

B-Engrossed
House Bill 3093

Ordered by the Senate June 9
Including House Amendments dated April 23 and Senate Amendments
dated June 9

Sponsored by Representatives BENTZ, POST, Senator THATCHER; Representatives ESQUIVEL, FAGAN, HACK,
HEARD, KRIEGER, NEARMAN, OLSON, STARK, WHISNANT

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.

Provides persons licensed to carry concealed handgun in another state with protections provided to persons with Oregon concealed handgun license if other state recognizes Oregon concealed handgun licenses and [*requires handgun competency to obtain license that is similar to requirement in Oregon*] **person who qualifies for license in other state would also qualify in Oregon.**

Excludes low-velocity powder-actuated tools or similar apparatuses from definition of firearm for purposes of required criminal background check prior to private transfer of firearm.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; amending ORS 166.173, 166.260, 166.262, 166.370,
3 166.663 and 821.240 and section 2, chapter 88, Oregon Laws 2014, and section 2, chapter 50,
4 Oregon Laws 2015 (Enrolled Senate Bill 941); and declaring an emergency.

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

6 **SECTION 1. (1) The Department of Justice shall create and maintain a list of states that:**

7 **(a) Authorize a person who is licensed under ORS 166.291 and 166.292 to carry a concealed**
8 **handgun in the other state; and**

9 **(b) Impose eligibility requirements for the issuance of a concealed handgun license or**
10 **permit in that state that are of sufficient stringency that a person who qualifies for the**
11 **other state's license or permit would, if an Oregon resident, also qualify for a concealed**
12 **handgun license under ORS 166.291 and 166.292.**

13 **(2) The Department of Justice shall provide the list described in subsection (1) of this**
14 **section to all law enforcement agencies within this state.**

15 **(3) The Department of Justice shall make the list described in subsection (1) of this sec-**
16 **tion available to the public without charge on an Internet website.**

17 **SECTION 2. ORS 166.173 is amended to read:**

18 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
19 session of loaded firearms in public places as defined in ORS 161.015.

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

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

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

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

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) A person who is not a resident of this state, who is not prohibited from possessing a**
2 **firearm and who is authorized to carry a concealed handgun pursuant to a valid license or**
3 **permit that was issued, in a state on the list described in section 1 of this 2015 Act, by a**
4 **state or local law enforcement agency, a court or another issuing authority of that state.**

5 [(d)] (e) A person authorized to possess a loaded firearm while in or on a public building or
6 court facility under ORS 166.370.

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

9 **SECTION 3.** ORS 166.260 is amended to read:

10 166.260. (1) ORS 166.250 does not apply to or affect:

11 (a) Sheriffs, constables, marshals, parole and probation officers, police officers, whether active
12 or honorably retired, or other duly appointed peace officers.

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

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

16 (d) Active or reserve members of:

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

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

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

22 (e) Organizations which are by law authorized to purchase or receive weapons described in ORS
23 166.250 from the United States, or from this state.

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

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

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

30 **(i) A person who is not a resident of this state and who is authorized to carry a concealed**
31 **handgun pursuant to a valid license or permit that was issued, in a state on the list described**
32 **in section 1 of this 2015 Act, by a state or local law enforcement agency, a court or another**
33 **issuing authority of that state.**

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

36 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
37 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

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

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

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

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

2 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
3 (b) or 166.370 (1) if the person has in the person's immediate possession:

4 (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292; or

5 **(2) For a person who is not a resident of this state, a valid license or permit that was**
6 **issued, in a state on the list described in section 1 of this 2015 Act, by a state or local law**
7 **enforcement agency, a court or another issuing authority of that state, and that authorizes**
8 **the person to carry a concealed handgun.**

9 **SECTION 5.** ORS 166.370 is amended to read:

10 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
11 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
12 guilty of a Class C felony.

