

A-Engrossed House Bill 4005

Ordered by the House February 17
Including House Amendments dated February 17

Sponsored by Representatives SOLLMAN, PRUSAK, KENY-GUYER; Representatives ALONSO LEON, DOHERTY, FAHEY, GORSEK, GREENLICK, HELM, HERNANDEZ, HOLVEY, LAWRENCE SPENCE, MCLAIN, NERON, NOSSE, PILUSO, POWER, RAYFIELD, REARDON, SALINAS, SANCHEZ, SCHOUTEN, SMITH WARNER, WILDE, Senators BURDICK, DEMBROW, FREDERICK, MANNING JR, RILEY, WAGNER (Pre-session filed.)

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 owner or possessor of firearm to secure firearm with trigger or cable lock, in locked container or in gun room except in specified circumstances. Punishes violation by maximum of \$500 fine. If minor obtains unsecured firearm as result of violation, punishes by maximum of \$2,000 fine. Provides that person who does not secure firearm as required is strictly liable for injury to person or property within two years after violation. Specifies exceptions to liability.

Requires owner or possessor of firearm to secure firearm with trigger or cable lock or in locked container when transferring firearm **under circumstances requiring criminal background check**, except in specified circumstances. Punishes violation by maximum of \$500 fine. Provides that person who transfers firearm without securing firearm is strictly liable for injury to person or property within two years after violation. Specifies exceptions to liability.

Requires person to report loss or theft of firearm within 72 hours of time person knew or reasonably should have known of loss or theft. Punishes violation of requirement by maximum of \$1,000 fine.

Requires person transferring firearm to minor to directly supervise minor's use of firearm [*unless minor is owner of firearm*]. Provides that person who does not supervise minor as required is strictly liable for injury to person or property caused by minor's use of firearm. **Authorizes person to transfer supervisory duty and liability to another person. Specifies exceptions to supervision requirement and liability.**

Directs Oregon Health Authority to specify by rule minimum specifications for trigger and cable locks and locked containers required by Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to firearm safety requirements; and declaring an emergency.

3 Whereas on December 11, 2012, 54-year-old Cindy Ann Yuille and 45-year-old Steven Forsyth
4 were shot and killed in the Clackamas Town Center with a stolen AR-15 style assault weapon; and

5 Whereas the assault rifle used to kill Cindy Ann Yuille and Steven Forsyth had been stolen after
6 being left unsecured with a fully loaded 30 round ammunition magazine by its lawful owner; and

7 Whereas the lawful owner of the assault rifle failed to report the weapon stolen to any law
8 enforcement agency upon discovering the theft of the weapon; and

9 Whereas the lawful owner of the weapon used in the Clackamas Town Center shooting had no
10 legal obligation under Oregon law to safely secure the firearm or to report the theft of the weapon;
11 and

12 Whereas on average 10 children under the age of 18 commit suicide in Oregon each year with
13 firearms that were not safely stored and secured to prevent child access; and

14 Whereas Oregon has a per capita suicide rate above the national average; and

15 Whereas the percentage of suicides that are firearm suicides in Oregon is also above the na-

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 tional average; and

2 Whereas a proven barrier to the impulse to commit suicide is securing firearms with a lock or
3 storing firearms in locked containers; and

4 Whereas there are a number of children who are injured in Oregon each year with firearms that
5 were not safely stored and secured to prevent child access; and

6 Whereas the lack of a safe storage law in Oregon contributed to more than 22,000 firearms being
7 lost or stolen in Oregon over the past 10 years; and

8 Whereas two-thirds of all school shootings in the United States from 1974 through 2000 involved
9 weapons taken by the attackers from their home or from the home of a relative, and many of these
10 shootings would have been prevented if the firearms used had been secured and safely stored; and

11 Whereas simple common-sense actions including safely storing and transferring firearms,
12 promptly reporting to law enforcement officials the loss or theft of firearms and supervising children
13 when they use firearms would prevent many deaths and injuries in Oregon; and

