

April 2, 2013

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The Honorable Senator Arnie Roblan, Oregon State Senator, District 5,
900 Court St. NE, S-417
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Cc: Members of the Senate Judiciary Committee:

Senator Floyd Prozanski, Chair
Senator Betsy Close, Vice-Chair
Senator Jackie Dingfelder
Senator Jeff Kruse
Senator Arnie Roblan

Dear Senator Roblan,

Now that hearings have been scheduled for SB's 347, 699, 700 and 796 on April 5, 2013 I need to update my earlier comments, include the amendments and make some corrections. My plans are to attend these hearings as long as health issues do not get in the way.

As my State Senator as well as a member of the Senate Judiciary Committee I would like to address you and the other members of the Senate Judiciary Committee in regards to certain legislation that is of great concern to me. I would like to put my views and opinions on these bills "on the record".

I oppose these bills for the reasons listed on the following pages.

QUALIFICATIONS AND EXPERTISE

First, I would like to introduce myself and provide some information about myself in an effort to assure you that I do have just a little bit of experience and some expertise with firearms before addressing my specific points as they relate to some of the proposed bills.

I understand that Jenna Passalacqua and Robert Yuille will be attending the hearings. These folks tragically lost a mother and wife. My heartfelt sympathy goes out to them. I too have suffered loss so believe me when I say I can truly feel the loss and heart break that they feel. My response to my losses seems to have gone a different direction from theirs. I very hesitantly mention these things only because there is, in fact, another side, another view, to be addressed in response to loss and tragedy.

I am a former Law Enforcement Officer, now retired, and a 13 year military veteran. I grew up a "country kid" with 8 years of Catholic School, four years CCD, and yes, I was an altar boy as well.

I became involved with firearms at a very young age. As I got older, I progressed and at the age of twelve I was on a shooting team in a small bore competition league. Later as, president and Sergeant in the Law Enforcement Explorers and Cadets, I was on a center fire pistol team.

I spent 6 years in the US Navy (Petty Officer 2nd Class) and 7 years in the Oregon Army National Guard (Staff Sargent and at times "acting" 2nd Lieutenant). My NG unit was a "Round out" brigade to the United States Army 7th Infantry Division at Fort Ord California with primary tasking to Korea.

While in the National Guard I represented the State of Oregon both locally and nationally, including at the US Army Forces Command Regional Championships, All Army Championships and the United States Army Reserve Forces Command Championships, as a member of the State Composite Rifle Team and the State Combat Rifle Team. We won numerous awards, both team and individual. I was on our units' small bore rifle team, small bore pistol team and center fire pistol team. I was also a member of the Police Department pistol team and at the same time shot pistol, rifle and shotgun on purely "civilian" competition teams.

I was a founding member and co-organizer of a police department Emergency Response (SWAT) Team. Due to a pressing need and lack of funds, another Officer and I supplied our own Colt AR15 rifles and each of us also supplied a bolt action rifle for sniper duty. Shotguns were supplied by the department to the other members, but again, any pistol or rifle was supplied / furnished by the individual team member, purchased out of their own pocket without reimbursement.

I have been awarded the Distinguished Expert Pistol Award, Expert Shotgun, High Power Rifle Distinguished Expert, and Department of Civilian Marksmanship Distinguished Shooter Medals in both Pistol and Rifle. There are numerous other awards including State Military Champion Rifle and State Military Champion Pistol. If the Sunden rotating trophy is still on display at the Oregon Military Headquarters, you should be able to find my name on it - twice.

I was a military firearms instructor and Range NCOIC for the 1911 .45, M16, M14, M203, 202, LAW, M60 and the M2.

I have been a Police Department Firearms Instructor, Range Master and armorer, roles in which I have written many lesson plans and trained numerous Police Officers and their spouses. I have been a guest firearms instructor at the Oregon Public Safety Academy and, up until an illness interfered last

summer, a volunteer firearms instructor at the Oregon Public Safety Academy, which I truly hope to be able to return to once I have recovered from my illness.

