

# House Bill 3413

Sponsored by Representative KENY-GUYER; Representatives DEMBROW, LIVELY, Senator HASS

## 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**.

Creates crime of endangering a minor by allowing access to a firearm. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Prohibits transfer of firearm to person convicted of endangering a minor by allowing access to a firearm for five-year period after conviction.

Requires gun dealer to post notice concerning obligation to prevent minors from accessing firearm without consent of firearm owner or minor's parent or guardian.

## A BILL FOR AN ACT

1  
2 Relating to preventing minors from accessing firearms; creating new provisions; and amending ORS  
3 166.470.

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

5 **SECTION 1. (1) A person commits the crime of endangering a minor by allowing access**  
6 **to a firearm if:**

7 (a) **The person possesses an operable firearm within premises under the person's control;**

8 (b) **The firearm is in a location where the person knows or reasonably should know that**  
9 **a minor could gain access to the firearm; and**

10 (c) **A minor obtains the firearm without the consent of the person or the minor's parent**  
11 **or legal guardian.**

12 (2) **Subsection (1) of this section does not apply if:**

13 (a) **The minor obtains the firearm as the result of an unlawful entry into the premises**  
14 **by any person;**

15 (b) **The firearm is located in a locked container; or**

16 (c) **The firearm is locked with a device that:**

17 (A) **Is designed to prevent unauthorized users of the firearm from firing the firearm; and**

18 (B) **Has rendered the firearm temporarily inoperable.**

19 (3)(a) **Except as provided in paragraph (b) of this subsection, endangering a minor by al-**  
20 **lowing access to a firearm is a Class C misdemeanor.**

21 (b) **Endangering a minor by allowing access to a firearm is:**

22 (A) **A Class B misdemeanor if the minor obtains the firearm and possesses the firearm**  
23 **in a location other than the premises described in subsection (1)(a) of this section; or**

24 (B) **A Class A misdemeanor if the minor obtains the firearm and possesses the firearm**  
25 **on school property, at an activity under the jurisdiction of a school district or at an inter-**  
26 **scholastic activity administered by a voluntary organization approved by the State Board of**  
27 **Education.**

28 (4) **As used in this section:**

29 (a) **"Firearm" has the meaning given that term in ORS 166.210.**

**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 (b) “Minor” has the meaning given that term in ORS 166.210.

2 (c) “Possess” has the meaning given that term in ORS 161.015.

3 **SECTION 2.** A gun dealer, as defined in ORS 166.412, shall post in a prominent location  
 4 in the gun dealer’s place of business a notice in block letters not less than one inch in height  
 5 that states: “The owner of a firearm has an obligation to prevent minors from accessing  
 6 firearms without the consent of the owner or the minor’s parent or legal guardian. If a mi-  
 7 nor obtains access to a firearm without the consent of the owner or the minor’s parent or  
 8 legal guardian, the owner may be guilty of a crime.”

9 **SECTION 3.** ORS 166.470 is amended to read:

10 166.470. (1) Unless relief has been granted under ORS 166.274 or section 5, chapter 826, Oregon  
 11 Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another  
 12 jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the  
 13 transferor knows or reasonably should know that the recipient:

14 (a) Is under 18 years of age;

15 (b) Has been convicted of a felony;

16 (c) Has any outstanding felony warrants for arrest;

17 (d) Is free on any form of pretrial release for a felony;

18 (e) Was committed to the Oregon Health Authority under ORS 426.130;

19 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130  
 20 that the person be prohibited from purchasing or possessing a firearm as a result of that mental  
 21 illness;

22 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity  
 23 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in  
 24 this paragraph, “misdemeanor involving violence” means a misdemeanor described in ORS 163.160,  
 25 163.187, 163.190, 163.195 or 166.155 (1)(b); [or]

26 (h) Has been found guilty except for insanity under ORS 161.295 of a felony; or

27 (i) **Has been convicted of endangering a minor by allowing access to a firearm under**  
 28 **section 1 of this 2013 Act within the five years immediately preceding the date of the at-**  
 29 **tempted sale, delivery or transfer.**

30 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or  
 31 reasonably should know is stolen.

32 (3) Subsection (1)(a) of this section does not prohibit:

33 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a  
 34 minor from transferring to the minor a firearm, other than a handgun; or

35 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other  
 36 lawful purpose.

37 (4) Violation of this section is a Class A misdemeanor.

38 **SECTION 4.** ORS 166.470, as amended by section 11, chapter 826, Oregon Laws 2009, is  
 39 amended to read:

40 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C. 925(c) or the  
 41 expunction laws of this state or an equivalent law of another jurisdiction, a person may not inten-  
 42 tionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably  
 43 should know that the recipient:

44 (a) Is under 18 years of age;

45 (b) Has been convicted of a felony;

- 1 (c) Has any outstanding felony warrants for arrest;
  - 2 (d) Is free on any form of pretrial release for a felony;
  - 3 (e) Was committed to the Oregon Health Authority under ORS 426.130;
  - 4 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
  - 5 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
  - 6 illness;
  - 7 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
  - 8 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
  - 9 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
  - 10 163.187, 163.190, 163.195 or 166.155 (1)(b); [or]
  - 11 (h) Has been found guilty except for insanity under ORS 161.295 of a felony; **or**
  - 12 **(i) Has been convicted of endangering a minor by allowing access to a firearm under**
  - 13 **section 1 of this 2013 Act within the five years immediately preceding the date of the at-**
  - 14 **tempted sale, delivery or transfer.**
  - 15 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
  - 16 reasonably should know is stolen.
  - 17 (3) Subsection (1)(a) of this section does not prohibit:
  - 18 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
  - 19 minor from transferring to the minor a firearm, other than a handgun; or
  - 20 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
  - 21 lawful purpose.
  - 22 (4) Violation of this section is a Class A misdemeanor.
  - 23 **SECTION 5. Section 1 of this 2013 Act and the amendments to ORS 166.470 by sections**
  - 24 **3 and 4 of this 2013 Act apply to conduct occurring on or after the effective date of this 2013**
  - 25 **Act.**
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