

A-Engrossed
House Bill 2334

Ordered by the House May 2
Including House Amendments dated May 2

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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.

Modifies and expands requirements for issuance of concealed handgun license. Allows certain persons to apply for renewal of concealed handgun license by mail.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.210, 166.291, 166.293 and
3 166.295.

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

5 **SECTION 1.** ORS 166.210 is amended to read:

6 166.210. As used in ORS 166.250 to 166.270, 166.291 to 166.295 and 166.410 to 166.470:

7 (1) "Antique firearm" means:

8 (a) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type
9 of ignition system, manufactured in or before 1898; and

10 (b) Any replica of any firearm described in paragraph (a) of this subsection if the replica:

11 (A) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition;

12 or

13 (B) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in
14 the United States and that is not readily available in the ordinary channels of commercial trade.

15 **(2) "Corrections officer" has the meaning given that term in ORS 181.610.**

16 [(2)] **(3) "Firearm" means a weapon, by whatever name known, which is designed to expel a**
17 **projectile by the action of powder and which is readily capable of use as a weapon.**

18 [(3)] **(4) "Firearms silencer" means any device for silencing, muffling or diminishing the report**
19 **of a firearm.**

20 [(4)] **(5) "Handgun" means any pistol or revolver using a fixed cartridge containing a propellant**
21 **charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.**

22 [(5)] **(6) "Machine gun" means a weapon of any description by whatever name known, loaded**
23 **or unloaded, which is designed or modified to allow two or more shots to be fired by a single pres-**
24 **sure on the trigger device.**

25 [(6)] **(7) "Minor" means a person under 18 years of age.**

26 **(8) "Offense" has the meaning given that term in ORS 161.505.**

27 [(7)] **(9) "Parole and probation officer" has the meaning given that term in ORS 181.610.**

28 **(10) "Peace officer" has the meaning given that term in ORS 133.005.**

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 [(8)] (11) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in
2 length and any weapon made from a rifle if the weapon has an overall length of less than 26 inches.

3 [(9)] (12) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18
4 inches in length and any weapon made from a shotgun if the weapon has an overall length of less
5 than 26 inches.

6 **SECTION 2.** ORS 166.291 is amended to read:

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

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

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

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

16 (c) [*Has a principal residence in*] **Is a resident of** the county [*in which the application is*
17 *made*];

18 (d) Has no outstanding warrants for arrest;

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

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

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

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

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

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

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

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

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

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

42 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
43 161.295, of a misdemeanor within the four years prior to the application;

44 (i) Has not been committed to the Department of Human Services under ORS 426.130;

45 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that

1 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

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

6 **(L) Has not been convicted of an offense involving controlled substances or participated**
7 **in a court-supervised drug diversion program, except this disability does not operate to ex-**
8 **clude a person if:**

9 **(A) The person has been convicted only once of violating ORS 475.864 (3) and has not**
10 **completed a court-supervised drug diversion program under ORS 135.907; or**

11 **(B) The person has completed a court-supervised drug diversion program under ORS**
12 **135.907 and has not been convicted of violating ORS 475.864 (3);**

13 [(L)] **(m)** Is not subject to a citation issued under ORS 163.735 or an order issued under ORS
14 30.866, 107.700 to 107.735 or 163.738;

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

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

18 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
19 has had the person’s record expunged under the laws of this state or equivalent laws of other ju-
20 risdictions is not subject to the disabilities in subsection (1)(g) to [(k)] (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 from its central bureau of criminal identification includ-
38 ing, but not limited to, manual or computerized criminal offender information.

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

41 _____
42
43 APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

44 Date _____

45 I hereby declare as follows:

1 I am a citizen of the United States or a legal resident alien who can document continuous res-
 2 idency in the county for at least six months and have declared in writing to the United States Cit-
 3 izenship and Immigration Services my intention to become a citizen and can present proof of the
 4 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 5 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 6 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 7 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 8 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
 9 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
 10 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
 11 misdemeanor. **Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense**
 12 **involving controlled substances or completed a court-supervised drug diversion program.**
 13 There are no outstanding warrants for my arrest and I am not free on any form of pretrial release.
 14 I have not been committed to the Department of Human Services under ORS 426.130, nor have I
 15 been found mentally ill and presently subject to an order prohibiting me from purchasing or pos-
 16 sessed a firearm because of mental illness. If any of the previous conditions do apply to me, I have
 17 been granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293
 18 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under
 19 ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. **I have never re-**
 20 **ceived a dishonorable discharge from the Armed Forces of the United States. I am not re-**
 21 **quired to register as a sex offender in any state.** I understand I will be fingerprinted and
 22 photographed.