I am an avid hunter and fisherman. I have successfully hunted deer with my Colt AR15 (223 Remington) since 1978. By the way, the full nomenclature for my rifle is Colt AR15 Sporter. To that point there seems to be some false / erroneous / misleading information circulating so let me attempt to correct a misconception. **The AR15 is, in fact, a legal deer hunting rifle.** I also hunt big game with an M1 Garand. The AR10 and the M1A (308 Winchester) are legal rifles for hunting any species of big game in the State of Oregon.

Just to provide myself with variety and interesting diversity I also own quite a few muzzleloaders as well. I apply for special hunt muzzleloader / black powder tags every year.

When I go hunting for varmints and coyotes, the AR15 and the M1 Carbine most always have 30 round magazines in them, which is absolutely legal. I also use the 30 round magazines when target shooting or “plinking”. It consolidates what I have to carry around. There are many, many reasons for the 20 and 30 round magazines in the shooting sports, including competition. In addition to the above, when using a couple of my shotguns for varmint hunting and “just for fun” clay pigeon shooting, I take the plug out and have 4 to 7 rounds in the shotgun.

Hopefully the above credentials will provide some credibility towards my views and opinions.

THE BILLS

SB 347 and the Amendments

I oppose this bill and strongly feel it needs to be tabled without further hearing or consideration.

This bill targets, is a direct assault on, and an affront to people who hold concealed handgun licenses and has nothing to do with school safety.

Under current Oregon law it is illegal to possess a firearm on school property unless certain conditions are met. Having a CHL is one of those exemptions and this bill has no purpose other than to attack that exemption. There are numerous laws on the books that protect all people both on and off school campuses.

This bill does less to increase safety on school property than banning motor vehicles from school property would. It does nothing to take into consideration those people who own firearms and live next door on, "grounds adjacent to the institution". While it may be a controversial definition, my property as well as many other people's property in the State of Oregon, falls within a definition of "the grounds adjacent to the institution". It is not uncommon for outdoor classes to be taking place within 0 to 10 feet of my property in good weather.

My property is adjacent to school property on 2 sides. On one side I am within 50 feet of a school building and 15 feet of the tennis court. On the other side, my driveway is within 4 feet (just measured) of a school building. One of the schools out buildings actually sits right on top of our common property line (2011 Survey ordered by the school district). All well within the definition of "the grounds adjacent to the institution". I cannot go through the gate in my back fence without stepping on school grounds. I can't do any type of yard work or maintenance along the North or East side of my property without crossing onto or standing on school property. I can't even get my lawn mower from the backyard to the front yard without crossing over school property. I cannot move my pickup from the back of my property to the street without crossing school property.

339.315.....

(3) As used in this section, "school" means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and.....

While it could be the subject of some debate, the law can be interpreted to include the immediate neighboring property. The legal definition **does not** say "on, in or adjacent to" [the school buildings] it says "adjacent to the institution" as in the group, organization or campus as an inclusive whole. Please note that **ORS 166.360 (4)**, while describing "Public Building" as the grounds adjacent to each such building, specifically excludes "a public or private school" referring the reader to that definition in ORS 339.315.

I have already had a teacher initiate / cause a High School lock down because I was taking a shotgun from my house to my pickup. It takes less than 10 seconds to get from my front door to my pickup, which was not on school property. In fact it was parked at the opposite end of my property from our

common property line. This caused a lock down at the school, interruption and cancelation of sporting events in the gymnasium, a major inconvenience for parents and teachers as well as the potential for injuries from panic, a waste of tax payer money. Not to mention the danger to my former Law Enforcement colleagues making emergency, high speed responses to the school. This occurred on January 31st, 2013 and was well documented by the Yamhill County Sheriff's Office, Oregon State Police, a number of newspapers and at least one Portland TV Station.

Senate Bill 347 and the amendments are an absolute overreaction to a problem that does not exist. There is not a single violent act that can occur on a public school campus that is not already covered in the Oregon Revised Statute's.

It is against the law to shoot or threaten to shoot or point a firearm at another person. It is against the law to use a firearm in the commission of a crime. It is already against the law to have a firearm on school property unless you have a concealed weapons permit or you are Law Enforcement. It is unlawful to discharge a firearm on school property. It is illegal to carry a concealed firearm without a CHL with a few exceptions, none of which have to do with schools. In short, there are already so many laws on the books covering unlawful activity with a firearm, that this bill accomplishes absolutely nothing.

