

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	5 - 0 - 0
Yeas:	Beyer, Kruse, Prozanski, Walker, Burdick
Nays:	0
Exc.:	0
Prepared By:	Darian Stanford, Counsel
Meeting Dates:	5/7

WHAT THE MEASURE DOES: Clarifies ORS 166.293 with language regarding denial and revocation of concealed handgun licenses.

ISSUES DISCUSSED:

- Legislative and judicial history of issue
- Impact of May 2, 2007 Oregon Court of Appeals case

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 166.291 to 166.293 discuss concealed handgun licenses. ORS 166.291 and 166.292 establish procedures to obtain and to issue licenses. ORS 166.293 relates to the denial and revocation of licenses. Subsection (2) establishes one ground for *denying* a license as, in sum, anytime the sheriff has reasonable grounds to believe that the applicant is a danger to himself or others as demonstrated by the applicant's past pattern of behavior.

Subsection (3)(a) of ORS 166.293 discusses grounds for *revoking* a license. Prior to 2003, it stated that a license could be revoked for "any act or condition that would prevent the issuance of a license under ORS 166.291 to 166.293." (Emphasis added.) Some felt this language was inaccurate because, technically, licenses are only issued under ORS 166.291 and 166.292, *not* 166.293. In part due to this concern, in 2003 the legislature amended ORS 166.293(3)(a) to read "Any act or condition that would prevent the issuance of a license under ORS 166.291 *and* 166.292 is cause for revoking a concealed handgun license." (Emphasis added.)

The Oregon Court of Appeals found this change problematic. In *Bates v. Gordon*, 201 Or App 619 (2005), the court held that the 2003 amendment effectively invalidated subsection (2) of ORS 166.293 as a grounds for revoking a license. On September 26, 2006, the Oregon Supreme Court vacated the Court of Appeals' opinion in *Bates* and remanded the matter back to the Court of Appeals for reconsideration. *Bates v. Gordon*, 341 Or 449 (2006). On May 2, 2007, the Oregon Court of Appeals issued its revised decision, effectively overturning the original 2005 decision.

Regardless, HB 2300 addresses the problem by amending ORS 166.293(3)(a) to clarify that, "Any act or condition that would prevent the issuance of a concealed handgun license is cause for revoking a concealed handgun license." There is no longer any reference to other statutes.

5/8/2007 5:07:00 PM

This summary has not been adopted or officially endorsed by action of the committee.