



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

June 11, 2015

From the Desk of
Senator Ted Ferrioli

Senator Ted Ferrioli
Senate Republican Leader
900 Court Street NE S323
Salem OR 97301

Re: B-engrossed House Bill 3093

Dear Senator Ferrioli:

You have asked our office which states would qualify as having concealed handgun license requirements that are of sufficient stringency to be listed on the Department of Justice's list of states that have concealed handgun reciprocity with Oregon, as described in B-engrossed House Bill 3093.¹

We read this version of the bill as requiring that any person who qualifies for a concealed handgun license or permit in the other state must also be able to qualify for a concealed handgun license under ORS 166.291 and 166.292. In other words, if there is some class of persons, for example, those under 21 years of age or those with misdemeanor convictions within four years of application, that would be able to get a concealed handgun license or permit in another state but who could not lawfully qualify for an Oregon concealed handgun license if a resident of Oregon, then that state will not be included on the Department of Justice's list.

The final decision as to which states satisfy the requirements for reciprocity in B-engrossed House Bill 3093 will be made by the Department of Justice. However, we have reviewed the concealed handgun license or permit requirements in each of the 49 other states, and we could not identify a state in which a person who qualifies for a concealed handgun license or permit in the other state would unequivocally qualify for a concealed handgun license under ORS 166.291 and 166.292. The main differences we saw were the minimum required age to obtain a permit and the Oregon requirement that the applicant have no misdemeanor convictions of any kind during the previous four years. Many states allow persons under 21 to apply for a permit,² particularly if the person is a member of the Armed Forces of the United States.³ In most other states, misdemeanor convictions are disqualifying offenses only if the offense involved violence⁴ or if the offense was a

¹ We did not address the requirement that the other state recognize Oregon concealed handgun licenses, as that was not part of B-engrossed House Bill 3093 or the question asked.

² See, e.g., Ind. Code section 35-47-2-3.

³ See, e.g., Ga. Code Ann. section 16-11-129.

⁴ See, e.g., W. Va. Code section 61-7-4 (a)(6); La. Rev. Stat. Ann. section 40:1379.3.

crime of domestic violence.⁵ Some states specify a list of certain disqualifying misdemeanors, such as assault, controlled substance offenses or resisting arrest.⁶ Other states require a general showing of good character but do not list specific requirements.⁷ States that only allow a handgun license upon a showing of need or cause, such as New York, do not consider all misdemeanor convictions as disqualifying offenses for a permit.⁸

Please note that our findings are not free from doubt. In some states, the definition of a "misdemeanor" describes an offense that is punishable by fine only, not incarceration, which in Oregon we would classify as a violation.⁹ Other states require that a person applying for a concealed handgun license generally not be prohibited by state law from possessing a firearm.¹⁰ Although we researched those states' prohibition laws, it is possible that there are statutes prohibiting classes of persons from possessing firearms that we could not locate in those states.

The opinions written by the Legislative Counsel and the staff of the Legislative Counsel's office are prepared solely for the purpose of assisting members of the Legislative Assembly in the development and consideration of legislative matters. In performing their duties, the Legislative Counsel and the members of the staff of the Legislative Counsel's office have no authority to provide legal advice to any other person, group or entity. For this reason, this opinion should not be considered or used as legal advice by any person other than legislators in the conduct of legislative business. Public bodies and their officers and employees should seek and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

DEXTER A. JOHNSON
Legislative Counsel



By
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⁵ See, e.g., Colo. Rev. Stat. 18-12-108 and 18-12-203; Fla. Stat. section 790.06.

⁶ See, e.g., Cal. Pen. Code section 29805; Conn. Gen. Stat. section 29-28; Ky. Rev. Stat. Ann. section 237.110; N.M. Stat. section 29-19-4; N.C. Gen. Stat. section 14-415.12 (b)(8).

⁷ See, e.g., R.I. Gen. Laws section 11-47-11.

⁸ N.Y. Pen. Code 265.00.

⁹ See, e.g., Tex. Pen. Code section 12.23.

¹⁰ See, e.g., Ky. Rev. Stat. Ann. section 237.110.