

House Bill 2357

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Modifies certain law enforcement defenses applicable to certain firearms-related crimes.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; amending ORS 166.260 and 166.370; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 166.370 is amended to read:

6 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
7 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
8 guilty of a Class C felony.

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

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

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

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

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

20 *[(a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while acting*
21 *within the scope of employment.]*

22 **(a) A parole and probation officer, police officer or reserve officer, as those terms are**
23 **defined in ORS 181.610, while the parole and probation officer, police officer or reserve officer**
24 **is acting within the scope of employment.**

25 **(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or cor-**
26 **rections officer, both as defined in ORS 181.610, while the federal officer, certified reserve**
27 **officer or corrections officer is acting within the scope of employment.**

28 *[(b)]* **(c) A person summoned by [a peace officer] an officer described in paragraph (a) or (b)**
29 **of this subsection** to assist in making an arrest or preserving the peace, while the summoned per-
30 son is engaged in assisting the officer.

31 **(d) An honorably retired police officer, state trooper, county sheriff, deputy sheriff or**

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 **federal officer, regardless of the state in which the officer, trooper or sheriff was employed.**

2 [(c)] (e) An active or reserve member of the military forces of this state or the United States,
3 when engaged in the performance of duty.

4 [(d)] (f) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

5 [(e)] (g) A person who is authorized by the officer or agency that controls the public building
6 to possess a firearm or dangerous weapon in that public building.

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

9 [(g)] (i) Possession of a firearm on school property if the firearm:

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

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

12 (4) The exceptions listed in subsection [(3)(b) to (g)] **(3)(c) to (i)** of this section constitute affir-
13 mative defenses to a charge of violating subsection (1) of this section.

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

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

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

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

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

23 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
24 166.279.

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

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

30 **SECTION 2.** ORS 166.260, as amended by section 3, chapter 106, Oregon Laws 2012, is amended
31 to read:

32 166.260. (1) ORS 166.250 does not apply to or affect:

33 [(a) *Sheriffs, constables, marshals, parole and probation officers, police officers, whether active or*
34 *honorably retired, or other duly appointed peace officers.*]

35 **(a) A parole and probation officer, police officer or reserve officer, as those terms are**
36 **defined in ORS 181.610.**

37 **(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or cor-**
38 **rections officer, both as defined in ORS 181.610, while the federal officer, certified reserve**
39 **officer or corrections officer is acting within the scope of employment.**

40 [(b)] (c) Any person summoned by [*any such officer*] **an officer described in paragraph (a) or**
41 **(b) of this subsection** to assist in making arrests or preserving the peace, while [*said person so*
42 *summoned is actually*] **the summoned person is engaged in assisting the officer.**

43 **(d) An honorably retired police officer, state trooper, county sheriff, deputy sheriff or**
44 **federal officer, regardless of the state in which the officer, trooper or sheriff was employed.**

45 [(c)] (e) The possession or transportation by any merchant of unloaded firearms as merchandise.

1 [(d)] (f) Active or reserve members of:

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

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

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

7 [(e)] (g) Organizations which are by law authorized to purchase or receive weapons described
8 in ORS 166.250 from the United States, or from this state.

9 [(f)] (h) Duly authorized military or civil organizations while parading, or the members thereof
10 when going to and from the places of meeting of their organization.

11 [(g)] *A corrections officer while transporting or accompanying an individual convicted of or arrested*
12 *for an offense and confined in a place of incarceration or detention while outside the confines of the*
13 *place of incarceration or detention.*

14 [(h)] (i) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

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

17 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
18 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

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

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

25 (4) The exceptions listed in subsection [(1)(b) to (h)] (1)(c) to (i) of this section constitute affir-
26 mative defenses to a charge of violating ORS 166.250.

27 **SECTION 3. The amendments to ORS 166.260 and 166.370 by sections 1 and 2 of this 2015**
28 **Act apply to conduct occurring on or after the effective date of this 2015 Act.**

29 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**
30 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
31 **on its passage.**

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