

# D R A F T

## SUMMARY

Defines “school zone.” Provides that person who knowingly possesses or discharges firearm in school zone commits Class C felony punishable by maximum of five years’ imprisonment, \$125,000 fine, or both. Specifies exceptions.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to firearms in school zones; amending ORS 166.360 and 166.370; and  
3 declaring an emergency.

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

5 **SECTION 1.** ORS 166.360 is amended to read:

6 166.360. As used in ORS 166.360 to 166.380, unless the context requires  
7 otherwise:

8 (1) “Capitol building” means the Capitol, the State Office Building, the  
9 State Library Building, the Labor and Industries Building, the State Trans-  
10 portation Building, the Agriculture Building or the Public Service Building  
11 and includes any new buildings which may be constructed on the same  
12 grounds as an addition to the group of buildings listed in this subsection.

13 (2) “Court facility” means a courthouse or that portion of any other  
14 building occupied by a circuit court, the Court of Appeals, the Supreme  
15 Court or the Oregon Tax Court or occupied by personnel related to the op-  
16 erations of those courts, or in which activities related to the operations of  
17 those courts take place.

18 (3) “Judge” means a judge of a circuit court, the Court of Appeals, the  
19 Supreme Court, the Oregon Tax Court, a municipal court, a probate court

1 or a juvenile court or a justice of the peace.

2 (4) “Judicial district” means a circuit court district established under  
3 ORS 3.012 or a justice of the peace district established under ORS 51.020.

4 (5) “Juvenile court” has the meaning given that term in ORS 419A.004.

5 (6) “Loaded firearm” means:

6 (a) A breech-loading firearm in which there is an unexpended cartridge  
7 or shell in or attached to the firearm including but not limited to, in a  
8 chamber, magazine or clip which is attached to the firearm.

9 (b) A muzzle-loading firearm which is capped or primed and has a powder  
10 charge and ball, shot or projectile in the barrel or cylinder.

11 (7) “Local court facility” means the portion of a building in which a jus-  
12 tice court, a municipal court, a probate court or a juvenile court conducts  
13 business, during the hours in which the court operates.

14 (8) “Probate court” has the meaning given that term in ORS 111.005.

15 (9) “Public building” means a hospital, a capitol building, [*a public or*  
16 *private school, as defined in ORS 339.315,*] a college or university, a city hall  
17 or the residence of any state official elected by the state at large, and the  
18 grounds adjacent to each such building. The term also includes that portion  
19 of any other building occupied by an agency of the state or a municipal  
20 corporation, as defined in ORS 297.405, other than a court facility.

21 **(10) “School” has the meaning given that term in ORS 339.315.**

22 **(11) “School zone” means in or on the grounds of a school, or within**  
23 **a distance of 1,000 feet from the grounds of a school.**

24 [(10)] (12) “Weapon” means:

25 (a) A firearm;

26 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar  
27 instrument or a knife, other than an ordinary pocketknife with a blade less  
28 than four inches in length, the use of which could inflict injury upon a  
29 person or property;

30 (c) Mace, tear gas, pepper mace or any similar deleterious agent as de-  
31 fined in ORS 163.211;

1 (d) An electrical stun gun or any similar instrument;

2 (e) A tear gas weapon as defined in ORS 163.211;

3 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku,  
4 nightstick, truncheon or any similar instrument, the use of which could in-  
5 flict injury upon a person or property; or

6 (g) A dangerous or deadly weapon as those terms are defined in ORS  
7 161.015.

8 **SECTION 2.** ORS 166.370 is amended to read:

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

13 **(b) Any person who intentionally possesses a dangerous weapon**  
14 **other than a firearm, while in a school or on grounds adjacent to a**  
15 **school, shall upon conviction be guilty of a Class C felony.**

16 **(c) Any person who knowingly possesses a loaded or unloaded**  
17 **firearm within a school zone shall upon conviction be guilty of a Class**  
18 **C felony.**

19 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a  
20 person who intentionally possesses:

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

24 (B) A weapon, other than a firearm, in a court facility may be required  
25 to surrender the weapon to a law enforcement officer or to immediately re-  
26 move it from the court facility. A person who fails to comply with this sub-  
27 paragraph is guilty, upon conviction, of a Class C felony.

