

House Bill 2644

Sponsored by Representatives KRIEGER, ROBLAN; Representatives BARKER, CAMERON, CLEM, OLSON, SCHAUFLER, WHISNANT, Senators BOQUIST, FERRIOLI, JOHNSON, KRUSE, WHITSETT

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**.

Exempts transferor of firearm from performing criminal history record check if purchaser or recipient has concealed handgun license.

A BILL FOR AN ACT

1
2 Relating to firearms; amending ORS 166.412 and 166.438.

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

4 **SECTION 1.** ORS 166.412 is amended to read:

5 166.412. (1) As used in this section:

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

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

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

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

12 (e) "Firearms transaction thumbprint form" means a form provided by the department under
13 subsection (12) of this section;

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

17 (g) "Handgun" has the meaning given that term in ORS 166.210; and

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

20 (2) Except as provided in subsections (3)(c), [*and*] (13) **and** (14) of this section, a gun dealer shall
21 comply with the following before a handgun is delivered to a purchaser:

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

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

26 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
27 thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to
28 be filed with that copy.

29 (d) The gun dealer shall request by telephone that the department conduct a criminal history
30 record check on the purchaser and shall provide the following information to the department:

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

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 (B) The business name of the gun dealer;
- 2 (C) The place of transfer;
- 3 (D) The name of the person making the transfer;
- 4 (E) The make, model, caliber and manufacturer's number of the handgun being transferred;
- 5 (F) The name and date of birth of the purchaser;
- 6 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
7 number to the gun dealer; and
- 8 (H) The type, issuer and identification number of the identification presented by the purchaser.
- 9 (e) The gun dealer shall receive a unique approval number for the transfer from the department
10 and record the approval number on the firearms transaction record and on the firearms transaction
11 thumbprint form.
- 12 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the
13 completion of the firearms transaction thumbprint form.
- 14 (3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the de-
15 partment shall immediately, during the gun dealer's telephone call or by return call:
- 16 (A) Determine, from criminal records and other information available to it, whether the pur-
17 chaser is disqualified under ORS 166.470 from completing the purchase; and
- 18 (B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide
19 the dealer with a unique approval number indicating that the purchaser is qualified to complete the
20 transfer.
- 21 (b) If the department is unable to determine if the purchaser is qualified or disqualified from
22 completing the transfer within 30 minutes, the department shall notify the dealer and provide the
23 dealer with an estimate of the time when the department will provide the requested information.
- 24 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the
25 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close
26 of the gun dealer's next business day following the request by the dealer for a criminal history re-
27 cord check, the dealer may deliver the handgun to the purchaser.
- 28 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include
29 one piece of current identification bearing a photograph and the date of birth of the purchaser that:
- 30 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
31 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
32 tional governmental organization or an international quasi- governmental organization; and
- 33 (B) Is intended to be used for identification of an individual or is commonly accepted for the
34 purpose of identification of an individual.
- 35 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does
36 not include the current address of the purchaser, the purchaser shall present a second piece of
37 current identification that contains the current address of the purchaser. The Superintendent of
38 State Police may specify by rule the type of identification that may be presented under this para-
39 graph.
- 40 (c) The department may require that the dealer verify the identification of the purchaser if that
41 identity is in question by sending the thumbprints of the purchaser to the department.
- 42 (5) The department shall establish a telephone number that shall be operational seven days a
43 week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from
44 dealers for a criminal history record check under this section.
- 45 (6) No public employee, official or agency shall be held criminally or civilly liable for performing

1 the investigations required by this section provided the employee, official or agency acts in good
 2 faith and without malice.

3 (7)(a) The department may retain a record of the information obtained during a request for a
 4 criminal records check for no more than five years.

5 (b) The record of the information obtained during a request for a criminal records check by a
 6 gun dealer is exempt from disclosure under public records law.

7 (8) The Department of Human Services shall provide the Department of State Police with direct
 8 electronic access to information from the Department of Human Services' database of information
 9 identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject
 10 to an order under ORS 426.130. The Department of State Police and the Department of Human
 11 Services shall enter into an agreement describing the access to information under this subsection.

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

15 (10) When a handgun is delivered, it shall be unloaded.

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

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

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

20 (c) The provision of a security system to identify dealers who request a criminal history record
 21 check under subsection (2) of this section; and

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

23 (12) The department shall publish the firearms transaction thumbprint form and shall furnish the
 24 form to gun dealers on application at cost.

25 (13) This section does not apply to transactions between persons licensed as dealers under 18
 26 U.S.C. 923.

27 **(14) Subsection (2)(d) and (e) of this section does not apply if the purchaser is licensed**
 28 **under ORS 166.291 and 166.292 to carry a concealed handgun.**

29 **SECTION 2.** ORS 166.438 is amended to read:

30 166.438. (1) A transferor other than a gun dealer may not transfer a firearm at a gun show un-
 31 less the transferor:

32 (a)(A) Requests a criminal background check under ORS 166.436 prior to completing the trans-
 33 fer;

34 (B) Receives notification that the recipient is qualified to complete the transfer; and

35 (C) Has the recipient complete the form described in ORS 166.441; or

36 (b) Completes the transfer through a gun dealer.

37 (2) The transferor shall retain the completed form referred to in subsection (1) of this section
 38 for at least five years and shall make the completed form available to law enforcement agencies for
 39 the purpose of criminal investigations.

40 (3) A person who organizes a gun show shall post in a prominent place at the gun show a notice
 41 explaining the requirements of subsections (1) and (2) of this section. The person shall provide the
 42 form required by subsection (1) of this section to any person transferring a firearm at the gun show.

43 [(4)] **(4)(a)** Subsection (1) of this section does not apply if the [transferee] **recipient** is licensed
 44 as a dealer under 18 U.S.C. 923.

45 **(b) Subsection (1)(a)(A) and (B) of this section does not apply if the recipient is licensed**

1 **under ORS 166.291 and 166.292 to carry a concealed handgun.**

2 (5)(a) Failure to comply with the requirements of subsection (1), (2) or (3) of this section is a
3 Class A misdemeanor.

4 (b) Notwithstanding paragraph (a) of this subsection, failure to comply with the requirements
5 of subsection (1), (2) or (3) of this section is a Class C felony if the person has two or more previous
6 convictions under this section.

7 (6) It is an affirmative defense to a charge of violating subsection (1) or (3) of this section that
8 the person did not know, or reasonably could not know, that more than 25 firearms were at the site
9 and available for transfer.

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