

STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 06/01/15

Action: Do Pass With Amendments To The A-Eng Bill. (Printed B-Eng.)

Meeting Dates: 05/14, 06/01

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Modifies law enforcement defenses to crimes of unlawful possession of firearms and possession of firearm or dangerous weapon in public building or court facility. Provides law enforcement with protections afforded to concealed handgun license holders. Applies to both honorably retired and off-duty police officers. Specifies that bill only applies to parole and probation officers acting within scope of employment. Allows honorably retired police officers to cast artificial light from vehicle while in immediate presence of a firearm or bow and arrow. Permits law enforcement to operate snowmobile and all-terrain vehicle with loaded firearm or bow and arrow. Provides that affirmative defense does not apply if officer is convicted of offense that would otherwise make officer ineligible for concealed handgun license. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Concealed handgun license protections
- Existing law enforcement firearms defenses
- Why honorably retired police officers should be allowed to carry firearms
- Extending protections to off-duty police officers
- Concern about affirmative defense application if officer convicted of disqualifying crime

EFFECT OF COMMITTEE AMENDMENT:

Provides that affirmative defense does not apply if officer is convicted of offense that would otherwise make officer ineligible for concealed handgun license.

BACKGROUND:

ORS 166.250 states that a person commits the crime of “unlawful possession of a firearm” if the person: 1) knowingly carries any firearm concealed upon the person; 2) knowingly possesses a handgun that is concealed and readily accessible to the person within any vehicle; 3) knowingly possesses a firearm and is under 18 years of age; 4) has been convicted of a felony; 5) was committed to the Oregon Health Authority; or 6) is mentally ill or has been found guilty except for insanity. The law contains an exemption for certain law enforcement officers.

Similarly, ORS 166.370 states that a person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon while in a public building is guilty of “possession of firearm or dangerous weapon in public building or court facility.” The law also contains certain exemptions for “a sheriff, police officer, other duly appointed peace officer or a corrections officer while acting within the scope of employment.”

House Bill 2357-B expands upon the applicable law enforcement defenses in these statutes. The bill adds provisions for federal officers, corrections officers and reserve officers acting within the scope of employment as well as both off-duty and honorably retired police officers. The bill removes language concerning corrections

officers carrying firearms while transporting or accompanying an inmate. Additionally, House Bill 2357-B adds similar expanded definitions to ORS 166.370, thus allowing qualifying law enforcement to carry firearms and other weapons in public buildings under certain circumstances.

House Bill 2357-B amends ORS 166.173 to state that, although a city or county is permitted to adopt ordinances concerning the possession of loaded firearms in public places, those ordinances do not apply to off-duty or honorably retired police officers. The bill makes clear that officers cannot claim the affirmative defense if they have been convicted of an offense that would otherwise disqualify them from obtaining a concealed handgun license. Lastly, the bill amends ORS 166.663 and ORS 821.240 to allow honorably retired police officers to cast an artificial light from a vehicle while in the immediate presence of a firearm or bow and arrow, and to operate a snowmobile and all-terrain vehicle with a loaded firearm or bow and arrow.