

Minority Report No. 2
B-Engrossed
Senate Bill 941

Ordered by the House April 29
Including Senate Amendments dated April 9 and House Minority
Report No. 2 Amendments dated April 29

Sponsored by nonconcurring members of the House Committee on Rules: Representatives WILSON, KENNEMER

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.

[Requires private person to complete transfer of firearm by appearing with transferee before gun dealer to request criminal background check or shipping or delivering firearm to gun dealer in certain circumstances. Specifies exceptions for family members, law enforcement, inherited firearms and certain temporary transfers. Punishes violation by maximum of one year's imprisonment, \$6,250 fine, or both, or maximum of 10 years' imprisonment, \$250,000 fine, or both, for second or subsequent offense.]

[Authorizes Department of State Police to notify appropriate law enforcement agency when, during criminal background check performed prior to transfer of firearm, department determines that recipient is prohibited from possessing firearm.]

[Authorizes court to prohibit person ordered to participate in assisted outpatient treatment from purchasing or possessing firearm during period of treatment if certain criteria are met.]

[Declares emergency, effective on passage.]

Increases penalties for crime of unlawful possession of a firearm by prohibited persons other than minors. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.
Increases penalties for felons convicted of possessing firearm. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Modifies crime of providing false information in connection with a transfer of a firearm by adding manner of committing crime and including ammunition. Increases penalties for crime. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Increases penalties for crime of unlawfully purchasing a firearm. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Increases penalties for unlawfully transferring firearm to prohibited possessor. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Appropriates moneys to Oregon Health Authority to prevent firearm violence by providing mental health services.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.250, 166.270, 166.416, 166.425
3 and 166.470.

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

5 **SECTION 1.** ORS 166.250 is amended to read:

6 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
7 166.291, 166.292 or 166.410 to 166.470 or section 5, chapter 826, Oregon Laws 2009, a person commits
8 the crime of unlawful possession of a firearm if the person knowingly:

9 (a) Carries any firearm concealed upon the person;

10 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
11 cle; or

12 (c) Possesses a firearm and:

13 (A) Is under 18 years of age;

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)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
2 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
3 volving violence, as defined in ORS 166.470; and

4 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
5 charged under this section;

6 (C) Has been convicted of a felony;

7 (D) Was committed to the Oregon Health Authority under ORS 426.130;

8 (E) Was found to be a person with mental illness and subject to an order under ORS 426.130 that
9 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
10 or

11 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

12 (2) This section does not prohibit:

13 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
14 sessed a firearm:

15 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
16 guardian or by another person with the consent of the minor's parent or guardian; or

17 (B) Temporarily for hunting, target practice or any other lawful purpose; or

18 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
19 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
20 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
21 residence or place of business any handgun, and no permit or license to purchase, own, possess or
22 keep any such firearm at the person's place of residence or place of business is required of any such
23 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
24 while used, for whatever period of time, as residential quarters.

25 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

26 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-
27 cessible within the meaning of this section if the handgun is within the passenger compartment of
28 the vehicle.

29 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage
30 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-
31 sible within the meaning of this section if:

32 (A) The handgun is stored in a closed and locked glove compartment, center console or other
33 container; and

34 (B) The key is not inserted into the lock, if the glove compartment, center console or other
35 container unlocks with a key.

36 (c) If a vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not readily
37 accessible within the meaning of this section if:

38 (A) The handgun is in a locked container within or affixed to the vehicle; or

39 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the
40 discharge of the firearm.

41 (5)(a) Unlawful possession of a firearm **as described in subsection (1)(a), (b) or (c)(A) of this**
42 **section** is a Class A misdemeanor.

