

House Bill 4045

Sponsored by Representative BARKER (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**.

Establishes mandatory minimum sentences for crimes of unlawful possession of a firearm and felon in possession of a firearm.

A BILL FOR AN ACT

Relating to firearm crime sentencing; amending ORS 166.250 and 166.270.

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

SECTION 1. ORS 166.250 is amended to read:

166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.273, 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:

(a) Carries any firearm concealed upon the person;

(b) Possesses a handgun that is concealed and readily accessible to the person within any vehicle; or

(c) Possesses a firearm and:

(A) Is under 18 years of age;

(B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and

(ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;

(C) Has been convicted of a felony;

(D) Was committed to the Oregon Health Authority under ORS 426.130;

(E) Was found to be a person with mental illness and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(F) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm;

(G) Has been found guilty except for insanity under ORS 161.295 of a felony; or

(H) The possession of the firearm by the person is prohibited under ORS 166.255.

(2) This section does not prohibit:

(a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:

(A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or

(B) Temporarily for hunting, target practice or any other lawful purpose; or

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 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
 2 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
 3 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
 4 residence or place of business any handgun, and no permit or license to purchase, own, possess or
 5 keep any such firearm at the person's place of residence or place of business is required of any such
 6 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
 7 while used, for whatever period of time, as residential quarters.

8 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

9 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-
 10 cessible within the meaning of this section if the handgun is within the passenger compartment of
 11 the vehicle.

12 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage
 13 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-
 14 sible within the meaning of this section if:

15 (A) The handgun is stored in a closed and locked glove compartment, center console or other
 16 container; and

17 (B) The key is not inserted into the lock, if the glove compartment, center console or other
 18 container unlocks with a key.

19 (c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not
 20 readily accessible within the meaning of this section if:

21 (A) The handgun is in a locked container within or affixed to the vehicle; or

22 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the
 23 discharge of the firearm.

24 (5) Unlawful possession of a firearm is a Class A misdemeanor.

25 **(6) When a person is convicted under this section, in addition to any other sentence that**
 26 **may be imposed, the court shall impose and may not suspend a term of incarceration of at**
 27 **least 10 days.**

28 **SECTION 2.** ORS 166.270 is amended to read:

29 166.270. (1) Any person who has been convicted of a felony under the law of this state or any
 30 other state, or who has been convicted of a felony under the laws of the Government of the United
 31 States, who owns or has in the person's possession or under the person's custody or control any
 32 firearm commits the crime of felon in possession of a firearm.

33 (2) Any person who has been convicted of a felony under the law of this state or any other state,
 34 or who has been convicted of a felony under the laws of the Government of the United States, who
 35 owns or has in the person's possession or under the person's custody or control any instrument or
 36 weapon having a blade that projects or swings into position by force of a spring or by centrifugal
 37 force or any blackjack, slungshot, sandclub, sandbag, sap glove, metal knuckles or an Electro-
 38 Muscular Disruption Technology device as defined in ORS 165.540, or who carries a dirk, dagger
 39 or stiletto, commits the crime of felon in possession of a restricted weapon.

40 (3) For the purposes of this section, a person "has been convicted of a felony" if, at the time
 41 of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it
 42 was committed. Such conviction shall not be deemed a conviction of a felony if:

43 (a) The court declared the conviction to be a misdemeanor at the time of judgment; or

44 (b) The offense was possession of marijuana and the conviction was prior to January 1, 1972.

45 (4) Subsection (1) of this section does not apply to any person who has been:

1 (a) Convicted of only one felony under the law of this state or any other state, or who has been
2 convicted of only one felony under the laws of the United States, which felony did not involve
3 criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon
4 having a blade that projects or swings into position by force of a spring or by centrifugal force, and
5 who has been discharged from imprisonment, parole or probation for said offense for a period of 15
6 years prior to the date of alleged violation of subsection (1) of this section; or

7 (b) Granted relief from the disability under 18 U.S.C. 925(c) or ORS 166.274 or has had the
8 person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

9 (5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted
10 weapon is a Class A misdemeanor.

11 **(6) When a person is convicted of felon in possession of a firearm under this section, in**
12 **addition to any other sentence that may be imposed, the court shall impose and may not**
13 **suspend a term of incarceration of at least:**

14 (a) 120 days; or

15 (b) 300 days, if the person has previously served a term of incarceration in the physical
16 custody of the Department of Corrections.

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