

**B-Engrossed**  
**House Bill 2792**

Ordered by the Senate June 13  
Including House Amendments dated March 15 and Senate Amendments  
dated June 13

Sponsored by Representative THATCHER; Representatives FREEMAN, G SMITH (Presession 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.

*[Provides nonresidents who are authorized to carry concealed handgun in another state with protections provided to persons with Oregon concealed handgun license.]*

**Specifies when firearm located on motorcycle, all-terrain vehicle or snowmobile is not readily accessible under unlawful possession of firearm law.**

**Modifies provision under which person barred from possessing or purchasing firearm may petition for relief.**

**Specifies that offense of operating snowmobile or all-terrain vehicle while carrying firearm or bow does not apply to person licensed to carry concealed handgun.**

**Requires Department of State Police to submit report on background checks related to firearms to interim legislative committee related to judiciary no later than December 31, 2011.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to firearms; creating new provisions; amending ORS 166.250, 166.274, 166.425 and 821.240;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 166.250, as amended by section 8a, chapter 826, Oregon Laws 2009, is  
6 amended to read:

7 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,  
8 166.291, 166.292 or 166.410 to 166.470 or section 5, chapter 826, Oregon Laws 2009, a person commits  
9 the crime of unlawful possession of a firearm if the person knowingly:

10 (a) Carries any firearm concealed upon the person;

11 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-  
12 cle; or

13 (c) Possesses a firearm and:

14 (A) Is under 18 years of age;

15 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having  
16 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-  
17 volving violence, as defined in ORS 166.470; and

18 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being  
19 charged under this section;

20 (C) Has been convicted of a felony;

21 (D) Was committed to the Oregon Health Authority under ORS 426.130;

22 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be

**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 prohibited from purchasing or possessing a firearm as a result of that mental illness; or

2 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

3 (2) This section does not prohibit:

4 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-  
5 sessing a firearm:

6 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or  
7 guardian or by another person with the consent of the minor's parent or guardian; or

8 (B) Temporarily for hunting, target practice or any other lawful purpose; or

9 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily  
10 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270  
11 and subsection (1) of this section, from owning, possessing or keeping within the person's place of  
12 residence or place of business any handgun, and no permit or license to purchase, own, possess or  
13 keep any such firearm at the person's place of residence or place of business is required of any such  
14 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle  
15 while used, for whatever period of time, as residential quarters.

16 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

17 (4)(a) Except as provided in [*paragraph (b)*] **paragraphs (b) and (c)** of this subsection, a  
18 handgun is readily accessible within the meaning of this section if the handgun is within the pas-  
19 senger compartment of the vehicle.

20 (b) If a vehicle, **other than a vehicle described in paragraph (c) of this subsection**, has no  
21 storage location that is outside the passenger compartment of the vehicle, a handgun is not readily  
22 accessible within the meaning of this section if:

23 (A) The handgun is stored in a closed and locked glove compartment, center console or other  
24 container; and

25 (B) The key is not inserted into the lock, if the glove compartment, center console or other  
26 container unlocks with a key.

27 **(c) If a vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not**  
28 **readily accessible within the meaning of this section if:**

29 **(A) The handgun is in a locked container within or affixed to the vehicle; or**

30 **(B) The handgun is equipped with a trigger lock or other locking mechanism that pre-**  
31 **vents the discharge of the firearm.**

32 (5) Unlawful possession of a firearm is a Class A misdemeanor.

33 **SECTION 2.** ORS 166.250, as amended by sections 8a and 11a, chapter 826, Oregon Laws 2009,  
34 is amended to read:

35 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,  
36 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm  
37 if the person knowingly:

38 (a) Carries any firearm concealed upon the person;

39 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-  
40 cle; or

41 (c) Possesses a firearm and:

42 (A) Is under 18 years of age;

43 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having  
44 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-  
45 volving violence, as defined in ORS 166.470; and

1 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being  
2 charged under this section;

3 (C) Has been convicted of a felony;

4 (D) Was committed to the Oregon Health Authority under ORS 426.130;

5 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be  
6 prohibited from purchasing or possessing a firearm as a result of that mental illness; or

7 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

8 (2) This section does not prohibit:

9 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-  
10 sessed a firearm:

11 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or  
12 guardian or by another person with the consent of the minor's parent or guardian; or

13 (B) Temporarily for hunting, target practice or any other lawful purpose; or

14 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily  
15 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270  
16 and subsection (1) of this section, from owning, possessing or keeping within the person's place of  
17 residence or place of business any handgun, and no permit or license to purchase, own, possess or  
18 keep any such firearm at the person's place of residence or place of business is required of any such  
19 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle  
20 while used, for whatever period of time, as residential quarters.

