

ORDINANCES AFFECT CONCEALED CARRY LAW, MOST OTHER STATE REGULATIONS OF GUNS

Voters in Umatilla, Columbia counties make it a crime for police to enforce some gun laws

By Noelle Crombie
The Oregonian/OregonLive

Two Oregon counties last month passed measures that make it a misdemeanor crime for police to enforce some laws they're sworn to uphold.

Northwest Oregon's Columbia County and Eastern Oregon's Umatilla County approved ordinances directing county workers — police included — to ignore the state's extreme risk protection law, the concealed carry law and most other state regulation of guns. Passed in 2017, Oregon's extreme risk protection law gives judges discretion to remove guns from people not convicted of a crime who show signs they might shoot themselves or someone else.

Deputies and officers who choose to enforce those laws risk prosecution and hefty fees — criminal sanctions that “we are very proud of,” said Rob Taylor, an Oregon gun rights activist who has lobbied for such measures across the state.

Taylor, a former optician, sees the stricter measures as a way of guaranteeing the Constitution's right to bear arms, particularly the ability for people to own semi-automatic weapons like the AR-15 and the AK-47 rifles and to use any gun accessory they'd like.

“All we were doing was trying to get rid of all of the regulation that we believe are designed to eliminate gun ownership,” Taylor said.

But whether the measures, known as “gun sanctuary” ordinances, withstand a court challenge remains an open question.

Legal experts — and even some national gun rights advocates — say the resolutions are on shaky ground because they require police to ignore laws they've taken an oath to uphold.

The measures also appear to undermine the state's legal authority to regulate guns. Under Oregon law, the power to regulate almost all aspects of firearms rests with the Legislature.

Umatilla County District Attorney Daniel Primus doesn't expect the voter approval to have much of a practical effect for his office. He will uphold the law, he said.

“I took an oath,” Primus said, “and I am going to follow that oath.”

The Oregon Department of Justice hasn't weighed in on the measures. Attorney General Ellen Rosenblum “doesn't have an official view” of the proposals, said agency spokeswoman Karynn Fish. She said the agency and Rosenblum “are certainly on the record supporting and defending sensible gun

“All we were doing was trying to get rid of all of the regulation that we believe are designed to eliminate gun ownership.”

— Rob Taylor, Oregon gun rights activist

regulations,” but they have no “formal opinion on these measures because none has been requested” by lawmakers or state agencies.

Penny Okamoto, executive director of gun control advocacy group Ceasefire Oregon, said the measures send conflicting messages to public employees about which laws to follow and which to ignore.

“It just leaves a huge mess as to what county employers are supposed to be doing,” she said.

But in the end, she said, the effort may be nothing more than symbolic.

“They are going to make themselves and followers feel better,” Okamoto said. “They are getting donations from it. It's not helping anyone. It's really opening up the counties to a lawsuit.”

History of legal challenges

Local efforts to challenge gun regulation in Oregon date to the early 1990s, when Josephine County added a “right to bear arms” amendment to its charter, Taylor said.

Since then, leaders of counties including Baker, Wallowa, Wheeler and Coos have added similar resolutions.

More recently, a wave of “Second Amendment preservation” ordinances emerged in Oregon and across the nation. In Oregon, they make it illegal to enforce laws passed since 2012 that are unconstitutional and leave it to the sheriff to make that determination.

More than a dozen counties in the state adopted the measures either through voter initiatives or their county commissions.

Nationally, an estimated 500 communities have passed efforts intended to protect people's Second Amendment rights, said Shawn Fields, a professor at Campbell University School of Law in Raleigh, North Carolina. Fields tracks the measures.

He said the trend was fueled by the shift in some state legislatures from Republican majorities to Democratic and the passage of “extreme risk protection” laws like the one in Oregon.

But he said the latest efforts in Umatilla and Columbia counties might not be legal. If a deputy or police officer enforces most gun laws, they would face prosecution



Allen J. Schaben/Los Angeles Times-TNS

Gun enthusiasts view AR-15 semi-automatic rifle parts and kits in Del Mar, California.