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

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

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

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

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

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

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

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

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

31 **(e) A person who is not a resident of this state and who is authorized to carry a con-**
32 **cealed handgun pursuant to a valid license or permit that was issued, in a state on the list**
33 **described in section 1 of this 2015 Act, by a state or local law enforcement agency, a court**
34 **or another issuing authority of that state.**

35 [(e)] **(f)** A person who is authorized by the officer or agency that controls the public building to
36 possess a firearm or dangerous weapon in that public building.

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

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

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

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

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

44 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges
45 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-

1 viction be guilty of a Class C felony.

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

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

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

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

8 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
9 166.279.

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

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

15 **SECTION 6.** ORS 166.663 is amended to read:

16 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
17 possession or in the immediate physical presence of the person a bow and arrow or a rifle, gun,
18 revolver or other firearm.

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

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

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

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

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

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

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

30 (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a con-
31 cealed weapon.

32 **(h) When the person is not a resident of this state and is authorized to carry a concealed**
33 **handgun pursuant to a valid license or permit that was issued, in a state on the list described**
34 **in section 1 of this 2015 Act, by a state or local law enforcement agency, a court or another**
35 **issuing authority of that state.**

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

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

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

42 **SECTION 7.** ORS 821.240 is amended to read:

43 821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle
44 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with
45 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all

1 arrows are in a quiver.

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

3 (a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun; or

4 (b) **A person who is not a resident of this state and who is authorized to carry a con-**
5 **cealed handgun pursuant to a valid license or permit that was issued, in a state on the list**
6 **described in section 1 of this 2015 Act, by a state or local law enforcement agency, a court**
7 **or another issuing authority of that state.**

8 (3) As used in this section, “unloaded” means:

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

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

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

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

16 **SECTION 8.** Section 2, chapter 88, Oregon Laws 2014, is amended to read:

17 **Sec. 2.** (1) Notwithstanding ORS 162.135 and 162.185 or any Department of Corrections regu-
18 lation, rule, policy or provision of an employment contract to the contrary, if the department has
19 not provided a secure and locked location for storing firearms owned by corrections officers, a
20 corrections officer employed by the department may possess a firearm in the officer’s personal ve-
21 hicle when the vehicle is parked in a department parking lot if the officer:

22 (a) Is present in the officer’s official capacity at a public building occupied by the department;

23 (b)(A) Has a valid concealed handgun license issued pursuant to ORS 166.291 and 166.292; or

24 (B) **Is a person who is not a resident of this state and who is authorized to carry a con-**
25 **cealed handgun pursuant to a valid license or permit that was issued, in a state on the list**
26 **described in section 1 of this 2015 Act, by a state or local law enforcement agency, a court**
27 **or another issuing authority of that state;** and

28 (c) Has secured the firearm in a closed and locked trunk, glove compartment, center console or
29 other container, and the key is not inserted into the lock, if the trunk, glove compartment, center
30 console or other container locks with a key.

31 (2) As used in this section, “corrections officer” has the meaning given that term in ORS
32 181.610.

33 **SECTION 9.** The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.663 and 821.240
34 and section 2, chapter 88, Oregon Laws 2014, by sections 2 to 8 of this 2015 Act apply to
35 conduct occurring on or after the effective date of this 2015 Act.

36 **SECTION 10.** Section 2, chapter 50, Oregon Laws 2015 (Enrolled Senate Bill 941), is amended
37 to read:

38 **Sec. 2.** (1) As used in this section:

39 (a) **“Firearm” does not include a low-velocity powder-actuated tool or similar apparatus.**

40 [(a)] (b) “Transfer” means the delivery of a firearm from a transferor to a transferee, including,
41 but not limited to, the sale, gift, loan or lease of the firearm. “Transfer” does not include the tem-
42 porary provision of a firearm to a transferee if the transferor has no reason to believe the transferee
43 is prohibited from possessing a firearm or intends to use the firearm in the commission of a crime,
44 and the provision occurs:

45 (A) At a shooting range, shooting gallery or other area designed for the purpose of target

1 shooting, for use during target practice, a firearms safety or training course or class or a similar
2 lawful activity;

