

Senate Bill 1065

Sponsored by Senators PROZANSKI, BURDICK, Representative WILLIAMSON

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**.

Requires gun dealer to substitute alternative fingerprint for criminal background check if firearm purchaser is unable to provide thumbprint.

Restricts transfer of firearm by gun dealer or private party if Department of State Police is unable to determine whether recipient is qualified to receive firearm. Authorizes transfer after 14 days as long as gun dealer or transferor does not know or have reason to believe recipient is disqualified from completing transfer.

Requires Department of State Police to notify United States Attorney for District of Oregon and all state and local law enforcement agencies and district attorneys with jurisdiction when, during criminal background check performed by gun dealer prior to transfer of firearm, department determines that recipient is prohibited from possessing firearm. Requires department to notify attempted unlawful purchaser's probation officer or court that issued protective order, if applicable. Requires department to make notification within 24 hours unless investigation would be compromised. Requires law enforcement agency or prosecuting attorney's office receiving notification to report to department on action taken after notification and outcome of action. Requires department to publish written report detailing attempted unlawful purchases, including information on investigations and criminal prosecutions.

Specifies requirements for course or class taken to demonstrate competence with handgun for person applying for concealed handgun license or renewing concealed handgun license.

Modifies definitions relating to relationship status that pertain to types of court orders and misdemeanor convictions that cause person to be prohibited from possessing firearms. Provides that conviction for stalking causes person to be prohibited from possessing firearm unless person obtains relief from prohibition. Punishes unlawful possession by maximum of one year's imprisonment, \$6,250 fine, or both.

Directs Department of State Police to enter into Law Enforcement Data System information concerning conviction disqualifying person from possessing firearm.

Makes applicable to honorably retired parole and probation officers defenses to firearm offenses available to honorably retired law enforcement officers.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; amending ORS 166.173, 166.175, 166.255, 166.260,
3 166.262, 166.291, 166.370, 166.412, 166.418, 166.432, 166.434, 166.435, 166.436, 166.663 and 821.240;
4 and prescribing an effective date.

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

6 **SECTION 1. Sections 9, 10, 13 and 14 of this 2017 Act and the amendments to ORS 166.173,**
7 **166.175, 166.255, 166.260, 166.262, 166.291, 166.370, 166.412, 166.418, 166.432, 166.434, 166.435,**
8 **166.436, 166.663 and 821.240 by sections 2 to 8, 11, 12 and 15 to 21 of this 2017 Act shall be**
9 **known and may be cited as the Oregon Firearm Regulation Modernization Act.**

PAWNSHOP AND SECONDHAND STORE SALES

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11
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13 **SECTION 2.** ORS 166.175 is amended to read:

14 166.175. (1) Notwithstanding any other provision of law, a city **or county** may *[continue to]*
15 regulate the purchase of used firearms by pawnshops and secondhand stores.

16 (2) As used in this section, "secondhand store" means a store or business whose primary source

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 of revenue is the sale of used merchandise.

2
3 **FIREARM TRANSFERS**
4

5 **SECTION 3.** ORS 166.412 is amended to read:

6 166.412. (1) As used in this section:

7 (a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

8 (b) "Department" means the Department of State Police;

9 (c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include
10 an antique firearm;

11 (d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C.
12 921 to 929;

13 (e) "Firearms transaction thumbprint form" means a form provided by the department under
14 subsection (11) of this section;

15 (f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling,
16 leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or
17 otherwise; **and**

18 [(g) "*Handgun*" has the meaning given that term in ORS 166.210; and]

19 [(h)] (g) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a
20 gun dealer.

21 (2) Except as provided in subsections (3)(c) and (12) of this section, a gun dealer shall comply
22 with the following before a [*handgun*] **firearm** is delivered to a purchaser:

23 (a) The purchaser shall present to the dealer current identification meeting the requirements
24 of subsection (4) of this section.

25 (b) The gun dealer shall complete the firearms transaction record and obtain the signature of
26 the purchaser on the record.

27 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
28 thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to
29 be filed with that copy. **If the purchaser is not able to provide a thumbprint due to a disability
30 or other physical limitation, the gun dealer shall substitute another fingerprint on the form
31 in accordance with department rules and shall indicate on the form the finger from which
32 the print was taken.**

33 (d) The gun dealer shall request by telephone **or by electronic transmission** that the depart-
34 ment conduct a criminal [*history record*] **background** check on the purchaser and shall provide the
35 following information to the department:

36 (A) The federal firearms license number of the gun dealer;

37 (B) The business name of the gun dealer;

38 (C) The place of transfer;

39 (D) The name of the person making the transfer;

40 (E) The make, model, caliber and manufacturer's number of the [*handgun*] **firearm** being trans-
41 ferred;

42 (F) The name and date of birth of the purchaser;

43 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
44 number to the gun dealer; and

45 (H) The type, issuer and identification number of the identification presented by the purchaser.

1 (e) The gun dealer shall receive a unique approval number for the transfer from the department
2 and record the approval number on the firearms transaction record and on the firearms transaction
3 thumbprint form.

4 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the
5 completion of the firearms transaction thumbprint form.

6 (3)(a) Upon receipt of a request of the gun dealer for a criminal [*history record*] **background**
7 check, the department shall immediately, during the gun dealer's telephone call or by return call
8 **or electronic transmission:**

9 (A) Determine, from criminal records and other information available to it, whether the pur-
10 chaser is disqualified under ORS 166.470 from completing the purchase; and

11 (B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide
12 the dealer with a unique approval number indicating that the purchaser is qualified to complete the
13 transfer.

14 (b) If the department is unable to determine if the purchaser is qualified or disqualified from
15 completing the transfer within 30 minutes, the department shall notify the dealer and provide the
16 dealer with an estimate of the time when the department will provide the requested information.

17 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the
18 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection [*before the close*
19 *of the gun dealer's next business day following*] **within 14 days from** the request by the dealer for
20 a criminal [*history record*] **background** check, the dealer may deliver the [*handgun*] **firearm** to the
21 purchaser **as long as the dealer does not know or have reason to believe that the purchaser**
22 **is disqualified from completing the transfer.**

23 **(d) The department shall by rule create procedures:**

24 **(A) Allowing a purchaser determined to be disqualified from completing a transfer under**
25 **this section to contact the department to obtain the reason for the disqualification;**

26 **(B) Allowing the disqualified purchaser to submit to the department additional informa-**
27 **tion concerning the disqualification; and**

28 **(C) Requiring the department to determine, within five days of receiving any additional**
29 **information under subparagraph (B) of this paragraph, whether the purchaser is qualified to**
30 **complete a transfer of a firearm and to notify the purchaser of the determination.**

31 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include
32 one piece of current identification bearing a photograph and the date of birth of the purchaser that:

33 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
34 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
35 tional governmental organization or an international quasi-governmental organization; and

36 (B) Is intended to be used for identification of an individual or is commonly accepted for the
37 purpose of identification of an individual.

