

Senate Bill 758

Sponsored by Senator DINGFELDER; Senator BURDICK, Representative DEMBROW

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**.

Requires person that owns firearm to obtain and maintain in effect liability insurance policy that covers firearm and complies with provisions specifying coverage and other requirements for liability insurance policy. Excludes peace officers and persons in military service from requirement under specified conditions. Subjects person that fails to obtain and maintain insurance to civil penalty of not more than \$10,000 for each firearm that is not covered as required.

Provides that person may not sell or transfer firearm or ammunition for firearm to another person unless person verifies that other person has liability insurance policy for firearm.

Provides that person that owns firearm is strictly liable for injury caused by discharge of firearm up to limits of liability insurance coverage.

Requires insurer to issue, and person that owns firearm to carry, evidence of liability insurance coverage.

Specifies minimum coverage amounts and other requirements for liability insurance for firearms. Becomes operative January 1, 2014.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to liability insurance for firearms; and declaring an emergency.

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

4 **SECTION 1. Sections 2 to 13 of this 2013 Act are added to and made a part of ORS**
5 **chapter 742.**

6 **SECTION 2. As used in sections 2 to 13 of this 2013 Act:**

7 (1) "Firearm" has the meaning given that term in ORS 166.210 (3).

8 (2)(a) "Person" means an individual, partnership, corporation, limited liability company,
9 trust, association, joint venture, fiduciary, administrator, representative or any other na-
10 tural person or entity that is capable of owning a firearm.

11 (b) "Person" does not include:

12 (A) The United States or an agency of the United States;

13 (B) The State of Oregon or an agency or political subdivision of the State of Oregon; or

14 (C) Another state or an agency or political subdivision of another state.

15 **SECTION 3. (1)(a) Except as provided in paragraph (c) of this subsection, a person that**
16 **owns a firearm that is located in this state shall obtain and maintain in effect a liability in-**
17 **surance policy that covers the firearm and that complies with the provisions of sections 2**
18 **to 13 of this 2013 Act.**

19 (b) A person that is subject to paragraph (a) of this section shall have at all times during
20 which the person owns a firearm evidence from an insurer to show coverage for the firearm
21 under the insurer's liability insurance policy. The person shall keep the evidence of the cov-
22 erage with the person or in a place that is readily accessible and available for immediate
23 inspection at all times during which the person uses, carries, transports, stores or otherwise
24 has access to the firearm.

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.

(c) Paragraphs (a) and (b) of this subsection do not apply to:

(A) A peace officer with respect to a firearm that the peace officer receives from the peace officer's employer and possesses or is required to possess as a condition of, and for use in the course of, the peace officer's employment as a peace officer; or

(B) An individual in the military or naval service of the United States, the State of Oregon or another state with respect to a firearm that the individual receives from a recognized military or naval authority and that the individual possesses or is required to possess as a condition of, and for use in the course of, the individual's military or naval service.

(2) For purposes of sections 2 to 13 of this 2013 Act:

(a) A person owns a firearm if the person:

(A) Holds title to, has another ownership interest in or has an exclusive legal right to possess or control the firearm; or

(B) Is not a person described in subparagraph (A) of this paragraph and possesses the firearm without the express permission of a person described in subparagraph (A) of this paragraph.

(b) A person described in paragraph (a)(A) of this subsection continues to own a firearm that the person loses or that is stolen from the person until the earlier of:

(A) The date on which another person obtains a liability insurance policy that covers the firearm in accordance with the provisions of sections 2 to 13 of this 2013 Act; or

(B) One year after the date on which the person reports the loss or theft of the firearm to a law enforcement authority.

(3) The Department of State Police, in accordance with ORS 183.745, may impose a civil penalty of not more than \$10,000 on a person that is subject to subsection (1)(a) of this section if the person fails to obtain and maintain in effect in accordance with subsection (1)(a) of this section a liability insurance policy for a firearm the person owns. A person is subject to a separate civil penalty in accordance with this subsection with respect to each firearm for which the person does not have coverage required under subsection (1)(a) of this section.

SECTION 4. (1) A person may not sell or otherwise transfer a firearm or ammunition for a firearm to another person unless the person receives and verifies as provided in subsection (2) of this section evidence from the other person that the other person has liability insurance that covers or, at the conclusion of the transaction, will cover the firearm that is the subject of the sale or transfer, or a firearm that uses the ammunition that is the subject of the sale or transfer. The requirement in this subsection is in addition to and not in lieu of any background check required as a condition of selling or transferring a firearm to the other person.