“What seems to be particularly problematic about these two (ordinances) is threatening to fine local officials who enforce state law, because these state laws have been lawfully passed in Oregon and local officials swear to uphold the laws of the state ...”

— Shawn Fields, professor, Campbell University School of Law

for a misdemeanor and possible fines of up to \$2,000. The agency that employs them also would face up to \$4,000 in fines.

“What seems to be particularly problematic about these two (ordinances) is threatening to fine local officials who enforce state law, because these state laws have been lawfully passed in Oregon and local officials swear to uphold the laws of the state of Oregon, of the local jurisdiction and the constitutions of Oregon and the United States,” Fields said.

“I am not positive, as I sit here now, that that part of the resolution — threatening to fine local officials — would actually stand up in court,” he said.

Michael Boldin, executive director of the Tenth Amendment Center, a small organization that describes itself as a “non-partisan think tank that supports the principles of strictly limited constitutional government,” called the measures “convoluted, confused, messy at best.”

He said he has encouraged gun rights activists to model their ordinances after immigration sanctuary laws, like the one passed in Oregon decades ago that forbids local law enforcement from using public resources to find or detain undocumented immigrants not suspected of a crime.

Boldin's group promotes the controversial theory that states may nullify federal laws they consider unconstitutional.

Oregon's gun sanctuary measures don't just address federal gun laws. They target state ones too, and that might

undermine their effectiveness.

“I actually will tell you right out front, I am fully on board with the concept,” Boldin said. “I am with the gun rights people in concept, but I think they have crafted these so poorly that in practice they actually do nothing.”

While the measures passed in Umatilla and Columbia counties, they failed in Clatsop and Coos counties.

Efforts to get the measures on the ballot elsewhere in the state have run into trouble.

County clerks in Douglas, Curry and Josephine counties rejected the measures because they failed to meet the criteria for initiatives, Taylor said.

Two years ago, a Circuit Court judge ruled a gun sanctuary measure headed to the ballot in Grant County was illegal. Last year, a judge in neighboring Harney County reached a similar conclusion.

In the Harney County case, the county counsel, Tim Colahan, cited multiple problems with a gun sanctuary in a legal opinion that was filed with the court.

Sheriffs' employees are certified by the state, he wrote, and failing to enforce state law “would violate the terms of their employment.”

Colahan added that the measures “also potentially pit deputy against deputy depending on their interpretation of the ordinance.”

“It would make it impossible for the sheriff to administer the day-to-day functions of his office,” he wrote.

Proponents make their case

Yet proponents like Taylor

see the stricter measures as a sort of bulwark against state interference with any aspect of gun ownership.

No longer will it be left to a sheriff in Umatilla or Columbia counties to decide whether to enforce Oregon's gun laws in those counties. The new measures make it clear they cannot.

“It's out of the hands of a human decision,” Taylor said. “It goes straight to a directive. You either follow the directive and stay in the law, or you violate the directive and face the penalties.”

Taylor said police can still enforce the felon-in-possession-of-a-firearm law, but they won't be able to enforce regulations that restrict a gun's barrel length, magazine size or accessories that limit noise, known as suppressors.

“We thought that people should have access to those things,” he said. “A suppressor is a very good thing if you are out shooting all the time and you want to eliminate a lot of the noise that affects your hearing.”

The “biggest issue,” he said, is the state requirement to obtain a license to carry a concealed handgun.

“We should be able to carry it concealed or open,” he said. “It's our choice.”

He said under the new ordinance, a deputy can't arrest someone for unlawful possession of a firearm for failing to have a license to carry a concealed weapon because “the county no longer enforces the concealed weapon law.”

Although the enforcement of that particular law is a concern for gun enthusiasts like Taylor, an analysis of statewide arrest data found it is little used in places like Coos and Columbia counties, as well as other rural areas of the state. The crime is a misdemeanor.

At the request of The Oregonian/OregonLive, the

Oregon Criminal Justice Commission analyzed arrests for unlawful possession of a firearm from 2015 through September of this year. The state agency is a clearinghouse for criminal justice statistics.