38 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does
39 not include the current address of the purchaser, the purchaser shall present a second piece of
40 current identification that contains the current address of the purchaser. The Superintendent of
41 State Police may specify by rule the type of identification that may be presented under this para-
42 graph.

43 (c) The department may require that the dealer verify the identification of the purchaser if that
44 identity is in question by sending the thumbprints of the purchaser, **or another fingerprint if the**
45 **purchaser is unable to provide a thumbprint as described in subsection (2) of this section, to**

1 the department.

2 (5) The department shall establish **an electronic system or** a telephone number that shall be
3 operational seven days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding
4 to inquiries from dealers for a criminal [*history record*] **background** check under this section.

5 (6) No public employee, official or agency shall be held criminally or civilly liable for performing
6 the investigations required by this section provided the employee, official or agency acts in good
7 faith and without malice.

8 (7)(a) The department may retain a record of the information obtained during a request for a
9 criminal [*history record*] **background** check for no more than five years.

10 (b) The record of the information obtained during a request for a criminal [*history record*]
11 **background** check by a gun dealer is exempt from disclosure under public records law. **If the de-**
12 **partment determines that the information concerns a person protected by a court's stalking**
13 **protective order issued under ORS 30.866 or 163.738, the information is confidential and may**
14 **not be disclosed except as authorized by paragraph (c) of this subsection or as required by**
15 **federal law.**

16 [*If the department determines that a purchaser is prohibited from possessing a firearm under*
17 *ORS 166.250 (1)(c), as soon as practicable, the department may report the attempted transfer and the*
18 *purchaser's name to the appropriate law enforcement agency.*]

19 (c) **If the department determines that a purchaser is prohibited from possessing a**
20 **firearm under ORS 166.250 (1)(c), the department shall report the attempted transfer and the**
21 **purchaser's name to the United States Attorney for the District of Oregon and to all state**
22 **and local law enforcement agencies and district attorneys that have jurisdiction over the**
23 **location or locations where the attempted transfer was made and where the purchaser re-**
24 **sides.**

25 (d) **If the department determines that the purchaser is prohibited from possessing a**
26 **firearm as a condition of probation under ORS 137.540 (1)(L), the department shall report the**
27 **attempted transfer to the purchaser's probation officer.**

28 (e) **If the department determines that the purchaser is prohibited from possessing a**
29 **firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the**
30 **attempted transfer to the court that issued the order.**

31 (f) **The report required by paragraphs (c), (d) and (e) of this subsection shall be made**
32 **within 24 hours after the determination is made, unless the report would compromise an**
33 **ongoing investigation, in which case the report may be delayed as long as necessary to avoid**
34 **compromising the investigation.**

35 (g) **On or before January 31 of each year, a law enforcement agency or a prosecuting**
36 **attorney's office that received a report pursuant to paragraph (c) of this subsection during**
37 **the previous calendar year shall inform the department of the action that was taken con-**
38 **cerning each attempted transfer and the outcome of the action.**

39 (h) **After receiving the information described in paragraph (g) of this subsection, the de-**
40 **partment shall annually publish a written report detailing the following information for the**
41 **previous year:**

42 (A) **The number of attempted purchasers whom the department determined were pro-**
43 **hibited from possessing a firearm under ORS 166.250 (1)(c), arranged by category of prohib-**
44 **ited possessor;**

45 (B) **The number of reports made pursuant to paragraph (c) of this subsection;**

1 **(C) The number of investigations arising from the reports made pursuant to paragraph**
 2 **(c) of this subsection, the number of investigations concluded and the number of investi-**
 3 **gations referred for prosecution, all arranged by category of prohibited possessor; and**

4 **(D) The number of criminal charges arising from the reports made pursuant to para-**
 5 **graph (c) of this subsection and the disposition of the charges, both arranged by category**
 6 **of prohibited possessor.**

7 (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers of
 8 *[handguns]* **firearms** with the consent of a gun dealer in the course of a reasonable inquiry during
 9 a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

10 (9) When a *[handgun]* **firearm** is delivered, it shall be unloaded.

11 (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of State
 12 Police may adopt rules necessary for:

13 (a) The design of the firearms transaction thumbprint form;

14 (b) The maintenance of a procedure to correct errors in the criminal records of the department;

15 (c) The provision of a security system to identify dealers who request a criminal *[history*
 16 *record]* **background** check under subsection (2) of this section; and

17 (d) The creation and maintenance of a database of the business hours of gun dealers.

18 (11)(a) The department shall publish the firearms transaction thumbprint form and shall furnish
 19 the form to gun dealers on application at cost.

20 **(b) The department shall adopt rules establishing alternative fingerprints that a person**
 21 **may provide in lieu of a thumbprint when the person is unable to provide a thumbprint due**
 22 **to a disability or other physical limitation.**

23 **(c) The department may, in lieu of the firearms transaction thumbprint form described**
 24 **in paragraph (a) of this subsection, accept a firearms transaction record form issued by the**
 25 **federal Bureau of Alcohol, Tobacco, Firearms and Explosives that includes thumbprints or**
 26 **an alternative fingerprint as provided in subsection (2) of this section.**

27 (12) This section does not apply to transactions between persons licensed as dealers under 18
 28 U.S.C. 923.

29 (13)(a) If requested by a transferor who is not a gun dealer, a gun dealer may request a criminal
 30 background check pursuant to ORS 166.435 or 166.438 and may charge a reasonable fee for providing
 31 the service.

32 (b) A gun dealer that requests a criminal background check under this subsection is immune
 33 from civil liability for any use of the firearm by the recipient or transferee, provided that the gun
 34 dealer requests the criminal background check as described in this section.

35 **SECTION 4.** ORS 166.434 is amended to read:

36 166.434. *[(1) Notwithstanding the fact that ORS 166.412 requires a gun dealer to request a criminal*
 37 *history record check only when transferring a handgun, a gun dealer shall comply with the require-*
 38 *ments of ORS 166.412 before transferring any firearm to a purchaser. The provisions of ORS 166.412*
 39 *apply to the transfer of firearms other than handguns to the same extent that they apply to the transfer*
 40 *of handguns.]*

41 [(2)] **(1)** In addition to the determination required by ORS 166.412 (3)(a)(A), in conducting a
 42 criminal background check or criminal history record check, the Department of State Police shall
 43 also determine whether the recipient is otherwise prohibited by state or federal law from possessing
 44 a firearm.

45 [(3)] **(2)** Notwithstanding ORS 166.412 (5), the department is not required to operate the tele-

1 phone number **or electronic system** established under ORS 166.412 (5) on Thanksgiving Day or
2 Christmas Day.

3 [(4)(a)] **(3)(a)** The department may charge a fee, not to exceed the amount authorized under ORS
4 166.414, for criminal background checks required under this section or ORS 166.435 or 166.436.

5 (b) The department shall establish a reduced fee for subsequent criminal background checks on
6 the same recipient that are performed during the same day between the hours of 8 a.m. and 10 p.m.

