

Senate Bill 1026

Sponsored by Senator RILEY, Representatives SMITH WARNER, KENY-GUYER; Representative PILUSO

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**.

Creates crime of endangering a minor by allowing access to a firearm. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both. Increases penalty to maximum of six months' imprisonment, \$2,500 fine, or both, or one year's imprisonment, \$6,250 fine, or both, depending on location at which firearm is possessed. Increases penalty to maximum of five years' imprisonment, \$125,000 fine, or both, if any person is seriously injured or killed.

Requires gun dealer to post notice concerning obligation to prevent minors from accessing firearm without consent of minor's parent or guardian.

Prohibits transfer of firearm to person convicted of endangering a minor by allowing access to a firearm for five-year period after conviction.

A BILL FOR AN ACT

1
2 Relating to preventing access to firearms by minors; creating new provisions; and amending ORS
3 161.005 and 166.470.

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

5 **SECTION 1.** (1) **A person 18 years of age or older commits the crime of endangering a**
6 **minor by allowing access to a firearm if:**

7 (a) **The person leaves an operable firearm, loaded or unloaded, in a location where the**
8 **person knows or reasonably should know that a minor could gain unsupervised access to the**
9 **firearm; and**

10 (b) **A minor obtains the firearm without the express prior consent of the minor's parent**
11 **or legal guardian.**

12 (2) **Subsection (1) of this section does not apply if:**

13 (a) **The minor obtains the firearm as the result of an unlawful entry into the premises**
14 **by any person;**

15 (b) **The firearm is located in a locked container that a reasonable person would believe**
16 **is secure from being opened by a minor; or**

17 (c) **The firearm is locked with a device that:**

18 (A) **A reasonable person would believe is secure from being unlocked by a minor;**

19 (B) **Is designed to prevent unauthorized users of the firearm from firing the firearm; and**

20 (C) **Has rendered the firearm temporarily inoperable.**

21 (3)(a) **Except as provided in paragraph (b) of this subsection, endangering a minor by al-**
22 **lowing access to a firearm is a Class C misdemeanor.**

23 (b) **Endangering a minor by allowing access to a firearm is:**

24 (A) **A Class B misdemeanor if the minor obtains the firearm and possesses the firearm**
25 **in a location other than the premises described in subsection (1)(a) of this section;**

26 (B) **A Class A misdemeanor if the minor obtains the firearm and possesses the firearm**
27 **on school property, at an activity under the jurisdiction of a school district or at an inter-**

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 scholastic activity administered by a voluntary organization approved by the State Board of
 2 Education; or

3 (C) A Class C felony if the minor obtains the firearm and any person is seriously injured
 4 or killed as a result of the minor’s obtainment of the firearm.

5 (4) Notwithstanding ORS 133.225, 133.235, 133.239, 133.245 and 133.310, a law enforcement
 6 officer or other person may not arrest a person for a violation of this section until the sev-
 7 enth day after the date on which the offense occurred if the person is a relative, as defined
 8 in ORS 147.005, of a person who was seriously injured or killed as a result of the minor’s
 9 obtainment of the firearm.

10 (5) As used in this section:

11 (a) “Firearm” has the meaning given that term in ORS 166.210.

12 (b) “Minor” means a person under 18 years of age.

13 **SECTION 2.** A gun dealer, as defined in ORS 166.412, shall post in a prominent location
 14 in the gun dealer’s place of business a notice in block letters not less than one inch in height
 15 that states: “The owner of a firearm has a legal obligation to prevent minors from accessing
 16 firearms without the consent of the minor’s parent or legal guardian.”

17 **SECTION 3.** ORS 166.470 is amended to read:

18 166.470. (1) Unless relief has been granted under ORS 166.273 or 166.274 or 18 U.S.C. 925(c) or
 19 the expunction laws of this state or an equivalent law of another jurisdiction, a person may not in-
 20 tentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably
 21 should know that the recipient:

22 (a) Is under 18 years of age;

23 (b) Has been convicted of a felony;

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

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

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

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

30 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
 31 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
 32 this paragraph, “misdemeanor involving violence” means a misdemeanor described in ORS 163.160,
 33 163.187, 163.190, 163.195 or 166.155 (1)(b);

34 (h) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing
 35 or possessing a firearm; [or]

36 (i) Has been found guilty except for insanity under ORS 161.295 of a felony[.]; or

37 **(j) Has been convicted of endangering a minor by allowing access to a firearm under
 38 section 1 of this 2017 Act within the previous five years.**

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.

2 **SECTION 4.** ORS 161.005, as amended by section 4, chapter 22, Oregon Laws 2016, is amended
3 to read:

4 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290
5 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,
6 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to
7 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to
8 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,
9 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 164.005, 164.015 to 164.135, 164.138,
10 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002
11 to 165.102, 165.109, 165.118, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to
12 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340,
13 167.350, 167.810 and 167.820 and section 1, chapter 22, Oregon Laws 2016, **and section 1 of this 2017**
14 **Act** shall be known and may be cited as Oregon Criminal Code of 1971.

15 **SECTION 5. Section 1 of this 2017 Act and the amendments to ORS 166.470 by section 3**
16 **of this 2017 Act apply to conduct occurring on or after the effective date of this 2017 Act.**

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