

House Bill 4068

Sponsored by Representatives GOMBERG, THATCHER; Representatives BARKER, KRIEGER, WEIDNER, Senator PROZANSKI (Presession 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 **as introduced**.

Modifies requirements for concealed handgun license applicants. Provides that single conviction or completed diversion program for marijuana possession does not disqualify applicant if offense was violation or misdemeanor.

A BILL FOR AN ACT

1
2 Relating to concealed handgun license applicants previously charged with marijuana offenses; cre-
3 ating new provisions; and amending ORS 166.291.

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

5 **SECTION 1.** ORS 166.291 is amended to read:

6 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
7 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
8 out in this section, shall issue the person a concealed handgun license if the person:

9 (a)(A) Is a citizen of the United States; or

10 (B) Is a legal resident alien who can document continuous residency in the county for at least
11 six months and has declared in writing to the United States Citizenship and Immigration Services
12 the intent to acquire citizenship status and can present proof of the written declaration to the
13 sheriff at the time of application for the license;

14 (b) Is at least 21 years of age;

15 (c) Is a resident of the county;

16 (d) Has no outstanding warrants for arrest;

17 (e) Is not free on any form of pretrial release;

18 (f) Demonstrates competence with a handgun by any one of the following:

19 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
20 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
21 of the course;

22 (B) Completion of any National Rifle Association firearms safety or training course if handgun
23 safety was a component of the course;

24 (C) Completion of any firearms safety or training course or class available to the general public
25 offered by law enforcement, community college, or private or public institution or organization or
26 firearms training school utilizing instructors certified by the National Rifle Association or a law
27 enforcement agency if handgun safety was a component of the course;

28 (D) Completion of any law enforcement firearms safety or training course or class offered for
29 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
30 cers if handgun safety was a component of the course;

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 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
 2 ized shooting competition or military service;

3 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
 4 revoked; or

5 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
 6 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
 7 was a component of the course;

8 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
 9 of a felony;

10 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 11 161.295, of a misdemeanor within the four years prior to the application;

12 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

13 (j) Has not been found to be a person with mental illness and is not subject to an order under
 14 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
 15 that mental illness;

16 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
 17 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
 18 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
 19 volving violence, as defined in ORS 166.470;

20 (L) Has not been convicted of an offense involving controlled substances or participated in a
 21 court-supervised drug diversion program, except this disability does not operate to exclude a person
 22 if:

23 (A) The person has been convicted only once of *[violating ORS 475.864 (3)(c)]* **a marijuana**
 24 **possession offense constituting a misdemeanor or violation** and has not completed a court-
 25 supervised drug diversion program *[under ORS 135.907]* **for a marijuana possession offense con-**
 26 **stituting a misdemeanor or violation;** or

27 (B) The person has completed a court-supervised drug diversion program *[under ORS 135.907]*
 28 **for a marijuana possession offense constituting a misdemeanor or violation** and has not been
 29 convicted of *[violating ORS 475.864 (3)(c)]* **a marijuana possession offense constituting a**
 30 **misdemeanor or violation;**

31 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 32 107.700 to 107.735 or 163.738;

33 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

34 (o) Is not required to register as a sex offender in any state.

35 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
 36 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of
 37 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
 38 (1)(g) to (L) of this section.

39 (3) Before the sheriff may issue a license:

40 (a) The application must state the applicant's legal name, current address and telephone number,
 41 date and place of birth, hair and eye color and height and weight. The application must also list the
 42 applicant's residence address or addresses for the previous three years. The application must contain
 43 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
 44 section. The application may include the Social Security number of the applicant if the applicant
 45 voluntarily provides this number. The application must be signed by the applicant.

1 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
2 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
3 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
4 records check is necessary, the sheriff shall request the Department of State Police to conduct the
5 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
6 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
7 check and may not keep any record of the fingerprints. The Department of State Police shall report
8 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
9 Police shall also furnish the sheriff with any information about the applicant that the Department
10 of State Police may have in its possession including, but not limited to, manual or computerized
11 criminal offender information.

12 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
13 quest. The forms shall be uniform throughout this state in substantially the following form:

14

15

16

APPLICATION FOR LICENSE TO CARRY
CONCEALED HANDGUN

17

18

Date _____

19

I hereby declare as follows:

20

21

22

23

24

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27

28

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32

33

34

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36

37

38

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Legal name _____

44

Age _____ Date of birth _____

45

Place of birth _____

1 Social Security number _____

2 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
3 thorized under ORS 166.291. It will be used only as a means of identification.)