7 **SECTION 5.** ORS 166.435 is amended to read:

8 166.435. (1) As used in this section:

9 (a) "Transfer" means the delivery of a firearm from a transferor to a transferee, including, but
10 not limited to, the sale, gift, loan or lease of the firearm. "Transfer" does not include the temporary
11 provision of a firearm to a transferee if the transferor has no reason to believe the transferee is
12 prohibited from possessing a firearm or intends to use the firearm in the commission of a crime, and
13 the provision occurs:

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

17 (B) For the purpose of hunting, trapping or target shooting, during the time in which the
18 transferee is **preparing to engage in, is engaged in or is in the process of completing** activities
19 related to hunting, trapping or target shooting;

20 (C) Under circumstances in which the transferee and the firearm are in the presence of the
21 transferor;

22 (D) To a transferee who is in the business of repairing firearms, for the time during which the
23 firearm is being repaired;

24 (E) To a transferee who is in the business of making or repairing custom accessories for
25 firearms, for the time during which the accessories are being made or repaired; or

26 (F) For the purpose of preventing imminent death or serious physical injury, and the provision
27 lasts only as long as is necessary to prevent the death or serious physical injury.

28 (b) "Transferee" means a person who is not a gun dealer or licensed as a manufacturer or
29 importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

30 (c) "Transferor" means a person who is not a gun dealer or licensed as a manufacturer or
31 importer under 18 U.S.C. 923 and who intends to deliver a firearm to a transferee.

32 (2) Except as provided in ORS 166.436 and 166.438 and subsection (4) of this section, a transferor
33 may not transfer a firearm to a transferee unless the transfer is completed through a gun dealer as
34 described in subsection (3) of this section.

35 (3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except
36 as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the
37 transferee must appear in person before a gun dealer, with the firearm, and request that the gun
38 dealer perform a criminal background check on the transferee.

39 (b) If the transferor and the transferee reside over 40 miles from each other, the transferor may
40 ship or deliver the firearm to a gun dealer located near the transferee or a gun dealer designated
41 by the transferee, and the transferor need not appear before the gun dealer in person.

42 (c) A gun dealer who agrees to complete a transfer of a firearm under this section shall request
43 a criminal [*history record*] **background** check on the transferee as described in ORS 166.412 and
44 shall comply with all requirements of federal law.

45 (d) If, upon completion of a criminal background check, the gun dealer:

1 (A) Receives a unique approval number from the Department of State Police indicating that the
2 transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the
3 firearm into the gun dealer's inventory and transfer the firearm to the transferee.

4 (B) Receives notification that the transferee is prohibited by state or federal law from possessing
5 or receiving the firearm, the gun dealer shall notify the transferor and neither the transferor nor
6 the gun dealer shall transfer the firearm to the transferee. If the transferor shipped or delivered the
7 firearm to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer shall comply
8 with federal law when returning the firearm to the transferor.

9 **(C) Receives notification that the department is unable to determine if the transferee is**
10 **qualified to complete or disqualified from completing the transfer, the gun dealer shall notify**
11 **the transferor and neither the gun dealer nor the transferor shall transfer the firearm to**
12 **the transferee.**

13 **(e) Notwithstanding paragraph (d) of this subsection, if the department fails to provide**
14 **a unique approval number to the gun dealer or to notify the gun dealer that the transferee**
15 **is prohibited from possessing or receiving the firearm within 14 days of the criminal back-**
16 **ground check request, the gun dealer shall notify the transferor and the transferor may**
17 **transfer the firearm to the transferee if the transferor does not know or have reason to**
18 **believe that the transferee is disqualified from completing the transfer.**

19 [(e)] (f) A gun dealer may charge a reasonable fee for facilitating a firearm transfer pursuant
20 to this section.

21 **(g) The department shall by rule create procedures:**

22 **(A) Allowing a transferee determined to be disqualified from completing a transfer under**
23 **this section to contact the department to obtain the reason for the disqualification;**

24 **(B) Allowing the disqualified transferee to submit to the department additional informa-**
25 **tion concerning the disqualification; and**

26 **(C) Requiring the department to determine, within five days of receiving any additional**
27 **information under subparagraph (B) of this paragraph, whether the transferee is qualified**
28 **to complete a transfer of a firearm and to notify the transferee of the determination.**

29 (4) The requirements of subsections (2) and (3) of this section do not apply to:

30 (a) The transfer of a firearm by or to a law enforcement agency, or by or to a law enforcement
31 officer, private security professional or member of the Armed Forces of the United States, while that
32 person is acting within the scope of official duties.

33 (b) The transfer of a firearm as part of a firearm turn-in or buyback event, in which a law
34 enforcement agency receives or purchases firearms from members of the public.

35 (c) The transfer of a firearm to:

36 (A) A transferor's spouse or domestic partner;

37 (B) A transferor's parent or stepparent;

38 (C) A transferor's child or stepchild;

39 (D) A transferor's sibling;

40 (E) A transferor's grandparent;

41 (F) A transferor's grandchild;

42 (G) A transferor's aunt or uncle;

43 (H) A transferor's first cousin;

44 (I) A transferor's niece or nephew; or

45 (J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this par-

1 agraph.

2 (d) The transfer of a firearm that occurs because of the death of the firearm owner, provided
3 that:

4 (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS
5 111.005, or a trustee of a trust created in a will; and

6 (B) The transferee is related to the deceased firearm owner in a manner specified in paragraph
7 (c) of this subsection.

8 **(e) The transfer of a firearm to a transferee who is a certified participant in the Address
9 Confidentiality Program under ORS 192.820 to 192.868, or to a transferee with an Oregon
10 driver license bearing a “Continuous Traveler” residence address, if the transferor:**

11 **(A) Requests a criminal background check from the Department of State Police by tele-
12 phone or electronic transmission as described in ORS 166.436;**

13 **(B) Receives a unique approval number from the department indicating that the
14 transferee is qualified to complete the transfer; and**

15 **(C) Retains the approval number for at least five years following the transfer.**

16 (5)(a) A transferor who fails to comply with the requirements of this section commits a Class
17 A misdemeanor.

18 (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the
19 requirements of this section commits a Class B felony if the transferor has a previous conviction
20 under this section at the time of the offense.

21 **SECTION 6.** ORS 166.436 is amended to read:

22 166.436. (1) The Department of State Police shall make the telephone number **or electronic
23 system** established under ORS 166.412 (5) available for requests for criminal background checks
24 under this section from persons who are not gun dealers and who are transferring firearms:

25 **(a) At gun shows[.];**

26 **(b) To a person who is a certified participant in the Address Confidentiality Program
27 under ORS 192.820 to 192.868; or**

28 **(c) To a person with an Oregon driver license bearing a “Continuous Traveler” residence
29 address.**

30 (2) Prior to transferring a firearm [*at a gun show*] **as described in subsection (1) of this sec-
31 tion**, a transferor who is not a gun dealer may request by telephone **or electronic transmission**
32 that the department conduct a criminal background check on the recipient and shall provide the
33 following information to the department:

34 (a) The name, address and telephone number of the transferor;

35 (b) The make, model, caliber and manufacturer’s number of the firearm being transferred;

36 (c) The name, date of birth, race, sex and address of the recipient;

37 (d) The Social Security number of the recipient if the recipient voluntarily provides that number;

38 (e) The address of the place where the transfer is occurring; and

39 (f) The type, issuer and identification number of a current piece of identification bearing a re-
40 cent photograph of the recipient presented by the recipient. The identification presented by the re-
41 cipient must meet the requirements of ORS 166.412 (4)(a).