3 (B) For the purpose of hunting, trapping or target shooting, during the time in which the
4 transferee is engaged in activities related to hunting, trapping or target shooting;

5 (C) Under circumstances in which the transferee and the firearm are in the presence of the
6 transferor;

7 (D) To a transferee who is in the business of repairing firearms, for the time during which the
8 firearm is being repaired;

9 (E) To a transferee who is in the business of making or repairing custom accessories for
10 firearms, for the time during which the accessories are being made or repaired; or

11 (F) For the purpose of preventing imminent death or serious physical injury, and the provision
12 lasts only as long as is necessary to prevent the death or serious physical injury.

13 [(b)] (c) "Transferee" means a person who is not a gun dealer or licensed as a manufacturer or
14 importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

15 [(c)] (d) "Transferor" means a person who is not a gun dealer or licensed as a manufacturer or
16 importer under 18 U.S.C. 923 and who intends to deliver a firearm to a transferee.

17 (2) Except as provided in ORS 166.436 and 166.438 and subsection (4) of this section, a transferor
18 may not transfer a firearm to a transferee unless the transfer is completed through a gun dealer as
19 described in subsection (3) of this section.

20 (3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except
21 as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the
22 transferee must appear in person before a gun dealer, with the firearm, and request that the gun
23 dealer perform a criminal background check on the transferee.

24 (b) If the transferor and the transferee reside over 40 miles from each other, the transferor may
25 ship or deliver the firearm to a gun dealer located near the transferee or a gun dealer designated
26 by the transferee, and the transferor need not appear before the gun dealer in person.

27 (c) A gun dealer who agrees to complete a transfer of a firearm under this section shall request
28 a criminal history record check on the transferee as described in ORS 166.412 and shall comply with
29 all requirements of federal law.

30 (d) If, upon completion of a criminal background check, the gun dealer:

31 (A) Receives a unique approval number from the Department of State Police indicating that the
32 transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the
33 firearm into the gun dealer's inventory and transfer the firearm to the transferee.

34 (B) Receives notification that the transferee is prohibited by state or federal law from possessing
35 or receiving the firearm, the gun dealer shall notify the transferor and neither the transferor nor
36 the gun dealer shall transfer the firearm to the transferee. If the transferor shipped or delivered the
37 firearm to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer shall comply
38 with federal law when returning the firearm to the transferor.

39 (e) A gun dealer may charge a reasonable fee for facilitating a firearm transfer pursuant to this
40 section.

41 (4) The requirements of subsections (2) and (3) of this section do not apply to:

42 (a) The transfer of a firearm by or to a law enforcement agency, or by or to a law enforcement
43 officer, private security professional or member of the Armed Forces of the United States, while that
44 person is acting within the scope of official duties.

45 (b) The transfer of a firearm as part of a firearm turn-in or buyback event, in which a law

1 enforcement agency receives or purchases firearms from members of the public.

2 (c) The transfer of a firearm to:

3 (A) A transferor's spouse or domestic partner;

4 (B) A transferor's parent or stepparent;

5 (C) A transferor's child or stepchild;

6 (D) A transferor's sibling;

7 (E) A transferor's grandparent;

8 (F) A transferor's grandchild;

9 (G) A transferor's aunt or uncle;

10 (H) A transferor's first cousin;

11 (I) A transferor's niece or nephew; or

12 (J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this par-
13 agraph.

14 (d) The transfer of a firearm that occurs because of the death of the firearm owner, provided
15 that:

16 (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS
17 111.005, or a trustee of a trust created in a will; and

18 (B) The transferee is related to the deceased firearm owner in a manner specified in paragraph
19 (c) of this subsection.

20 (5)(a) A transferor who fails to comply with the requirements of this section commits a Class
21 A misdemeanor.

22 (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the
23 requirements of this section commits a Class B felony if the transferor has a previous conviction
24 under this section at the time of the offense.

25 **SECTION 11. This 2015 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
27 **on its passage.**