

D R A F T

SUMMARY

Prohibits transfer of firearm by gun dealer or private party if Department of State Police is unable to determine whether recipient is qualified to receive firearm.

Requires Department of State Police to notify United States Attorney for District of Oregon and all state and local law enforcement agencies with jurisdiction when, during criminal background check performed by gun dealer prior to transfer of firearm, department determines that recipient is prohibited from possessing firearm. Requires department to notify attempted unlawful purchaser's probation officer or court that issued protective order, if applicable. Requires department to make notification within 24 hours unless investigation would be compromised. Requires law enforcement agency or prosecuting attorney's office receiving notification to report to department on action taken after notification and outcome of action. Requires department to publish written report detailing attempted unlawful purchases, including information on investigations and criminal prosecutions.

Modifies definition of relationship status pertaining to types of court orders and misdemeanor convictions that cause person to be prohibited from possessing firearms. Provides that conviction for stalking causes person to be prohibited from possessing firearm unless person obtains relief from prohibition. Punishes unlawful possession by maximum of one year's imprisonment, \$6,250 fine, or both.

A BILL FOR AN ACT

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Relating to firearms; amending ORS 166.255, 166.412, 166.418, 166.432, 166.434, 166.435 and 166.436.

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

SECTION 1. ORS 166.412 is amended to read:

166.412. (1) As used in this section:

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

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

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

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

5 (e) "Firearms transaction thumbprint form" means a form provided by the
6 department under subsection (11) of this section;

7 (f) "Gun dealer" means a person engaged in the business, as defined in
8 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether
9 the person is a retail dealer, pawnbroker or otherwise; **and**

10 [(g) "*Handgun*" has the meaning given that term in ORS 166.210; and]

11 [(h)] (g) "Purchaser" means a person who buys, leases or otherwise re-
12 ceives a firearm from a gun dealer.

13 (2) Except as provided in [subsections (3)(c) and] **subsection** (12) of this
14 section, a gun dealer shall comply with the following before a [*handgun*]
15 **firearm** is delivered to a purchaser:

16 (a) The purchaser shall present to the dealer current identification meet-
17 ing the requirements of subsection (4) of this section.

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

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

23 (d) The gun dealer shall request by telephone that the department conduct
24 a criminal history record check on the purchaser and shall provide the fol-
25 lowing information to the department:

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

27 (B) The business name of the gun dealer;

28 (C) The place of transfer;

29 (D) The name of the person making the transfer;

30 (E) The make, model, caliber and manufacturer's number of the
31 [*handgun*] **firearm** being transferred;

1 (F) The name and date of birth of the purchaser;

2 (G) The Social Security number of the purchaser if the purchaser volun-
3 tarily provides this number to the gun dealer; and

4 (H) The type, issuer and identification number of the identification pre-
5 sented by the purchaser.

6 (e) The gun dealer shall receive a unique approval number for the transfer
7 from the department and record the approval number on the firearms trans-
8 action record and on the firearms transaction thumbprint form.

9 (f) The gun dealer may destroy the firearms transaction thumbprint form
10 five years after the completion of the firearms transaction thumbprint form.

11 (3)(a) Upon receipt of a request of the gun dealer for a criminal history
12 record check, the department shall immediately, during the gun dealer's
13 telephone call or by return call:

14 (A) Determine, from criminal records and other information available to
15 it, whether the purchaser is disqualified under ORS 166.470 from completing
16 the purchase; and

17 (B) Notify the dealer when a purchaser is disqualified from completing
18 the transfer or provide the dealer with a unique approval number indicating
19 that the purchaser is qualified to complete the transfer.

20 (b) If the department is unable to determine if the purchaser is qualified
21 or disqualified from completing the transfer within 30 minutes, the depart-
22 ment shall notify the dealer and provide the dealer with an estimate of the
23 time when the department will provide the requested information. **The**
24 **dealer may not transfer the firearm unless the dealer receives a**
25 **unique approval number from the department.**

26 *[(c) If the department fails to provide a unique approval number to a gun*
27 *dealer or to notify the gun dealer that the purchaser is disqualified under*
28 *paragraph (a) of this subsection before the close of the gun dealer's next*
29 *business day following the request by the dealer for a criminal history record*
30 *check, the dealer may deliver the handgun to the purchaser.]*

31 (4)(a) Identification required of the purchaser under subsection (2) of this

1 section shall include one piece of current identification bearing a photograph
2 and the date of birth of the purchaser that:

3 (A) Is issued under the authority of the United States Government, a
4 state, a political subdivision of a state, a foreign government, a political
5 subdivision of a foreign government, an international governmental organ-
6 ization or an international quasi-governmental organization; and

7 (B) Is intended to be used for identification of an individual or is com-
8 monly accepted for the purpose of identification of an individual.

9 (b) If the identification presented by the purchaser under paragraph (a)
10 of this subsection does not include the current address of the purchaser, the
11 purchaser shall present a second piece of current identification that contains
12 the current address of the purchaser. The Superintendent of State Police may
13 specify by rule the type of identification that may be presented under this
14 paragraph.

