

Senate Bill 29

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Oregon State Police)

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**.

Revises definitions for purposes of fireworks laws.

A BILL FOR AN ACT

1
2 Relating to fireworks law definitions; creating new provisions; amending ORS 164.055, 166.660,
3 480.127, 480.130, 480.150, 480.152, 480.154, 480.156, 480.160 and 480.200; and repealing ORS
4 480.110.

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

6 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 480.110 to**
7 **480.165.**

8 **SECTION 2. As used in ORS 480.110 to 480.165:**

9 (1) **"Cone fountain" means a cardboard or heavy paper cone that:**

10 (a) **Contains 50 grams or less of pyrotechnic composition;**

11 (b) **If mounted on a common base with other cones having less than one-half inch of**
12 **separation, results, when measured in combination with all other cones on the base, in a**
13 **total pyrotechnic composition of not more than 200 grams;**

14 (c) **If mounted on a common base with other cones having at least one-half inch of sep-**
15 **aration, results, when measured in combination with all other cones on the base, in a total**
16 **pyrotechnic composition of not more than 500 grams; and**

17 (d) **Upon ignition has the same effect as a cylindrical fountain.**

18 (2) **"Consumer fireworks" means:**

19 (a) **A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illu-**
20 **minating torch or a wheel, or a combination of two or more of those items; and**

21 (b) **Any other items, other than exempt fireworks, containing 500 grams or less of**
22 **pyrotechnic composition that the State Fire Marshal recognizes by rule to be suitable for**
23 **retail sale to members of the general public for individual use.**

24 (3) **"Cylindrical fountain" means a cylindrical tube that:**

25 (a) **Contains 75 grams or less of pyrotechnic composition;**

26 (b) **If mounted on a common base with other tubes having less than one-half inch of**
27 **separation, results, when measured in combination with all other tubes on the base, in a**
28 **total pyrotechnic composition of not more than 200 grams;**

29 (c) **If mounted on a common base with other tubes having at least one-half inch of sep-**
30 **aration, results, when measured in combination with all other tubes on the base, in a total**
31 **pyrotechnic composition of not more than 500 grams;**

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 (d) Upon ignition produces a shower of colored sparks and may produce a whistling ef-
2 fect; and

3 (e) Is provided with a means for restraining the behavior of the item, such as a spike for
4 insertion into the ground, a wood or plastic base for placing on the ground or, if designed to
5 be handheld, a wood or cardboard handle.

6 (4) "Display fireworks" means pyrotechnic devices that:

7 (a) Are designed for travel into the air or to project effects from a fixed position; and

8 (b)(A) Are classified by the United States Department of Transportation as Division 1.3
9 compatibility group G explosives or Division 1.4 compatibility group G explosives; or

10 (B) Contain more than 500 grams of pyrotechnic composition and are classified by the
11 United States Department of Transportation as Division 1.4 compatibility group E or S ex-
12 plosives.

13 (5) "Exempt fireworks" means the following:

14 (a) Paper caps containing 0.25 grains or less of explosive mixture and toy guns, canes or
15 other devices designed for firing those caps.

16 (b) Snakes or similar smoke-producing items containing 100 grains or less of combustible
17 substances.

18 (c) Model rockets and model rocket motors that are used to propel recoverable models
19 of rocket.

20 (d) Novelties and trick noisemakers.

21 (e) Emergency signaling devices, if used in railroad, boat, motor vehicle or other means
22 of transportation for warning or illumination purposes.

23 (f) Blank cartridges of a type used:

24 (A) For theater or other shows;

25 (B) For signaling or ceremonial purposes in athletics or sports; or

26 (C) By the militia, an organization of war veterans or other organizations, if parading
27 an armed color guard.

28 (g) Cartridges, shells or gunpowder for use in legally permitted types of firearms.

29 (h) Military pyrotechnic and signaling devices classified by the United States Department
30 of Transportation as Division 1.4 compatibility group S explosives that are assigned to and
31 in the possession of the Armed Forces of the United States, or an authorized agent of the
32 armed forces, as inventory for use by the armed forces or agent in training active members
33 of the armed forces in their duties.

34 (i) Other items that in the judgment of the State Fire Marshal do not require regulation
35 or restrictions on sale.