Some would say that the school can't check to see if a person has a CHL. I would submit to you that if a person is carrying a concealed handgun on school property, it would not be known since it is after all concealed. If it became known for some reason and he refused to show a CHL the school is then free to follow ORS 339.315. (See addendum) This requires a report to Law Enforcement and, "(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, **166.370** or 166.382."

I have to politely ask: Does anyone seriously think for one second that a perpetrator(s), intent on committing one or more felonies, crimes that could result in the death penalty, is/are going to worry about a minor class C felony he committed on the way to commit his major crimes? Do you think he is going to obey the sign at the school entrance and on the school doors directing him to go to the office and obtain a "Pass"? Is he going to obey the sign or law that says firearms on school property are prohibited? The answer to these questions is, of course, NO, a perpetrator is not going to care that he is not allowed to have a firearm on or adjacent to school property.

There was a specific reason and intent of the legislature when the law was passed in its current form. What has happened that has caused those reasons to become moot? A single word answer would be, "Nothing".

Again, this bill needs to die in committee.

SB 699

I oppose this bill.

I feel it is ill-conceived and violates one of the basic premises of democracy, the right to assemble and freedom of speech. It does not correct any problem as a problem does not exist.

This bill is essentially the same as SB 347, but includes the Capitol Building and half of central Salem. In my humble opinion this is a knee jerk, juvenile reaction to the pro-gun folks staging a demonstration against anti-gun measures. Everyone is welcome to the Capitol of the State of Oregon except those Oregonians who are there to exercise their constitutional rights and privileges by demonstrating against anti-gun measures or putting on a demonstration of responsible, safe firearms display. The next bill to come along will be the one to ban rifles in honor guards.

I recall other demonstrations involving farm tractors and still others involving trucks. I do not recall any bills being introduced to keep tractors or trucks off the capital mall based on some innate or irrational fear that a pedestrian, legislator or staff member may suffer hearing loss from the loud engines or get run over.

Once again, there was a specific reason and intent of the legislature when the law was passed in its current form. Not a thing has happened that has caused those reasons to become moot.

SB 700

I oppose this bill.

You just can't make every single person in the state of Oregon who sells a firearm a gun dealer, which is the effect of the bill. Paperwork is going to have to be made readily available to all persons in multiple, easily accessible locations. The private citizen is going to have to understand all of the nuances just as well as a dealer. How many private citizens have a finger print kit readily available for the thumb print? The private citizens are going to keep the paperwork and records for how long? The logistics would be a nightmare. The internet is not an "end all" solution to the logistics as many people do not have internet, either because it is not readily available to them or because they just do not want it, as is the case with my parents. There are still those people that are among the "computer illiterate".

The background check system can't keep up with the demand now. Delays and system failures are common place. Doctors are hesitant or just flat refuse to supply the system with the records/information to make it reliable for weeding out the mentally ill. A most glaring recent example of this is Aurora Colorado. And who is defining which mental illness and where are these mental illnesses codified that disqualifies a person?

Buying a firearm from a gun dealer or at a gun show is one thing, buying a firearm from your next door neighbor, is another. You are not going to stop the illegal transfer of firearms with this bill, I'd dare say you would increase it. Drugs, stolen items, alcoholic beverages – they all have prohibitions against trafficking and yet the trafficking is profuse.

How much jail space and budget does the State of Oregon have? Even if a person fails the background check, if he wants a gun, he will go to the corner and get one. I will guarantee you that if I really want a firearm, I will have that firearm within 2 hours or less and NO ONE except the person I bought it from will know – and he won't know my real name.

In all seriousness, have you really read this bill and put yourself in the shoes of a less accomplished person and tried to understand it? Have you put yourselves in the shoes of an older / elderly person who is liquidating their estate? How about the emotionally distraught widow (elderly or not) who is just wanting to have a garage sale to clean out some of her spouses possessions. What have we come to that we have to pay consultation, consignment or legal fees just to handle a simple transaction.

