

House Bill 4005

Sponsored by Representatives SOLLMAN, PRUSAK, KENY-GUYER; Representatives ALONSO LEON, DOHERTY, FAHEY, GORSEK, GREENLICK, HELM, HERNANDEZ, HOLVEY, MCLAIN, NERON, NOSSE, PILUSO, POWER, RAYFIELD, REARDON, SALINAS, SANCHEZ, SCHOUTEN, SMITH WARNER, Senators BURDICK, DEMBROW, FREDERICK, MANNING JR, RILEY, WAGNER (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**.

Requires owner or possessor of firearm to secure firearm with trigger or cable lock, in locked container or in gun room except in specified circumstances. Punishes violation by maximum of \$500 fine. If minor obtains unsecured firearm as result of violation, punishes by maximum of \$2,000 fine. Provides that person who does not secure firearm as required is strictly liable for injury to person or property within two years after violation. Specifies exceptions to liability.

Requires owner or possessor of firearm to secure firearm with trigger or cable lock or in locked container when transferring firearm except in specified circumstances. Punishes violation by maximum of \$500 fine. Provides that person who transfers firearm without securing firearm is strictly liable for injury to person or property within two years after violation. Specifies exceptions to liability.

Requires person to report loss or theft of firearm within 72 hours of time person knew or reasonably should have known of loss or theft. Punishes violation of requirement by maximum of \$1,000 fine.

Requires person transferring firearm to minor to directly supervise minor's use of firearm unless minor is owner of firearm. Provides that person who does not supervise minor as required is strictly liable for injury to person or property caused by minor's use of firearm.

Directs Oregon Health Authority to specify by rule minimum specifications for trigger and cable locks and locked containers required by Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to firearm safety requirements; and declaring an emergency.

3 Whereas on December 11, 2012, 54-year-old Cindy Ann Yuille and 45-year-old Steven Forsyth
4 were shot and killed in the Clackamas Town Center with a stolen AR-15 style assault weapon; and

5 Whereas the assault rifle used to kill Cindy Ann Yuille and Steven Forsyth had been stolen after
6 being left unsecured with a fully loaded 30 round ammunition magazine by its lawful owner; and

7 Whereas the lawful owner of the assault rifle failed to report the weapon stolen to any law
8 enforcement agency upon discovering the theft of the weapon; and

9 Whereas the lawful owner of the weapon used in the Clackamas Town Center shooting had no
10 legal obligation under Oregon law to safely secure the firearm or to report the theft of the weapon;
11 and

12 Whereas on average 10 children under the age of 18 commit suicide in Oregon each year with
13 firearms that were not safely stored and secured to prevent child access; and

14 Whereas Oregon has a per capita suicide rate above the national average; and

15 Whereas the percentage of suicides that are firearm suicides in Oregon is also above the na-
16 tional average; and

17 Whereas a proven barrier to the impulse to commit suicide is securing firearms with a lock or
18 storing firearms in locked containers; and

19 Whereas there are a number of children who are injured in Oregon each year with firearms that

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 were not safely stored and secured to prevent child access; and

2 Whereas the lack of a safe storage law in Oregon contributed to more than 22,000 firearms being
3 lost or stolen in Oregon over the past 10 years; and

4 Whereas two-thirds of all school shootings in the United States from 1974 through 2000 involved
5 weapons taken by the attackers from their home or from the home of a relative, and many of these
6 shootings would have been prevented if the firearms used had been secured and safely stored; and

7 Whereas simple common-sense actions including safely storing and transferring firearms,
8 promptly reporting to law enforcement officials the loss or theft of firearms and supervising children
9 when they use firearms would prevent many deaths and injuries in Oregon; and

10 Whereas the Cindy Yuille and Steven Forsyth Act can be effective in significantly reducing gun
11 violence and suicide in Oregon without imposing criminal penalties; and