14 Whereas the Cindy Yuille and Steven Forsyth Act can be effective in significantly reducing gun
15 violence and suicide in Oregon without imposing criminal penalties; and

16 Whereas everyone has the right to be free from gun violence; now, therefore,

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

18 **SECTION 1. Sections 2 to 7 of this 2020 Act shall be known and may be cited as the Cindy**
19 **Yuille and Steve Forsyth Act.**

20 **SECTION 2. As used in sections 2 to 7 of this 2020 Act:**

21 (1) **“Authorized person” means a person authorized by the owner or possessor of a**
22 **firearm to carry or control the firearm.**

23 (2)(a) **“Container” means a box, case, chest, locker, safe or other similar receptacle,**
24 **equipped with a tamper-resistant lock.**

25 (b) **“Container” does not include a building, room or vehicle, or a space within a vehicle**
26 **that has not been designed or modified specifically for the purpose of securing a firearm.**

27 (3) **“Control” means, in relation to a firearm, that a person is in sufficiently close prox-**
28 **imity to the firearm to prevent another person from obtaining the firearm.**

29 (4) **“Firearm” has the meaning given that term in ORS 166.210, except that it does not**
30 **include a firearm that has been rendered permanently inoperable.**

31 (5) **“Gun room” means an area within a building enclosed by walls, a floor and a ceiling,**
32 **including a closet, that has all entrances secured by a tamper-resistant lock, that is kept**
33 **locked at all times when unoccupied and that is used for:**

34 (a) **The storage of firearms, ammunition, components of firearms or ammunition, or**
35 **equipment for firearm-related activities including but not limited to reloading ammunition,**
36 **gunsmithing and firearm cleaning and maintenance; or**

37 (b) **Conducting firearm-related activities, including but not limited to reloading ammuni-**
38 **tion, gunsmithing and firearm cleaning and maintenance.**

39 (6) **“Handgun” has the meaning given that term in ORS 166.210.**

40 (7) **“Law enforcement agency” has the meaning given that term in ORS 166.525.**

41 (8) **“Minor” means a person under 18 years of age.**

42 (9) **“Transfer” means the delivery of a firearm from a person to a recipient, neither of**
43 **whom is a gun dealer or is licensed as a manufacturer or importer under 18 U.S.C. 923, in-**
44 **cluding, but not limited to, the sale, gift, loan or lease of the firearm.**

45 **SECTION 3. (1)(a) A person who owns or possesses a firearm shall, at all times that the**

1 firearm is not carried by or under the control of the person or an authorized person, secure
2 the firearm:

3 (A) With an engaged trigger lock or cable lock that meets or exceeds the minimum
4 specifications established by the Oregon Health Authority under section 7 of this 2020 Act;

5 (B) In a locked container that meets or exceeds the minimum specifications established
6 by the Oregon Health Authority under section 7 of this 2020 Act; or

7 (C) In a gun room.

8 (b) For purposes of paragraph (a) of this subsection:

9 (A) A firearm is not secured if:

10 (i) A key, combination or other means of opening a lock or container is readily available
11 to a person the owner or possessor has not authorized to carry or control the firearm.

12 (ii) The firearm is a handgun, is left unattended in a vehicle and is within view of persons
13 outside the vehicle.

14 (B) A firearm is under the control of a person if:

15 (i) The person is alone in the person's residence with the firearm; and

16 (ii) The windows and doors of the residence are locked.

17 (2)(a) A violation of subsection (1) of this section is a Class C violation.

18 (b) Notwithstanding paragraph (a) of this subsection, a violation of subsection (1) of this
19 section is a Class A violation if a minor obtains an unsecured firearm as a result of the vi-
20 olation and the owner or possessor of the firearm knew or should have known that a minor
21 could gain unauthorized access to the unsecured firearm.

22 (c) Each firearm owned or possessed in violation of subsection (1) of this section consti-
23 tutes a separate violation.