15 (c) The department may require that the dealer verify the identification
16 of the purchaser if that identity is in question by sending the thumbprints
17 of the purchaser to the department.

18 (5) The department shall establish a telephone number that shall be op-
19 erational seven days a week between the hours of 8 a.m. and 10 p.m. for the
20 purpose of responding to inquiries from dealers for a criminal history record
21 check under this section.

22 (6) No public employee, official or agency shall be held criminally or
23 civilly liable for performing the investigations required by this section pro-
24 vided the employee, official or agency acts in good faith and without malice.

25 (7)(a) The department may retain a record of the information obtained
26 during a request for a criminal history record check for no more than five
27 years.

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

31 [(c) *If the department determines that a purchaser is prohibited from pos-*

1 *sessing a firearm under ORS 166.250 (1)(c), as soon as practicable, the de-*
2 *partment may report the attempted transfer and the purchaser's name to the*
3 *appropriate law enforcement agency.]*

4 **(c) If the department determines that a purchaser is prohibited**
5 **from possessing a firearm under ORS 166.250 (1)(c), the department**
6 **shall report the attempted transfer and the purchaser's name to the**
7 **United States Attorney for the District of Oregon and to all state and**
8 **local law enforcement agencies and district attorneys that have juris-**
9 **diction over the location or locations where the attempted transfer**
10 **was made and where the purchaser resides.**

11 **(d) If the department determines that the purchaser is prohibited**
12 **from possessing a firearm as a condition of probation under ORS**
13 **137.540 (1)(L), the department shall report the attempted transfer to**
14 **the purchaser's probation officer.**

15 **(e) If the department determines that the purchaser is prohibited**
16 **from possessing a firearm due to a court order described in ORS**
17 **166.255 (1)(a), the department shall report the attempted transfer to**
18 **the court that issued the order.**

19 **(f) The report required by paragraphs (c), (d) and (e) of this sub-**
20 **section shall be made within 24 hours after the determination is made,**
21 **unless the report would compromise an ongoing investigation, in**
22 **which case the report may be delayed as long as necessary to avoid**
23 **compromising the investigation.**

24 **(g) On or before January 31 of each year, a law enforcement agency**
25 **or a prosecuting attorney's office that received a report pursuant to**
26 **paragraph (c) of this subsection during the previous calendar year**
27 **shall inform the department of the action that was taken concerning**
28 **each attempted transfer and the outcome of the action.**

29 **(h) After receiving the information described in paragraph (g) of**
30 **this subsection, the department shall annually publish a written report**
31 **detailing the following information for the previous year:**

1 (A) The number of attempted purchasers whom the department
2 determined were prohibited from possessing a firearm under ORS
3 166.250 (1)(c), arranged by category of prohibited possessor;

4 (B) The number of reports made pursuant to paragraph (c) of this
5 subsection;

6 (C) The number of investigations arising from the reports made
7 pursuant to paragraph (c) of this subsection, the number of investi-
8 gations concluded and the number of investigations referred for pros-
9 ecution, all arranged by category of prohibited possessor; and

10 (D) The number of criminal charges arising from the reports made
11 pursuant to paragraph (c) of this subsection and the disposition of the
12 charges, both arranged by category of prohibited possessor.

13 (8) A law enforcement agency may inspect the records of a gun dealer
14 relating to transfers of [*handguns*] **firearms** with the consent of a gun dealer
15 in the course of a reasonable inquiry during a criminal investigation or un-
16 der the authority of a properly authorized subpoena or search warrant.

17 (9) When a [*handgun*] **firearm** is delivered, it shall be unloaded.

18 (10) In accordance with applicable provisions of ORS chapter 183, the
19 Superintendent of State Police may adopt rules necessary for:

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

21 (b) The maintenance of a procedure to correct errors in the criminal re-
22 cords of the department;

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

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

27 (11) The department shall publish the firearms transaction thumbprint
28 form and shall furnish the form to gun dealers on application at cost.

29 (12) This section does not apply to transactions between persons licensed
30 as dealers under 18 U.S.C. 923.

31 (13)(a) If requested by a transferor who is not a gun dealer, a gun dealer

1 may request a criminal background check pursuant to ORS 166.435 or 166.438
2 and may charge a reasonable fee for providing the service.

3 (b) A gun dealer that requests a criminal background check under this
4 subsection is immune from civil liability for any use of the firearm by the
5 recipient or transferee, provided that the gun dealer requests the criminal
6 background check as described in this section.

7 **SECTION 2.** ORS 166.434 is amended to read:

8 166.434. *[(1) Notwithstanding the fact that ORS 166.412 requires a gun
9 dealer to request a criminal history record check only when transferring a
10 handgun, a gun dealer shall comply with the requirements of ORS 166.412
11 before transferring any firearm to a purchaser. The provisions of ORS 166.412
12 apply to the transfer of firearms other than handguns to the same extent that
13 they apply to the transfer of handguns.]*

14 [(2)] (1) In addition to the determination required by ORS 166.412
15 (3)(a)(A), in conducting a criminal background check or criminal history re-
16 cord check, the Department of State Police shall also determine whether the
17 recipient is otherwise prohibited by state or federal law from possessing a
18 firearm.

