

House Bill 2789

Sponsored by Representative THATCHER (Pre-session filed.)

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**.

Authorizes issuance of concealed handgun license to person convicted or diverted for certain marijuana offenses in another jurisdiction, if conviction or diversion is equivalent to conviction or diversion that does not operate as bar to obtaining license under Oregon law.

Expands class of marijuana convictions that do not operate as bar to obtaining concealed handgun license to include misdemeanor conviction for possession of marijuana that was committed before possession of less than ounce was made punishable solely by fine under Oregon law.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.291.

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

4 **SECTION 1.** ORS 166.291, as amended by section 7, chapter 826, Oregon Laws 2009, is amended
5 to read:

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

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

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

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

15 (c) Is a resident of the county;

16 (d) Has no outstanding warrants for arrest;

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

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

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

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

24 (C) Completion of any firearms safety or training course or class available to the general public
25 offered 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 law
27 enforcement agency if handgun safety was a component of the course;

28 (D) Completion of any law enforcement firearms safety or training course or class offered for
29 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-

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 cers if handgun safety was a component of the course;

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

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

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

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;

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

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

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

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

23 (A) The person has been convicted only once of *[violating ORS 475.864 (3)] a minor marijuana*
 24 **offense** and has not completed a court-supervised *[drug] marijuana* diversion program *[under ORS*
 25 *135.907]*; or

26 (B) The person has completed a court-supervised *[drug] marijuana* diversion program *[under*
 27 *ORS 135.907]* and has not been convicted of *[violating ORS 475.864 (3)] a minor marijuana*
 28 **offense**;

29 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 30 107.700 to 107.735 or 163.738;

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

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

33 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
 34 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of
 35 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
 36 (1)(g) to (L) of this section.

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

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

44 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
 45 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to

1 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
 2 records check is necessary, the sheriff shall request the Department of State Police to conduct the
 3 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
 4 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
 5 check and may not keep any record of the fingerprints. The Department of State Police shall report
 6 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
 7 Police shall also furnish the sheriff with any information about the applicant that the Department
 8 of State Police may have in its possession from its central bureau of criminal identification includ-
 9 ing, but not limited to, manual or computerized criminal offender information.

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

12
 13
 14 APPLICATION FOR LICENSE TO CARRY
 15 CONCEALED HANDGUN

16 Date _____

17 I hereby declare as follows:

18 I am a citizen of the United States or a legal resident alien who can document continuous res-
 19 idency in the county for at least six months and have declared in writing to the United States Cit-
 20 izenship and Immigration Services my intention to become a citizen and can present proof of the
 21 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 22 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 23 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 24 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 25 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
 26 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
 27 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
 28 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
 29 volving controlled substances or completed a court-supervised drug diversion program. There are
 30 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
 31 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally
 32 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because
 33 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish
 34 to petition for relief from the disability under ORS 166.274 or 166.293 or section 5, chapter 826,
 35 Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a ci-
 36 tation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738.
 37 I have never received a dishonorable discharge from the Armed Forces of the United States. I am
 38 not required to register as a sex offender in any state. I understand I will be fingerprinted and
 39 photographed.

40
 41 Legal name _____
 42 Age _____ Date of birth _____
 43 Place of birth _____
 44 Social Security number _____

45 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-

1 thorized under ORS 166.291. It will be used only as a means of identification.)

2
3 Proof of identification (Two pieces of current identification are required, one of which must bear a
4 photograph of the applicant. The type of identification and the number on the identification are to
5 be filled in by the sheriff.):

- 6 1. _____
- 7 2. _____

8
9 Height _____ Weight _____
10 Hair color _____ Eye color _____

11
12 Current address _____

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

13
14
15
16 City _____ County _____ Zip _____
17 Phone _____

18
19 I have read the entire text of this application, and the statements therein are correct and true.
20 (Making false statements on this application is a misdemeanor.)

21 _____
22 (Signature of Applicant)

23
24 Character references.

25 _____

26 Name	Address
27 _____	_____
28 Name	Address

29
30 Approved _____ Disapproved _____ by _____

31
32 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

33 Date _____ Fee Paid _____

34 License No. _____
35 _____

- 36
37 (5)(a) Fees for concealed handgun licenses are:
- 38 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
 - 39 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
 - 40 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

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

43 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
44 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
45 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful

1 performance of duties under those sections.