(2) To verify that another person has a liability insurance policy for the purposes of subsection (1) of this section, a person must:

(a) Receive from the other person and inspect an insurance card or similar document that has the information required under section 6 of this 2013 Act;

(b) Receive from the other person and inspect valid, government-issued identification on which appears a photograph that bears a reasonable resemblance to the other person and that matches the name shown on the card or document described in paragraph (a) of this subsection; and

(c) Contact the insurer identified on the card or document described in paragraph (a) of this subsection to verify that the insurer has issued and maintains in effect for the other

1 person a valid, unexpired liability insurance policy with the policy number shown on the card
 2 or document.

3 (3) A person that verifies in accordance with this section that another person has a li-
 4 ability insurance policy for a firearm that the other person already owns may sell or transfer
 5 another firearm to the other person only after the person contacts the insurer that provided
 6 the liability insurance policy and provides to the insurer a description of the firearm that
 7 conforms to the requirements set forth in section 7 (1)(c) of this 2013 Act for the insurer to
 8 include in the insurer's coverage under the liability insurance policy. If the insurer refuses
 9 coverage, the person may not sell or transfer the firearm to the other person.

10 (4) A person that sells or transfers a firearm in accordance with this section shall notify
 11 the Department of State Police of the transaction in accordance with procedures the de-
 12 partment specifies by rule. The department shall specify by rule the form, format and con-
 13 tents of the notification required under this subsection.

14 **SECTION 5.** (1) A person that owns a firearm that discharges and causes an injury is
 15 strictly liable in money damages for the injury to the extent of the person's coverage under
 16 a liability insurance policy described in section 7 of this 2013 Act.

17 (2) This section does not limit in any way a person's liability in tort for injuries the
 18 person causes intentionally or negligently.

19 (3) A person may seek to recover any amount for which the person is liable under this
 20 section from any other person whose negligent or intentional act caused the injury for which
 21 the person is liable, except that the person may not seek to recover an amount from a minor
 22 or an incompetent person or from the estate of a minor or incompetent person, if the minor
 23 or incompetent person was the only person injured by the discharge of the firearm.

24 **SECTION 6.** An insurer that issues a liability insurance policy that is designed to meet
 25 the requirements of section 3 (1)(a) of this 2013 Act shall issue with the policy a card or other
 26 documentary evidence that shows the insurer's name, address and telephone number, an
 27 identification number for the liability insurance policy and the effective date and expiration
 28 date of the liability insurance policy.

29 **SECTION 7.** (1) A liability insurance policy that is designed to meet the requirements of
 30 section 3 (1)(a) of this 2013 Act and that is issued for delivery in this state shall state in the
 31 policy:

32 (a) The name and address of the named insured;

33 (b) The coverage that the policy affords, which must, at a minimum, insure the named
 34 insured against liability for injuries or damage that a discharge of a covered firearm causes
 35 to any person other than the named insured, regardless of whether the discharge occurs as
 36 a result of any person's accidental, negligent or intentional act;

37 (c) An explicit description of or reference to each covered firearm by model name or
 38 number and serial number or any other permanent markings or characteristics that would
 39 enable a person to distinguish the covered firearm from another, similar firearm;

40 (d) The premium the insurer charges the insured;

41 (e) The policy period;

42 (f) The limits of liability, which must be, at a minimum:

43 (A) \$250,000, payable to each person who is physically injured or killed by the discharge
 44 of a covered firearm;

45 (B) \$250,000, payable to each person whose property is damaged by the discharge of a

1 covered firearm; and

2 (C) \$100,000, payable to each person that is injured in any way by the discharge of a
3 covered firearm; and

4 (g) That the insurance provided is subject to all of the provisions of sections 2 to 13 of
5 this 2013 Act that relate to the insured's liability for injuries or damage caused by a dis-
6 charge of a covered firearm.

7 (2) A liability insurance policy described in this section may exclude by name from cov-
8 erage any person other than the named insured, for any reason the Director of the Depart-
9 ment of Consumer and Business Services, with the approval of the Attorney General,
10 specifies by rule. If an insurer excludes a person in accordance with this subsection, the
11 insurer shall obtain a statement or indorsement signed by each of the named insureds that
12 states that the policy will not provide coverage to any named excluded person for injuries
13 or damage caused by a discharge of a covered firearm that is in the possession of the named
14 excluded person.