21 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

22 (4)(a) Except as provided in [*paragraph (b)*] **paragraphs (b) and (c)** of this subsection, a  
23 handgun is readily accessible within the meaning of this section if the handgun is within the pas-  
24 senger compartment of the vehicle.

25 (b) If a vehicle, **other than a vehicle described in paragraph (c) of this subsection**, has no  
26 storage location that is outside the passenger compartment of the vehicle, a handgun is not readily  
27 accessible within the meaning of this section if:

28 (A) The handgun is stored in a closed and locked glove compartment, center console or other  
29 container; and

30 (B) The key is not inserted into the lock, if the glove compartment, center console or other  
31 container unlocks with a key.

32 **(c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is**  
33 **not readily accessible within the meaning of this section if:**

34 **(A) The handgun is in a locked container within or affixed to the vehicle; or**

35 **(B) The handgun is equipped with a trigger lock or other locking mechanism that pre-**  
36 **vents the discharge of the firearm.**

37 (5) Unlawful possession of a firearm is a Class A misdemeanor.

38 **SECTION 3.** ORS 166.274, as amended by section 19, chapter 826, Oregon Laws 2009, and sec-  
39 tion 2, chapter 86, Oregon Laws 2010, is amended to read:

40 166.274. (1) **Except as provided in subsection (11) of this section**, a person barred from pos-  
41 sessed or purchasing a firearm may file a petition for relief from the bar in accordance with sub-  
42 section (2) of this section if:

43 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) [*to*] **or** (C) or  
44 166.270; or

45 (b) The person is barred from purchasing a firearm under ORS 166.470 (1)(a) [*to (d) or (g)*], **(b)**

1 **or (g).**

2 (2) A petition for relief described in this section must be filed in the circuit court in the  
3 petitioner's county of residence.

4 (3) A person may apply once per calendar year for relief under the provisions of this section.

5 (4)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

6 (A) The city chief of police if the court in which the petition is filed is located in a city; or

7 (B) The sheriff of the county in which the court is located.

8 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the  
9 petition is filed at the court.

10 (5)(a) When a petition is denied, the judge shall cause that information to be entered into the  
11 Department of State Police computerized criminal history files.

12 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of  
13 the petitioner to be entered into the Department of State Police computerized criminal history files.  
14 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-  
15 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall  
16 notify the court that granted relief under this section. The court shall review the order granting  
17 relief and determine whether to rescind the order. The Department of State Police may charge a  
18 reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

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

22 (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall  
23 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner  
24 does not pose a threat to the safety of the public or the petitioner.

25 *[(8) A person barred from possessing or purchasing a firearm because the person, while a minor,*  
26 *was found to be within the jurisdiction of the juvenile court for committing an act which, if committed*  
27 *by an adult, would have constituted a felony or a misdemeanor involving violence, is not eligible to*  
28 *petition for relief under this section until more than four years have passed since the person was dis-*  
29 *charged from the jurisdiction of the juvenile court.]*

30 [(9)] (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days  
31 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge  
32 shall then make findings and conclusions and issue a judgment based on the findings and conclusions  
33 in accordance with the requirements of law.

34 [(10)] (9) Filing fees shall be as for any civil action filed in the court.

35 [(11)(a)] (10)(a) Initial appeals of petitions shall be heard de novo.

36 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the  
37 same manner as for any other civil action.

38 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall  
39 be ordered to pay the attorney fees for the prevailing party.

40 (11) **The court may not grant relief under this section to a person who:**

41 (a) **Has been convicted of a person felony, as that term is defined in the rules of the**  
42 **Oregon Criminal Justice Commission, or the statutory counterpart to a person felony in any**  
43 **other jurisdiction, if the offense involved the use of a firearm or a deadly weapon as defined**  
44 **in ORS 161.015;**

45 (b) **Has been convicted of an offense listed in ORS 137.700 or the statutory counterpart**

1 **to an offense listed in ORS 137.700 in any other jurisdiction; or**

2 **(c) Is currently serving a felony sentence as defined in ORS 10.030 or has served a felony**  
3 **sentence in the three-year period preceding the filing of the petition.**

4 **SECTION 4.** ORS 166.274, as amended by sections 19 and 20, chapter 826, Oregon Laws 2009,  
5 and section 3, chapter 86, Oregon Laws 2010, is amended to read:

6 166.274. (1) **Except as provided in subsection (10) of this section**, a person barred from pos-  
7 sessing a firearm under ORS 166.250 (1)(c)(A) **or (C)** to (E) or 166.270 or barred from purchasing a  
8 firearm under ORS 166.470 (1)(a), **(b) or (e) to (g) [to (g)]** may file a petition for relief from the bar  
9 in the circuit court in the petitioner's county of residence.

