this state.
- 15 (15) “Local citizen review board” means the board specified by ORS 419A.090 and 419A.092.
- 16 (16) “Parent” means the biological or adoptive mother and the legal father of the child, ward,
17 youth or youth offender. As used in this subsection, “legal father” means:
- 18 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
19 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and
- 20 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
21 cable tribal law.
- 22 (17) “Permanent foster care” means an out-of-home placement in which there is a long-term
23 contractual foster care agreement between the foster parents and the department that is approved
24 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or
25 youth offender until the age of majority.
- 26 (18) “Planned permanent living arrangement” means an out-of-home placement other than by
27 adoption, placement with a relative or placement with a legal guardian that is consistent with the
28 case plan and in the best interests of the ward.
- 29 (19) “Public building” [*has the meaning given that term in ORS 166.360*] **means:**
- 30 **(a) A public building as defined in ORS 166.360; or**
- 31 **(b) School grounds as defined in ORS 166.360.**
- 32 (20) “Reasonable time” means a period of time that is reasonable given a child or ward’s emo-
33 tional and developmental needs and ability to form and maintain lasting attachments.
- 34 (21) “Records” means any information in written form, pictures, photographs, charts, graphs,
35 recordings or documents pertaining to a case.
- 36 (22) “Resides” or “residence,” when used in reference to the residence of a child, ward, youth
37 or youth offender, means the place where the child, ward, youth or youth offender is actually living
38 or the jurisdiction in which wardship or jurisdiction has been established.
- 39 (23) “Restitution” has the meaning given that term in ORS 137.103.
- 40 (24) “Serious physical injury” means:
- 41 (a) A serious physical injury as defined in ORS 161.015; or
- 42 (b) A physical injury that:
- 43 (A) Has a permanent or protracted significant effect on a child’s daily activities;
- 44 (B) Results in substantial and recurring pain; or
- 45 (C) In the case of a child under 10 years of age, is a broken bone.

1 (25) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward,
2 youth or youth offender who is taken into temporary custody pending investigation and disposition.

3 (26) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for
4 holding children, youths and youth offenders pending further placement.

5 (27) "Sibling" means one of two or more children or wards related:

6 (a) By blood or adoption through a common legal parent; or

7 (b) Through the marriage of the children's or wards' legal or biological parents.

8 (28) "Substitute care" means an out-of-home placement directly supervised by the department
9 or other agency, including placement in a foster family home, group home or other child caring in-
10 stitution or facility. "Substitute care" does not include care in:

11 (a) A detention facility, forestry camp or youth correction facility;

12 (b) A family home that the court has approved as a ward's permanent placement, when a private
13 child caring agency has been appointed guardian of the ward and when the ward's care is entirely
14 privately financed; or

15 (c) In-home placement subject to conditions or limitations.

16 (29) "Surrogate" means a person appointed by the court to protect the right of the child, ward,
17 youth or youth offender to receive procedural safeguards with respect to the provision of free ap-
18 propriate public education.

19 (30) "Tribal court" means a court with jurisdiction over child custody proceedings and that is
20 either a Court of Indian Offenses, a court established and operated under the code of custom of an
21 Indian tribe or any other administrative body of a tribe that is vested with authority over child
22 custody proceedings.

23 (31) "Victim" means any person determined by the district attorney, the juvenile department or
24 the court to have suffered direct financial, psychological or physical harm as a result of the act that
25 has brought the youth or youth offender before the juvenile court. When the victim is a minor,
26 "victim" includes the legal guardian of the minor. The youth or youth offender may not be consid-
27 ered the victim. When the victim of the crime cannot be determined, the people of Oregon, as re-
28 presented by the district attorney, are considered the victims.

29 (32) "Violent felony" means any offense that, if committed by an adult, would constitute a felony
30 and:

31 (a) Involves actual or threatened serious physical injury to a victim; or

32 (b) Is a sexual offense. As used in this paragraph, "sexual offense" has the meaning given the
33 term "sex crime" in ORS 181.594.

34 (33) "Ward" means a person within the jurisdiction of the juvenile court under ORS 419B.100.

35 (34) "Young person" means a person who has been found responsible except for insanity under
36 ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

37 (35) "Youth" means a person under 18 years of age who is alleged to have committed an act that
38 is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the
39 United States or a state, county or city.

40 (36) "Youth care center" has the meaning given that term in ORS 420.855.

41 (37) "Youth offender" means a person who has been found to be within the jurisdiction of the
42 juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

43 **SECTION 6. ORS 166.380 is repealed.**

44 **SECTION 7. This 2012 Act being necessary for the immediate preservation of the public**
45 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**

1 **on its passage.**

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