

Senate Bill 335

Sponsored by COMMITTEE ON JUDICIARY

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**.

Allows school district boards to prohibit persons with concealed handgun licenses from carrying firearms on school property.

Expands definition of "public building" for purposes of laws relating to possession of firearms on public property.

A BILL FOR AN ACT

1
2 Relating to concealed weapons on school property; amending ORS 166.262, 166.360 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) 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 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
9 tionally possesses:

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

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

16 (b) The presiding judge of a judicial district may enter an order permitting the possession of
17 specified weapons in a court facility.

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

19 (a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while
20 acting within the scope of employment.

21 (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace,
22 while the summoned person is engaged in assisting the officer.

23 (c) An active or reserve member of the military forces of this state or the United States, when
24 engaged in the performance of duty.

25 (d) **Except as otherwise provided in subsection (5) of this section**, a person who is licensed
26 under ORS 166.291 and 166.292 to carry a concealed handgun.

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

29 (f) Possession of a firearm on school property if the firearm:

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

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) Is unloaded and locked in a motor vehicle.

2 (4) The exceptions listed in subsection (3)(b) to (f) of this section constitute affirmative defenses
3 to a charge of violating subsection (1) of this section.

4 **(5) A school district board may prohibit persons licensed under ORS 166.291 and 166.292**
5 **from possessing firearms in or on a public building that is a public school or the site or**
6 **premises of any student program or activity that is sponsored or sanctioned by a public**
7 **school.**

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

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

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

14 (B) By a law enforcement officer acting in the officer’s official capacity.

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

18 [(7)] **(8)** As used in this section, “dangerous weapon” means a dangerous weapon as that term
19 is defined in ORS 161.015.

20 **SECTION 2.** ORS 166.370, as amended by section 36, chapter 666, Oregon Laws 2001, and sec-
21 tion 6, chapter 614, Oregon Laws 2003, is amended to read:

22 166.370. (1) 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 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
26 tionally possesses:

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

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

33 (b) The presiding judge of a judicial district may enter an order permitting the possession of
34 specified weapons in a court facility.

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

36 (a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while
37 acting within the scope of employment.

38 (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace,
39 while the summoned person is engaged in assisting the officer.

40 (c) An active or reserve member of the military forces of this state or the United States, when
41 engaged in the performance of duty.

42 (d) **Except as otherwise provided in subsection (5) of this section,** a person who is licensed
43 under ORS 166.291 and 166.292 to carry a concealed handgun.

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

1 (f) Possession of a firearm on school property if the firearm:

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

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

4 (4) The exceptions listed in subsection (3)(b) to (f) of this section constitute affirmative defenses
5 to a charge of violating subsection (1) of this section.

6 **(5) A school district board may prohibit persons licensed under ORS 166.291 and 166.292**
7 **from possessing firearms in or on a public building that is a public school or the site or**
8 **premises of any student program or activity that is sponsored or sanctioned by a public**
9 **school.**

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

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

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

16 (B) By a law enforcement officer acting in the officer’s official capacity.

17 [(6)] **(7)** Any weapon carried in violation of this section is subject to the forfeiture provisions
18 of ORS 166.279.

19 [(7)] **(8)** Notwithstanding the fact that a person’s conduct in a single criminal episode constitutes
20 a violation of both subsections (1) and [(5)] **(6)** of this section, the district attorney may charge the
21 person with only one of the offenses.

22 [(8)] **(9)** As used in this section, “dangerous weapon” means a dangerous weapon as that term
23 is defined in ORS 161.015.

24 **SECTION 3.** ORS 166.360 is amended to read:

25 166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

26 (1) “Capitol building” means the Capitol, the State Office Building, the State Library Building,
27 the Labor and Industries Building, the State Transportation Building, the Agriculture Building or
28 the Public Service Building and includes any new buildings which may be constructed on the same
29 grounds as an addition to the group of buildings listed in this subsection.

30 (2) “Court facility” means a courthouse or that portion of any other building occupied by a
31 circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by
32 personnel related to the operations of those courts, or in which activities related to the operations
33 of those courts take place.

34 (3) “Loaded firearm” means:

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

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

40 (4) “Public building” means a hospital, a capitol building, a public or private school, as defined
41 in ORS 339.315, a college or university, a city hall [or], the residence of any state official elected
42 by the state at large, and the grounds adjacent to each such building, **the site or premises of any**
43 **student program or activity that is sponsored or sanctioned by a public or private school or**
44 **a school bus.** The term also includes that portion of any other building occupied by an agency of
45 the state or a municipal corporation, as defined in ORS 297.405, other than a court facility.

1 **(5) “School bus” has the meaning given that term in ORS 801.460.**

2 ~~[(5)]~~ **(6) “Weapon” means:**

3 (a) A firearm;

4 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife
5 other than an ordinary pocket knife, the use of which could inflict injury upon a person or property;

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

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

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

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

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

12 **SECTION 4.** ORS 166.262 is amended to read:

13 166.262. **(1)** A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a)
14 or (b) or, **except as provided in subsection (2) of this section, for violating ORS 166.370 (1)** if
15 the person has in the person’s immediate possession a valid license to carry a firearm as provided
16 in ORS 166.291 and 166.292.

17 **(2) If a school district board has prohibited the possession of firearms under ORS 166.370**
18 **(5), a peace officer may arrest or charge a person for violating ORS 166.370 (1),**
19 **notwithstanding the fact that the person has in the person’s immediate possession a valid**
20 **license to carry a firearm as provided in ORS 166.291 and 166.292.**

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