

Senate Bill 323

Sponsored by Senator THATCHER (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**.

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,
4 166.380, 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.**

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 **(3) As used in this section, "reciprocal license" means a license or permit issued by a**
23 **state or local law enforcement agency, a court or another issuing authority of another state,**
24 **if the other state authorizes a person who is licensed under ORS 166.291 and 166.292 to carry**
25 **a concealed handgun in that state.**

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

27 166.260. (1) ORS 166.250 does not apply to or affect:

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

30 (b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections of-
31 ficer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer

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 or corrections officer is acting within the scope of employment.

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

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

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

9 (f) Active or reserve members of:

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

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

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

15 (g) Organizations which are by law authorized to purchase or receive weapons described in ORS
 16 166.250 from the United States, or from this state.

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

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

20 **(j) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
 21 **rocal license.**

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

24 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
 25 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

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

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

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

34 **(5) As used in this section, "reciprocal license" means a license or permit issued by a**
 35 **state or local law enforcement agency, a court or another issuing authority of another state,**
 36 **if the other state authorizes a person who is licensed under ORS 166.291 and 166.292 to carry**
 37 **a concealed handgun in that state.**

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

39 166.262. (1) A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a)
 40 or (b) or 166.370 (1) if the person has in the person's immediate possession:

41 [(1)] (a) A valid license to carry a firearm as provided in ORS 166.291 and 166.292;

42 **(b) A valid reciprocal license;**

43 [(2)] (c) Proof that the person is a law enforcement officer; or

44 [(3)] (d) Proof that the person is an honorably retired law enforcement officer, unless the person
 45 has been convicted of an offense that would make the person ineligible to obtain a concealed

1 handgun license under ORS 166.291 and 166.292.

2 **(2) As used in this section, “reciprocal license” means a license or permit issued by a**
 3 **state or local law enforcement agency, a court or another issuing authority of another state**
 4 **that authorizes the person to carry a concealed handgun, if the other state authorizes a**
 5 **person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun in that**
 6 **state.**

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (e) An honorably retired law enforcement officer.

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

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

41 **(h) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
 42 **rocal license.**

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

45 *[(i)]* (j) An employee of the United States Department of Agriculture, acting within the scope

1 of employment, who possesses a firearm in the course of the lawful taking of wildlife.

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

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

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

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

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

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

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

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

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

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

19 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
20 166.279.

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

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

25 (a) “Dangerous weapon” means a dangerous weapon as that term is defined in ORS 161.015.

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

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

31 166.375. (1) Notwithstanding ORS 162.135 and 162.185 or any Department of Corrections regu-
32 lation, rule, policy or provision of an employment contract to the contrary, if the department has
33 not provided a secure and locked location for the storage of personal handguns and ammunition by
34 authorized staff, authorized staff may possess a personal handgun and ammunition in the authorized
35 staff member’s personal vehicle when the vehicle is parked in a department parking lot if the au-
36 thorized staff member:

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

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

39 **(B) Has a valid reciprocal license;** and

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

42 (2)(a) Authorized staff may possess and store only the amount and types of ammunition author-
43 ized by the department by written policy or rule.

44 (b) The department shall adopt written policies or rules to carry out the purposes of this section.
45 The policies or rules shall include, at a minimum, procedures for and responsibilities of authorized

1 staff when possessing and storing personal handguns and ammunition on property owned or occupied
 2 by the department under this section.

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

4 (a) “Authorized staff” means employees of the department and employees of the State Board of
 5 Parole and Post-Prison Supervision and Oregon Corrections Enterprises who are assigned to work
 6 in or at a public building owned or occupied by the department.

7 (b) “Handgun” has the meaning given that term in ORS 166.210.

8 (c) **“Reciprocal license” means a license or permit issued by a state or local law**
 9 **enforcement agency, a court or another issuing authority of another state that authorizes**
 10 **the person to carry a concealed handgun, if the other state authorizes a person who is li-**
 11 **icensed under ORS 166.291 and 166.292 to carry a concealed handgun in that state.**

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 166.380 is amended to read:

15 166.380. (1) Except as provided in subsection (2) of this section, a peace officer may examine a
 16 firearm possessed by anyone on the person while in or on a public building to determine whether
 17 the firearm is a loaded firearm.

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

21 **(b) A person who is authorized to carry a concealed handgun pursuant to a valid recip-**
 22 **rocal license may present the valid reciprocal license to the peace officer instead of providing**
 23 **the firearm to the peace officer for examination.**

24 (3) As used in this section, “reciprocal license” means a license or permit issued by a
 25 state or local law enforcement agency, a court or another issuing authority of another state,
 26 if the other state authorizes a person who is licensed under ORS 166.291 and 166.292 to carry
 27 a concealed handgun in that state.

28 **SECTION 7.** ORS 166.663 is amended to read:

29 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
 30 possession or in the immediate physical presence of the person a bow and arrow or a firearm.

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) “Peace officer” has the meaning given that term in ORS 161.015.

11 (b) **“Reciprocal license” means a license or permit issued by a state or local law**
 12 **enforcement agency, a court or another issuing authority of another state, if the other state**
 13 **authorizes a person who is licensed under ORS 166.291 and 166.292 to carry a concealed**
 14 **handgun in that state.**

15 **SECTION 8.** ORS 821.240 is amended to read:

16 821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle
 17 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with
 18 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all
 19 arrows are in a quiver.

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

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

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

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

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

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

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

33 (b) “Unloaded” means:

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

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

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

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

41 **SECTION 9.** The amendments to ORS 166.173, 166.260, 166.262, 166.370, 166.375, 166.380,
 42 **166.663 and 821.240 by sections 1 to 8 of this 2019 Act apply to conduct occurring on or after**
 43 **the effective date of this 2019 Act.**