

Senate Bill 738

Sponsored by Senator THATCHER

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**.

Provides person with privileges and legal defenses available to person with Oregon concealed handgun license if person is licensed to carry concealed handgun in another state that recognizes Oregon concealed handgun licenses.

A BILL FOR AN ACT

1
2 Relating to concealed handgun licenses from states that recognize Oregon concealed handgun li-
3 censes; creating new provisions; and amending ORS 166.173, 166.260, 166.262, 166.370, 166.375,
4 166.377, 166.380, 166.663 and 821.240.

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

6 **SECTION 1.** ORS 166.173 is amended to read:

7 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
8 session of loaded firearms in public places as defined in ORS 161.015.

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

10 (a) A law enforcement officer.

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

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

13 **(d) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
14 **rocal license as defined in ORS 166.370.**

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

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

19 *[(f)]* (g) An honorably retired law enforcement officer, unless the person who is a retired law
20 enforcement officer has been convicted of an offense that would make the person ineligible to obtain
21 a concealed handgun license under ORS 166.291 and 166.292.

22 **SECTION 2.** ORS 166.260 is amended to read:

23 166.260. (1) ORS 166.250 does not apply to or affect:

24 (a) A parole and probation officer, police officer or reserve officer, as those terms are defined
25 in ORS 181A.355.

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

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

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) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to
 2 assist in making arrests or preserving the peace, while the summoned person is engaged in assisting
 3 the officer.

4 (e) The possession or transportation by any merchant of unloaded firearms as merchandise.

5 (f) Active or reserve members of:

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

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

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

11 (g) Organizations which are by law authorized to purchase or receive weapons described in ORS
 12 166.250 from the United States, or from this state.

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

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

16 **(j) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
 17 **rocal license as defined in ORS 166.370.**

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

20 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
 21 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

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

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

28 (4) The exceptions listed in subsection (1)(d) to [(i)] (j) of this section constitute affirmative de-
 29 fenses to a charge of violating ORS 166.250.

30 **SECTION 3.** ORS 166.262 is amended to read:

31 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
 32 (b) or 166.370 (1)(a) if the person has in the person's immediate possession:

33 (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292 **or a valid recip-**
 34 **rocal license to carry a concealed handgun as defined in ORS 166.370**, unless the person pos-
 35 sesses a firearm within the Capitol, within the passenger terminal of a commercial service airport
 36 with over one million passenger boardings per year or on school grounds subject to a policy de-
 37 scribed in ORS 166.377;

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

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

42 **SECTION 4.** ORS 166.370 is amended to read:

43 166.370. (1)(a) Any person who intentionally possesses a loaded or unloaded firearm or any other
 44 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
 45 guilty of a Class C felony.

1 (b) Notwithstanding paragraph (a) of this subsection, in a prosecution under this section for the
2 possession of a firearm within the Capitol, within the passenger terminal of a commercial service
3 airport with over one million passenger boardings per year or on school grounds subject to a policy
4 described in ORS 166.377, if the person proves by a preponderance of the evidence that, at the time
5 of the possession, the person was licensed under ORS 166.291 and 166.292 **or pursuant to a valid**
6 **reciprocal license** to carry a concealed handgun, upon conviction the person is guilty of a Class
7 A misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

34 (e) An honorably retired law enforcement officer.

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

37 (g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun, ex-
38 cept as provided in subsection (1)(b) of this section.

39 **(h) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
40 **rocal license, except as provided in subsection (1)(b) of this section.**

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

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

45 *[(j)]* (k) Possession of a firearm on school property if the firearm:

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

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

3 [(k)] (L) A person who possesses a firearm in the passenger terminal of a commercial service
4 airport, if the firearm is unloaded and in a locked hard-sided container for the purposes of trans-
5 porting the firearm as checked baggage in accordance with federal law.

6 (4)(a) Except as provided in subsection (1)(b) of this section, the exceptions listed in subsection
7 (3)(d) to [(k)] (L) of this section constitute affirmative defenses to a charge of violating subsection
8 (1)(a) of this section.

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

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

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

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

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

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

21 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
22 166.279.

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

26 (8) As used in this section[,]:

27 (a) "Dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

28 (b) "**Reciprocal license**" means a license or permit issued by another state, or a local
29 government, law enforcement agency, court or other issuing authority of another state, to
30 carry a concealed handgun if the other state authorizes a person who is licensed under ORS
31 166.291 and 166.292 to carry a concealed handgun in that state.

32 **SECTION 5.** ORS 166.375 is amended to read:

33 166.375. (1) Notwithstanding ORS 162.135 and 162.185 or any Department of Corrections regu-
34 lation, rule, policy or provision of an employment contract to the contrary, if the department has
35 not provided a secure and locked location for the storage of personal handguns and ammunition by
36 authorized staff, authorized staff may possess a personal handgun and ammunition in the authorized
37 staff member's personal vehicle when the vehicle is parked in a department parking lot if the au-
38 thorized staff member:

39 (a) Is present at a public building owned or occupied by the department;

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

41 (B) Has a valid reciprocal license authorizing the authorized staff member to carry a
42 concealed handgun; and

43 (c) Has secured the personal handgun and ammunition in a closed and locked container designed
44 for the storage of firearms inside the vehicle.