In its current form and with the current amendment, I can't give any of my firearms to my step sons, whom I have raised since they were in diapers, without the background check. I'm not going to reveal how many firearms I have in my collection or where they are stored, but I can tell you this: giving each of them a share of the collection will be a very, very expensive proposition.

Again, this bill is not a good bill. Not to sound redundant, but If a person really wants a gun and he is denied at NW Armory or Cabela's or his next door neighbors, he will have one and you nor I will know anything about it.

SB796

I oppose this bill.

This is a bill that I just have to ask, what incident prompted this?

My personal opinion is that this bill is an attempt to restrict people from obtaining a CHL or at the very least make it so difficult as to preclude the less affluent folks from being able to obtain one. I can easily foresee the classes and qualification shoot costing \$300 or more.

The prescribed course in its original form, or as amended in -3, is just not a practical proficiency course and there are insufficient resources to implement it. We are not talking about Law Enforcement Officers or exclusively military types here. These people are required to go through a handgun safety course and the current requirements should be sufficient.

Since we are going to require they take a course, let's face it, a lot of people are going to have to take a 3 to 5 day class to develop the skills to pass this test, lets require handgun retention, shoot don't shoot, Hogan's Alley live fire and a "New York" course.

How many people carrying a concealed handgun carry fifty (50) rounds with them? Most carry a single weapon load, i.e., 2 rounds, 5 rounds, 6 rounds, 8 rounds, etc... Requiring proficiency in competition or combat type reloading is not realistic or practical. Most Police Officers in the state of Oregon only carry 45 or 46 rounds (if that many) ready for immediate deployment. The very few left that are still carrying revolvers as a primary duty weapon or backup only carry 18 rounds on their person as a general rule. This is a loaded weapon plus two speed loaders.

Firearms' competency and proficiency (accuracy) is a diminishing skill. Unless you practice regularly, you will rapidly loose what you have learned. It is not "riding the bicycle 101". The average non hobbyist who passes the course with a 70% will fail that course in 6 months or less without continuing training or practice. Remember there are a good number of people out there with 2 shot derringers, 5 and 6 shot revolvers.

With the amendments, (at the time of this revision), the time requirements have been deleted. So can the CHL candidate fire this course by shooting one section a day, a week or a month? Does it have to be all fired in one day and how much of the day can be used? This may sound silly, but going from uneducated gun owner to proficient gun owner in the course of 1 day is a little silly too.

The problem with scoring has not been resolved. They have to pass in 3 attempts. What then? Try again tomorrow, the next day or are they permanently (for life) denied a CHL?

The bill states 70% on a B27 **or similar target**. I continue to ask, what are the parameters? The bill does not state what these parameters are. Is this 70% of the total rounds fired hit someplace on the target? Is it the score rings counted up for a score of 70% of the total possible ring count? The B27 is scored differently than the B21 even though they are not only similar, but nearly identical – except for the score rings. Then there is the B34's, B30's and the Center of Mass DOE, TQ and TT series in addition to many others. All very similar, but all scored differently. Then there is putting a score on it at all, ask Law Enforcement Agencies why some of them started using a Pass/Fail as opposed to 70, 80, 90 or 100%?

Nothing we can teach these folks in one short class will prepare them for the adrenalin rush, “scared out of their minds” mental state they will face if they find themselves in a shooting situation.

Please indulge me while I relate to you a real life example:

In the 1980’s a police officer who was very proficient with firearms, and had won numerous highly competitive matches and was in the Governor’s top 20 several times, was sent to a domestic disturbance. Upon arrival he was granted entrance to the residence. (Very rural area with no backup available.) During the course of the investigation it was determined that the husband was going to be arrested for assault. The husband broke away and ran for a bedroom. He returned quickly with a gun and started to point it.....the Officer drew his service weapon and fired six shots. It was a very tight, less than 4 inch, group. A group anyone could be proud of in a rapid fire, very stressful situation.