42 (3)(a) Upon receipt of a request for a criminal background check under this section, the de-
43 partment shall immediately, during the telephone call or by return call **or electronic
44 transmission:**

45 (A) Determine from criminal records and other information available to it whether the recipient

1 is disqualified under ORS 166.470 from completing the transfer or is otherwise prohibited by state
2 or federal law from possessing a firearm; and

3 (B) Notify the transferor when a recipient is disqualified from completing the transfer or provide
4 the transferor with a unique approval number indicating that the recipient is qualified to complete
5 the transfer. The unique approval number is a permit valid for 24 hours for the requested transfer.
6 If the firearm is not transferred from the transferor to the recipient within 24 hours after receipt
7 of the unique approval number, a new request must be made by the transferor.

8 (b) If the department is unable to determine whether the recipient is qualified for or disqualified
9 from completing the transfer within 30 minutes of receiving the request, the department shall notify
10 the transferor and provide the transferor with an estimate of the time when the department will
11 provide the requested information. **If the department does not provide the information within
12 14 days of the date of the criminal background check request, the transferor may deliver the
13 firearm to the recipient as long as the transferor does not know or have reason to believe
14 that the recipient is disqualified from completing the transfer.**

15 (c) **The department shall by rule create procedures:**

16 (A) **Allowing a recipient determined to be disqualified from completing a transfer under
17 this section to contact the department to obtain the reason for the disqualification;**

18 (B) **Allowing the disqualified recipient to submit to the department additional information
19 concerning the disqualification; and**

20 (C) **Requiring the department to determine, within five days of receiving any additional
21 information under subparagraph (B) of this paragraph, whether the transferee is qualified
22 to complete a transfer of a firearm and to notify the transferee of the determination.**

23 (4) A public employee or public agency incurs no criminal or civil liability for performing the
24 criminal background checks required by this section, provided the employee or agency acts in good
25 faith and without malice.

26 (5)(a) The department may retain a record of the information obtained during a request for a
27 criminal background check under this section for the period of time provided in ORS 166.412
28 (7)(a).

29 (b) The record of the information obtained during a request for a criminal background check
30 under this section is exempt from disclosure under public records law. **If the department deter-
31 mines that the information concerns a person who is a certified participant in the Address
32 Confidentiality Program under ORS 192.820 to 192.868, or a person protected by a court's
33 stalking protective order issued under ORS 30.866 or 163.738, the information is confidential
34 and may not be disclosed except as authorized by paragraph (c) of this subsection or as re-
35 quired by federal law.**

36 *[(c) If the department determines that a recipient is prohibited from possessing a firearm under
37 ORS 166.250 (1)(c), as soon as practicable, the department may report the attempted transfer and the
38 recipient's name to the appropriate law enforcement agency.]*

39 (c) **If the department determines that a recipient is prohibited from possessing a firearm
40 under ORS 166.250 (1)(c), the department shall report the attempted transfer and the
41 recipient's name to the United States Attorney for the District of Oregon and to all state
42 and local law enforcement agencies and district attorneys that have jurisdiction over the
43 location or locations where the attempted transfer was made and where the recipient re-
44 sides.**

45 (d) **If the department determines that the recipient is prohibited from possessing a**

1 **firearm as a condition of probation under ORS 137.540 (1)(L), the department shall report the**
 2 **attempted transfer to the recipient's probation officer.**

3 **(e) If the department determines that the recipient is prohibited from possessing a**
 4 **firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the**
 5 **attempted transfer to the court that issued the order.**

6 **(f) The report required by paragraphs (c), (d) and (e) of this subsection shall be made**
 7 **within 24 hours after the determination is made, unless the report would compromise an**
 8 **ongoing investigation, in which case the report may be delayed as long as necessary to avoid**
 9 **compromising the investigation.**

10 **(g) On or before January 31 of each year, a law enforcement agency or a prosecuting**
 11 **attorney's office that received a report pursuant to paragraph (c) of this subsection during**
 12 **the previous calendar year shall inform the department of the action that was taken con-**
 13 **cerning each attempted transfer and the outcome of the action.**

14 **(h) After receiving the information described in paragraph (g) of this subsection, the de-**
 15 **partment shall annually publish a written report detailing the following information for the**
 16 **previous year:**

17 **(A) The number of attempted recipients whom the department determined were prohib-**
 18 **ited from possessing a firearm under ORS 166.250 (1)(c), arranged by category of prohibited**
 19 **possessor;**

20 **(B) The number of reports made pursuant to paragraph (c) of this subsection;**

21 **(C) The number of investigations arising from the reports made pursuant to paragraph**
 22 **(c) of this subsection, the number of investigations concluded and the number of investi-**
 23 **gations referred for prosecution, all arranged by category of prohibited possessor; and**

24 **(D) The number of criminal charges arising from the reports made pursuant to para-**
 25 **graph (c) of this subsection and the disposition of the charges, both arranged by category**
 26 **of prohibited possessor.**

27 **(6) The recipient of the firearm must be present when the transferor requests a criminal back-**
 28 **ground check under this section.**

29 **(7)(a) Except as otherwise provided in paragraph (b) of this subsection, a transferor trans-**
 30 **ferring a firearm at a gun show who receives notification under this section that the recipient is**
 31 **qualified to complete the transfer of a firearm, has the recipient fill out the form required by ORS**
 32 **166.438 (1)(a) and retains the form as required by ORS 166.438 (2) is immune from civil liability for**
 33 **any use of the firearm from the time of the transfer unless the transferor knows, or reasonably**
 34 **should know, that the recipient is likely to commit an unlawful act involving the firearm.**

35 **(b) The immunity provided by paragraph (a) of this subsection does not apply:**

36 **(A) If the transferor knows, or reasonably should know, that the recipient of the firearm intends**
 37 **to deliver the firearm to a third person who the transferor knows, or reasonably should know, may**
 38 **not lawfully possess the firearm; or**

39 **(B) In any product liability civil action under ORS 30.900 to 30.920.**

40 41 **CONCEALED HANDGUN LICENSES**

42
43 **SECTION 7. ORS 166.291 is amended to read:**

44 **166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed**
 45 **handgun license, upon receipt of the appropriate fees and after compliance with the procedures set**

1 out in this section, shall issue the person a concealed handgun license if the person:

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

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

7 (b) Is at least 21 years of age **or, if the person is a servicemember, at least 18 years of**
8 **age;**

9 (c) Is a resident of the county;