24 (3) If a person obtains an unsecured firearm as a result of the owner or possessor of a
25 firearm violating subsection (1) of this section and the firearm is used to injure a person or
26 property within two years of the violation, the owner or possessor of the firearm who vio-
27 lated subsection (1) of this section is strictly liable for the injury.

28 (4) The liability imposed by subsection (3) of this section does not apply if:

29 (a) The injury results from a lawful act of self-defense or defense of another person; or

30 (b) The unsecured firearm was obtained:

31 (A) At a shooting range, shooting gallery or other area designed for the purpose of target
32 shooting, for use during target practice, a firearms safety or training course or class or a
33 similar lawful activity;

34 (B) For the purpose of hunting, trapping or target shooting, during the time in which the
35 person is engaged in activities related to hunting, trapping or target shooting;

36 (C) Under circumstances in which the person and the firearm are in the presence of the
37 owner or possessor of the firearm;

38 (D) By a person who is in the business of repairing firearms, for the purpose of repairing
39 the firearm;

40 (E) By a person who is in the business of making or repairing custom accessories for
41 firearms, for the purpose of making or repairing the accessories; or

42 (F) By a person as a result of the person entering or remaining unlawfully in a dwelling,
43 as those terms are defined in ORS 164.205.

44 (5) This section does not apply to a police officer as defined in ORS 181A.355, with respect
45 to a particular firearm, if storage of the firearm is covered by a policy of the law enforce-

1 ment agency employing the officer and the firearm is stored in compliance with the policy.

2 **SECTION 4.** (1) If a person transfers a firearm and a criminal background check under
3 ORS 166.435 is required prior to the transfer, the person shall transfer the firearm:

4 (a) With an engaged trigger lock or cable lock that meets or exceeds the minimum
5 specifications established by the Oregon Health Authority under section 7 of this 2020 Act;
6 or

7 (b) In a locked container that meets or exceeds the minimum specifications established
8 by the Oregon Health Authority under section 7 of this 2020 Act.

9 (2)(a) A violation of subsection (1) of this section is a Class C violation.

10 (b) Each firearm transferred in violation of subsection (1) of this section constitutes a
11 separate violation.

12 (3) If a firearm transferred in a manner that violates subsection (1) of this section is used
13 to injure a person or property within two years of the violation, the owner or possessor of
14 the firearm who transferred the firearm in violation of subsection (1) of this section is
15 strictly liable for the injury.

16 (4) The liability imposed by subsection (3) of this section does not apply if the injury re-
17 sults from a lawful act of self-defense or defense of another person.

18 (5) This section does not apply to:

19 (a) The transfer of a firearm made inoperable for the specific purpose of being used as
20 a prop in the making of a motion picture or a television, digital or similar production.

21 (b) A transfer that occurs when a firearm is taken from the owner or possessor of the
22 firearm by force.

23 **SECTION 5.** (1)(a) A person who owns, possesses or controls a firearm shall report the
24 loss or theft of the firearm to a law enforcement agency in the jurisdiction in which the loss
25 or theft occurred as soon as practicable but not later than within 72 hours of the time the
26 person knew or reasonably should have known of the loss or theft.

27 (b) If a means of reporting a loss or theft of a firearm within 72 hours is not reasonably
28 available, the person who owned, possessed or controlled the firearm that was lost or stolen
29 must report the loss or theft within 24 hours of the means of reporting becoming available.

30 (c) A person may include the serial number of the firearm in a report under this sub-
31 section.

32 (2)(a) A violation of subsection (1) of this section is a Class B violation.

33 (b) Each firearm for which a person does not make the report within the time required
34 by subsection (1) of this section constitutes a separate violation.

35 (c) A person who knowingly provides false information in a report required by subsection
36 (1) of this section commits the crime of initiating a false report under ORS 162.375.