Now if you can imagine a grown man standing five feet in front of you pointing a gun at you, this distinguished expert shooter put all 6 rounds into that 4 inch group just a fraction above the barrel of the suspect’s gun and into the wall just above the suspect’s shoulder. One round was slightly lower in the group, low enough that it impacted the suspect’s shoulder. It was enough to knock the gun out of the suspects hand and stop the threat, but a long way from the “score” required by the Officer’s department to qualify on the range or the 70% required by this bill. In short, on a B27 or other target, **he failed to pass - qualify, but he did qualify to live.**

When the threat was presented, this officer reported that all he could see was the barrel of a gun that he would later swear was a 75mm cannon. Tunnel vision in a high stress situation is a very well documented phenomenon even for the best and most highly trained.

In another case, a deputy had just been physically assaulted and injured and another officer had been shot in the chest. A fellow officer, competition team member and expert shot, fired two shots at the suspect. He has told me he has never understood how he missed. The officer who was shot, a friend of mine, did survive and he physically recovered. Even though he tried, he was never able to successfully return to work as a Law Enforcement Officer and was forced into retirement with a medical disability.

Today’s police are required to train continuously and re-qualify several times a year. How many of our Law Enforcement involved shootings are resolved in one or two “qualifying” shots. How many rounds fired? Misses? When adrenalin is involved, “bulls eyes” go out the window.

Trying to force people of much less capabilities who have much less opportunity to train, into “qualifying” on a once every four year basis is not realistic. It may even be a formula that leads to “tomb stone courage” – people taking risks, taking a shot, that they would never have taken had they not “qualified” and gotten over confident.

I almost hate to bring this up as someone might be too quick to throw another amendment into the mix, but it does need to be discussed if we are going to talk about qualifications.

This discussion would center on multiple handguns. Personally I have 4 or 5 that I switch between, depending on a number of factors including, but not limited to, my destination, activity, clothing, temperature and other factors. So am I going to have to go out and qualify with each hand gun?

The law you propose will do nothing to correct a problem that does not exist in the procurement of a
CHL.

Conclusions / Closing

These bills and their amendments will do very little, if anything, to improve safety and security. I can foresee where they will add confusion, large expenses, cause normal people expensive legal problems and could actually detract from safety. It is not every day that there is a pro-gun demonstration at the Capitol and even the Oregon State Police said there were no problems.

Some of these bills and amendments will have a tremendous, if not overwhelming, financial impact on some people. In the course of 4 years, there will be 175,000 plus current and future CHL holders-applicants trying to get into a range with a certified instructor. To put a little more perspective to this, I have been on a waiting list for range/club membership for over 3 years. How many ranges / certified instructors are you going to find in Joseph, Imnaha, Malin, Paisely, Jordan Valley or other remote locations?

Currently, in the State of Oregon, we have many, many laws governing firearms and the use of firearms. There are at least 14 statutes in ORS 163 that covers death and injury to people. In just two chapters I am aware of at least 40 Statutes that can or would apply to the improper use of a firearm. We have state laws governing the discharge of firearms on school property, beaches, on or across highways, utilities, railroad tracks, in the city, in residential areas of urban growth boundaries, and other places. We have laws against murder or harming another. Most cities and counties have laws regulating the discharge of firearms. There is just no reason to add additional laws to solve perceived problems that are already addressed in existing laws. To give this a little different perspective, how many "new" laws or restrictions on use or activity have taken place as a result of the last 100 traffic fatalities?

If the legislature really wants to take some type of action perhaps a review and amendment to current law, 166.425, could take place. Increase it to a C Felony and adding a clause making "Knowingly Attempting to Unlawfully Purchase a firearm" and direct law enforcement to actively pursue and enforce it.

Respectfully Submitted,

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ADDENDUM

339.315 Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required. (1)(a) Any employee of a public school district, an education service district or a private school who has reasonable cause to believe that a person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382 shall report the person's conduct immediately to a school administrator, school director, the administrator's or director's designee or law enforcement agency within the county. A school administrator, school director or the administrator's or director's designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person's conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person's conduct to a law enforcement agency within the county.

(b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(3) As used in this section, "school" means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and

(c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370. [1999 c.577 §1; 2011 c.313 §21]