43 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of a firearm**
44 **as described in subsection (1)(c)(B) to (F) of this section is a Class C felony.**

45 **SECTION 2.** ORS 166.250, as amended by section 11a, chapter 826, Oregon Laws 2009, section

1 2, chapter 662, Oregon Laws 2011, and section 7, chapter 360, Oregon Laws 2013, is amended to
2 read:

3 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
4 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm
5 if the person knowingly:

6 (a) Carries any firearm concealed upon the person;

7 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
8 cle; or

9 (c) Possesses a firearm and:

10 (A) Is under 18 years of age;

11 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
12 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
13 volving violence, as defined in ORS 166.470; and

14 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
15 charged under this section;

16 (C) Has been convicted of a felony;

17 (D) Was committed to the Oregon Health Authority under ORS 426.130;

18 (E) Was found to be a person with mental illness and subject to an order under ORS 426.130 that
19 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
20 or

21 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

22 (2) This section does not prohibit:

23 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
24 ssuming a firearm:

25 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
26 guardian or by another person with the consent of the minor's parent or guardian; or

27 (B) Temporarily for hunting, target practice or any other lawful purpose; or

28 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
29 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
30 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
31 residence or place of business any handgun, and no permit or license to purchase, own, possess or
32 keep any such firearm at the person's place of residence or place of business is required of any such
33 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
34 while used, for whatever period of time, as residential quarters.

35 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

36 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-
37 cessible within the meaning of this section if the handgun is within the passenger compartment of
38 the vehicle.

39 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage
40 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-
41 sible within the meaning of this section if:

42 (A) The handgun is stored in a closed and locked glove compartment, center console or other
43 container; and

44 (B) The key is not inserted into the lock, if the glove compartment, center console or other
45 container unlocks with a key.

1 (c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not
2 readily accessible within the meaning of this section if:

3 (A) The handgun is in a locked container within or affixed to the vehicle; or

4 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the
5 discharge of the firearm.

6 (5)(a) Unlawful possession of a firearm **as described in subsection (1)(a), (b) or (c)(A) of this**
7 **section** is a Class A misdemeanor.

8 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of a firearm**
9 **as described in subsection (1)(c)(B) to (F) of this section is a Class C felony.**

10 **SECTION 3.** ORS 166.270 is amended to read:

11 166.270. (1) Any person who has been convicted of a felony under the law of this state or any
12 other state, or who has been convicted of a felony under the laws of the Government of the United
13 States, who owns or has in the person's possession or under the person's custody or control any
14 firearm commits the crime of felon in possession of a firearm.

15 (2) Any person who has been convicted of a felony under the law of this state or any other state,
16 or who has been convicted of a felony under the laws of the Government of the United States, who
17 owns or has in the person's possession or under the person's custody or control any instrument or
18 weapon having a blade that projects or swings into position by force of a spring or by centrifugal
19 force or any blackjack, slungshot, sandclub, sandbag, sap glove, metal knuckles or an Electro-
20 Muscular Disruption Technology device as defined in ORS 165.540, or who carries a dirk, dagger
21 or stiletto, commits the crime of felon in possession of a restricted weapon.

22 (3) For the purposes of this section, a person "has been convicted of a felony" if, at the time
23 of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it
24 was committed. Such conviction shall not be deemed a conviction of a felony if:

25 (a) The court declared the conviction to be a misdemeanor at the time of judgment; or

26 (b) The offense was possession of marijuana and the conviction was prior to January 1, 1972.

27 (4) Subsection (1) of this section does not apply to any person who has been:

28 (a) Convicted of only one felony under the law of this state or any other state, or who has been
29 convicted of only one felony under the laws of the United States, which felony did not involve
30 criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon
31 having a blade that projects or swings into position by force of a spring or by centrifugal force, and
32 who has been discharged from imprisonment, parole or probation for said offense for a period of 15
33 years prior to the date of alleged violation of subsection (1) of this section; or

34 (b) Granted relief from the disability under 18 U.S.C. 925(c) or ORS 166.274 or has had the
35 person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

36 (5) Felon in possession of a firearm is a Class [C] **B** felony. Felon in possession of a restricted
37 weapon is a Class A misdemeanor.