10 (d) Has no outstanding warrants for arrest;

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

12 (f) Demonstrates competence with a handgun [*by any one of the following:*] **as defined in sub-**
13 **section (9) of this section;**

14 [(A) *Completion of any hunter education or hunter safety course approved by the State Department*
15 *of Fish and Wildlife or a similar agency of another state if handgun safety was a component of the*
16 *course;*]

17 [(B) *Completion of any National Rifle Association firearms safety or training course if handgun*
18 *safety was a component of the course;*]

19 [(C) *Completion of any firearms safety or training course or class available to the general public*
20 *offered by law enforcement, community college, or private or public institution or organization or*
21 *firearms training school utilizing instructors certified by the National Rifle Association or a law*
22 *enforcement agency if handgun safety was a component of the course;*]

23 [(D) *Completion of any law enforcement firearms safety or training course or class offered for se-*
24 *curity guards, investigators, reserve law enforcement officers or any other law enforcement officers if*
25 *handgun safety was a component of the course;*]

26 [(E) *Presents evidence of equivalent experience with a handgun through participation in organized*
27 *shooting competition or military service;*]

28 [(F) *Is licensed or has been licensed to carry a firearm in this state, unless the license has been*
29 *revoked; or]*

30 [(G) *Completion of any firearms training or safety course or class conducted by a firearms in-*
31 *structor certified by a law enforcement agency or the National Rifle Association if handgun safety was*
32 *a component of the course;*]

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

35 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
36 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor
37 conviction for the possession of marijuana as described in paragraph (L) of this subsection;

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

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

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

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

4 (A) The person can demonstrate that the person has been convicted only once of a marijuana
 5 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of
 6 the offense, and has not completed a drug diversion program for a marijuana possession offense that
 7 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

8 (B) The person can demonstrate that the person has only once completed a drug diversion pro-
 9 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law
 10 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that
 11 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

12 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 13 107.700 to 107.735 or 163.738;

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

15 (o) Is not required to register as a sex offender in any state; and

16 (p) Is not presently subject to an order under ORS 426.133 prohibiting the person from pur-
 17 chasing or possessing a firearm.

18 (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.
 19 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of
 20 other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

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

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

28 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
 29 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
 30 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
 31 records check is necessary, the sheriff shall request the Department of State Police to conduct the
 32 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
 33 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
 34 check and may not keep any record of the fingerprints. The Department of State Police shall report
 35 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
 36 Police shall also furnish the sheriff with any information about the applicant that the Department
 37 of State Police may have in its possession including, but not limited to, manual or computerized
 38 criminal offender information.

39 **(c) Application forms shall be as described in section 10 of this 2017 Act.**

40 *[(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request.*
 41 *The forms shall be uniform throughout this state in substantially the following form:]*

42 [_____]

43
 44 *APPLICATION FOR LICENSE TO CARRY*
 45 *CONCEALED HANDGUN*

Date _____

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I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a person with mental illness and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. I am not under a court order to participate in assisted outpatient treatment that includes an order prohibiting me from purchasing or possessing a firearm. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

*Legal name _____
Age _____ Date of birth _____
Place of birth _____
Social Security number _____*

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

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

- 1. _____*
- 2. _____*

*Height _____ Weight _____
Hair color _____ Eye color _____*

Current address _____

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

1 City _____ County _____ Zip _____

2 Phone _____

3

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

6

7

(Signature of Applicant)

8

9 Character references.

10

11

Name: Address

12

13

Name: Address

14

15 Approved _____ Disapproved _____ by _____

16

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

18

Date _____ Fee Paid _____

19

License No. _____

20

[_____]

21

22 [(5)(a)] (4)(a) Fees for concealed handgun licenses are:

23

(A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

24

(B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

25

(C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

26

(b) The sheriff may enter into an agreement with the Department of Transportation to produce

27

the concealed handgun license.

28

29 [(6)] (5) No civil or criminal liability shall attach to the sheriff or any authorized representative
30 engaged in the receipt and review of, or an investigation connected with, any application for, or in
31 the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the
32 lawful performance of duties under those sections.

32

33 [(7)] (6) Immediately upon acceptance of an application for a concealed handgun license, the
34 sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the
35 person is an applicant for a concealed handgun license or is a license holder.

35

36 [(8)] (7) The county sheriff may waive the residency requirement in subsection (1)(c) of this
37 section for a resident of a contiguous state who has a compelling business interest or other legiti-
38 mate demonstrated need.

38

39 [(9)] (8) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
40 person:
41 (a) Has a current Oregon driver license issued to the person showing a residence address in the
42 county;

42

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

44

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

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

3 **(9)(a) For the purposes of subsection (1)(f) of this section, “competence with a
 4 handgun” means:**

5 **(A)(i) Completion of a live fire practice exercise, including a minimum of 25 rounds fired,
 6 with an instructor who is a National Rifle Association certified pistol instructor or a police
 7 officer currently certified by the Department of Public Safety Standards and Training or
 8 honorably retired as defined in ORS 166.173; and**

9 **(ii) Completion of a course or class described in paragraph (b) of this subsection that
 10 includes training in the safe loading, unloading, storing and carrying of handguns and infor-
 11 mation on Oregon and relevant federal laws governing the lawful use of a firearm, including
 12 self-defense, the use of force, including deadly force, and the transportation and concealment
 13 of handguns; or**

14 **(B) Evidence of experience with a handgun equivalent to the live fire practice exercise
 15 and the course or class described in subparagraph (A) of this paragraph, through partic-
 16 ipation in an organized shooting competition or military service.**

17 **(b) The course or class described in paragraph (a) of this subsection may not be com-
 18 pleted via the Internet or other electronic means unless the class is provided by the National
 19 Rifle Association or an Oregon law enforcement agency or association, and must consist of
 20 one of the following:**

21 **(A) A hunter education or hunter safety course approved by the State Department of
 22 Fish and Wildlife;**

23 **(B) A National Rifle Association firearms safety or training course;**

24 **(C) A firearms safety or training course or class available to the general public offered
 25 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
 27 law enforcement agency;**

28 **(D) A law enforcement firearms safety or training course or class offered in this state
 29 for security guards, investigators, reserve law enforcement officers or any other law
 30 enforcement officers; or**

31 **(E) A firearms safety training course or class conducted by a firearms instructor certi-
 32 fied by the National Rifle Association or a law enforcement agency.**

33 **(10) As used in this section[,] and section 10 of this 2017 Act:**

34 **(a) “Drug diversion program” means a program in which a defendant charged with a marijuana
 35 possession offense completes a program under court supervision and in which the marijuana pos-
 36 session offense is dismissed upon successful completion of the diversion program.**

37 **(b) “Servicemember” means a person who is a member of the Armed Forces of the
 38 United States, the reserve components of the Armed Forces of the United States or the
 39 National Guard.**

40 **SECTION 8.** ORS 166.291, as amended by section 7 of this 2017 Act, is amended to read:

41 166.291. (1) The sheriff of a county, upon a person’s application for an Oregon concealed
 42 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
 43 out in this section, shall issue the person a concealed handgun license if the person:

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

45 (B) Is a legal resident alien who can document continuous residency in the county for at least

1 six months and has declared in writing to the United States Citizenship and Immigration Services
2 the intent to acquire citizenship status and can present proof of the written declaration to the
3 sheriff at the time of application for the license;

4 (b) Is at least 21 years of age or, if the person is a servicemember, at least 18 years of age;

5 (c) Is a resident of the county;

6 (d) Has no outstanding warrants for arrest;

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

8 (f) Demonstrates competence with a handgun as defined in subsection (9) of this section;

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

11 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
12 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor
13 conviction for the possession of marijuana as described in paragraph (L) of this subsection;

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 can demonstrate that the person has been convicted only once of a marijuana
26 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of
27 the offense, and has not completed a drug diversion program for a marijuana possession offense that
28 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

29 (B) The person can demonstrate that the person has only once completed a drug diversion pro-
30 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law
31 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that
32 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

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;

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

37 (p) Is not presently subject to an order under ORS 426.133 prohibiting the person from pur-
38 chasing or possessing a firearm.

39 (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.
40 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of
41 other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

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

43 (a) The application must state the applicant's legal name, current address and telephone number,
44 date and place of birth, hair and eye color and height and weight. The application must also list the
45 applicant's residence address or addresses for the previous three years. The application must contain

1 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
 2 section. The application may include the Social Security number of the applicant if the applicant
 3 voluntarily provides this number. The application must be signed by the applicant.

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

15 (c) Application forms shall be as described in section 10 of this 2017 Act.

16 (4)(a) Fees for concealed handgun licenses are:

17 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

18 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

19 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

20 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
 21 the concealed handgun license.

22 (5) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
 23 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
 24 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
 25 performance of duties under those sections.

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

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

32 (8) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
 33 person:

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

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

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

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

42 (9)(a) For the purposes of subsection (1)(f) of this section, "competence with a handgun" means:

43 (A)(i) Completion of a live fire practice exercise, including a minimum of 25 rounds fired, with
 44 an instructor who is a National Rifle Association certified pistol instructor or a police officer cur-
 45 rently certified by the Department of Public Safety Standards and Training or honorably retired as

1 defined in ORS 166.173; and

2 (ii) Completion of a course or class described in paragraph (b) of this subsection that includes
3 training in the safe loading, unloading, storing and carrying of handguns and information on Oregon
4 and relevant federal laws governing the lawful use of a firearm, including self-defense, the use of
5 force, including deadly force, and the transportation and concealment of handguns; [or]

6 (B) Evidence of experience with a handgun equivalent to the live fire practice exercise and the
7 course or class described in subparagraph (A) of this paragraph, through participation in an organ-
8 ized shooting competition or military service[.]; **or**

9 **(C) Being licensed or having been licensed within the previous five years to carry a con-
10 cealed handgun in this state, unless the license has been revoked.**

11 (b) The course or class described in paragraph (a) of this subsection may not be completed via
12 the Internet or other electronic means unless the class is provided by the National Rifle Association
13 or an Oregon law enforcement agency or association, and must consist of one of the following:

14 (A) A hunter education or hunter safety course approved by the State Department of Fish and
15 Wildlife;

16 (B) A National Rifle Association firearms safety or training course;

17 (C) A firearms safety or training course or class available to the general public offered by law
18 enforcement, community college, or private or public institution or organization or firearms training
19 school utilizing instructors certified by the National Rifle Association or a law enforcement agency;

20 (D) A law enforcement firearms safety or training course or class offered in this state for se-
21 curity guards, investigators, reserve law enforcement officers or any other law enforcement officers;
22 or

23 (E) A firearms safety or training course or class conducted by a firearms instructor certified by
24 the National Rifle Association or a law enforcement agency.

25 (10) As used in this section and section 10 of this 2017 Act:

26 (a) "Drug diversion program" means a program in which a defendant charged with a marijuana
27 possession offense completes a program under court supervision and in which the marijuana pos-
28 session offense is dismissed upon successful completion of the diversion program.

29 (b) "Servicemember" means a person who is a member of the Armed Forces of the United States,
30 the reserve components of the Armed Forces of the United States or the National Guard.

31 **SECTION 9. Section 10 of this 2017 Act is added to and made a part of ORS 166.291 to
32 166.295.**

33 **SECTION 10. Application forms for concealed handgun licenses issued under ORS 166.291
34 shall be supplied by the sheriff upon request. The forms shall be uniform throughout this
35 state in substantially the following form:**

36
37
38 **APPLICATION FOR LICENSE TO CARRY**
39 **CONCEALED HANDGUN**

40 **Date**_____

41 **I hereby declare as follows:**

42 **I am a citizen of the United States or a legal resident alien who can document continuous**
43 **residency in the county for at least six months and have declared in writing to the United**
44 **States Citizenship and Immigration Services my intention to become a citizen and can pres-**
45 **ent proof of the written declaration to the sheriff at the time of this application. I am at**

1 least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for
 2 more than four years if, while a minor, I was found to be within the jurisdiction of the ju-
 3 venile court for having committed an act that, if committed by an adult, would constitute a
 4 felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been
 5 convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in
 6 the State of Oregon or elsewhere. I have not, within the last four years, been convicted of
 7 a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor.
 8 Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving
 9 controlled substances or completed a court-supervised drug diversion program. There are
 10 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I
 11 have not been committed to the Oregon Health Authority under ORS 426.130, nor have I been
 12 found to be a person with mental illness and presently subject to an order prohibiting me
 13 from purchasing or possessing a firearm because of mental illness. I am not under a court
 14 order to participate in assisted outpatient treatment that includes an order prohibiting me
 15 from purchasing or possessing a firearm. If any of the previous conditions do apply to me,
 16 I have been granted relief or wish to petition for relief from the disability under ORS 166.273,
 17 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to
 18 a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735
 19 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the
 20 United States. I am not required to register as a sex offender in any state. I understand I
 21 will be fingerprinted and photographed.

22

23 Legal name _____

24 Age _____ Date of birth _____

25 Place of birth _____

26 Social Security number _____

27 (Disclosure of your Social Security account number is voluntary. Solicitation of the number
 28 is authorized under ORS 166.291. It will be used only as a means of identification.)

29

30 Proof of identification (Two pieces of current identification are required, one of which must
 31 bear a photograph of the applicant. The type of identification and the number on the iden-
 32 tification are to be filled in by the sheriff.):

33 1. _____

34 2. _____

35

36 Height _____ Weight _____

37 Hair color _____ Eye color _____

38

39 Current address _____

40

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

41

42

43 City _____ County _____ Zip _____

44 Phone _____

45

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

3 _____
4 (Signature of Applicant)

5
6 **Character references.**

Name:	Address
Name:	Address

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9
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11
12 Approved _____ Disapproved _____ by _____

13
14 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

15 Date _____ Fee Paid _____

16 License No. _____
17
18
19

20 **FIREARM POSSESSION**

21
22 **SECTION 11.** ORS 166.173 is amended to read:

23 166.173. (1) A city or county may adopt ordinances to regulate, restrict or prohibit the pos-
24 session of loaded firearms in public places as defined in ORS 161.015.