It found 884 arrests statewide on that charge alone. Five occurred in Columbia County, and 38 were in Umatilla County. Coos County had 18 arrests in that five-year period.

Meanwhile, Clackamas and Multnomah counties made up more than a third of those arrests, the analysis found.

It also found racial disparities in who police arrest: Black people represent 2.8% of Oregon's population and more than 13 percent of the arrests for unlawful possession of a weapon.

The concealed carry rules aren't the only concern for gun rights activists.

Chris Brumbles, an activist who helped get the measure on the ballot in Columbia County, said he views any gun law, state or federal, as illegal.

He's particularly incensed by Oregon's “red flag” law that allows police, family members or roommates to petition a judge for an “extreme risk protection order” barring gun possession. If the order is granted, the person named has 24 hours to turn over all guns to law enforcement, a qualified third party or gun dealer.

“I don't think they can enforce red flag laws here now,” Brumbles said. “People have to have their due process.”

His message resonated with Columbia County residents, where state background checks for firearms have skyrocketed by 88 percent between January through September of this year, compared with the same period in 2019, according to Ceasefire Oregon. That's among the highest increases in the state, the group said.

Nationally, Oregon ranks 24th highest in gun ownership, according to the RAND Corp., the public policy research organization. Based on 2016 data, the organization estimates 41% of adult Oregonians live in a household with a gun.

Brumbles said he collected the required number of signatures to put the gun sanctuary measure on the local ballot in just a month and a half.

He said voters “have the absolute right” to tell public employees and government leaders “what they can and can't spend money on,” and that applies to gun regulation.

“We don't elect kings,” he said. “They definitely work for us.”

Group gathers at state official's home to protest fine for gym that defied COVID-19 rules

SILVERTON (AP)—About 50 protesters converged on the Silverton, Oregon, home of a state workplace safety regulator to protest a large fine levied against a Salem gym owner.

The Oregonian/OregonLive reports that Silverton Police Chief Jim Anglemier identified the protesters who gathered Sunday afternoon as members and affiliates of Patriot Prayer, the conservative group founded by Joey Gibson.

“There were no problems, no issues,” Anglemier said. “They stayed on the sidewalks and they stayed off private property.”

Oregon Occupational Safety and Health Administrator Michael Wood said in a statement Monday that “Oregon OSHA worked with the affected enforcement officer over the holiday weekend to minimize, to the degree possible, the disruption to him and his family (particularly his young child).”

The controversy stems from a \$90,000 penalty issued against a Salem gym and its owner, who refused to comply with Gov. Kate Brown's economic “freeze.” Brown announced the freeze and related restrictions earlier this month in an effort to stem the increase in new COVID-19 cases.

“As a result of the harm done to our business from the first shutdown, we will not survive another closure,” John Miller said in a statement before the freeze went into effect on Nov. 18. “This is a horrible position I find myself in, and it leaves me with only one choice: Courthouse Club Fitness will remain open (Nov. 18) and the days to follow.”

Courthouse has five locations in the Salem-Keizer area.

Gyms and many other businesses also had to close or restrict their operations in Brown's first lockdown order last spring.

Enter Sweepstakes in the Store

ENTER TODAY TO WIN ONE OF TWO \$500 SHOPPING GIVEAWAYS

YOU NEED IT WE HAVE IT

WE'RE WHERE YOU ARE

Special of the Month \$9.99

25' Tape Measure

STANLEY

SAVE 50%

25' Tape Measure

20-Pc. Socket Set

15-Pc. Thunderbolt Black Oxide Drill Bit Set

6-Pk. Utility Adhesive Hooks

Amethyst or Paperwhites Gift Box Flower Bulbs

2-Pc. 4' Pre-Lit Artificial Trees

Reciprocating Saw \$89.97

Electric Oxidizing Tool \$99.97

Solar Water Stake Lawn Ornament \$6.99

Amethyst or Paperwhites \$4.97

3M \$7.99

Try the SHIP TO STORE feature at millershomecenter.com

3815 Pocahontas Road, Baker City 541-523-6404

3109 May Lane, La Grande 541-963-3113