

# Senate Bill 740

Sponsored by Senator BOQUIST

## 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**.

Requires criminal history record check for transfer of knife from knife dealer to purchaser.

Prohibits transferring knife to disqualified purchaser. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Prohibits transfer of knife in violation of criminal history record check requirement. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Requires Department of State Police to maintain registry of all knives transferred in state. Directs department to establish rules implementing registration requirement.

Applies to transfers of knives initiated on or after January 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to transfer of knives.

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

4 **SECTION 1. (1) As used in sections 1 to 5 of this 2013 Act:**

5 (a) **"Criminal history record check" means determining the eligibility of a person to**  
6 **purchase or possess a knife by reviewing state and federal databases including, but not lim-**  
7 **ited to, the:**

8 (A) **Oregon computerized criminal history system;**

9 (B) **Oregon mental health data system;**

10 (C) **Law Enforcement Data System; and**

11 (D) **National Instant Criminal Background Check System.**

12 (b) **"Knife" means a weapon, by whatever name known, that has a blade that is three**  
13 **inches in length or longer and that could be used by a person to inflict injury upon a person**  
14 **or the property of a person.**

15 (c) **"Knife dealer" means a person engaged in the business of selling, leasing or otherwise**  
16 **transferring a knife, regardless of whether the person is a retail dealer, pawnbroker or other**  
17 **person;**

18 (d) **"Knife transaction thumbprint form" means a form provided under subsection (9) of**  
19 **this section.**

20 (e) **"Purchaser" means a person who buys, leases or otherwise receives a knife from a**  
21 **knife dealer.**

22 (2)(a) **Except as provided in subsections (3)(b) and (10) of this section, a knife dealer shall:**

23 (A) **Require the purchaser to present to the knife dealer one current identification**  
24 **meeting the requirements of subsection (4) of this section.**

25 (B) **Obtain the thumbprints of the purchaser on the knife transaction thumbprint form**  
26 **and attach the form to the knife dealer's copy of the knife transaction record to be filed with**  
27 **that copy.**

28 (C) **Request by telephone that the Department of State Police conduct a criminal history**

**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 record check on the purchaser.

2 (D) Receive a unique approval number for the transfer from the department and record  
3 the approval number on the knife transaction record and on the knife transaction  
4 thumbprint form.

5 (b) Upon requesting a criminal history record check, the knife dealer shall provide the  
6 following information to the department:

7 (A) The business name of the knife dealer;

8 (B) The place of the knife transfer;

9 (C) The name of the person making the transfer;

10 (D) The make, model and manufacturer's number of the knife being transferred;

11 (E) The name and date of birth of the purchaser;

12 (F) The Social Security number of the purchaser if the purchaser voluntarily provides  
13 this number; and

14 (G) The type, issuer and identification number of the identification presented by the  
15 purchaser.

16 (c) The knife dealer may destroy the knife transaction thumbprint form five or more  
17 years after the completion of the knife transaction thumbprint form.

18 (3) The department shall conduct a criminal history record check immediately upon re-  
19 ceiving a knife dealer's request. The department shall determine, based on the criminal his-  
20 tory record check, whether the purchaser is disqualified from completing the transfer. The  
21 department shall notify the knife dealer whether a purchaser is disqualified from completing  
22 the transfer or provide the knife dealer with a unique approval number indicating that the  
23 purchaser is qualified to complete the transfer.

24 (a) If the department is unable to determine whether the purchaser is disqualified from  
25 completing the transfer within 30 minutes of receiving the request, the department shall  
26 notify the knife dealer and provide the knife dealer with an estimate of the time when the  
27 department will provide the requested information.

28 (b) If the department fails to notify the knife dealer that the purchaser is disqualified to  
29 complete the transfer, or if the department fails to provide the knife dealer with a unique  
30 approval number for the transfer before the close of the knife dealer's next business day, the  
31 knife dealer may deliver the knife to the purchaser.

32 (4)(a) Identification required of the purchaser under subsection (2) of this section must  
33 include one piece of current identification bearing a photograph and the date of birth of the  
34 purchaser that:

35 (A) Is issued under the authority of the United States Government, a state, a political  
36 subdivision of a state, a foreign government, a political subdivision of a foreign government,  
37 an international governmental organization or an international quasi-governmental organ-  
38 ization; and

39 (B) Is intended to be used for identification of an individual or is commonly accepted for  
40 the purpose of identification of an individual.

