

HB 2572 A STAFF MEASURE SUMMARY**Carrier:** Sen. Manning Jr**Senate Committee On Rules**

Action Date: 06/21/23
Action: Do pass the A-Eng bill.
Vote: 3-1-1-0
Yeas: 3 - Lieber, Manning Jr, Steiner
Nays: 1 - Hansell
Exc: 1 - Knopp
Fiscal: Has minimal fiscal impact
Revenue: Has minimal revenue impact
Prepared By: Patricia Pascone
Meeting Dates: 6/21

WHAT THE MEASURE DOES:

Creates a civil cause of action for persons injured as a result of specified paramilitary activity. Describes elements of the activity subject to the measure, including that a person must be armed with a weapon and engage in certain conduct as part of a private paramilitary organization, or be training to engage in the unlawful conduct. Allows the Attorney General to investigate the activity and to seek injunctive relief upon reasonable belief that a person or group has engaged in, or is about to engage in, the unlawful activity. Defines relevant terms. Specifies exemptions for lawful activities.

ISSUES DISCUSSED:

- Measure makes no changes to criminal laws
- Concerns with misuse of civil actions and entrapment
- Anti-SLAPP motions (strategic lawsuits against public participation) to deter frivolous litigation
- Existing prohibition on paramilitary activity in Constitution
- Supreme Court upheld laws prohibiting private militias in *Presser v. Illinois*, 116 U.S. 252 (1886)
- Attorney General has burden in injunctive action to prove objective and subjective elements

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Secretary of State Audits Division reported in March 2022 that Oregon ranked sixth in the nation for the number of domestic violent extremist incidents between 2011 and 2020, with the number rising sharply from 2019 to 2021. The U.S. Department of Justice prosecutes federal domestic terrorism and violent extremism charges. Several states also criminalize such activity.

Since 1983, ORS 166.660 has made engaging in "unlawful paramilitary activity" a Class C felony. Under the statute, a person engages in unlawful paramilitary activity one of two ways: (1) by exhibiting, displaying, or demonstrating to another person the use, application, or making of any firearm, explosive, or other technique capable of causing injury or death, intending or knowing that it will be illegally used in a civil disorder; or (2) assembling with one or more people for the purpose of training, practicing, or receiving instruction in the use of any firearm, explosive, or other technique with the intent to engage in civil disorder. The statute contains several explicit exceptions including for practicing self-defense; lawful sports related to firearms instruction, practice, and training; and activity of the State Department of Fish and Wildlife.

House Bill 2572 A creates a civil cause of action by a person injured as a result of specified paramilitary activity and authorizes the Attorney General to investigate and enjoin the activity.