Senate Bill 554

Sponsored by Senators BURDICK, MANNING JR, WAGNER, Representatives PRUSAK, REYNOLDS; Senators DEMBROW, FREDERICK, PROZANSKI, STEINER HAYWARD, TAYLOR, Representative DEXTER (Presession filed.)

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.**

Authorizes city, county, metropolitan service district, port operating commercial airport, school district, college or university to adopt ordinance or policy limiting or precluding affirmative defense for possession of firearms in public buildings by concealed handgun licensees.

Modifies definition of "public building," for purposes of crime of possession of weapon in public building, to include certain airport areas, buildings owned or controlled by public bodies and real property owned by college or university. Punishes violation by maximum of five years' imprisonment, $125,000 fine, or both.

Increases fees payable to county sheriff for issuance and renewal of concealed handgun license.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to firearms; creating new provisions; amending ORS 166.262, 166.291, 166.360 and 166.370; and prescribing an effective date.

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

REGULATION OF FIREARMS IN PUBLIC BUILDINGS

SECTION 1. (1) A city, a county, a metropolitan service district organized under ORS chapter 268, or a port operating a commercial service airport may adopt an ordinance limiting or precluding the use of the affirmative defense described in ORS 166.370 (3)(g) concerning the possession of firearms in public buildings, within each entity's respective jurisdiction, by persons licensed to carry a concealed handgun under ORS 166.291 and 166.292.

(2) A school district, college or university may adopt a policy limiting or precluding the use of the affirmative defense described in ORS 166.370 (3)(g) concerning the possession of firearms in public buildings within the control of the district, college or university by persons licensed to carry a concealed handgun under ORS 166.291 and 166.292.

(3) An entity that adopts an ordinance or policy under this section shall post a sign, visible to the public, identifying all locations where the affirmative defense described in ORS 166.370 (3)(g) is limited or precluded.

(4) As used in this section, "public building" has the meaning given that term in ORS 166.360.

SECTION 2. ORS 166.360 is amended to read:

166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the State Office Building, the State Library Building, the Labor and Industries Building, the State Transportation Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same

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.

grounds as an addition to the group of buildings listed in this subsection.

(2) "Court facility" means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

(3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

(4) "Judicial district" means a circuit court district established under ORS 3.012 or a justice of the peace district established under ORS 51.020.

(5) "Juvenile court" has the meaning given that term in ORS 419A.004.

(6) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot or projectile in the barrel or cylinder.

(7) "Local court facility" means the portion of a building in which a justice court, a municipal court, a probate court or a juvenile court conducts business, during the hours in which the court operates.

(8) "Probate court" has the meaning given that term in ORS 111.005.

(9) "Public building" means**:**

(a)(A) A hospital[,]**;**

(B) A capitol building[,]**;**

(C) A public or private school, as defined in ORS 339.315[,]**;**

(D) A college or university[,]**;**

(E) A city hall**;** [*or*]

(F) The residence of any state official elected by the state at large[*, and the grounds adjacent to each such building.*]**;**

(G) A building owned by the state or by a city, a county or a metropolitan service district organized under ORS chapter 268; or

(H) The [*term also includes that*] portion of any other building occupied **or controlled** by an agency of the state or a municipal corporation, as defined in ORS 297.405, other than a court facility[.]**;**

(b) The grounds, other than a parking area, adjacent to a building described in paragraph (a) of this subsection;

(c) Real property owned by a college or university; or

(d) The passenger terminal, and grounds adjacent to the passenger terminal, of a commercial service airport.

(10) "Weapon" means:

(a) A firearm;

(b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife, other than an ordinary pocketknife with a blade less than four inches in length, the use of which could inflict injury upon a person or property;

(c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

(d) An electrical stun gun or any similar instrument;

(e) A tear gas weapon as defined in ORS 163.211;

(f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any similar instrument, the use of which could inflict injury upon a person or property; or

(g) A dangerous or deadly weapon as those terms are defined in ORS 161.015.

SECTION 3. ORS 166.370 is amended to read:

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

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

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

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

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.

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

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

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

(a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

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

(g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun**, unless the person possesses a firearm in violation of an ordinance or policy adopted pursuant to section 1 of this 2021 Act**.

(h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

(i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

(j) Possession of a firearm on school property if the firearm:

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

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

(4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.

(b) A person may not use the affirmative defense described in subsection (3)(e) of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.