4
5 Proof of identification (Two pieces of current identification are required, one of which must bear a
6 photograph of the applicant. The type of identification and the number on the identification are to
7 be filled in by the sheriff.):

8 1. _____

9 2. _____

10
11 Height _____ Weight _____

12 Hair color _____ Eye color _____

13
14 Current address _____

(List residence addresses for the
past three years on the back.)

15
16
17
18 City _____ County _____ Zip _____

19 Phone _____

20
21 I have read the entire text of this application, and the statements therein are correct and true.
22 (Making false statements on this application is a misdemeanor.)

23 _____
24 (Signature of Applicant)

25
26 Character references.

27 _____	
28 Name	28 Address
29 _____	29 _____
30 Name	30 Address

31
32 Approved _____ Disapproved _____ by _____

33
34 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

35 Date _____ Fee Paid _____

36 License No. _____
37 _____

- 38
39 (5)(a) Fees for concealed handgun licenses are:
- 40 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
 - 41 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
 - 42 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- 43 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
44 the concealed handgun license.
- 45 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-

1 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
 2 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
 3 performance of duties under those sections.

4 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
 5 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
 6 is an applicant for a concealed handgun license or is a license holder.

7 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
 8 for a resident of a contiguous state who has a compelling business interest or other legitimate
 9 demonstrated need.

10 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
 11 person:

12 (a) Has a current Oregon driver license issued to the person showing a residence address in the
 13 county;

14 (b) Is registered to vote in the county and has a voter notification card issued to the person
 15 under ORS 247.181 showing a residence address in the county;

16 (c) Has documentation showing that the person currently leases or owns real property in the
 17 county; or

18 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
 19 tax year showing a residence address in the county.

20 **SECTION 2.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, section
 21 34, chapter 547, Oregon Laws 2011, section 5, chapter 243, Oregon Laws 2013, section 9, chapter 360,
 22 Oregon Laws 2013, and section 7, chapter 591, Oregon Laws 2013, is amended to read:

23 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
 24 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
 25 out in this section, shall issue the person a concealed handgun license if the person:

26 (a)(A) Is a citizen of the United States; or

27 (B) Is a legal resident alien who can document continuous residency in the county for at least
 28 six months and has declared in writing to the United States Citizenship and Immigration Services
 29 the intent to acquire citizenship status and can present proof of the written declaration to the
 30 sheriff at the time of application for the license;

31 (b) Is at least 21 years of age;

32 (c) Is a resident of the county;

33 (d) Has no outstanding warrants for arrest;

34 (e) Is not free on any form of pretrial release;

35 (f) Demonstrates competence with a handgun by any one of the following:

36 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
 37 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
 38 of the course;

39 (B) Completion of any National Rifle Association firearms safety or training course if handgun
 40 safety was a component of the course;

41 (C) Completion of any firearms safety or training course or class available to the general public
 42 offered by law enforcement, community college, or private or public institution or organization or
 43 firearms training school utilizing instructors certified by the National Rifle Association or a law
 44 enforcement agency if handgun safety was a component of the course;

45 (D) Completion of any law enforcement firearms safety or training course or class offered for

1 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
 2 cers if handgun safety was a component of the course;

3 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
 4 ized shooting competition or military service;

5 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
 6 revoked; or

7 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
 8 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
 9 was a component of the course;

10 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
 11 of a felony;

12 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 13 161.295, of a misdemeanor within the four years prior to the application;

14 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

15 (j) Has not been found to be a person with mental illness and is not subject to an order under
 16 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
 17 that mental illness;

18 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
 19 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
 20 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
 21 volving violence, as defined in ORS 166.470;

22 (L) Has not been convicted of an offense involving controlled substances or participated in a
 23 court-supervised drug diversion program, except this disability does not operate to exclude a person
 24 if:

25 (A) The person has been convicted only once of *[violating ORS 475.864 (3)(c)]* **a marijuana**
 26 **possession offense constituting a misdemeanor or violation** and has not completed a court-
 27 supervised drug diversion program *[under ORS 135.907]* **for a marijuana possession offense con-**
 28 **stituting a misdemeanor or violation;** or

29 (B) The person has completed a court-supervised drug diversion program *[under ORS 135.907]*
 30 **for a marijuana possession offense constituting a misdemeanor or violation** and has not been
 31 convicted of *[violating ORS 475.864 (3)(c)]* **a marijuana possession offense constituting a**
 32 **misdemeanor or violation;**

33 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 34 107.700 to 107.735 or 163.738;

35 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

36 (o) Is not required to register as a sex offender in any state.