23
 24 Legal name _____
 25 Age _____ Date of birth _____
 26 Place of birth _____
 27 Social Security number _____

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

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

- 34 1. _____
- 35 2. _____

36
 37 Height _____ Weight _____
 38 Hair color _____ Eye color _____

39
 40 Current address _____

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

41
 42
 43
 44 City _____ County _____ Zip _____
 45 Phone _____

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

3 _____
4 (Signature of Applicant)

5
6 Character references.

| | Name | Address |
|--|------|---------|
| | Name | Address |

7
8
9
10 Approved _____ Disapproved _____ by _____

11
12 Competence with handgun demonstrated by _____ (to be filled in by sheriff) Date _____ Fee
13 Paid _____

14 License No. _____
15
16
17 _____

18
19 (5)(a) Fees for concealed handgun licenses are:

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

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

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

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

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

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

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

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

37 **(a) Has a current Oregon driver license issued to the person showing a residence address**
38 **in the county;**

39 **(b) Is registered to vote in the county and has a memorandum card issued to the person**
40 **under ORS 247.181 showing a residence address in the county;**

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

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

45 **SECTION 3.** ORS 166.293 is amended to read:

1 166.293. (1) If the application for the concealed handgun license is denied, the sheriff shall set
2 forth in writing the reasons for the denial. The denial shall be sent to the applicant by certified mail,
3 restricted delivery, within 45 days after the application was made. If no decision is issued within
4 45 days, the person may seek review under the procedures in subsection (5) of this section.

5 (2) Notwithstanding ORS 166.291 (1), and subject to review as provided in subsection (5) of this
6 section, a sheriff may deny a concealed handgun license if the sheriff has reasonable grounds to
7 believe that the applicant has been or is reasonably likely to be a danger to self or others, or to the
8 community at large, as a result of the applicant's mental or psychological state[,] **or** as demonstrated
9 by **the applicant's** past pattern of behavior [*or participation in incidents*] involving unlawful violence
10 or threats of unlawful violence.

11 (3)(a) Any act or condition that would prevent the issuance of a license under ORS 166.291 and
12 166.292 is cause for revoking a concealed handgun license.

13 (b) A sheriff may revoke a license by serving upon the licensee a notice of revocation. The no-
14 tice must contain the grounds for the revocation and must be served either personally or by certified
15 mail, restricted delivery. The notice and return of service shall be included in the file of the
16 licensee. The revocation is effective upon the licensee's receipt of the notice.

17 (4) Any peace officer or corrections officer may seize a concealed handgun license and return
18 it to the issuing sheriff [*when*] **if** the license is held by a person who has been arrested or cited for
19 a crime that can or would otherwise disqualify the person from being issued a concealed handgun
20 license. The issuing sheriff shall hold the license for 30 days. If the person is not charged with a
21 crime within the 30 days, the sheriff shall return the license unless the sheriff revokes the license
22 as provided in subsection (3) of this section.

23 (5) A person denied a concealed handgun license or whose license is revoked or not renewed
24 under ORS 166.291 to 166.295 may petition the circuit court in the petitioner's county of residence
25 to review the denial, nonrenewal or revocation. The petition must be filed within 30 days after the
26 receipt of the notice of denial or revocation.

27 (6) The judgment affirming or overturning the sheriff's decision shall be based [*solely*] on
28 whether the petitioner meets the criteria that are used for issuance of the license under ORS 166.291
29 and 166.292 **and, if the petitioner was denied a concealed handgun license, whether the sheriff**
30 **has reasonable grounds for denial under subsection (2) of this section.** Whenever the petitioner
31 has been previously sentenced for a crime under ORS 161.610 or for a crime of violence for which
32 the person could have received a sentence of more than 10 years, the court shall [*only*] grant relief
33 **only** if the court finds that relief should be granted in the interest of justice.

34 (7) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
35 district or other political subdivision or public corporation in this state, without appearance by at-
36 torney, may appear as a party to an action under this section.

37 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
38 filing or as soon as practicable thereafter.

39 (9) Filing fees for actions shall be as for any civil action filed in the court. If the petitioner
40 prevails, the amount of the filing fee shall be paid by the respondent to the petitioner and may be
41 incorporated into the court order.

42 (10) Initial appeals of petitions shall be heard de novo.

43 (11) Any party to a judgment under this section may appeal to the Court of Appeals in the same
44 manner as for any other civil action.

45 (12) If the governmental entity files an appeal under this section and does not prevail, it shall

1 be ordered to pay the attorney fees for the prevailing party.

2 **SECTION 4.** ORS 166.295 is amended to read:

3 166.295. (1)(a) A concealed handgun license is renewable by repeating the procedures set out in
4 ORS 166.291 and 166.292, except for the requirement to submit fingerprints and provide character
5 references. **A licensee may submit the application for renewal by mail if the licensee:**

6 **(A) Is an active member of the Armed Forces of the United States, the National Guard**
7 **of the United States or the Oregon National Guard; and**

8 **(B) Submits with the application proof of the licensee's military orders and a copy of the**
9 **licensee's military identification.**

10 (b) An otherwise expired concealed handgun license continues to be valid for up to 45 days after
11 the licensee applies for renewal if:

12 (A) The licensee applies for renewal before the original license expires;

13 (B) The licensee has proof of the application for renewal; and

14 (C) The application for renewal has not been denied.

15 (2) If a licensee changes residence, the licensee shall report the change of address and the
16 sheriff shall issue a new license as a duplication for a change of address. The license shall expire
17 upon the same date as would the original.

18 **SECTION 5.** (1) **The amendments to ORS 166.291 and 166.293 by sections 2 and 3 of this**
19 **2007 Act apply to applications for concealed handgun licenses filed on or after the effective**
20 **date of this 2007 Act.**

21 **(2) The amendments to ORS 166.295 by section 4 of this 2007 Act apply to concealed**
22 **handgun licenses issued before, on or after the effective date of this 2007 Act.**

23