12 Whereas everyone has the right to be free from gun violence; now, therefore,

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

14 **SECTION 1. Sections 2 to 7 of this 2020 Act shall be known and may be cited as the Cindy
15 Yuille and Steve Forsyth Act.**

16 **SECTION 2. As used in sections 2 to 7 of this 2020 Act:**

17 (1) **“Authorized person” means a person authorized by the owner or possessor of a
18 firearm to carry or control the firearm.**

19 (2)(a) **“Container” means a box, case, chest, locker, safe or other similar receptacle.**

20 (b) **“Container” does not include a building, room or vehicle or a space within a vehicle.**

21 (3) **“Control” means, in relation to a firearm, that a person is in sufficiently close prox-
22 imity to the firearm to prevent another person from obtaining the firearm.**

23 (4) **“Firearm” has the meaning given that term in ORS 166.210, except that it does not
24 include a firearm that has been rendered permanently inoperable.**

25 (5) **“Gun room” means an area within a building enclosed by walls, a floor and a ceiling,
26 including a closet, that has all entrances secured by a tamper-resistant lock, that is kept
27 locked at all times when unoccupied and that is used for:**

28 (a) **The storage of firearms, ammunition, components of firearms or ammunition, or
29 equipment for firearm-related activities including but not limited to reloading ammunition,
30 gunsmithing and firearm cleaning and maintenance; or**

31 (b) **Conducting firearm-related activities, including but not limited to reloading ammuni-
32 tion, gunsmithing and firearm cleaning and maintenance.**

33 (6) **“Handgun” has the meaning given that term in ORS 166.210.**

34 (7) **“Law enforcement agency” has the meaning given that term in ORS 166.525.**

35 (8) **“Minor” means a person under 18 years of age.**

36 (9)(a) **“Transfer” means the delivery of a firearm from a person to a recipient, neither
37 of whom is a gun dealer or is licensed as a manufacturer or importer under 18 U.S.C. 923,
38 including, but not limited to, the sale, gift, loan or lease of the firearm.**

39 (b) **“Transfer” does not include:**

40 (A) **The temporary provision of a firearm by a person to a recipient other than a minor
41 if the person has no reason to believe the recipient is prohibited from possessing a firearm
42 or intends to use the firearm in the commission of a crime, and the provision occurs:**

43 (i) **At a shooting range, shooting gallery or other area designed for the purpose of target
44 shooting, for use during target practice, a firearms safety or training course or class or a
45 similar lawful activity;**

1 (ii) For the purpose of hunting, trapping or target shooting, during the time in which the
2 recipient is engaged in activities related to hunting, trapping or target shooting;

3 (iii) Under circumstances in which the recipient and the firearm are in the presence of
4 the person;

5 (iv) To a recipient who is in the business of repairing firearms, for the time during which
6 the firearm is being repaired;

7 (v) To a recipient who is in the business of making or repairing custom accessories for
8 firearms, for the time during which the accessories are being made or repaired; or

9 (vi) For the purpose of preventing imminent death or serious physical injury, and the
10 provision lasts only as long as is necessary to prevent the death or serious physical injury;
11 or

12 (B) A delivery of a firearm made inoperable for the specific purpose of being used as a
13 prop in the making of a motion picture or a television, digital or similar production.

14 **SECTION 3. (1)(a)** A person who owns or possesses a firearm shall, at all times that the
15 firearm is not carried by or under the control of the person or an authorized person, secure
16 the firearm:

17 (A) With an engaged trigger lock or cable lock that meets or exceeds the minimum
18 specifications established by the Oregon Health Authority under section 7 of this 2020 Act;

19 (B) In a locked container, equipped with a tamper-resistant lock, that meets or exceeds
20 the minimum specifications established by the Oregon Health Authority under section 7 of
21 this 2020 Act; or

22 (C) In a gun room.

23 (b) For purposes of paragraph (a) of this subsection, a firearm is not secured if:

24 (A) A key, combination or other means of opening a lock or container is readily available
25 to a person the owner or possessor has not authorized to carry or control the firearm.