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

(A) As part of a program approved by a school in the school by an individual who is participating in the program;

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

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

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

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

(8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

SECTION 4. ORS 166.262 is amended to read:

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

(1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292**, unless the person possesses a firearm in violation of an ordinance or policy adopted pursuant to section 1 of this 2021 Act**;

(2) Proof that the person is a law enforcement officer; or

(3) Proof that the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

CONCEALED HANDGUN LICENSE FEES

SECTION 5. ORS 166.291 is amended to read:

166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person:

(a)(A) Is a citizen of the United States; or

(B) Is a legal resident alien who can document continuous residency in the county for at least six months and has declared in writing to the United States Citizenship and Immigration Services the intent to acquire citizenship status and can present proof of the written declaration to the sheriff at the time of application for the license;

(b) Is at least 21 years of age;

(c) Is a resident of the county;

(d) Has no outstanding warrants for arrest;

(e) Is not free on any form of pretrial release;

(f) Demonstrates competence with a handgun by any one of the following:

(A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component of the course;

(B) Completion of any National Rifle Association firearms safety or training course if handgun safety was a component of the course;

(C) Completion of any firearms safety or training course or class available to the general public offered by law enforcement, community college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or a law enforcement agency if handgun safety was a component of the course;

(D) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, reserve law enforcement officers or any other law enforcement officers if handgun safety was a component of the course;

(E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;

(F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been revoked; or

(G) Completion of any firearms training or safety course or class conducted by a firearms instructor certified by a law enforcement agency or the National Rifle Association if handgun safety was a component of the course;

(g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor conviction for the possession of marijuana as described in paragraph (L) of this subsection;

(i) Has not been committed to the Oregon Health Authority under ORS 426.130;

(j) Has not been found to be a person with mental illness and is not subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(k) Has been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, the person was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470;

(L) Has not been convicted of an offense involving controlled substances or participated in a court-supervised drug diversion program, except this disability does not operate to exclude a person if:

(A) The person can demonstrate that the person has been convicted only once of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

(B) The person can demonstrate that the person has only once completed a drug diversion pro-

gram for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

(m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738;

(n) Has not received a dishonorable discharge from the Armed Forces of the United States;

(o) Is not required to register as a sex offender in any state; and

(p) Is not presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm.

(2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

(3) Before the sheriff may issue a license:

(a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1) of this section. The application may include the Social Security number of the applicant if the applicant voluntarily provides this number. The application must be signed by the applicant.

(b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff shall fingerprint and photograph the applicant and shall conduct any investigation necessary to corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession including, but not limited to, manual or computerized criminal offender information.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout this state in substantially the following form:

APPLICATION FOR LICENSE TO CARRY
CONCEALED HANDGUN

Date_____

I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined

in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a person with mental illness and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. I am not under a court order to participate in assisted outpatient treatment that includes an order prohibiting me from purchasing or possessing a firearm. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

Legal name _____

Age _____ Date of birth _____

Place of birth _____

Social Security number _____

(Disclosure of your Social Security account number is voluntary. Solicitation of the number is authorized under ORS 166.291. It will be used only as a means of identification.)

Proof of identification (Two pieces of current identification are required, one of which must bear a photograph of the applicant. The type of identification and the number on the identification are to be filled in by the sheriff.):

1._____

2._____

Height _____ Weight _____

Hair color _____ Eye color _____

Current address _____

(List residence addresses for the past three years on the back.)

City _____ County _____ Zip _____

Phone _____

I have read the entire text of this application, and the statements therein are correct and true. (Making false statements on this application is a misdemeanor.)

_____

(Signature of Applicant)

Character references.

_____

Name: Address

_____

Name: Address

Approved _____ Disapproved _____ by _____

Competence with handgun demonstrated by _____ (to be filled in by sheriff)
Date _____ Fee Paid _____
License No. _____

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(5)(a) Fees for concealed handgun licenses are:

(A) $15 to the Department of State Police for conducting the fingerprint check of the applicant.

(B) [*$50*] **$100** to the sheriff for the **initial** issuance [*or renewal*] of a concealed handgun license.

(C) $75 to the sheriff for the renewal of a concealed handgun license.

[*(C)*] **(D)** $15 to the sheriff for the duplication of a license because of loss or change of address.

(b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.

(7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.

(8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.

(9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:

(a) Has a current Oregon driver license issued to the person showing a residence address in the county;

(b) Is registered to vote in the county and has a voter notification card issued to the person under ORS 247.181 showing a residence address in the county;

(c) Has documentation showing that the person currently leases or owns real property in the county; or

(d) Has documentation showing that the person filed an Oregon tax return for the most recent tax year showing a residence address in the county.

(10) As used in this section, "drug diversion program" means a program in which a defendant charged with a marijuana possession offense completes a program under court supervision and in which the marijuana possession offense is dismissed upon successful completion of the diversion program.

SECTION 6. The amendments to ORS 166.291 by section 5 of this 2021 Act apply to ap-

plications for new concealed handgun licenses and requests for license renewal submitted on or after the effective date of this 2021 Act.

CAPTIONS

SECTION 7. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EFFECTIVE DATE

SECTION 8. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.