45 (2)(a) Authorized staff may possess and store only the amount and types of ammunition author-

1 ized by the department by written policy or rule.

2 (b) The department shall adopt written policies or rules to carry out the purposes of this section.
3 The policies or rules shall include, at a minimum, procedures for and responsibilities of authorized
4 staff when possessing and storing personal handguns and ammunition on property owned or occupied
5 by the department under this section.

6 (3) As used in this section and ORS 423.045:

7 (a) "Authorized staff" means employees of the department and employees of the State Board of
8 Parole and Post-Prison Supervision and Oregon Corrections Enterprises who are assigned to work
9 in or at a public building owned or occupied by the department.

10 (b) "Handgun" has the meaning given that term in ORS 166.210.

11 (c) **"Reciprocal license" has the meaning given that term in ORS 166.370.**

12 [(c)] (d) "Vehicle" means a vehicle that is self-propelled and that is commonly known as a pas-
13 senger car, van, truck or motorcycle.

14 **SECTION 6.** ORS 166.377 is amended to read:

15 166.377. (1) The governing board of a public university listed in ORS 352.002, the Oregon Health
16 and Science University Board of Directors, the governing board of a community college or a district
17 school board as defined in ORS 332.002 may adopt a policy providing that the affirmative [*defense*]
18 **defenses** described in ORS 166.370 (3)(g) **and (h)**, concerning persons licensed to carry a concealed
19 handgun under ORS 166.291 and 166.292 **or a valid reciprocal license as defined in ORS 166.370,**
20 [*does*] **do** not apply to the possession of firearms on the grounds of the schools controlled by the
21 board.

22 (2) A board that adopts a policy under this section shall:

23 (a) Post a clearly visible sign, at all normal points of entry to the school grounds subject to the
24 policy described in subsection (1) of this section, indicating that the affirmative [*defense*] **defenses**
25 described in ORS 166.370 (3)(g) [*does*] **and (h) do** not apply.

26 (b) Post a notice on the board's website identifying all school grounds subject to the policy de-
27 scribed in subsection (1) of this section.

28 **SECTION 7.** ORS 166.380 is amended to read:

29 166.380. (1) Except as provided in subsection (2) of this section, a peace officer may examine a
30 firearm possessed by anyone on the person while in or on a public building to determine whether
31 the firearm is a loaded firearm.

32 (2)(a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun
33 may present a valid concealed handgun license to the peace officer instead of providing the firearm
34 to the peace officer for examination.

35 **(b) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
36 **rocal license as defined in ORS 166.370 may present the valid reciprocal license to the peace**
37 **officer instead of providing the firearm to the peace officer for examination.**

38 **SECTION 8.** ORS 166.663 is amended to read:

39 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
40 possession or in the immediate physical presence of the person a bow and arrow or a firearm.

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

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

43 (b) When the bow and arrow or firearm that the person has in the possession or immediate
44 physical presence of the person is disassembled or stored, or in the trunk or storage compartment
45 of the motor vehicle.

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

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

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

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

7 (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a con-
8 cealed handgun.

9 **(h) When the person is authorized to carry a concealed handgun pursuant to a valid re-
10 ciprocal license.**

11 [(h)] (i) When the person is an honorably retired law enforcement officer, unless the person has
12 been convicted of an offense that would make the person ineligible to obtain a concealed handgun
13 license under ORS 166.291 and 166.292.

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

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

19 (5) As used in this section[,]:

20 (a) "Peace officer" has the meaning given that term in ORS 161.015.

21 **(b) "Reciprocal license" has the meaning given that term in ORS 166.370.**

22 **SECTION 9.** ORS 821.240 is amended to read:

23 821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle
24 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with
25 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all
26 arrows are in a quiver.

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

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

29 **(b) A person who is authorized to carry a concealed handgun pursuant to a valid recip-
30 rocal license;**

31 [(b)] (c) A law enforcement officer; or

32 [(c)] (d) An honorably retired law enforcement officer, unless the person who is a retired law
33 enforcement officer has been convicted of an offense that would make the person ineligible to obtain
34 a concealed handgun license under ORS 166.291 and 166.292.

35 (3) As used in this section[,]:

36 **(a) "Reciprocal license" has the meaning given that term in ORS 166.370.**

37 **(b) "Unloaded" means:**

38 [(a)] (A) If the firearm is a revolver, that there is no live cartridge in the chamber that is
39 aligned with the hammer of the revolver;

40 [(b)] (B) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or

41 [(c)] (C) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live
42 cartridge in the chamber.

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

45 **SECTION 10.** The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.375, 166.377,

1 **166.380, 166.663 and 821.240 by sections 1 to 9 of this 2023 Act apply to conduct occurring on**
2 **or after the effective date of this 2023 Act.**

3 _____