

# Senate Bill 1538

Sponsored by Senators BURDICK, MANNING JR, HASS; Senators BEYER, DEMBROW, FREDERICK, GELSER, GOLDEN, MONNES ANDERSON, PROZANSKI, RILEY, STEINER HAYWARD, TAYLOR, WAGNER (Presession 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 city, county, metropolitan service district, school district, college or university to adopt ordinance or policy limiting or precluding affirmative defense for possession of firearms in public buildings by concealed handgun licensees. Modifies definition of "public building" for purposes of crime of unlawful possession of weapon in public building. Punishes violation by maximum of five years' imprisonment, \$125,000 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to firearms; creating new provisions; and amending ORS 166.262, 166.360 and 166.370.

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

4 **SECTION 1. (1) A city, a county or a metropolitan service district organized under ORS**  
5 **chapter 268 may adopt an ordinance limiting or precluding the use of the affirmative defense**  
6 **described in ORS 166.370 (3)(g) concerning the possession of firearms in public buildings,**  
7 **within each entity's respective jurisdiction, by persons licensed to carry a concealed handgun**  
8 **under ORS 166.291 and 166.292.**

9 **(2) A school district, college or university may adopt a policy limiting or precluding the**  
10 **use of the affirmative defense described in ORS 166.370 (3)(g) concerning the possession of**  
11 **firearms in public buildings by persons licensed to carry a concealed handgun under ORS**  
12 **166.291 and 166.292.**

13 **(3) An entity that adopts an ordinance or policy under this section shall post a sign,**  
14 **visible to the public, identifying all locations where the affirmative defense described in ORS**  
15 **166.370 (3)(g) is limited or precluded.**

16 **(4) As used in this section, "public building" has the meaning given that term in ORS**  
17 **166.360.**

18 **SECTION 2. ORS 166.360 is amended to read:**

19 166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

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

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

28 (3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the

**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 Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

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

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

5 (6) "Loaded firearm" means:

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

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

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

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

15 (9) "Public building" means:

16 (a)(A) A hospital[.];

17 (B) A capitol building[.];

18 (C) A public or private school, as defined in ORS 339.315[.];

19 (D) A college or university[.];

20 (E) A city hall [*or*];

21 (F) The residence of any state official elected by the state at large, *and the grounds adjacent*  
22 *to each such building. The term also includes*];

23 (G) **A building owned by the state or by a city, county or metropolitan service district;**  
24 **or**

25 (H) That portion of any other building occupied by an agency of the state or a municipal cor-  
26 poration, as defined in ORS 297.405, other than a court facility[.];

27 (b) **The grounds, other than a parking area, adjacent to a building described in paragraph**  
28 **(a) of this subsection; or**

29 (c) **Real property owned by a college or university.**

30 (10) "Weapon" means:

31 (a) A firearm;

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

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

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

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

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

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

41 **SECTION 3.** ORS 166.370 is amended to read:

42 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other  
43 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be  
44 guilty of a Class C felony.

45 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-

1 tionally possesses:

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

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

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

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

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

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

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

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

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

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

26 (e) An honorably retired law enforcement officer.

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

29 (g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun, **ex-**  
30 **cept as otherwise provided in an ordinance or policy adopted pursuant to section 1 of this**  
31 **2020 Act.**

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

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

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

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

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

39 (4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative de-  
40 fenses to a charge of violating subsection (1) of this section.

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

44 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges  
45 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-

1 viction be guilty of a Class C felony.

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

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

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

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

8 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS  
9 166.279.

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

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

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

16 166.262. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or  
17 (b) or 166.370 (1) if the person has in the person's immediate possession:

18 (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292, **unless the per-**  
19 **son possesses a firearm in a public building in violation of an ordinance or policy adopted**  
20 **pursuant to section 1 of this 2020 Act;**

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

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

25