

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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|-----------------------|---|
| <b>Action:</b>        | Do Pass as Amended and Be Printed Engrossed |
| <b>Vote:</b>          | 3 - 2 - 0                                   |
| <b>Yeas:</b>          | Dingfelder, Roblan, Prozanski               |
| <b>Nays:</b>          | Close, Kruse                                |
| <b>Exc.:</b>          | 0   |
| <b>Prepared By:</b>   | Bill Taylor, Counsel                        |
| <b>Meeting Dates:</b> | 4/5, 4/18                                   |

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**WHAT THE MEASURE DOES:** Allows school districts to adopt a policy that excludes firearms, but does not require them to adopt a policy that allows firearms. Functions as an opt in rather than opt out provision. Allows schools to have a written policy for storage of firearms. Allows possession of a firearm for class training or demonstration. Allows a parent of a student with a concealed firearm permit to accompany a student to and from school with a firearm so long as the parent does not enter a school building. Provides that a person with a firearm and a concealed firearm permit who refuses to leave a school after being asked to do so or who goes on school grounds that are posted “no firearms” property commits trespass in the first degree, a Class A misdemeanor. Declares emergency, effective upon passage.

**ISSUES DISCUSSED:**

- Unique nature of schools
- School shootings
- Right to carry

**EFFECT OF COMMITTEE AMENDMENT:** Replaces measure.

**BACKGROUND:** Article 1, section 27, Oregon Constitution states as follows: “The people shall have the right to bear arms for the defense [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power.”

This provision provides Oregonians the right to bear arms collectively through a militia, which today would be the Oregon National Guard, and individually for personal protection particularly in their respective homes. *State v. Kessler*, 289 Or. 359 (1980). This right is not absolute. Oregon prohibits convicted felons from possessing firearms. The Oregon Supreme has found this prohibition constitutional and strongly indicated that prohibiting a mentally ill person from carrying a firearm, as Oregon does, is constitutional. *State v. Hirsch/Friend*, 338 Or. 622 (2005). A deeply divided Oregon Court of Appeals has found a City of Portland ordinance, prohibiting the carrying of a loaded firearm in a public place, constitutional. *State v. Christian*, 249 Or. App. 1 (2012). This case is currently before the Oregon Supreme Court.

The Second Amendment to the United States Constitution states as follows: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

The United States Supreme Court has found that the Second Amendment guarantees a citizen the individual right to possess a firearm in the home for protection. *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*. 130 S.Ct. 3020 (2010). Recently, the 7<sup>th</sup> federal circuit court extended the right to carry a firearm for protection to beyond the home, Nos. 1-1269, 12-1788 (February 22, 2013). This decision is applicable only to the 7<sup>th</sup> circuit and not Oregon.

4/29/2013 3:25:00 PM

***This summary has not been adopted or officially endorsed by action of the committee.***