10 (2) A person may apply once per calendar year for relief under the provisions of this section.

11 (3)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

12 (A) The city chief of police if the court in which the petition is filed is located in a city; or

13 (B) The sheriff of the county in which the court is located.

14 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the  
15 petition is filed at the court.

16 (4)(a) When a petition is denied, the judge shall cause that information to be entered into the  
17 Department of State Police computerized criminal history files.

18 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of  
19 the petitioner to be entered into the Department of State Police computerized criminal history files.  
20 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-  
21 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall  
22 notify the court that granted relief under this section. The court shall review the order granting  
23 relief and determine whether to rescind the order. The Department of State Police may charge a  
24 reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

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

28 (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall  
29 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner  
30 does not pose a threat to the safety of the public or the petitioner.

31 *[(7) A person barred from possessing or purchasing a firearm because the person, while a minor,*  
32 *was found to be within the jurisdiction of the juvenile court for committing an act which, if committed*  
33 *by an adult, would have constituted a felony or a misdemeanor involving violence, is not eligible to*  
34 *petition for relief under this section until more than four years have passed since the person was dis-*  
35 *charged from the jurisdiction of the juvenile court.]*

36 *[(8)]* (7) Petitions filed under this section shall be heard and disposed of within 15 judicial days  
37 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge  
38 shall then make findings and conclusions and issue a judgment based on the findings and conclusions  
39 in accordance with the requirements of law.

40 *[(9)]* (8) Filing fees shall be as for any civil action filed in the court.

41 *[(10)(a)]* (9)(a) Initial appeals of petitions shall be heard de novo.

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

44 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall  
45 be ordered to pay the attorney fees for the prevailing party.

1           **(10) The court may not grant relief under this section to a person who:**

2           **(a) Has been convicted of a person felony, as that term is defined in the rules of the**  
3 **Oregon Criminal Justice Commission, or the statutory counterpart to a person felony in any**  
4 **other jurisdiction, if the offense involved the use of a firearm or a deadly weapon as defined**  
5 **in ORS 161.015;**

6           **(b) Has been convicted of an offense listed in ORS 137.700 or the statutory counterpart**  
7 **to an offense listed in ORS 137.700 in any other jurisdiction; or**

8           **(c) Is currently serving a felony sentence as defined in ORS 10.030 or has served a felony**  
9 **sentence in the three-year period preceding the filing of the petition.**

10           **SECTION 5.** ORS 166.425 is amended to read:

11           166.425. (1) A person commits the crime of unlawfully purchasing a firearm if the person,  
12 knowing that the person is prohibited by state [*or federal*] law from owning or possessing the firearm  
13 or having the firearm under the person's custody or control, purchases or attempts to purchase the  
14 firearm.

15           (2) Unlawfully purchasing a firearm is a Class A misdemeanor.

16           **SECTION 6.** ORS 821.240 is amended to read:

17           821.240. (1) A person commits the offense of operating a snowmobile or an all-terrain vehicle  
18 while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with  
19 a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all  
20 arrows are in a quiver.

21           **(2) Subsection (1) of this section does not apply to a person who is licensed under ORS**  
22 **166.291 and 166.292 to carry a concealed handgun.**

23           **(3) As used in this section, "unloaded" means:**

24           **(a) If the firearm is a revolver, that there is no live cartridge in the chamber that is**  
25 **aligned with the hammer of the revolver;**

26           **(b) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed;**  
27 **or**

28           **(c) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no**  
29 **live cartridge in the chamber.**

30           [(2)] (4) The offense described in this section, operating a snowmobile or an all-terrain vehicle  
31 while carrying a firearm or bow, is a Class B traffic violation.

32           **SECTION 7.** No later than December 31, 2011, the Department of State Police shall sub-  
33 mit a report to the interim legislative committee related to the judiciary that describes the  
34 State of Oregon's compliance with the National Instant Criminal Background Check System  
35 Improvement Amendments Act of 2007 (P.L. 110-180). The report must include a description  
36 of the rate at which the State of Oregon is providing the United States Attorney General  
37 records relevant to a determination of whether a person is disqualified from possessing or  
38 receiving a firearm under federal or state law.

39           **SECTION 8.** Section 7 of this 2011 Act is repealed on January 2, 2012.

40           **SECTION 9.** This 2011 Act being necessary for the immediate preservation of the public  
41 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
42 on its passage.