

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 941**

1 On page 1 of the printed A-engrossed bill, line 2, after “firearms;” delete
2 the rest of the line and delete lines 3 and 4 and insert “amending ORS
3 161.610.”

4 Delete lines 6 through 20 and delete pages 2 through 23 and insert:

5 **“SECTION 1. ORS 161.610 is amended to read:**

6 “161.610. (1) As used in this section, ‘firearm’ has the meaning given that
7 term in ORS 166.210.

8 “(2) The use or threatened use of a firearm, whether operable or inoper-
9 able, by a defendant during the commission of a felony may be pleaded in the
10 accusatory instrument and proved at trial as an element in aggravation of
11 the crime as provided in this section. When a crime is so pleaded, the ag-
12 gravated nature of the crime may be indicated by adding the words ‘with a
13 firearm’ to the title of the offense. The unaggravated crime shall be consid-
14 ered a lesser included offense.

15 “(3) Notwithstanding the provisions of ORS 161.605 or 137.010 (3) and ex-
16 cept as otherwise provided in subsection (6) of this section, if a defendant is
17 convicted of a felony having as an element the defendant’s use or threatened
18 use of a firearm during the commission of the crime, the court shall impose
19 at least the minimum term of imprisonment as provided in subsection (4) of
20 this section. Except as provided in ORS 144.122 and 144.126 and subsection
21 (5) of this section, in no case shall any person punishable under this section
22 become eligible for work release, parole, temporary leave or terminal leave

1 until the minimum term of imprisonment is served, less a period of time
2 equivalent to any reduction of imprisonment granted for good time served
3 or time credits earned under ORS 421.121, nor shall the execution of the
4 sentence imposed upon such person be suspended by the court.

5 “(4) The minimum terms of imprisonment for felonies having as an ele-
6 ment the defendant’s use or threatened use of a firearm in the commission
7 of the crime shall be as follows:

8 “(a) Except as provided in subsection (5) of this section, upon the first
9 conviction for such felony, [*five*] **10** years, except that if the firearm is a
10 machine gun, short-barreled rifle, short-barreled shotgun or is equipped with
11 a firearms silencer, the term of imprisonment shall be [*10*] **20** years.

12 “(b) Upon conviction for such felony committed after punishment pursu-
13 ant to paragraph (a) of this subsection or subsection (5) of this section, [*10*]
14 **25** years, except that if the firearm is a machine gun, short-barreled rifle,
15 short-barreled shotgun or is equipped with a firearms silencer, the term of
16 imprisonment shall be [*20*] **30** years.

17 “(c) Upon conviction for such felony committed after imprisonment pur-
18 suant to paragraph (b) of this subsection, [*30*] **35** years.

19 “(5) If it is the first time that the defendant is subject to punishment
20 under this section, rather than impose the sentence otherwise required by
21 subsection (4)(a) of this section, the court may:

22 “(a) For felonies committed prior to November 1, 1989, suspend the exe-
23 cution of the sentence or impose a lesser term of imprisonment, when the
24 court expressly finds mitigating circumstances justifying such lesser sentence
25 and sets forth those circumstances in its statement on sentencing; or

26 “(b) For felonies committed on or after November 1, 1989, impose a lesser
27 sentence in accordance with the rules of the Oregon Criminal Justice Com-
28 mission.

29 “(6) When a defendant who is convicted of a felony having as an element
30 the defendant’s use or threatened use of a firearm during the commission of

1 the crime is a person who was waived from juvenile court under ORS 137.707
2 (5)(b)(A), 419C.349, 419C.352, 419C.364 or 419C.370, the court is not required
3 to impose a minimum term of imprisonment under this section.”.

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