

DRAFT

SUMMARY

Creates crime of endangering a minor by allowing access to a firearm. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

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

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

A BILL FOR AN ACT

Relating to preventing minors from accessing firearms; creating new provisions; and amending ORS 166.470.

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

SECTION 1. (1) A person commits the crime of endangering a minor by allowing access to a firearm if:

(a) The person possesses an operable firearm within premises under the person's control;

(b) The firearm is in a location where the person knows or reasonably should know that a minor could gain access to the firearm; and

(c) A minor obtains the firearm without the consent of the person or the minor's parent or guardian.

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

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

(b) The firearm is located in a locked container; or

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

(A) Is designed to prevent unauthorized users of the firearm from

1 **firing the firearm; and**

2 **(B) Has rendered the firearm temporarily inoperable.**

3 **(3)(a) Except as provided in paragraph (b) of this subsection, en-**
4 **dangering a minor by allowing access to a firearm is a Class C**
5 **misdemeanor.**

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

7 **(A) Class B misdemeanor if the minor obtains the firearm and**
8 **possesses the firearm in a location other than the premises described**
9 **in subsection (1)(a) of this section.**

10 **(B) Class A misdemeanor if the minor obtains the firearm and**
11 **possesses the firearm on school property, at an activity under the ju-**
12 **risdiction of a school district or at an interscholastic activity admin-**
13 **istered by a voluntary organization approved by the State Board of**
14 **Education under ORS 339.430.**

15 **(4) As used in this section:**

16 **(a) "Firearm" has the meaning given that term in ORS 166.210.**

17 **(b) "Minor" has the meaning given that term in ORS 166.210.**

18 **(c) "Possess" has the meaning given that term in ORS 161.015.**

19 **SECTION 2. A gun dealer, as defined in ORS 166.412, shall post in**
20 **a prominent location in the gun dealer's place of business a notice in**
21 **block letters not less than one inch in height that states: "The owner**
22 **of a firearm has an obligation to prevent minors from accessing**
23 **firearms without the consent of the owner or the minor's parent or**
24 **guardian. If a minor obtains access to a firearm without the consent**
25 **of the owner or the minor's parent or guardian, the owner may be**
26 **guilty of a crime."**

27 **SECTION 3. ORS 166.470, as amended by section 8, chapter 826, Oregon**
28 **Laws 2009, is amended to read:**

29 **166.470. (1) Unless relief has been granted under ORS 166.274 or section**
30 **5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or the expunction laws**
31 **of this state or an equivalent law of another jurisdiction, a person may not**

intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

(a) Is under 18 years of age;

(b) Has been convicted of a felony;

(c) Has any outstanding felony warrants for arrest;

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

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

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

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

(h) Has been found guilty except for insanity under ORS 161.295 of a felony; **or**

(i) Has been convicted of endangering a minor by allowing access to a firearm under section 1 of this 2011 Act within the five years immediately preceding the date of the attempted sale, delivery or transfer.

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

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

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

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

(4) Violation of this section is a Class A misdemeanor.

SECTION 4. ORS 166.470, as amended by sections 8 and 11, chapter 826,

Oregon Laws 2009, is amended to read:

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

(a) Is under 18 years of age;

(b) Has been convicted of a felony;

(c) Has any outstanding felony warrants for arrest;

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

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

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

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

(h) Has been found guilty except for insanity under ORS 161.295 of a felony; **or**

(i) Has been convicted of endangering a minor by allowing access to a firearm under section 1 of this 2011 Act within the five years immediately preceding the date of the attempted sale, delivery or transfer.

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

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

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

SECTION 5. Section 1 of this 2011 Act and the amendments to ORS 166.470 by sections 3 and 4 of this 2011 Act apply to conduct occurring on or after the effective date of this 2011 Act.