26 (B) The firearm is a handgun, is left unattended in a vehicle and is within view of persons
27 outside the vehicle.

28 (2)(a) A violation of subsection (1) of this section is a Class C violation.

29 (b) Notwithstanding paragraph (a) of this subsection, a violation of subsection (1) of this
30 section is a Class A violation if a minor obtains an unsecured firearm as a result of the vi-
31 olation and the owner or possessor of the firearm knew or should have known that a minor
32 could gain unauthorized access to the unsecured firearm.

33 (c) Each firearm owned or possessed in violation of subsection (1) of this section consti-
34 tutes a separate violation.

35 (3) If a person obtains an unsecured firearm as a result of the owner or possessor of a
36 firearm violating subsection (1) of this section and the firearm is used to injure a person or
37 property within two years of the violation, the owner or possessor of the firearm who vio-
38 lated subsection (1) of this section is strictly liable for the injury.

39 (4) The liability imposed by subsection (3) of this section does not apply if:

40 (a) The injury results from a lawful act of self-defense or defense of another person; or

41 (b) The unsecured firearm was obtained:

42 (A) At a shooting range, shooting gallery or other area designed for the purpose of target
43 shooting, for use during target practice, a firearms safety or training course or class or a
44 similar lawful activity;

45 (B) For the purpose of hunting, trapping or target shooting, during the time in which the

1 person is engaged in activities related to hunting, trapping or target shooting;

2 (C) Under circumstances in which the person and the firearm are in the presence of the
3 owner or possessor of the firearm;

4 (D) By a person who is in the business of repairing firearms, for the purpose of repairing
5 the firearm;

6 (E) By a person who is in the business of making or repairing custom accessories for
7 firearms, for the purpose of making or repairing the accessories; or

8 (F) By a person as a result of the person entering or remaining unlawfully in a dwelling,
9 as those terms are defined in ORS 164.205.

10 (5) This section does not apply to members of a law enforcement unit as defined in ORS
11 181A.355.

12 **SECTION 4. (1) A person transferring a firearm shall transfer the firearm:**

13 (a) With an engaged trigger lock or cable lock that meets or exceeds the minimum
14 specifications established by the Oregon Health Authority under section 7 of this 2020 Act;
15 or

16 (b) In a locked container, equipped with a tamper-resistant lock, that meets or exceeds
17 the minimum specifications established by the Oregon Health Authority under section 7 of
18 this 2020 Act.

19 (2)(a) A violation of subsection (1) of this section is a Class C violation.

20 (b) Each firearm transferred in violation of subsection (1) of this section constitutes a
21 separate violation.

22 (3) If a firearm transferred in a manner that violates subsection (1) of this section is used
23 to injure a person or property within two years of the violation, the owner or possessor of
24 the firearm who transferred the firearm in violation of subsection (1) of this section is
25 strictly liable for the injury.

26 (4) The liability imposed by subsection (3) of this section does not apply if the injury re-
27 sults from a lawful act of self-defense or defense of another person.

28 **SECTION 5. (1)(a) A person who owns, possesses or controls a firearm shall report the**
29 **loss or theft of the firearm to a law enforcement agency in the jurisdiction in which the loss**
30 **or theft occurred as soon as practicable but not later than within 72 hours of the time the**
31 **person knew or reasonably should have known of the loss or theft.**

32 (b) If a means of reporting a loss or theft of a firearm within 72 hours is not reasonably
33 available, the person who owned, possessed or controlled the firearm that was lost or stolen
34 must report the loss or theft within 24 hours of the means of reporting becoming available.

35 (c) A person may include the serial number of the firearm in a report under this sub-
36 section.

37 (2)(a) A violation of subsection (1) of this section is a Class B violation.

38 (b) Each firearm for which a person does not make the report within the time required
39 by subsection (1) of this section constitutes a separate violation.