37 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
 38 has had the person's record expunged under the laws of this state or equivalent laws of other ju-
 39 risdications is not subject to the disabilities in subsection (1)(g) to (L) of this section.

40 (3) Before the sheriff may issue a license:

41 (a) The application must state the applicant's legal name, current address and telephone number,
 42 date and place of birth, hair and eye color and height and weight. The application must also list the
 43 applicant's residence address or addresses for the previous three years. The application must contain
 44 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
 45 section. The application may include the Social Security number of the applicant if the applicant

1 voluntarily provides this number. The application must be signed by the applicant.

2 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
3 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
4 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
5 records check is necessary, the sheriff shall request the Department of State Police to conduct the
6 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
7 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
8 check and may not keep any record of the fingerprints. The Department of State Police shall report
9 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
10 Police shall also furnish the sheriff with any information about the applicant that the Department
11 of State Police may have in its possession including, but not limited to, manual or computerized
12 criminal offender information.

13 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
14 quest. The forms shall be uniform throughout this state in substantially the following form:

15 _____
16
17 APPLICATION FOR LICENSE TO CARRY
18 CONCEALED HANDGUN

19 Date _____

20 I hereby declare as follows:

21 I am a citizen of the United States or a legal resident alien who can document continuous res-
22 idency in the county for at least six months and have declared in writing to the United States Cit-
23 izenship and Immigration Services my intention to become a citizen and can present proof of the
24 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
25 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
26 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
27 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
28 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
29 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
30 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
31 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
32 volving controlled substances or completed a court-supervised drug diversion program. There are
33 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
34 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a
35 person with mental illness and presently subject to an order prohibiting me from purchasing or
36 possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I
37 have been granted relief or wish to petition for relief from the disability under ORS 166.274 or
38 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued
39 under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never
40 received a dishonorable discharge from the Armed Forces of the United States. I am not required
41 to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

42
43 Legal name _____

44 Age _____ Date of birth _____

45 Place of birth _____

1 Social Security number _____

2 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
3 thorized under ORS 166.291. It will be used only as a means of identification.)

4
5 Proof of identification (Two pieces of current identification are required, one of which must bear a
6 photograph of the applicant. The type of identification and the number on the identification are to
7 be filled in by the sheriff.):

8 1. _____

9 2. _____

10
11 Height _____ Weight _____

12 Hair color _____ Eye color _____

13
14 Current address _____

(List residence addresses for the
past three years on the back.)

15
16
17
18 City _____ County _____ Zip _____

19 Phone _____

20
21 I have read the entire text of this application, and the statements therein are correct and true.
22 (Making false statements on this application is a misdemeanor.)

23 _____
24 (Signature of Applicant)

25
26 Character references.

27 _____

28 Name: Address

29 _____

30 Name: Address

31

32 Approved _____ Disapproved _____ by _____

33

34 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

35 Date _____ Fee Paid _____

36 License No. _____

37 _____

38

- 39 (5)(a) Fees for concealed handgun licenses are:
 - 40 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
 - 41 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
 - 42 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- 43 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
44 the concealed handgun license.
- 45 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-

1 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
2 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
3 performance of duties under those sections.

4 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
5 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
6 is an applicant for a concealed handgun license or is a license holder.

7 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
8 for a resident of a contiguous state who has a compelling business interest or other legitimate
9 demonstrated need.

10 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
11 person:

12 (a) Has a current Oregon driver license issued to the person showing a residence address in the
13 county;

14 (b) Is registered to vote in the county and has a voter notification card issued to the person
15 under ORS 247.181 showing a residence address in the county;

16 (c) Has documentation showing that the person currently leases or owns real property in the
17 county; or

18 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
19 tax year showing a residence address in the county.

20 **SECTION 3. The amendments to ORS 166.291 by sections 1 and 2 of this 2014 Act apply**
21 **to applications for concealed handgun licenses submitted on or after the effective date of this**
22 **2014 Act.**

23 _____