

A-Engrossed
House Bill 2603

Ordered by the House March 21
Including House Amendments dated March 21

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim 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.

[Provides that device seized by law enforcement agency as gray machine must be returned if prosecution for crime of possession of gray machine is not commenced within six months after seizure.] **Provides that if motion is filed for return or restoration of device seized by law enforcement agency as gray machine, burden of proof is on state to establish that device is gray machine.** Requires judgment of forfeiture for destruction or other disposition of device seized as gray machine.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to gambling; creating new provisions; amending ORS 167.164; and declaring an emergency.

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

4 **SECTION 1.** ORS 167.164 is amended to read:

5 167.164. (1) *[On and after December 1, 1991,]* A person commits the crime of possession of a gray
6 machine if the person manufactures, sells, leases, transports, places, possesses or services a gray
7 machine or conducts or negotiates a transaction affecting or designed to affect the ownership, cus-
8 tody or use of a gray machine.

9 (2) Possession of a gray machine is a Class C felony.

10 **(3) If any device is seized by a law enforcement agency based on a contention that the**
11 **device is a gray machine, and a motion for return or restoration of the device is filed under**
12 **ORS 133.633, the burden of proof is on the state to establish that the device is in fact a gray**
13 **machine.**

14 *[(3)]* **(4) Violation of, solicitation to violate, attempt to violate or conspiracy to violate sub-**
15 **section (1) of this section constitutes prohibited conduct for purposes of ORS chapter 131A, and**
16 **shall give rise to civil in rem forfeiture as provided in ORS chapter 131A. A judgment providing for**
17 **forfeiture may direct that the machine be destroyed]. A device that is claimed to be a gray machine**
18 **may be destroyed or otherwise disposed of only if a judgment of forfeiture has been entered**
19 **under ORS 131.550 to 131.600 or ORS chapter 131A.**

20 *[(4)]* **(5) It is a defense to a charge of possession of a gray machine if the machine that caused**
21 **the charge to be brought was manufactured prior to 1958 and was not operated for purposes of un-**
22 **lawful gambling.**

23 **SECTION 2. The amendments to ORS 167.164 by section 1 of this 2013 Act apply only to**
24 **seizures of devices claimed to be gray machines on or after the effective date of this 2013**
25 **Act.**

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 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
3 **on its passage.**

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