

House Bill 3742

Sponsored by Representatives HELFRICH, CATE; Representatives BOICE, CHAICHI, JAVADI, SKARLATOS, Senators MCLANE, SMITH DB, THATCHER

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act lets members and staff with CHLs carry guns in the Capitol. (Flesch Readability Score: 76.5).

Provides that members of the Legislative Assembly and legislative branch employees who have a valid concealed handgun license have an affirmative defense to a charge of possessing a firearm within the Capitol, and may not be arrested or charged for the offense while in possession of the license.

A BILL FOR AN ACT

1
2 Relating to the possession of firearms in the Capitol; amending ORS 166.262 and 166.370.

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

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

5 166.370. (1)(a) Any person who intentionally possesses a loaded or unloaded firearm or any other
6 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
7 guilty of a Class C felony.

8 (b) Notwithstanding paragraph (a) of this subsection, in a prosecution under this section for the
9 possession of a firearm within the Capitol **by a person not described in paragraph (c) of this**
10 **subsection**, within the passenger terminal of a commercial service airport with over one million
11 passenger boardings per year or on school grounds subject to a policy described in ORS 166.377, if
12 the person proves by a preponderance of the evidence that, at the time of the possession, the person
13 was licensed under ORS 166.291 and 166.292 to carry a concealed handgun, upon conviction the
14 person is guilty of a Class A misdemeanor.

15 **(c) Members of the Legislative Assembly who are licensed under ORS 166.291 and 166.292**
16 **to carry a concealed handgun, and legislative branch employees who are licensed under ORS**
17 **166.291 and 166.292 to carry a concealed handgun, qualify for the affirmative defense de-**
18 **scribed in subsection (3)(g) of this section concerning the possession of a firearm within the**
19 **Capitol.**

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

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

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

28 (C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to

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 the offense, the presiding judge of the local court facility entered an order prohibiting firearms in
 2 the area in which the court conducts business and during the hours in which the court operates.

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

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

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

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

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

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

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

18 (e) An honorably retired law enforcement officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
4 166.279.

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

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

10 **SECTION 2.** ORS 166.262 is amended to read:

11 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or
12 (b) or 166.370 (1)(a) if the person has in the person's immediate possession:

13 (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292, unless the person
14 possesses a firearm:

15 (a) Within the Capitol[,] **and is not a person described in ORS 166.370 (1)(c);**

16 (b) Within the passenger terminal of a commercial service airport with over one million pas-
17 senger boardings per year; or

18 (c) On school grounds subject to a policy described in ORS 166.377;

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

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

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