38 **SECTION 4.** ORS 166.416 is amended to read:

39 166.416. (1) **As used in this section:**

40 (a) **"Ammunition" means a cartridge, shell or projectile designed to be expelled from a**
41 **firearm.**

42 (b) **"Licensed dealer" means a person who is licensed pursuant to 18 U.S.C. 923 to engage**
43 **in the business of dealing in firearms.**

44 (c) **"Materially false information" means information that represents or portrays that**
45 **an unlawful firearm transaction is lawful.**

1 **(d) “Private seller” means a person who sells or offers for sale a firearm as defined in**
2 **ORS 166.210 or ammunition.**

3 [(1)] (2) A person commits the crime of providing false information in connection with a transfer
4 of a firearm if the person knowingly:

5 **(a) Provides to a licensed dealer or private seller a false name or materially false informa-**
6 **tion or presents false identification in connection with a purchase or transfer of a firearm[,] or**
7 **ammunition, with the intent to deceive the dealer or seller about the lawfulness of the pur-**
8 **chase or transfer; or**

9 **(b) Solicits, persuades, encourages or entices a licensed dealer or private seller of**
10 **firearms or ammunition to sell a firearm or ammunition under circumstances that the per-**
11 **son knows would violate state or federal law.**

12 [(2)] (3) Providing false information in connection with a transfer of a firearm is a Class [A
13 *misdemeanor*] **C felony.**

14 **(4) This section does not apply to a law enforcement officer acting in the performance**
15 **of official duties or to a person acting at the direction of the officer.**

16 **SECTION 5.** ORS 166.425 is amended to read:

17 166.425. (1) A person commits the crime of unlawfully purchasing a firearm if the person,
18 knowing that the person is prohibited by state law from owning or possessing the firearm or having
19 the firearm under the person’s custody or control, purchases or attempts to purchase the firearm.

20 (2) Unlawfully purchasing a firearm is a Class [A *misdemeanor*] **C felony.**

21 **SECTION 6.** ORS 166.470 is amended to read:

22 166.470. (1) Unless relief has been granted under ORS 166.274 or section 5, chapter 826, Oregon
23 Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another
24 jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the
25 transferor knows or reasonably should know that the recipient:

26 (a) Is under 18 years of age;

27 (b) Has been convicted of a felony;

28 (c) Has any outstanding felony warrants for arrest;

29 (d) Is free on any form of pretrial release for a felony;

30 (e) Was committed to the Oregon Health Authority under ORS 426.130;

31 (f) After January 1, 1990, was found to be a person with mental illness and subject to an order
32 under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result
33 of that mental illness;

34 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
35 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
36 this paragraph, “misdemeanor involving violence” means a misdemeanor described in ORS 163.160,
37 163.187, 163.190, 163.195 or 166.155 (1)(b); or

38 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

39 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
40 reasonably should know is stolen.

41 (3) Subsection (1)(a) of this section does not prohibit:

42 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
43 minor from transferring to the minor a firearm, other than a handgun; or

44 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
45 lawful purpose.

1 (4) Violation of this section is a Class [A *misdemeanor*] **C felony**.

2 **SECTION 7.** ORS 166.470, as amended by section 11, chapter 826, Oregon Laws 2009, and sec-
3 tion 11, chapter 360, Oregon Laws 2013, is amended to read:

4 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C. 925(c) or the
5 expunction laws of this state or an equivalent law of another jurisdiction, a person may not inten-
6 tionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably
7 should know that the recipient:

8 (a) Is under 18 years of age;

9 (b) Has been convicted of a felony;

10 (c) Has any outstanding felony warrants for arrest;

11 (d) Is free on any form of pretrial release for a felony;

12 (e) Was committed to the Oregon Health Authority under ORS 426.130;

13 (f) After January 1, 1990, was found to be a person with mental illness and subject to an order
14 under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result
15 of that mental illness;

16 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
17 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
18 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
19 163.187, 163.190, 163.195 or 166.155 (1)(b); or

20 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

21 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
22 reasonably should know is stolen.

23 (3) Subsection (1)(a) of this section does not prohibit:

24 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
25 minor from transferring to the minor a firearm, other than a handgun; or

26 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
27 lawful purpose.

28 (4) Violation of this section is a Class [A *misdemeanor*] **C felony**.

29 **SECTION 8.** In addition to and not in lieu of any other appropriation, there is appropri-
30 ated to the Oregon Health Authority, for the biennium beginning July 1, 2015, out of the
31 General Fund, the amount of \$44,000,000, which shall be expended for the purpose of pre-
32 venting firearm violence by providing mental health services to persons experiencing mental
33 health crises and to persons with mental disorders who are a danger to self or others or who
34 are at risk of being a danger to self or others.

35