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

1 (b) The presiding judge of a judicial district or a municipal court may  
2 enter an order permitting the possession of specified weapons in a court fa-  
3 cility.

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

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

9 (a) A police officer or reserve officer, as those terms are defined in ORS  
10 181A.355.

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

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

17 (d) A person summoned by an officer described in paragraph (a), (b) or (c)  
18 of this subsection to assist in making an arrest or preserving the peace,  
19 while the summoned person is engaged in assisting the officer.

20 (e) An honorably retired law enforcement officer.

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

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

25 (h) A person who is authorized by the officer or agency that controls the  
26 public building to possess a firearm or dangerous weapon in that public  
27 building.

28 (i) An employee of the United States Department of Agriculture, acting  
29 within the scope of employment, who possesses a firearm in the course of the  
30 lawful taking of wildlife.

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

1 [(A) *Is possessed by a person who is not otherwise prohibited from pos-*  
2 *sessing the firearm; and]*

3 [(B) *Is unloaded and locked in a motor vehicle.*]

4 **(4) Subsection (1)(c) of this section does not apply to the possession**  
5 **of a firearm:**

6 **(a) On private property that is not part of school grounds;**

7 **(b) That is not loaded and is in a locked container or a locked**  
8 **firearms rack on a motor vehicle;**

9 **(c) By a person for use in a program approved by a school in the**  
10 **school zone;**

11 **(d) By a person in accordance with a contract entered into between**  
12 **a school in the school zone and the person or an employer of the per-**  
13 **son; or**

14 **(e) That is unloaded and is possessed by a person while traversing**  
15 **school grounds for the purpose of gaining access to public or private**  
16 **lands open to hunting, if the entry onto school grounds is authorized**  
17 **by school authorities.**

18 [(4)(a)] **(5)** The exceptions listed in [subsection] **subsections** (3)(d) to  
19 [(j)] **(i) and (4)** of this section constitute affirmative defenses to a charge of  
20 violating subsection (1) of this section.

21 (b) A person may not use the affirmative defense described in subsection  
22 (3)(e) of this section if the person has been convicted of an offense that  
23 would make the person ineligible to obtain a concealed handgun license un-  
24 der ORS 166.291 and 166.292.

25 [(5)(a)] **(6)(a)** Any person who knowingly, or with reckless disregard for  
26 the safety of another, discharges or attempts to discharge a firearm at a  
27 place that the person knows is **within** a school **zone** shall upon conviction  
28 be guilty of a Class C felony.

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

31 **(A) On private property that is not part of school grounds;**

1       **(B) By a person in accordance with a contract entered into between**  
2 **a school in the school zone and the person or an employer of the per-**  
3 **son;**

4       [(A)] **(C)** As part of a program approved by a school in the school by an  
5 individual who is participating in the program;

6       [(B)] **(D)** By a law enforcement officer acting in the officer’s official ca-  
7 pacity; or

8       [(C)] **(E)** By an employee of the United States Department of Agriculture,  
9 acting within the scope of employment, in the course of the lawful taking  
10 of wildlife.

11       [(6)] **(7)** Any weapon carried in violation of this section is subject to the  
12 forfeiture provisions of ORS 166.279.

13       [(7)] **(8)** Notwithstanding the fact that a person’s conduct in a single  
14 criminal episode constitutes a violation of both subsections (1) and [(5)] **(6)**  
15 of this section, the district attorney may charge the person with only one  
16 of the offenses.

17       [(8)] **(9)** As used in this section, “dangerous weapon” means a dangerous  
18 weapon as that term is defined in ORS 161.015.

19       **SECTION 3.** **This 2021 Act being necessary for the immediate pres-**  
20 **ervation of the public peace, health and safety, an emergency is de-**  
21 **clared to exist, and this 2021 Act takes effect on its passage.**

22