40 (c) A person who knowingly provides false information in a report required by subsection
41 (1) of this section commits the crime of initiating a false report under ORS 162.375.

42 (3) If a lost or stolen firearm is used to injure a person or property and the person who
43 owned, possessed or controlled the firearm at the time of the loss or theft did not report the
44 loss or theft within the time period required by subsection (1) of this section, the person who
45 owned, possessed or controlled the firearm at the time of the loss or theft is strictly liable

1 for the injury for two years from the expiration of the time limit for reporting or until the
 2 loss or theft report is made, whichever occurs sooner.

3 (4) The liability imposed by subsection (3) of this section does not apply if the injury re-
 4 sults from a lawful act of self-defense or defense of another person.

5 (5)(a) Within 24 hours of receiving a report under subsection (1) of this section, a law
 6 enforcement agency shall create a record concerning the lost or stolen firearm in the Law
 7 Enforcement Data System or another electronic database as determined by the Department
 8 of State Police.

9 (b) A law enforcement agency is exempt from the obligation described in paragraph (a)
 10 of this subsection if the agency is unable to create a record concerning the lost or stolen
 11 firearm in the electronic database due to insufficient information.

12 (c) The department may adopt rules to carry out the provisions of this subsection.

13 **SECTION 6.** (1)(a) A person who transfers a firearm to a minor shall directly supervise
 14 the minor's use of the firearm.

15 (b) Notwithstanding ORS 166.250, except in the case of a lawful act of self-defense or de-
 16 fense of another person, a minor may possess a firearm only under the direct supervision
 17 of an adult.

18 (2)(a) A person who transfers a firearm to a minor, and who fails to directly supervise
 19 the minor's use of the firearm, is strictly liable for injury to person or property caused by
 20 the minor's use of the firearm.

21 (b) The liability imposed by paragraph (a) of this subsection does not apply if the injury
 22 results from a lawful act of self-defense or defense of another person.

23 (3) This section does not apply to the transfer of a firearm:

24 (a) That is owned by the minor; or

25 (b) To a minor, by a person who is the minor's parent or guardian or who has obtained
 26 the permission of the minor's parent or guardian:

27 (A) For the purpose of hunting in accordance with ORS 497.360, hunting of a predatory
 28 animal as defined in ORS 610.002, or target shooting at a shooting range, shooting gallery
 29 or other area designed for the purpose of target shooting, during the time in which the minor
 30 is engaged in activities related to hunting or target shooting; and

31 (B) Who holds a valid youth license under ORS 497.127 for the purposes of hunting.

32 **SECTION 7.** No later than July 1, 2020, the Oregon Health Authority, in consultation with
 33 the Department of State Police and after considering any relevant standards in the Con-
 34 sumer Product Safety Act (15 U.S.C. 2051 et seq.), shall adopt rules establishing the minimum
 35 specifications for trigger locks, cable locks and containers equipped with tamper-resistant
 36 locks required by sections 3 and 4 of this 2020 Act.

37 **SECTION 8.** A gun dealer shall post in a prominent location in the gun dealer's place of
 38 business a notice, in block letters not less than one inch in height, that states, "The pur-
 39 chaser of a firearm has an obligation to store firearms in a safe manner and to prevent un-
 40 supervised access to a firearm by a minor. If a minor or unauthorized person obtains access
 41 to a firearm and the owner failed to store the firearm in a safe manner, the owner may be
 42 in violation of the law."

43 **SECTION 9.** (1) Sections 2 to 6 and 8 of this 2020 Act become operative on July 1, 2020.

44 (2) The Oregon Health Authority may take any action before the operative date specified
 45 in subsection (1) of this section that is necessary to enable the authority to exercise, on and

1 after the operative date specified in subsection (1) of this section, all of the duties, functions
2 and powers conferred on the authority by sections 2 to 7 of this 2020 Act.

3 SECTION 10. This 2020 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect
5 on its passage.
6
