

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed and Rescind Subsequent Referral to the Committee on Rules
Vote:	3 - 2 - 0
Yeas:	Dingfelder, Roblan, Prozanski
Nays:	Close, Kruse
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	4/5, 4/16, 418

WHAT THE MEASURE DOES: Allows a police officer to carry a firearm in a public building, including the Oregon State Capitol building, whether on duty or not. Allows retired a police officer to carry a firearm in a public building including the Capitol if otherwise eligible to carry a firearm. Allows a person with a concealed firearm permit to carry a firearm in a public building if the weapon is “concealed.” Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Removes ambiguity concerning off duty police officers carrying firearms in public buildings
- Concealed firearms

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: On duty law enforcement personnel and those with a concealed firearms permit are allowed to carry a firearm in a public building including the State Capitol. There is some ambiguity as it relates to police off duty. This statutory right does not extend to court facilities.

Article 1, section 27, Oregon Constitution states as follows: “The people shall have the right to bear arms for the defense [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power.”

This provision provides Oregonians the right to bear arms collectively through a militia, which today would be the Oregon National Guard, and individually for personal protection particularly in their respective homes. *State v. Kessler*, 289 Or. 359 (1980). This right is not absolute. Oregon prohibits convicted felons from possessing firearms. The Oregon Supreme has found this prohibition constitutional and strongly indicated that prohibiting mentally ill persons from carrying a firearm, as Oregon does, is constitutional. *State v. Hirsch/Friend*, 338 Or. 622 (2005). A deeply divided Oregon Court of Appeals has found a City of Portland ordinance, prohibiting the carrying of a loaded firearm in a public place, constitutional. *State v. Christian*, 249 Or. App. 1 (2012). This case is currently before the Oregon Supreme Court.

The Second Amendment to the United States Constitution states as follows: “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

The United States Supreme Court has found that the Second Amendment guarantees a citizen the individual right to possess a firearm in the home for protection. *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*. 130 S.Ct. 3020 (2010). Recently, the 7th federal circuit court extended the right to carry a firearm for protection to beyond the home, Nos. 1-1269, 12-1788 (February 22, 2013). This decision is applicable only to the 7th circuit and not Oregon.

4/29/2013 3:27:00 PM

This summary has not been adopted or officially endorsed by action of the committee.