36 (6) "Explosive mixture" means a substance arranged in a manner to allow burning in less
37 than one second.

38 (7)(a) "Fireworks" means:

39 (A) Consumer fireworks;

40 (B) Display fireworks;

41 (C) Exempt fireworks;

42 (D) Pyrotechnic articles;

43 (E) Special effects; and

44 (F) Other pyrotechnic devices that:

45 (i) Are capable of producing audible, visual, mechanical or thermal effects through com-

1 **bustion, deflagration or detonation; and**

2 **(ii) Contain chemical elements and compounds that are capable of burning independently**
 3 **of atmospheric oxygen or contain flammable liquid mixtures or flammable gas mixtures.**

4 **(b) “Fireworks” does not mean a candle, flaming club, flaming baton or other device that**
 5 **is designed to keep the flame and thermal radiation in close proximity to the device.**

6 **(8) “Fireworks display” means an entertainment feature at which the public or a private**
 7 **group is allowed to view a display or discharge that uses or explodes display fireworks or**
 8 **pyrotechnic articles.**

9 **(9) “Flitter sparkler” means a narrow paper tube that:**

10 **(a) Contains five grams or less of pyrotechnic composition;**

11 **(b) Produces colored sparks upon ignition; and**

12 **(c) Is activated by igniting paper located at one end of the tube.**

13 **(10) “Ground spinner” means a small device similar to a wheel in design and effect that:**

14 **(a) Contains 20 grams or less of pyrotechnic composition;**

15 **(b) Vents from an orifice located on the side of the tube or elsewhere on the device; and**

16 **(c) When placed on the ground and ignited, spins rapidly and produces a shower of col-**
 17 **ored sparks.**

18 **(11) “Illuminating torch” means a cylindrical tube that:**

19 **(a) Contains 100 grams or less of pyrotechnic composition; and**

20 **(b) Is provided with a means for restraining the behavior of the item, such as a spike for**
 21 **insertion into the ground, a wood or plastic base for placing on the ground or, if designed to**
 22 **be handheld, a wood or cardboard handle.**

23 **(12) “Local government” has the meaning given that term in ORS 174.116.**

24 **(13)(a) “Manufacture” means to make, construct, fabricate or produce fireworks.**

25 **(b) “Manufacture” does not mean:**

26 **(A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or**

27 **(B) Actions taken within the scope of a certification for conducting fireworks displays**
 28 **or for a pyrotechnics operator.**

29 **(14) “Pyrotechnic articles” means devices that:**

30 **(a) Are designed for professional use;**

31 **(b) Are similar to consumer fireworks in chemical composition and construction;**

32 **(c) Contain 500 grams or less of pyrotechnic composition;**

33 **(d) Are not labeled as consumer fireworks; and**

34 **(e) Have identification numbers UN0431 or UN0432 in the United States Department of**
 35 **Transportation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment**
 36 **or replacement of that identification standard recognized by the State Fire Marshal.**

37 **(15) “Pyrotechnic composition” means a mixture that is:**

38 **(a) Composed of a metal powder having a high combustion temperature and an oxidant;**
 39 **and**

40 **(b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.**

41 **(16) “Pyrotechnic device” means consumer fireworks, display fireworks, pyrotechnic ar-**
 42 **ticles, special effects and bird and animal control devices, and other combinations or com-**
 43 **positions of materials, that produce audible, visual, mechanical or thermal effects.**

44 **(17) “Special effects” means articles containing pyrotechnic composition that, subject to**
 45 **authorization from the appropriate jurisdiction, are:**

1 (a) **Manufactured, assembled, designed or discharged in connection with television, thea-**
 2 **ter or motion picture productions, concerts or conference centers; or**

3 (b) **Used for commercial, industrial, educational, recreational or entertainment purposes.**

4 (18) **“Wheel” means a pyrotechnic device that:**

5 (a) **Is designed to be attached to a post or tree by means of a nail or string;**

6 (b) **Has one or more driver units or tubes, each containing not more than 60 grams of**
 7 **pyrotechnic composition;**

8 (c) **Contains a total of not more than 200 grams of pyrotechnic composition; and**

9 (d) **Upon ignition revolves and produces a shower of colored sparks and may produce a**
 10 **whistling effect.**

11 **SECTION 3.** ORS 480.127 is amended to read:

12 480.127. (1) Any person who desires to sell [*cylindrical fountains, cone fountains, illuminating*
 13 *torches, wheels, ground spinners, flitter sparklers or combination items*] **consumer fireworks** at retail
 14 to individual members of the general public for personal use shall apply in writing to the State Fire
 15 Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall
 16 issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the
 17 proposed sale and that the proposed sale will conform to the provisions of ORS 480.110 to 480.165
 18 and any rules [*promulgated pursuant thereto*] **adopted under ORS 480.110 to 480.165.** A fee may be
 19 charged for the permit. Subject to prior approval by the Oregon Department of Administrative Ser-
 20 vices and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall
 21 be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the admin-
 22 istrative expenses incurred under this section and shall be within the budget authorized by the
 23 Legislative Assembly as that budget may be modified by the Emergency Board.

24 [(2) *The permit required by subsection (1) of this section shall not be valid for more than one year*
 25 *from the date of issuance and shall authorize sales only between midnight June 22 and midnight July*
 26 *6 of any given calendar year.*]

27 [(3) *Notwithstanding any other provision of law, the State Fire Marshal shall not prescribe limi-*
 28 *tations on the aggregate amount of items described in subsection (4) of this section at a sales facility*
 29 *operated by a person who holds the permit referred to in this section. However, such items shall be*
 30 *stored in accordance with such fire codes as the State Fire Marshal by rule may prescribe to insure*
 31 *safe storage of such materials. In prescribing such rules the State Fire Marshal may consider, among*
 32 *other matters, requirements of the United States Department of Transportation regarding the storage*
 33 *of hazardous materials.*]

34 [(4) *As used in this section:*]

35 [(a) *“Combination item” means a device that contains combinations of two or more of the effects*
 36 *described in paragraphs (b) to (g) of this subsection.*]

37 [(b) *“Cone fountain” means a cardboard or heavy paper cone containing not more than 50 grams*
 38 *of pyrotechnic composition. The effect upon ignition is the same as that of a cylindrical fountain.*]

39 [(c) *“Cylindrical fountain” means a cylindrical tube not more than three-fourths inch (19 mm) inside*
 40 *diameter and containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower*
 41 *of colored sparks and sometimes a whistling effect is produced. This device may be provided with a*
 42 *spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or*
 43 *cardboard handle if intended to be handheld.*]

44 [(d) *“Flitter sparkler” means a narrow paper tube containing not more than 100 grams of*
 45 *pyrotechnic composition that produces colored sparks upon ignition. The paper at one end of the tube*

1 *is ignited to make the device function.]*

2 [(e) "Ground spinner" means a small device similar to a wheel in design and effect and containing
3 not more than 60 grams of pyrotechnic composition. When placed on the ground and ignited, a shower
4 of colored sparks is produced by the rapidly spinning device.]

5 [(f) "Illuminating torch" means a cylindrical tube containing not more than 100 grams of
6 pyrotechnic composition. This device may be provided with a spike for insertion into the ground, a
7 wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be
8 handheld.]

9 [(g) "Wheel" means a pyrotechnic device attached to a post or tree by means of a nail or string.
10 Each wheel may contain not more than six driver units or tubes not exceeding one-half inch (12.5 mm)
11 inside diameter and containing not more than 60 grams of pyrotechnic composition. Upon ignition, the
12 wheel revolves and produces a shower of colored sparks, and sometimes a whistling effect.]

13 **(2) A retail sales permit issued under this section authorizes the sale of consumer fire-**
14 **works only in the year for which the permit is issued during the period that begins on June**
15 **23 and ends on July 6 of the year for which the permit is issued.**

16 **(3) A retail sales permit holder shall store consumer fireworks in accordance with any**
17 **fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fire-**
18 **works. The matters that the State Fire Marshal considers when adopting storage rules for**
19 **fireworks may include, but are not limited to, any United States Department of Transporta-**
20 **tion requirements relating to hazardous materials storage.**

21 **SECTION 4.** ORS 480.130 is amended to read:

22 480.130. (1) All persons, municipalities, associations or organizations or groups of individuals
23 desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell [*items*
24 *described in ORS 480.127 (4)*] **consumer fireworks** to persons who possess the permit referred to
25 in ORS 480.127, shall apply in writing to the State Fire Marshal for a permit at least 15 days in
26 advance of the proposed sale or date of the display. The State Fire Marshal, upon receipt of such
27 application, shall determine if the proposed sale or display will conform to law and any rules
28 promulgated thereunder. If the State Fire Marshal finds that the applicant is qualified to conduct
29 such sale or display and that the proposed sale or display is in accordance with the law and all
30 rules, the State Fire Marshal shall issue a permit; otherwise the State Fire Marshal shall refuse to
31 issue it.