41 (b) If the identification presented by the purchaser under paragraph (a) of this subsection  
42 does not include the purchaser's current address, the purchaser shall present a second piece  
43 of current identification that contains the current address of the purchaser. The department  
44 may specify by rule the types of identification that may be presented under this paragraph.

45 (c) The department may require that the knife dealer send the thumbprints of the pur-

1 chaser to the department to verify the identification of the purchaser if the purchaser's  
2 identity is in question.

3 (5) The department shall establish a telephone number that must be operational seven  
4 days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to re-  
5 quests from knife dealers for criminal history record checks.

6 (6) A public employee, official or agency may not be held criminally or civilly liable for  
7 performing the criminal history record checks or investigations required by this section,  
8 provided the employee, official or agency acts in good faith and without malice.

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

13 (8) In accordance with applicable provisions of ORS chapter 183, the department may  
14 adopt rules necessary for:

15 (a) The design of the knife transaction thumbprint form;

16 (b) The maintenance of a procedure to correct errors in the criminal records of the de-  
17 partment;

18 (c) The provision of a security system to identify knife dealers that request a criminal  
19 history record check under this section; and

20 (d) The creation and maintenance of a database of the business hours of knife dealers.

21 (9) The department shall publish the knife transaction thumbprint form and shall furnish  
22 the form to knife dealers on application at cost.

23 (10) This section does not apply to transactions between knife dealers.

24 **SECTION 2.** (1) Unless relief has been granted under the expunction laws of this state  
25 or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or  
26 otherwise transfer any knife when the person knows or reasonably should know that the  
27 recipient:

28 (a) Is under 18 years of age;

29 (b) Has been convicted of a felony;

30 (c) Has any outstanding felony warrants for arrest;

31 (d) Is free on any form of pretrial release for a felony;

32 (e) Was committed to the Oregon Health Authority under ORS 426.130;

33 (f) Has been convicted of a misdemeanor involving violence or found guilty except for  
34 insanity under ORS 161.295 of a misdemeanor involving violence within the previous four  
35 years. As used in this paragraph, "misdemeanor involving violence" means a misdemeanor  
36 described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b); or

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

38 (2) A person may not sell, deliver or otherwise transfer any knife that the person knows  
39 or reasonably should know is stolen.

40 (3) Subsection (1)(a) of this section does not prohibit the parent or legal guardian of a  
41 minor, or another person with the consent of the parent or legal guardian, from transferring  
42 to the minor a knife for a lawful purpose.

43 (4) Violation of subsection (1) or (2) of this section is a Class A misdemeanor.

44 **SECTION 3.** (1) The Department of State Police may adopt a fee schedule for criminal  
45 history record checks required under section 1 of this 2013 Act and collect a fee for each

1 criminal history record check requested. The fee schedule shall be calculated to recover the  
2 cost of performing criminal history record checks required under section 1 of this 2013 Act,  
3 but may not exceed \$10 per record check.

4 (2) Fees collected under this section shall be paid into the State Treasury and deposited  
5 in the General Fund to the credit of the State Police Account.

6 **SECTION 4.** (1) A person commits the crime of improperly transferring a knife if the  
7 person is a knife dealer that sells, leases or otherwise transfers a knife and intentionally  
8 violates a provision of section 1 of this 2013 Act.

9 (2) Improperly transferring a knife is a Class A misdemeanor.

10 **SECTION 5.** (1) The Department of State Police shall maintain a permanent registry of  
11 all knives transferred in this state as provided in section 1 of this 2013 Act. The department  
12 may fulfill the requirement under this section by retaining the record of information ob-  
13 tained during a request by a knife dealer for a criminal history record check required by  
14 section 1 of this 2013 Act.

15 (2) The information contained in the permanent registry of knife transfers under this  
16 section is exempt from disclosure under public records law.

17 (3) The department shall adopt rules implementing sections 1 to 5 of this 2013 Act no  
18 later than one year after the effective date of this 2013 Act.

19 (4) This section does not apply to transfers of knives between knife dealers.

20 **SECTION 6.** Sections 1 to 5 of this 2013 Act apply to all transfers of knives initiated on  
21 or after January 1, 2015.  
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