25 (2) Ordinances adopted under subsection (1) of this section do not apply to or affect:

26 (a) A law enforcement officer.

27 (b) A member of the military in the performance of official duty.

28 (c) A person **who is** licensed **under ORS 166.291 and 166.292** to carry a concealed handgun.

29 (d) A person authorized to possess a loaded firearm while in or on a public building or court
30 facility under ORS 166.370.

31 (e) An employee of the United States Department of Agriculture, acting within the scope of
32 employment, who possesses a loaded firearm in the course of the lawful taking of wildlife.

33 (f) An honorably retired law enforcement officer **or an honorably retired parole and probation**
34 **officer**, unless the person who is a retired law enforcement officer **or retired parole and probation**
35 **officer** has been convicted of an offense that would make the person ineligible to obtain a concealed
36 handgun license under ORS 166.291 and 166.292.

37 **(3) As used in this section, "honorably retired":**

38 (a) **Includes all officers who have qualified for and accepted a service or disability re-**
39 **tirement; and**

40 (b) **Does not include an officer who has agreed to a service retirement in lieu of termi-**
41 **nation.**

42 **SECTION 12.** ORS 166.255 is amended to read:

43 166.255. (1) It is unlawful for a person to knowingly possess a firearm or ammunition if:

44 (a) The person is the subject of a court order that:

45 (A)(i) Was issued or continued after a hearing for which the person had actual notice and during

1 the course of which the person had an opportunity to be heard; **or**

2 **(ii) Remains in effect after the person received notice of the opportunity to request a**
 3 **hearing in which to be heard on the order, and declined to request a hearing during the time**
 4 **period in which the opportunity was available;**

5 (B) Restrains the person from stalking, intimidating, molesting or menacing [*an intimate*
 6 *partner*] **a family or household member**, a child of [*an intimate partner*] **a family or household**
 7 **member** or a child of the person; and

8 (C) Includes a finding that the person represents a credible threat to the physical safety of [*an*
 9 *intimate partner*] **a family or household member**, a child of [*an intimate partner*] **a family or**
 10 **household member** or a child of the person; [*or*]

11 (b) The person has been convicted of a qualifying misdemeanor and, at the time of the offense,
 12 the person was a family **or household** member of the victim of the offense[.]; **or**

13 **(c) The person has been convicted of stalking under ORS 163.732.**

14 (2) The prohibition described in subsection (1)(a) of this section does not apply with respect to
 15 the transportation, shipment, receipt, possession or importation of any firearm or ammunition im-
 16 ported for, sold or shipped to or issued for the use of the United States Government or any federal
 17 department or agency, or any state or department, agency or political subdivision of a state.

18 (3) As used in this section:

19 (a) “Convicted” means:

20 (A) The person was represented by counsel or knowingly and intelligently waived the right to
 21 counsel;

22 (B) The case was tried to a jury, if the crime was one for which the person was entitled to a
 23 jury trial, or the person knowingly and intelligently waived the person’s right to a jury trial; and

24 (C) The conviction has not been set aside or expunged, and the person has not been pardoned.

25 (b) “Deadly weapon” has the meaning given that term in ORS 161.015.

26 (c) “Family **or household** member” [*means, with respect to the victim, the victim’s spouse, the*
 27 *victim’s former spouse, a person with whom the victim shares a child in common, the victim’s parent*
 28 *or guardian, a person cohabiting with or who has cohabited with the victim as a spouse, parent or*
 29 *guardian or a person similarly situated to a spouse, parent or guardian of the victim*] **has the**
 30 **meaning given that term in ORS 135.230.**

31 [(d) “Intimate partner” means, with respect to a person, the person’s spouse, the person’s former
 32 spouse, a parent of the person’s child or another person who has cohabited or is cohabiting with the
 33 person in a relationship akin to a spouse.]

34 [(e)] (d) “Possess” has the meaning given that term in ORS 161.015.

35 [(f)] (e) “Qualifying misdemeanor” means a misdemeanor that has, as an element of the offense,
 36 the use or attempted use of physical force or the threatened use of a deadly weapon.

37 **SECTION 13. Section 14 of this 2017 Act is added to and made a part of ORS 181A.010 to**
 38 **181A.350.**

39 **SECTION 14. Upon receipt of a record of conviction for a crime constituting a qualifying**
 40 **misdemeanor as defined in ORS 166.255, the Department of State Police shall immediately**
 41 **enter the conviction into the Law Enforcement Data System and shall cause the conviction**
 42 **to be entered into the databases of the National Crime Information Center of the United**
 43 **States Department of Justice. The entry must include any terms and findings, when avail-**
 44 **able, that are necessary to designate the conviction as a misdemeanor crime of domestic**
 45 **violence as defined in 18 U.S.C. 921.**

SECTION 15. ORS 166.260 is amended to read:

166.260. (1) ORS 166.250 does not apply to or affect:

(a) A parole and probation officer, police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(c) An honorably retired law enforcement officer **or an honorably retired parole and probation officer**, unless the person who is a retired law enforcement officer **or retired parole and probation officer** has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(d) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to assist in making arrests or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) The possession or transportation by any merchant of unloaded firearms as merchandise.

(f) Active or reserve members of:

(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty;

(B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

(C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.

(g) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(h) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

(i) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.

(3) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

(a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses to a charge of violating ORS 166.250.

(5) As used in this section, “honorably retired” has the meaning given that term in ORS 166.173.

SECTION 16. ORS 166.262 is amended to read:

166.262. (1) A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or (b) or 166.370 (1) if the person has in the person’s immediate possession:

[(1)] (a) A valid license to carry a firearm as provided in ORS 166.291 and 166.292;

[(2)] (b) Proof that the person is a law enforcement officer; or

1 [(3)] (c) Proof that the person is an honorably retired law enforcement officer **or an honorably**
 2 **retired parole and probation officer**, unless the person has been convicted of an offense that
 3 would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and
 4 166.292.

5 (2) As used in this section, “honorably retired” has the meaning given that term in ORS
 6 **166.173.**

7 **SECTION 17.** ORS 166.370 is amended to read:

8 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
 9 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
 10 guilty of a Class C felony.

11 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
 12 tionally possesses:

13 (A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who
 14 intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement
 15 officer.

16 (B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon
 17 to a law enforcement officer or to immediately remove it from the court facility. A person who fails
 18 to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

19 (C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to
 20 the offense, the presiding judge of the local court facility entered an order prohibiting firearms in
 21 the area in which the court conducts business and during the hours in which the court operates.

22 (b) The presiding judge of a judicial district or a municipal court may enter an order permitting
 23 the possession of specified weapons in a court facility.

