

House Bill 2369

Sponsored by Representative THATCHER; Senators BOQUIST, GEORGE (at the request of Roger Bailey) (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**.

Provides honorably retired law enforcement officers with protections provided to Oregon concealed handgun license holders.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to retired law enforcement officers; amending ORS 166.173, 166.260, 166.262, 166.370, 166.663
3 and 821.240; and declaring an emergency.

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

5 **SECTION 1.** ORS 166.173 is amended to read:

6 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
7 session of loaded firearms in public places as defined in ORS 161.015.

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

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

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

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

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

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

16 **(f) An honorably retired law enforcement officer.**

17 **SECTION 2.** ORS 166.260, as amended by section 3, chapter 106, Oregon Laws 2012, is amended
18 to read:

19 166.260. (1) ORS 166.250 does not apply to or affect:

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

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

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

25 (d) Active or reserve members of:

26 (A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the
27 National Guard, when on duty;

28 (B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

29 (C) The Public Health Service of the United States Department of Health and Human Services,
30 when detailed by proper authority for duty with the Army or Navy of the United States.

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 (e) Organizations which are by law authorized to purchase or receive weapons described in ORS
2 166.250 from the United States, or from this state.

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

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

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

9 **(i) An honorably retired law enforcement officer.**

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

12 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
13 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

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

18 (b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or re-
19 turning from a hunting or fishing expedition.

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

22 **SECTION 3.** ORS 166.370 is amended to read:

23 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
24 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
25 guilty of a Class C felony.

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

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

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

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

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

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

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

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

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

44 **(e) An honorably retired law enforcement officer.**

45 [(e)] **(f)** A person who is authorized by the officer or agency that controls the public building to

1 possess a firearm or dangerous weapon in that public building.

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

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

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

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

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

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

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

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

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

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

18 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
19 166.279.

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

23 (8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is de-
24 fined in ORS 161.015.

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

26 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
27 (b) or 166.370 (1) if the person has in the person's immediate possession:

28 (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292.

29 **(2) Proof that the person is an honorably retired law enforcement officer.**

30 **SECTION 5.** ORS 166.663 is amended to read:

31 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
32 possession or in the immediate physical presence of the person a bow and arrow or a rifle, gun,
33 revolver or other firearm.

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

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

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

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

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

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

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

45 (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a con-

1 cealed [*weapon*] handgun.

2 **(h) When the person is an honorably retired law enforcement officer.**

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

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

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

9 **SECTION 6.** ORS 821.240 is amended to read:

10 821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle
11 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with
12 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all
13 arrows are in a quiver.

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

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

16 **(b) An honorably retired law enforcement officer.**

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

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

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

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

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

25 **SECTION 7. This 2013 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
27 **on its passage.**

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