

Senate Bill 576

Sponsored by COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS

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 making an unauthorized arrest. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Creates civil cause of action for unauthorized arrest. Provides prevailing plaintiff with attorney fees and greater of \$10,000 or actual damages.

Limits arrests by private person or magistrate to felonies only. Requires specified investigators to have Department of Public Safety Standards and Training certification to be considered peace officers.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to law enforcement; creating new provisions; amending ORS 133.005, 133.225 and 133.340;
3 and declaring an emergency.

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

5 **SECTION 1. (1) A person commits the crime of making an unauthorized arrest if:**

6 **(a) The person arrests another person for a crime under state or federal law; and**

7 **(b) The arrest is not authorized by the provisions of ORS 133.220 to 133.360.**

8 **(2) Making an unlawful arrest is a Class A misdemeanor.**

9 **(3) A plaintiff has a civil cause of action for a violation of this section. A prevailing**
10 **plaintiff in the civil action is entitled to receive:**

11 **(a) The greater of \$10,000 or actual damages; and**

12 **(b) Reasonable attorney fees.**

13 **SECTION 2. ORS 133.225 is amended to read:**

14 133.225. (1) A private person may arrest another person for [*any crime*] **a felony** committed in
15 the presence of the private person if the private person has probable cause to believe the arrested
16 person committed the [*crime*] **felony**. A private person making such an arrest shall, without unnec-
17 essary delay, take the arrested person before a magistrate or deliver the arrested person to a peace
18 officer.

19 (2) In order to make the arrest a private person may use physical force as is justifiable under
20 ORS 161.255.

21 **SECTION 3. ORS 133.340 is amended to read:**

22 133.340. When a [*crime*] **felony** is committed in the presence of a magistrate, the magistrate may,
23 by a verbal or written order, command any person to arrest the offender and may thereupon proceed
24 as if the offender had been brought before the magistrate upon a warrant of arrest.

25 **SECTION 4. ORS 133.005, as amended by section 6, chapter 54, Oregon Laws 2012, and section**
26 **3, chapter 67, Oregon Laws 2012, is amended to read:**

27 133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires
28 otherwise:

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 (1) "Arrest" means to place a person under actual or constructive restraint or to take a person
2 into custody for the purpose of charging that person with an offense. A "stop" as authorized under
3 ORS 131.605 to 131.625 is not an arrest.

4 (2) "Federal officer" means a special agent or law enforcement officer employed by a federal
5 agency who is empowered to effect an arrest with or without a warrant for violations of the United
6 States Code and who is authorized to carry firearms in the performance of duty.

7 (3) "Peace officer" means:

8 (a) A member of the Oregon State Police;

9 (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer
10 commissioned by a university under ORS 352.383;

11 (c) An investigator of a district attorney's office if the investigator is [*or has been certified as*
12 *a peace officer in this or any other state*] **certified as a public safety officer under ORS 181.610**
13 **to 181.712;**

14 (d) An investigator of the Criminal Justice Division of the Department of Justice of the State
15 of Oregon **if the investigator is certified as a public safety officer under ORS 181.610 to**
16 **181.712;**

17 (e) A humane special agent as defined in section 2, chapter 67, Oregon Laws 2012;

18 (f) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); or

19 (g) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

20 (4) "Reserve officer" means an officer or member of a law enforcement agency who is:

21 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,
22 school district, mass transit district, county, county service district authorized to provide law
23 enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice,
24 the Oregon State Lottery Commission or the Governor or a member of the Department of State
25 Police;

26 (b) Armed with a firearm; and

27 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-
28 nances relating to airport security.

29 **SECTION 5.** ORS 133.005, as amended by section 39, chapter 644, Oregon Laws 2011, section
30 7, chapter 54, Oregon Laws 2012, and section 4, chapter 67, Oregon Laws 2012, is amended to read:

31 133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires
32 otherwise:

33 (1) "Arrest" means to place a person under actual or constructive restraint or to take a person
34 into custody for the purpose of charging that person with an offense. A "stop" as authorized under
35 ORS 131.605 to 131.625 is not an arrest.

36 (2) "Federal officer" means a special agent or law enforcement officer employed by a federal
37 agency who is empowered to effect an arrest with or without a warrant for violations of the United
38 States Code and who is authorized to carry firearms in the performance of duty.

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42 commissioned by a university under ORS 352.383;

43 (c) An investigator of a district attorney's office if the investigator is [*or has been certified as*
44 *a peace officer in this or any other state*] **certified as a public safety officer under ORS 181.610**
45 **to 181.712;**

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2 of Oregon **if the investigator is certified as a public safety officer under ORS 181.610 to**
3 **181.712;**

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8 school district, mass transit district, county, county service district authorized to provide law
9 enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice,
10 the Oregon State Lottery Commission or the Governor or a member of the Department of State
11 Police;

12 (b) Armed with a firearm; and

13 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-
14 nances relating to airport security.

15 **SECTION 6. This 2013 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
17 **on its passage.**

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