24 (c) Within a shared court facility, the presiding judge of a municipal court or justice of the
 25 peace district may not enter an order concerning the possession of weapons in the court facility that
 26 is in conflict with an order entered by the presiding judge of the circuit court.

27 (3) Subsection (1) of this section does not apply to:

28 (a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

29 (b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation
 30 officer is acting within the scope of employment.

31 (c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections of-
 32 ficer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer
 33 or corrections officer is acting within the scope of employment.

34 (d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to
 35 assist in making an arrest or preserving the peace, while the summoned person is engaged in as-
 36 sisting the officer.

37 (e) An honorably retired law enforcement officer **or an honorably retired parole and pro-**
 38 **bation officer.**

39 (f) An active or reserve member of the military forces of this state or the United States, when
 40 engaged in the performance of duty.

41 (g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

42 (h) A person who is authorized by the officer or agency that controls the public building to
 43 possess a firearm or dangerous weapon in that public building.

44 (i) An employee of the United States Department of Agriculture, acting within the scope of em-
 45 ployment, who possesses a firearm in the course of the lawful taking of wildlife.

1 (j) Possession of a firearm on school property if the firearm:

2 (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

3 (B) Is unloaded and locked in a motor vehicle.

4 (4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative de-
5 fenses to a charge of violating subsection (1) of this section.

6 (b) A person may not use the affirmative defense described in subsection (3)(e) of this section
7 if the person has been convicted of an offense that would make the person ineligible to obtain a
8 concealed handgun license under ORS 166.291 and 166.292.

9 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges
10 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-
11 viction be guilty of a Class C felony.

12 (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

13 (A) As part of a program approved by a school in the school by an individual who is partic-
14 ipating in the program;

15 (B) By a law enforcement officer acting in the officer's official capacity; or

16 (C) By an employee of the United States Department of Agriculture, acting within the scope of
17 employment, in the course of the lawful taking of wildlife.

18 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
19 166.279.

20 (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a
21 violation of both subsections (1) and (5) of this section, the district attorney may charge the person
22 with only one of the offenses.

23 (8) As used in this section[,]:

24 (a) "Dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

25 (b) "**Honorably retired**" has the meaning given that term in ORS 166.173.

26 **SECTION 18.** ORS 166.663 is amended to read:

27 166.663. (1) A person may not cast from a motor vehicle an artificial light while there is in the
28 possession or in the immediate physical presence of the person a bow and arrow or a firearm.

29 (2) Subsection (1) of this section does not apply to a person casting an artificial light:

30 (a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.

31 (b) When the bow and arrow or firearm that the person has in the possession or immediate
32 physical presence of the person is disassembled or stored, or in the trunk or storage compartment
33 of the motor vehicle.

34 (c) When the ammunition or arrows are stored separate from the weapon.

35 (d) On land owned or lawfully occupied by that person.

36 (e) On publicly owned land when that person has an agreement with the public body to use that
37 property.

38 (f) When the person is a peace officer, or is a government employee engaged in the performance
39 of official duties.

40 (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a con-
41 cealed handgun.

42 (h) When the person is an honorably retired law enforcement officer **or an honorably retired**
43 **parole and probation officer**, unless the person has been convicted of an offense that would make
44 the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

45 (3) A peace officer may issue a citation to a person for a violation of subsection (1) of this sec-

tion when the violation is committed in the presence of the peace officer or when the peace officer has probable cause to believe that a violation has occurred based on a description of the vehicle or other information received from a peace officer who observed the violation.

(4) Violation of subsection (1) of this section is punishable as a Class B violation.

(5) As used in this section[,]:

(a) **“Honorably retired” has the meaning given that term in ORS 166.173.**

(b) “Peace officer” has the meaning given that term in ORS 161.015.

SECTION 19. ORS 821.240 is amended to read:

821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all arrows are in a quiver.

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

(a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun;

(b) A law enforcement officer; or

(c) An honorably retired law enforcement officer **or an honorably retired parole and probation officer**, unless the person who is a retired law enforcement officer **or retired parole and probation officer** has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(3) As used in this section[,]:

(a) **“Honorably retired” has the meaning given that term in ORS 166.173.**

(b) “Unloaded” means:

[(a)] (A) If the firearm is a revolver, that there is no live cartridge in the chamber that is aligned with the hammer of the revolver;

[(b)] (B) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or

[(c)] (C) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live cartridge in the chamber.

(4) The offense described in this section, operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow, is a Class B traffic violation.

CONFORMING AMENDMENTS

SECTION 20. ORS 166.418 is amended to read:

166.418. (1) A person commits the crime of improperly transferring a firearm if the person is a gun dealer as defined in ORS 166.412 and sells, leases or otherwise transfers a firearm and intentionally violates ORS 166.412 [or 166.434].

(2) Improperly transferring a firearm is a Class A misdemeanor.

SECTION 21. ORS 166.432 is amended to read:

166.432. (1) As used in ORS 166.412, 166.433, 166.434, 166.435, 166.436 and 166.438, “criminal background check” or “criminal history record check” means determining the eligibility of a person to purchase or possess a firearm by reviewing state and federal databases including, but not limited to, the:

(a) Oregon computerized criminal history system;

(b) Oregon mental health data system;

(c) Law Enforcement Data System;

1 (d) National Instant Criminal Background Check System; and

2 (e) Stolen guns system.

3 (2) As used in ORS 166.433, [166.434,] 166.435, 166.436, 166.438 and 166.441:

4 (a) "Gun dealer" has the meaning given that term in ORS 166.412.

5 (b) "Gun show" means an event at which more than 25 firearms are on site and available for
6 transfer.

7
8 **CAPTIONS**

9
10 **SECTION 22.** The unit captions used in this 2017 Act are provided only for the conven-
11 ience of the reader and do not become part of the statutory law of this state or express any
12 legislative intent in the enactment of this 2017 Act.

13
14 **APPLICABILITY**

15
16 **SECTION 23.** (1) Sections 9, 10, 13 and 14 of this 2017 Act and the amendments to ORS
17 166.173, 166.175, 166.255, 166.260, 166.262, 166.370, 166.412, 166.418, 166.432, 166.434, 166.435,
18 166.436, 166.663 and 821.240 by sections 2 to 6, 11, 12 and 15 to 21 of this 2017 Act apply to
19 conduct occurring on or after the effective date of this 2017 Act.

20 (2) The amendments to ORS 166.291 by section 7 of this 2017 Act apply to applications for
21 a concealed handgun license or a concealed handgun license renewal submitted on or after
22 the effective date of this 2017 Act.

23 (3) The amendments to ORS 166.291 by section 8 of this 2017 Act apply to applications for
24 a concealed handgun license or a concealed handgun license renewal submitted on or after
25 January 1, 2023.

26
27 **OPERATIVE AND EFFECTIVE DATES**

28
29 **SECTION 24.** The amendments to ORS 166.291 by section 8 of this 2017 Act become op-
30 erative on January 1, 2023.

31 **SECTION 25.** This 2017 Act takes effect on the 91st day after the date on which the 2017
32 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.