

Senate Bill 1574

Sponsored by Senator PROZANSKI (Presession 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**.

Directs Department of State Police to identify states that recognize Oregon concealed handgun licenses and that impose eligibility requirements for issuing concealed handgun licenses that are substantially similar to Oregon requirements.

Provides nonresidents who are licensed to carry concealed handgun in state identified by Department of State Police with defenses provided to persons with Oregon concealed handgun license.

Prohibits arrest of nonresidents who possess valid concealed handgun license issued in state whose license is verifiable through use of national law enforcement data system.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to concealed handgun licenses issued in states other than Oregon; creating new provisions;
3 amending ORS 166.173, 166.260, 166.262, 166.370, 166.663 and 821.240; and declaring an emer-
4 gency.

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

SECTION 1. (1) **As used in this section:**

6
7 (a) **"Reciprocal license" means a license or permit issued in another state that authorizes**
8 **the licensee or permittee to carry a concealed handgun in the state in which the license or**
9 **permit is issued, if the other state:**

10 (A) **Imposes eligibility requirements for the issuance of the license or permit that are**
11 **substantially similar to the requirements for obtaining a concealed handgun license described**
12 **in ORS 166.291;**

13 (B) **Requires the licensee or permittee to renew the license or permit at least once every**
14 **seven years; and**

15 (C) **Authorizes a person who is licensed under ORS 166.291 and 166.292 to carry a con-**
16 **cealed handgun in the other state.**

17 (b) **"Verifiable reciprocal license" means a reciprocal license the validity of which may**
18 **be verified through the use of the National Law Enforcement Telecommunications System**
19 **or other similar data system available to law enforcement officers in the field.**

20 (2) **The Department of State Police shall adopt rules that identify states that issue re-**
21 **ciprocal licenses and states that issue verifiable reciprocal licenses. The department shall**
22 **review the rules at least once each year.**

SECTION 2. ORS 166.262 is amended to read:

23
24 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
25 (b) or 166.370 (1) if:

26 (1) **The person has in the person's immediate possession a valid license to carry a firearm as**
27 **provided in ORS 166.291 and 166.292; or**

28 (2) **The person is not a resident of this state and has in the person's immediate pos-**

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 **session a valid license that the Department of State Police has determined by rule is a veri-**
 2 **fiable reciprocal license under section 1 of this 2012 Act.**

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

4 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
 5 session of loaded firearms in public places as defined in ORS 161.015.

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

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

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

9 (c) A person **who is licensed under ORS 166.291 and 166.292** to carry a concealed handgun.

10 **(d) A person who is not a resident of this state and who possesses a valid license that**
 11 **the Department of State Police has determined by rule is a reciprocal license under section**
 12 **1 of this 2012 Act.**

13 ~~[(d)]~~ (e) A person authorized to possess a loaded firearm while in or on a public building or
 14 court facility under ORS 166.370.

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

17 **SECTION 4.** ORS 166.260 is amended to read:

18 166.260. (1) ORS 166.250 does not apply to or affect:

19 (a) Sheriffs, constables, marshals, parole and probation officers, police officers, whether active
 20 or honorably retired, or other duly appointed peace officers.

21 (b) Any person summoned by any such officer to assist in making arrests or preserving the
 22 peace, while said person so summoned is actually engaged in assisting the officer.

23 (c) The possession or transportation by any merchant of unloaded firearms as merchandise.

24 (d) Active or reserve members of the Army, Navy, Air Force, Coast Guard or Marine Corps of
 25 the United States, or of the National Guard, when on duty.

26 (e) Organizations which are by law authorized to purchase or receive weapons described in ORS
 27 166.250 from the United States, or from this state.

28 (f) Duly authorized military or civil organizations while parading, or the members thereof when
 29 going to and from the places of meeting of their organization.

30 (g) A corrections officer while transporting or accompanying an individual convicted of or ar-
 31 rested for an offense and confined in a place of incarceration or detention while outside the confines
 32 of the place of incarceration or detention.

33 (h) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

34 **(i) A person who is not a resident of this state and who possesses a valid license that the**
 35 **Department of State Police has determined by rule is a reciprocal license under section 1 of**
 36 **this 2012 Act.**

37 (2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has
 38 been granted relief from the disability under ORS 166.274.