32 (2) The fee for a permit for the public display of fireworks and each permit for **the sale of any**
33 **fireworks** [*or items described in ORS 480.127 (4)*] shall be established by rule by the State Fire
34 Marshal, subject to prior approval by the Oregon Department of Administrative Services and a re-
35 port to the Emergency Board prior to adopting the fee, and subsequently shall be adjusted to finance
36 the administrative expenses incurred under this section and shall be within the budget authorized
37 by the Legislative Assembly as that budget may be modified by the Emergency Board. All fees col-
38 lected shall be deposited to the credit of the State Fire Marshal Fund.

39 (3) Sales permits for fireworks [*or items described in ORS 480.127 (4) shall not be*] **are not** valid
40 for more than one year from date of issue. A public display permit [*shall not be*] **is not** valid for
41 more than 10 days from date of issuance and [*shall*] **may** authorize only one fireworks display during
42 that period.

43 **SECTION 5.** ORS 480.150 is amended to read:

44 480.150. (1) The State Fire Marshal may adopt reasonable rules for granting permits for super-
45 vised public displays or sales of fireworks [*or items described in ORS 480.127 (4)*] by municipalities,

1 fair associations, amusement parks, and other persons, organizations or groups of individuals. The
 2 governing body of any municipality, or of any county, may require liability insurance, or an irrev-
 3 ocable letter of credit issued by an insured institution as defined in ORS 706.008 or other form of
 4 indemnity deemed adequate by the municipality, or the county, from any person, in a sum not less
 5 than \$500, conditioned for payment of all damages which may be caused either to a person or
 6 property by reason of the authorized display or sale and arising from any acts of any person or
 7 agents, employees or subcontractors of the person. At the time a permit is revoked, the State Fire
 8 Marshal or approving authority may include in the revocation order a provision prohibiting the
 9 holder of the revoked permit from applying for or obtaining another such permit, for a period not
 10 to exceed three years from the revocation date, if the State Fire Marshal or approving authority
 11 finds that the circumstances of the permit holder's failure to comply with applicable sale or display
 12 statutes and regulations presented a significant fire hazard or other public safety danger.

13 (2) The State Fire Marshal or the approving authority of any governmental subdivision may re-
 14 voke permits for display or sale of fireworks [*or items described in ORS 480.127*] when in the opinion
 15 of the State Fire Marshal or the approving authority the sale or display of fireworks [*or items de-*
 16 *scribed in ORS 480.127 (4)*] is not in compliance with applicable statutes and regulations governing
 17 such sale or displays.

18 (3) Permit fees required by ORS 480.130 shall not be refunded in the event such permits are
 19 revoked.

20 **SECTION 6.** ORS 480.152 is amended to read:

21 480.152. (1) No person shall publish or cause to be published:

22 (a) Any advertisement for the sale of fireworks the use or possession of which is declared un-
 23 lawful by ORS 480.110 to 480.165.

24 (b) Any advertisement for the sale of [*items described in ORS 480.127*] **fireworks** in any county,
 25 municipality or fire protection district that by law or ordinance has declared the sale or use of [*such*
 26 *items*] **the fireworks** is prohibited.

27 (2) Subsection (1) of this section does not apply to any advertising medium [*which*] **that** accepts
 28 such advertising in good faith, without knowledge of the violation of law.

29 **SECTION 7.** ORS 480.154 is amended to read:

30 480.154. (1) Each manufacturer or wholesaler of fireworks [*or items described in ORS 480.127*]
 31 shall keep a record of all sales showing the name and address of the purchaser, the state of desti-
 32 nation, license and permit numbers, the state and date of permit issuance and a list of the type and
 33 quantity of fireworks [*or items*] sold.

