

Senate Bill 816

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

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**.

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 declaring an emer-
3 gency.

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.

30 (9) "Public building" means a hospital, a capitol building, [*a public or private school, as defined*

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 *in ORS 339.315,*] a college or university, a city hall or the residence of any state official elected by
 2 the state at large, and the grounds adjacent to each such building. The term also includes that
 3 portion of any other building occupied by an agency of the state or a municipal corporation, as de-
 4 fined in ORS 297.405, other than a court facility.

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

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

8 ~~[(10)]~~ **(12) “Weapon” means:**

9 (a) A firearm;

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

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

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

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

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

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

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

20 166.370. (1)(a) Any person who intentionally possesses a loaded or unloaded firearm or any other
 21 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
 22 guilty of a Class C felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (e) An honorably retired law enforcement officer.

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

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

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

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

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

18 [(A) *Is possessed by a person who is not otherwise prohibited from possessing the firearm; and*]

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

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

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

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

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

25 **(d) By a person in accordance with a contract entered into between a school in the school**
 26 **zone and the person or an employer of the person; or**

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

30 [(4)(a)] **(5) The exceptions listed in [subsection] subsections (3)(d) to [(j)] (i) and (4) of this sec-**
 31 **tion constitute affirmative defenses to a charge of violating subsection (1) of this section.**

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

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

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

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

40 **(B) By a person in accordance with a contract entered into between a school in the**
 41 **school zone and the person or an employer of the person;**

42 [(A)] **(C) As part of a program approved by a school in the school by an individual who is par-**
 43 **ticipating in the program;**

44 [(B)] **(D) By a law enforcement officer acting in the officer's official capacity; or**

45 [(C)] **(E) By an employee of the United States Department of Agriculture, acting within the**

1 scope of employment, in the course of the lawful taking of wildlife.

2 [(6)] (7) Any weapon carried in violation of this section is subject to the forfeiture provisions
3 of ORS 166.279.

4 [(7)] (8) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes
5 a violation of both subsections (1) and [(5)] (6) of this section, the district attorney may charge the
6 person with only one of the offenses.

7 [(8)] (9) As used in this section, "dangerous weapon" means a dangerous weapon as that term
8 is defined in ORS 161.015.

9 **SECTION 3. This 2021 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
11 **on its passage.**

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