37 (3) If a lost or stolen firearm is used to injure a person or property and the person who
38 owned, possessed or controlled the firearm at the time of the loss or theft did not report the
39 loss or theft within the time period required by subsection (1) of this section, the person who
40 owned, possessed or controlled the firearm at the time of the loss or theft is strictly liable
41 for the injury for two years from the expiration of the time limit for reporting or until the
42 loss or theft report is made, whichever occurs sooner.

43 (4) The liability imposed by subsection (3) of this section does not apply if the injury re-
44 sults from a lawful act of self-defense or defense of another person.

45 (5)(a) Within 24 hours of receiving a report under subsection (1) of this section, a law

1 enforcement agency shall create a record concerning the lost or stolen firearm in the Law
2 Enforcement Data System or another electronic database as determined by the Department
3 of State Police.

4 (b) A law enforcement agency is exempt from the obligation described in paragraph (a)
5 of this subsection if the agency is unable to create a record concerning the lost or stolen
6 firearm in the electronic database due to insufficient information.

7 (c) The department may adopt rules to carry out the provisions of this subsection.

8 **SECTION 6.** (1) Except as provided in subsections (3) and (4) of this section, a person
9 who delivers or otherwise transfers a firearm to a minor shall directly supervise the minor's
10 use of the firearm.

11 (2)(a) A person who delivers or otherwise transfers a firearm to a minor, and who fails
12 to directly supervise the minor's use of the firearm, is strictly liable for injury to a person
13 or property caused by the minor's use of the firearm.

14 (b) The liability imposed by paragraph (a) of this subsection does not apply if the injury
15 results from a lawful act of self-defense or defense of another person.

16 (3) A person who delivers or otherwise transfers a firearm to a minor may delegate to
17 another person, with the consent of the other person and the minor's parent or guardian,
18 the duty to supervise the minor's use of the firearm. If the duty to supervise is delegated
19 under this subsection, the person assuming the duty to supervise also assumes the liability
20 described in subsection (2) of this section.

21 (4)(a) This section does not apply, with respect to a particular firearm other than a
22 handgun, if:

23 (A) The firearm is transferred to a minor in accordance with ORS 166.470, and, as a re-
24 sult of the transfer, the minor is the owner of the firearm; or

25 (B) The firearm is temporarily transferred to a minor who holds a valid youth license
26 issued under ORS 497.127, by the minor's parent or guardian or by another person with the
27 consent of the minor's parent or guardian, for the purpose of hunting in accordance with
28 ORS 497.360, hunting of a predatory animal as defined in ORS 610.002 or target shooting at
29 a shooting range, shooting gallery or other area designed for the purpose of target shooting.

30 (b) The exception described in paragraph (a)(B) of this subsection applies only during the
31 time in which the minor is engaged in activities related to hunting or target shooting.

32 **SECTION 7.** No later than July 1, 2020, the Oregon Health Authority, in consultation with
33 the Department of State Police and after considering any relevant standards in the Con-
34 sumer Product Safety Act (15 U.S.C. 2051 et seq.), shall adopt rules establishing the minimum
35 specifications for trigger locks, cable locks and containers required by sections 3 and 4 of
36 this 2020 Act.

37 **SECTION 8.** A gun dealer shall post in a prominent location in the gun dealer's place of
38 business a notice, in block letters not less than one inch in height, that states, "The pur-
39 chaser of a firearm has an obligation to store firearms in a safe manner and to prevent un-
40 supervised access to a firearm by a minor. If a minor or unauthorized person obtains access
41 to a firearm and the owner failed to store the firearm in a safe manner, the owner may be
42 in violation of the law."

43 **SECTION 9.** (1) Sections 2 to 6 and 8 of this 2020 Act become operative on July 1, 2020.

44 (2) The Oregon Health Authority may take any action before the operative date specified
45 in subsection (1) of this section that is necessary to enable the authority to exercise, on and

1 after the operative date specified in subsection (1) of this section, all of the duties, functions
2 and powers conferred on the authority by sections 2 to 7 of this 2020 Act.

3 SECTION 10. This 2020 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect
5 on its passage.

6