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

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

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

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

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

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

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

18 **(10) As used in this section:**

19 **(a) “Court-supervised marijuana diversion program” means the marijuana diversion**
 20 **agreement described in ORS 135.907 or its statutory counterpart in any jurisdiction.**

21 **(b) “Minor marijuana offense” means:**

22 **(A) A violation of ORS 475.864 (3) or its statutory counterpart in any jurisdiction; or**

23 **(B) A misdemeanor offense in any jurisdiction that involves the possession of marijuana**
 24 **and was committed before July 22, 1973.**

25 **SECTION 2.** ORS 166.291, as amended by sections 7 and 10, chapter 826, Oregon Laws 2009, is
 26 amended to read:

27 166.291. (1) The sheriff of a county, upon a person’s application for an Oregon concealed
 28 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
 29 out in this section, shall issue the person a concealed handgun license if the person:

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

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

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

36 (c) Is a resident of the county;

37 (d) Has no outstanding warrants for arrest;

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

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

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

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

45 (C) Completion of any firearms safety or training course or class available to the general public

1 offered by law enforcement, community college, or private or public institution or organization or
 2 firearms training school utilizing instructors certified by the National Rifle Association or a law
 3 enforcement agency if handgun safety was a component of the course;

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

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

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

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

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

16 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 17 161.295, of a misdemeanor within the four years prior to the application;

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

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

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

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

28 (A) The person has been convicted only once of [*violating ORS 475.864 (3)*] **a minor marijuana**
 29 **offense** and has not completed a court-supervised [*drug*] **marijuana** diversion program [*under ORS*
 30 *135.907*]; or

31 (B) The person has completed a court-supervised [*drug*] **marijuana** diversion program [*under*
 32 *ORS 135.907*] and has not been convicted of [*violating ORS 475.864 (3)*] **a minor marijuana**
 33 **offense**;

34 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 35 107.700 to 107.735 or 163.738;

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

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

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

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

42 (a) The application must state the applicant's legal name, current address and telephone number,
 43 date and place of birth, hair and eye color and height and weight. The application must also list the
 44 applicant's residence address or addresses for the previous three years. The application must contain
 45 a statement by the applicant that the applicant meets the requirements of subsection (1) of this

1 section. The application may include the Social Security number of the applicant if the applicant
2 voluntarily provides this number. The application must be signed by the applicant.

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

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

16 _____
17
18 APPLICATION FOR LICENSE TO CARRY
19 CONCEALED HANDGUN

20 Date _____

21 I hereby declare as follows:

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

43
44 Legal name _____

45 Age _____ Date of birth _____

1 Place of birth _____

2 Social Security number _____

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

5

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

9 1. _____

10 2. _____

11

12 Height _____ Weight _____

13 Hair color _____ Eye color _____

14

15 Current address _____

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

16

17

18

19 City _____ County _____ Zip _____

20 Phone _____

21

22 I have read the entire text of this application, and the statements therein are correct and true.

23 (Making false statements on this application is a misdemeanor.)

24

(Signature of Applicant)

25

26

27 Character references.

28

29 _____
Name Address

30

31 _____
Name Address

32

33 Approved _____ Disapproved _____ by _____

34

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

36 Date _____ Fee Paid _____

37 License No. _____

38

39

40 (5)(a) Fees for concealed handgun licenses are:

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

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

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

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

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

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

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

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

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

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

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

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

21 **(10) As used in this section:**

22 (a) **“Court-supervised marijuana diversion program” means the marijuana diversion**
23 **agreement described in ORS 135.907 or its statutory counterpart in any jurisdiction.**

24 (b) **“Minor marijuana offense” means:**

25 **(A) A violation of ORS 475.864 (3) or its statutory counterpart in any jurisdiction; or**

26 **(B) A misdemeanor offense in any jurisdiction that involves the possession of marijuana**
27 **and was committed before July 22, 1973.**

28 **SECTION 3. The amendments to ORS 166.291 by sections 1 and 2 of this 2011 Act apply**
29 **to applications for a concealed handgun license that are made on or after the effective date**
30 **of this 2011 Act.**

31