34 (2) All shipments of fireworks [*or items described in ORS 480.127*] coming into this state must
 35 show the appropriate permit number of the addressee on the outside of the package. If the permit
 36 number is not so shown, such shipment may be confiscated by a law enforcement officer or fire
 37 protection enforcement authority having jurisdiction.

38 **SECTION 8.** ORS 480.156 is amended to read:

39 480.156. (1) It is unlawful for any person to sell fireworks [*or items described in ORS 480.127,*]
 40 at wholesale to any out-of-state resident who does not possess and present to the seller for in-
 41 spection at the time of sale a valid license or permit issued in the name of such out-of-state resident,
 42 if such license or permit is required to purchase, possess, transport, store, distribute, sell or other-
 43 wise deal with or use fireworks [*or items described in ORS 480.127,*] by the laws of such other state.

44 (2) The burden of ascertaining whether the laws of such other state require a license or permit
 45 and whether the purchaser possesses such a valid license or permit shall be entirely on the seller.

1 Each seller shall record, in a manner prescribed by the State Fire Marshal, each sale described in
 2 this section. The record shall include the identification of type and quantity of fireworks sold, name
 3 of purchaser, state of destination, state issuing license or permit and number or other identifying
 4 description and date of issue of license or permit.

5 **SECTION 9.** ORS 480.160 is amended to read:

6 480.160. (1) Nothing in ORS 480.110 to 480.165, nor in any permit issued thereunder, shall au-
 7 thorize the manufacture, sale, use or discharge of fireworks [*or items described in ORS 480.127*] in
 8 any city, county or fire protection district in which such manufacture, sale, use or discharge is
 9 otherwise prohibited by law or municipal ordinance; nor shall any city, county or fire protection
 10 district authorize the sale or use of any fireworks prohibited by the provisions of ORS 480.110 to
 11 480.165.

12 (2) For the purposes of enforcing ORS 480.110 to 480.165 in an area exempt under ORS 476.030
 13 (3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that
 14 rural fire protection district has the same enforcement authority as the State Fire Marshal.

15 (3) No person shall deliver or cause to be delivered into any county, municipality or rural fire
 16 protection district for the purpose of sale to individual members of the general public for personal
 17 use any [*items described in ORS 480.127*] **consumer fireworks** if the county, municipality or rural
 18 fire protection district by law or ordinance has declared that the sale or use of [*such items*] **the**
 19 **consumer fireworks** is prohibited.

20 (4) The manufacture, sale, use or discharge of fireworks [*or items described in ORS 480.127*] may
 21 be regulated by the governing body of a rural fire protection district, subject to the following con-
 22 ditions:

23 (a) The regulation must be by ordinance adopted by the governing body of the district, after
 24 public notice and hearing, not later than January 1 of any calendar year in which regulation is to
 25 be operative.

26 (b) The regulation shall not be operative within the boundaries of any city that regulates such
 27 matters by city ordinance.

28 (c) The regulation shall not prohibit the manufacture, sale, use or discharge of fireworks [*or*
 29 *items referred to in ORS 480.127,*] the manufacture, sale, use or discharge of which is authorized by
 30 ORS 480.110 to 480.165.

31 (d) The regulation may not limit sales to less than five days per calendar year, and must include
 32 the five consecutive day period beginning June 30.

33 **SECTION 10.** ORS 480.200 is amended to read:

34 480.200. As used in ORS 480.200 to 480.290 unless the context requires otherwise:

35 (1) "Certificate of possession" means a certificate issued under ORS 480.235 by the State Fire
 36 Marshal to applicants who have met the requirements of ORS 480.200 to 480.290.

37 (2) "Certificate of registration" means a certificate of registration issued under ORS 480.244 by
 38 the State Fire Marshal for an explosives magazine.

39 (3) "Explosive" means a chemical compound, mixture or device, the primary or common purpose
 40 of which is to function by explosion. The term includes, but is not limited to, dynamite, pellet pow-
 41 der, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters,
 42 but excludes fireworks, as defined in [*ORS 480.110 (1)*] **section 2 of this 2013 Act**, black powder,
 43 smokeless powder, small arms ammunition, small arms ammunition primers and fertilizer, as defined
 44 in ORS 633.311.

45 (4) "Issuing authority" means the State Fire Marshal or an assistant appointed by the State Fire

1 Marshal under ORS 480.280 (2).

2 (5) "Magazine" means an approved facility for the storage of explosives.