39 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
 40 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

41 (a) Members of any club or organization, for the purpose of practicing shooting at targets upon
 42 the established target ranges, whether public or private, while such members are using any of the
 43 firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such
 44 ranges.

45 (b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or re-

1 turning from a hunting or fishing expedition.

2 (4) The exceptions listed in subsection (1)(b) to [(h)] (i) of this section constitute affirmative de-
 3 fenses to a charge of violating ORS 166.250.

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

5 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
 6 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
 7 guilty of a Class C felony.

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

10 (A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who
 11 intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement
 12 officer.

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

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

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

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

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

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

25 (d) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

26 (e) **A person who is not a resident of this state and who possesses a valid license that**
 27 **the Department of State Police has determined by rule is a reciprocal license under section**
 28 **1 of this 2012 Act.**

29 [(e)] (f) A person who is authorized by the officer or agency that controls the public building to
 30 possess a firearm or dangerous weapon in that public building.

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

33 [(g)] (h) Possession of a firearm on school property if the firearm:

34 (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

35 (B) Is unloaded and locked in a motor vehicle.

36 (4) The exceptions listed in subsection (3)(b) to [(g)] (h) of this section constitute affirmative
 37 defenses to a charge of violating subsection (1) of this section.

38 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges
 39 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-
 40 viction be guilty of a Class C felony.

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

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

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

45 (C) By an employee of the United States Department of Agriculture, acting within the scope of

1 employment, in the course of the lawful taking of wildlife.

2 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
3 166.279.

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

7 (8) As used in this section, “dangerous weapon” means a dangerous weapon as that term is de-
8 fined in ORS 161.015.

9 **SECTION 6.** ORS 166.663 is amended to read:

10 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
11 possession or in the immediate physical presence of the person a bow and arrow or a rifle, gun,
12 revolver or other firearm.

13 (2) Subsection (1) of this section does not apply to a person casting an artificial light:

14 (a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.

15 (b) When the bow and arrow, rifle, gun, revolver or other firearm that the person has in the
16 possession or immediate physical presence of the person is disassembled or stored, or in the trunk
17 or storage compartment of the motor vehicle.

18 (c) When the ammunition or arrows are stored separate from the weapon.

19 (d) On land owned or lawfully occupied by that person.

20 (e) On publicly owned land when that person has an agreement with the public body to use that
21 property.

22 (f) When the person is a peace officer or government employee engaged in the performance of
23 official duties.

24 (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a con-
25 cealed weapon.

26 **(h) When the person is not a resident of this state and possesses a valid license that the**
27 **Department of State Police has determined by rule is a reciprocal license under section 1 of**
28 **this 2012 Act.**

29 (3) A peace officer may issue a citation to a person for a violation of subsection (1) of this sec-
30 tion when the violation is committed in the presence of the peace officer or when the peace officer
31 has probable cause to believe that a violation has occurred based on a description of the vehicle
32 or other information received from a peace officer who observed the violation.

33 (4) Violation of subsection (1) of this section is punishable as a Class B violation.

34 (5) As used in this section, “peace officer” has the meaning given that term in ORS 161.015.

35 **SECTION 7.** ORS 821.240 is amended to read:

36 821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle
37 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with
38 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all
39 arrows are in a quiver.

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

41 (a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

42 **(b) A person who is not a resident of this state and who possesses a valid license that**
43 **the Department of State Police has determined by rule is a reciprocal license under section**
44 **1 of this 2012 Act.**

45 (3) As used in this section, “unloaded” means:

1 (a) If the firearm is a revolver, that there is no live cartridge in the chamber that is aligned
2 with the hammer of the revolver;

3 (b) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or

4 (c) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live
5 cartridge in the chamber.

6 (4) The offense described in this section, operating a snowmobile or an all-terrain vehicle while
7 carrying a firearm or bow, is a Class B traffic violation.

8 **SECTION 8. (1) The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.663 and**
9 **821.240 by sections 2 to 7 of this 2012 Act become operative on January 1, 2013.**

10 **(2) The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.663 and 821.240 by**
11 **sections 2 to 7 of this 2012 Act apply to conduct occurring on or after January 1, 2013.**

12 **SECTION 9. This 2012 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
14 **on its passage.**