

House Bill 2296

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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 **as introduced**.

Creates presumption that persons certified by Department of Public Safety Standards and Training are eligible for concealed handgun license.

A BILL FOR AN ACT

1
2 Relating to concealed handgun licenses; amending ORS 166.291 and 166.293.

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

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

5 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
6 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
7 out in this section, shall issue the person a concealed handgun license if the person:

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

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

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

14 (c) Is a resident of the county;

15 (d) Has no outstanding warrants for arrest;

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

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

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

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

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

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

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

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

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

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

8 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 9 161.295, of a misdemeanor within the four years prior to the application;

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

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

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

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

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

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

24 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 25 107.700 to 107.735 or 163.738;

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

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

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

31 **(3)(a) A person currently certified by the Department of Public Safety Standards and**
 32 **Training under ORS 181.610 to 181.712 is presumed to meet the requirements of subsection**
 33 **(1) of this section. Unless the sheriff has reasonable grounds to believe that the person does**
 34 **not meet the requirements of subsection (1) of this section, the sheriff shall issue the person**
 35 **a concealed handgun license if the person is a resident of:**

36 **(A) The county; or**

37 **(B) Another state and the person is employed in the county in connection with the cer-**
 38 **tification.**

39 **(b) Subsection (4)(b) of this section does not apply to a person applying for a concealed**
 40 **handgun license under this subsection, except as is necessary to:**

41 **(A) Confirm that the person is certified by the Department of Public Safety Standards**
 42 **and Training under ORS 181.610 to 181.712; and**

43 **(B) Produce the concealed handgun license.**

44 **(c) The sheriff may not charge a fee for the issuance or renewal of a concealed handgun**
 45 **license under this subsection.**

1 [(3)] (4) Before the sheriff may issue a license:

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

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

19 [(4)] (5) Application forms for concealed handgun licenses shall be supplied by the sheriff upon
 20 request. The forms shall be uniform throughout the state in substantially the following form:

21
 22
 23 APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

24 Date _____

25 I hereby declare as follows:

26 I am a citizen of the United States or a legal resident alien who can document continuous res-
 27 idency in the county for at least six months and have declared in writing to the United States Cit-
 28 izenship and Immigration Services my intention to become a citizen and can present proof of the
 29 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 30 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 31 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 32 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 33 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
 34 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
 35 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
 36 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
 37 volving controlled substances or completed a court-supervised drug diversion program. There are
 38 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
 39 been committed to the Department of Human Services under ORS 426.130, nor have I been found
 40 mentally ill and presently subject to an order prohibiting me from purchasing or possessing a
 41 firearm because of mental illness. If any of the previous conditions do apply to me, I have been
 42 granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 or 18
 43 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS
 44 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received
 45 a dishonorable discharge from the Armed Forces of the United States. I am not required to register

1 as a sex offender in any state. I understand I will be fingerprinted and photographed.

2

3 Legal name _____

4 Age _____ Date of birth _____

5 Place of birth _____

6 Social Security number _____

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

9

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

13 1. _____

14 2. _____

15

16 Height _____ Weight _____

17 Hair color _____ Eye color _____

18

19 Current address _____

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

20

21

22

23 City _____ County _____ Zip _____

24 Phone _____

25

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

28

(Signature of Applicant)

29

30

31 Character references.

32

33

Name Address

34

35

Name Address

36

37 Approved _____ Disapproved _____ by _____

38

39 Competence with handgun demonstrated by _____ (to be filled in by sheriff) Date _____ Fee
40 Paid _____

41

License No. _____

42

43

44 [(5)(a)] (6)(a) Fees for concealed handgun licenses are:

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

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

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

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

5 [(6)] (7) No civil or criminal liability shall attach to the sheriff or any authorized representative
6 engaged in the receipt and review of, or an investigation connected with, any application for, or in
7 the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the
8 lawful performance of duties under those sections.

9 [(7)] (8) Immediately upon acceptance of an application for a concealed handgun license, the
10 sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the
11 person is an applicant for a concealed handgun license or is a license holder.

12 [(8)] (9) The county sheriff may waive the residency requirement in subsection (1)(c) of this
13 section for a resident of a contiguous state who has a compelling business interest or other legiti-
14 mate demonstrated need.

15 [(9)] (10) For purposes of [subsection] **subsections (1)(c) and (3)(a)** of this section, a person is
16 a resident of a county if the person:

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

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

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

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

25 **SECTION 2.** ORS 166.293 is amended to read:

26 166.293. (1) If the application for the concealed handgun license is denied, the sheriff shall set
27 forth in writing the reasons for the denial. The denial shall be sent to the applicant by certified mail,
28 restricted delivery, within 45 days after the application was made. If no decision is issued within
29 45 days, the person may seek review under the procedures in subsection (5) of this section.

30 (2) Notwithstanding ORS 166.291 (1) **or (3)**, and subject to review as provided in subsection (5)
31 of this section, a sheriff may deny a concealed handgun license if the sheriff has reasonable grounds
32 to believe that the applicant has been or is reasonably likely to be a danger to self or others, or to
33 the community at large, as a result of the applicant's mental or psychological state or as demon-
34 strated by the applicant's past pattern of behavior involving unlawful violence or threats of unlawful
35 violence.

36 (3)(a) **Notwithstanding ORS 161.291 (3)**, any act or condition that would prevent the issuance
37 of a concealed handgun license is cause for revoking a concealed handgun license.

38 (b) A sheriff may revoke a concealed handgun license by serving upon the licensee a notice of
39 revocation. The notice must contain the grounds for the revocation and must be served either per-
40 sonally or by certified mail, restricted delivery. The notice and return of service shall be included
41 in the file of the licensee. The revocation is effective upon the licensee's receipt of the notice.

42 (4) Any peace officer or corrections officer may seize a concealed handgun license and return
43 it to the issuing sheriff if the license is held by a person who has been arrested or cited for a crime
44 that can or would otherwise disqualify the person from being issued a concealed handgun license.
45 The issuing sheriff shall hold the license for 30 days. If the person is not charged with a crime

1 within the 30 days, the sheriff shall return the license unless the sheriff revokes the license as
2 provided in subsection (3) of this section.

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

7 (6) The judgment affirming or overturning the sheriff's decision shall be based on whether the
8 petitioner meets the criteria that are used for issuance of a concealed handgun license and, if the
9 petitioner was denied a concealed handgun license, whether the sheriff has reasonable grounds for
10 denial under subsection (2) of this section. Whenever the petitioner has been previously sentenced
11 for a crime under ORS 161.610 or for a crime of violence for which the person could have received
12 a sentence of more than 10 years, the court shall grant relief only if the court finds that relief
13 should be granted in the interest of justice.

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

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

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

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

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

25 (12) If the governmental entity files an appeal under this section and does not prevail, it shall
26 be ordered to pay the attorney fees for the prevailing party.

27