3 (6) "Small arms ammunition" means a shotgun, rifle, pistol or revolver cartridge.

4 (7) "Small arms ammunition primers" means small percussion-sensitive explosive charges en-
5 cased in a cup and used to ignite propellant powder.

6 **SECTION 11.** ORS 164.055 is amended to read:

7 164.055. (1) A person commits the crime of theft in the first degree if, by means other than
8 extortion, the person commits theft as defined in ORS 164.015 and:

9 (a) The total value of the property in a single or aggregate transaction is \$1,000 or more;

10 (b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an
11 area affected by the riot, fire, explosion, catastrophe or other emergency;

12 (c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the
13 security of the property;

14 (d) The subject of the theft is a firearm or explosive;

15 (e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed
16 from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or

17 (f) The subject of the theft is a precursor substance.

18 (2) As used in this section:

19 (a) "Companion animal" means a dog or cat possessed by a person, business or other entity for
20 purposes of companionship, security, hunting, herding or providing assistance in relation to a phys-
21 ical disability.

22 (b) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
23 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
24 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
25 blasting caps and nitrojelly, but excluding fireworks as defined in [ORS 480.110 (1)] **section 2 of**
26 **this 2013 Act**, black powder, smokeless powder, small arms ammunition and small arms ammunition
27 primers.

28 (c) "Firearm" has the meaning given that term in ORS 166.210.

29 (d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule,
30 ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

31 (e) "Precursor substance" has the meaning given that term in ORS 475.940.

32 (3) Theft in the first degree is a Class C felony.

33 **SECTION 12.** ORS 166.660 is amended to read:

34 166.660. (1) A person commits the crime of unlawful paramilitary activity if the person:

35 (a) Exhibits, displays or demonstrates to another person the use, application or making of any
36 firearm, explosive or incendiary device or any technique capable of causing injury or death to per-
37 sons and intends or knows that such firearm, explosive or incendiary device or technique will be
38 unlawfully employed for use in a civil disorder; or

39 (b) Assembles with one or more other persons for the purpose of training with, practicing with
40 or being instructed in the use of any firearm, explosive or incendiary device or technique capable
41 of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive
42 or incendiary device or technique in a civil disorder.

43 (2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed
44 in the otherwise lawful performance of the officer's official duties.

45 (b) Nothing in this section makes unlawful any activity of the State Department of Fish and

1 Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such
 2 as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful
 3 activity related to firearms instruction and training intended to teach the safe handling and use of
 4 firearms, or any other lawful sports or activities related to the individual recreational use or pos-
 5 session of firearms, including but not limited to hunting activities, target shooting, self-defense,
 6 firearms collection or any organized activity including, but not limited to any hunting club, rifle
 7 club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450
 8 or the knowledge of or the intent to cause or further a civil disorder.

9 (3) Unlawful paramilitary activity is a Class C felony.

10 (4) As used in this section:

11 (a) "Civil disorder" means acts of physical violence by assemblages of three or more persons
 12 which cause damage or injury, or immediate danger thereof, to the person or property of any other
 13 individual.

14 (b) "Firearm" has the meaning given that term in ORS 166.210.

15 (c) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
 16 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
 17 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
 18 blasting caps and nitrojelly, but excluding fireworks as defined in [ORS 480.110 (1)] **section 2 of**
 19 **this 2013 Act**, black powder, smokeless powder, small arms ammunition and small arms ammunition
 20 primers.

21 (d) "Law enforcement officer" means any duly constituted police officer of the United States,
 22 any state, any political subdivision of a state or the District of Columbia, and also includes members
 23 of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the or-
 24 ganized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or
 25 the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C.
 26 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS
 27 161.015 (4) when in the performance of official duties.

28 **SECTION 13. ORS 480.110 is repealed.**

29 **SECTION 14. (1) The amendments to ORS 164.055 and 166.660 by sections 11 and 12 of this**
 30 **2013 Act apply to offenses committed on or after the effective date of this 2013 Act.**

31 **(2) The amendments to ORS 480.200 by section 10 of this 2013 Act apply to violations of**
 32 **provisions of ORS 480.200 to 480.290 committed on or after the effective date of this 2013 Act.**
 33