

Senate Bill 686

Sponsored by Senators MANNING JR, GORSEK; Senators GELSER BLOUIN, SOLLMAN (Pre-session 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**.

Authorizes governing bodies of certain public entities that own or control public building to adopt policy, ordinance or regulation or precluding affirmative defense for possession of firearms in public building and adjacent grounds by concealed handgun licensees. Provides that in prosecution for possession of firearm in building or on grounds subject to such policy, ordinance or regulation, concealed handgun licensee affirmative defense is not complete defense, but results in Class A misdemeanor conviction punishable by 364 days' imprisonment, \$6,250 fine, or both.

A BILL FOR AN ACT

1
2 Relating to the possession of firearms in certain public areas; amending ORS 166.262, 166.360,
3 166.370 and 166.377.

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 otherwise:

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

11 (2) "Court facility" means a courthouse or that portion of any other building occupied by a
12 circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by
13 personnel related to the operations of those courts, or in which activities related to the operations
14 of those courts take place.

15 (3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the
16 Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

17 (4) "Judicial district" means a circuit court district established under ORS 3.012 or a justice of
18 the peace district established under ORS 51.020.

19 (5) "Juvenile court" has the meaning given that term in ORS 419A.004.

20 (6) "Loaded firearm" means:

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

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

26 (7) "Local court facility" means the portion of a building in which a justice court, a municipal
27 court, a probate court or a juvenile court conducts business, during the hours in which the court
28 operates.

29 (8) "Probate court" has the meaning given that term in ORS 111.005.

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 (9) "Public building" means:

2 (a) A hospital, a capitol building, a public or private school, as defined in ORS 339.315, a college
 3 or university, a city hall or the residence of any state official elected by the state at large, and the
 4 grounds adjacent to each such building. The term also includes that portion of any other building
 5 occupied by an agency of the state or by a city, a county, a district as defined in ORS 198.010 or
 6 any other entity that falls within the definition of "municipal corporation" in ORS 297.405, other
 7 than a court facility, **and the grounds adjacent to each such building;** or

8 (b) The passenger terminal of a commercial service airport with over one million passenger
 9 boardings per year.

10 (10) "Weapon" means:

11 (a) A firearm;

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

15 (c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

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

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

18 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any
 19 similar instrument, the use of which could inflict injury upon a person or property; or

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

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

22 166.370. (1)(a) Any person who intentionally possesses a loaded or unloaded firearm or any other
 23 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
 24 guilty of a Class C felony.

25 (b) Notwithstanding paragraph (a) of this subsection, in a prosecution under this section for the
 26 possession of a firearm within the Capitol, within the passenger terminal of a commercial service
 27 airport with over one million passenger boardings per year or **within a building and adjacent**
 28 **grounds or** on school grounds subject to a policy described in ORS 166.377, if the person proves
 29 by a preponderance of the evidence that, at the time of the possession, the person was licensed un-
 30 der ORS 166.291 and 166.292 to carry a concealed handgun, upon conviction the person is guilty of
 31 a Class A misdemeanor.

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

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

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

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

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

45 (c) Within a shared court facility, the presiding judge of a municipal court or justice of the

1 peace district may not enter an order concerning the possession of weapons in the court facility that
2 is in conflict with an order entered by the presiding judge of the circuit court.

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

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

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

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

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

13 (e) An honorably retired law enforcement officer.

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

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

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

20 (i) An employee of the United States Department of Agriculture, acting within the scope of em-
21 ployment, who possesses a firearm in the course of the lawful taking of wildlife.

22 (j) Possession of a firearm on school property if the firearm:

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

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

25 (k) A person who possesses a firearm in the passenger terminal of a commercial service airport,
26 if the firearm is unloaded and in a locked hard-sided container for the purposes of transporting the
27 firearm as checked baggage in accordance with federal law.

28 (4)(a) Except as provided in subsection (1)(b) of this section, the exceptions listed in subsection
29 (3)(d) to (k) of this section constitute affirmative defenses to a charge of violating subsection (1)(a)
30 of this section.

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

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

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

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

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

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

43 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
44 166.279.

45 (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a

1 violation of both subsections (1) and (5) of this section, the district attorney may charge the person
 2 with only one of the offenses.

3 (8) As used in this section, “dangerous weapon” means a dangerous weapon as that term is de-
 4 fined in ORS 161.015.

5 **SECTION 3.** ORS 166.377 is amended to read:

6 166.377. (1) The governing board of a public university listed in ORS 352.002, the Oregon Health
 7 and Science University Board of Directors, the governing board of a community college or a district
 8 school board as defined in ORS 332.002 may adopt a policy providing that the affirmative defense
 9 described in ORS 166.370 (3)(g), concerning persons licensed to carry a concealed handgun under
 10 ORS 166.291 and 166.292, does not apply to the possession of firearms on the grounds of the schools
 11 controlled by the board.

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

13 (a) Post a clearly visible sign, at all normal points of entry to the school grounds subject to the
 14 policy described in subsection (1) of this section, indicating that the affirmative defense described
 15 in ORS 166.370 (3)(g) does not apply.

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

18 **(3) The governing body of a city, county, district as defined in ORS 198.010 or any other**
 19 **entity that falls within the definition of “municipal corporation” in ORS 297.405 may adopt**
 20 **a policy, ordinance or regulation providing that the affirmative defense described in ORS**
 21 **166.370 (3)(g), concerning persons licensed to carry a concealed handgun under ORS 166.291**
 22 **and 166.292, does not apply to the possession of firearms within buildings and on grounds**
 23 **adjacent to buildings owned or controlled by the governing body.**

24 **(4) A governing body that adopts a policy under this section shall:**

25 **(a) Post a clearly visible sign, at all normal points of entry to the buildings and grounds**
 26 **subject to the policy described in subsection (3) of this section, indicating that the affirma-**
 27 **tive defense described in ORS 166.370 (3)(g) does not apply.**

28 **(b) Post a notice on the governing body’s website identifying all buildings and grounds**
 29 **subject to the policy described in subsection (3) of this section.**

30 **SECTION 4.** 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, unless the person
 34 possesses a firearm within the Capitol, within the passenger terminal of a commercial service air-
 35 port with over one million passenger boardings per year or **within a building or adjacent grounds**
 36 **or** on school grounds subject to a policy described in ORS 166.377;

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

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