15 (3) A liability insurance policy described in this section must provide liability coverage
16 for each of the insured's family members who reside in the same household as the insured
17 in an amount equal to the amount of liability coverage that the insured purchases.

18 **SECTION 8.** An insurer's liability with respect to a liability insurance policy that is de-
19 signed to meet the requirements of section 3 (1)(a) of this 2013 Act and that is issued for
20 delivery in this state is absolute whenever injury or damage covered by the policy occurs.
21 The insurer may not annul or cancel the policy by agreement with the insured as to liability
22 that accrues as described in this section after an injury or damage occurs. A statement the
23 insured makes or that another person makes on the insured's behalf in violation of the policy
24 does not defeat or void the policy.

25 **SECTION 9.** A liability insurance policy that is designed to meet the requirements of
26 section 3 (1)(a) of this 2013 Act and that is issued for delivery in this state is subject to the
27 following provisions, which do not need to be stated in the liability insurance policy:

28 (1) The policy, any written application for the policy and any rider or indorsement that
29 does not conflict with the provisions of sections 2 to 13 of this 2013 Act constitutes the entire
30 contract between the insurer and the named insured.

31 (2) The insured's satisfaction of a judgment for injury or damage covered by the liability
32 insurance policy is not a condition precedent to the insurer's right or duty to make a pay-
33 ment as a consequence of the injury or damage.

34 (3) Any binder that an insurer issues before issuing a liability insurance policy described
35 in this section is subject to the provisions of this section and fulfills the requirements for
36 the liability insurance policy.

37 **SECTION 10.** A liability insurance policy that is designed to meet the requirements of
38 section 3 (1)(a) of this 2013 Act and that is issued for delivery in this state may provide that
39 the insured shall reimburse the insurer for any payment the insurer would not have been
40 obligated to make under the terms of the policy except for the provisions of sections 7 and
41 8 of this 2013 Act. The liability insurance policy may further provide for apportioning the
42 coverage under the terms of the policy with other valid and collectible insurance.

43 **SECTION 11.** An insurer that issues a liability insurance policy that is designed to meet
44 the requirements of section 3 (1)(a) of this 2013 Act and that is issued for delivery in this
45 state has the right to settle any claim that the policy covers. If the insurer makes the

1 settlement in good faith, the amount of the settlement is deductible from the limits of li-
2 ability specified in the liability insurance policy.

3 **SECTION 12.** (1) A liability insurance policy that is designed to meet the requirements
4 of section 3 (1)(a) of this 2013 Act and that is issued for delivery in this state may also pro-
5 vide any lawful coverage in excess of or in addition to the required coverage. The excess or
6 additional coverage does not need to cover injuries or damage required under sections 7 and
7 8 of this 2013 Act and, to the extent that the excess or additional coverage does not provide
8 coverage, the coverage is not subject to the provisions of sections 2 to 13 of this 2013 Act.

9 (2) One or more insurers may combine policies or coverage to provide an insured with
10 the coverage required under section 3 (1)(a) of this 2013 Act.

11 **SECTION 13.** An insurer shall notify the Director of the Department of Consumer and
12 Business Services and the Department of State Police at least 10 days before the insurer
13 cancels a liability insurance policy required under section 3 (1)(a) of this 2013 Act because
14 of the insured's failure to pay a premium for the liability insurance policy.

15 **SECTION 14.** A person that is subject to the requirement set forth in section 3 (1)(a) of
16 this 2013 Act shall obtain liability insurance for the person's firearms within one calendar
17 year after the operative date specified in section 15 of this 2013 Act.

18 **SECTION 15.** (1) Sections 2 to 14 of this 2013 Act become operative January 1, 2014.

19 (2) The Department of Consumer and Business Services and the Department of State
20 Police may take any action before the operative date specified in subsection (1) of this sec-
21 tion that is necessary to enable either department to exercise, on and after the operative
22 date specified in subsection (1) of this section, all of the duties, functions and powers con-
23 ferred on the departments by sections 2 to 14 of this 2013 Act.

24 **SECTION 16.** This 2013 Act being necessary for the immediate preservation of the public
25 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
26 on its passage.

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