19 [(3)] (2) Notwithstanding ORS 166.412 (5), the department is not required
20 to operate the telephone number established under ORS 166.412 (5) on
21 Thanksgiving Day or Christmas Day.

22 [(4)(a)] (3)(a) The department may charge a fee, not to exceed the amount
23 authorized under ORS 166.414, for criminal background checks required un-
24 der this section or ORS 166.435 or 166.436.

25 (b) The department shall establish a reduced fee for subsequent criminal
26 background checks on the same recipient that are performed during the same
27 day between the hours of 8 a.m. and 10 p.m.

28 **SECTION 3.** ORS 166.418 is amended to read:

29 166.418. (1) A person commits the crime of improperly transferring a
30 firearm if the person is a gun dealer as defined in ORS 166.412 and sells,
31 leases or otherwise transfers a firearm and intentionally violates ORS

1 166.412 [or 166.434].

2 (2) Improperly transferring a firearm is a Class A misdemeanor.

3 **SECTION 4.** ORS 166.432 is amended to read:

4 166.432. (1) As used in ORS 166.412, 166.433, 166.434, 166.435, 166.436 and
5 166.438, “criminal background check” or “criminal history record check”
6 means determining the eligibility of a person to purchase or possess a
7 firearm by reviewing state and federal databases including, but not limited
8 to, the:

9 (a) Oregon computerized criminal history system;

10 (b) Oregon mental health data system;

11 (c) Law Enforcement Data System;

12 (d) National Instant Criminal Background Check System; and

13 (e) Stolen guns system.

14 (2) As used in ORS 166.433, [166.434,] 166.435, 166.436, 166.438 and 166.441:

15 (a) “Gun dealer” has the meaning given that term in ORS 166.412.

16 (b) “Gun show” means an event at which more than 25 firearms are on
17 site and available for transfer.

18 **SECTION 5.** ORS 166.435 is amended to read:

19 166.435. (1) As used in this section:

20 (a) “Transfer” means the delivery of a firearm from a transferor to a
21 transferee, including, but not limited to, the sale, gift, loan or lease of the
22 firearm. “Transfer” does not include the temporary provision of a firearm to
23 a transferee if the transferor has no reason to believe the transferee is pro-
24 hibited from possessing a firearm or intends to use the firearm in the com-
25 mission of a crime, and the provision occurs:

26 (A) At a shooting range, shooting gallery or other area designed for the
27 purpose of target shooting, for use during target practice, a firearms safety
28 or training course or class or a similar lawful activity;

29 (B) For the purpose of hunting, trapping or target shooting, during the
30 time in which the transferee is engaged in activities related to hunting,
31 trapping or target shooting;

1 (C) Under circumstances in which the transferee and the firearm are in
2 the presence of the transferor;

3 (D) To a transferee who is in the business of repairing firearms, for the
4 time during which the firearm is being repaired;

5 (E) To a transferee who is in the business of making or repairing custom
6 accessories for firearms, for the time during which the accessories are being
7 made or repaired; or

8 (F) For the purpose of preventing imminent death or serious physical in-
9 jury, and the provision lasts only as long as is necessary to prevent the death
10 or serious physical injury.

11 (b) "Transferee" means a person who is not a gun dealer or licensed as
12 a manufacturer or importer under 18 U.S.C. 923 and who intends to receive
13 a firearm from a transferor.

14 (c) "Transferor" means a person who is not a gun dealer or licensed as
15 a manufacturer or importer under 18 U.S.C. 923 and who intends to deliver
16 a firearm to a transferee.

17 (2) Except as provided in ORS 166.436 and 166.438 and subsection (4) of
18 this section, a transferor may not transfer a firearm to a transferee unless
19 the transfer is completed through a gun dealer as described in subsection (3)
20 of this section.

21 (3)(a) A transferor may transfer a firearm to a transferee only as provided
22 in this section. Except as provided in paragraph (b) of this subsection, prior
23 to the transfer both the transferor and the transferee must appear in person
24 before a gun dealer, with the firearm, and request that the gun dealer per-
25 form a criminal background check on the transferee.

26 (b) If the transferor and the transferee reside over 40 miles from each
27 other, the transferor may ship or deliver the firearm to a gun dealer located
28 near the transferee or a gun dealer designated by the transferee, and the
29 transferor need not appear before the gun dealer in person.

30 (c) A gun dealer who agrees to complete a transfer of a firearm under this
31 section shall request a criminal history record check on the transferee as

1 described in ORS 166.412 and shall comply with all requirements of federal
2 law.

3 (d) If, upon completion of a criminal background check, the gun dealer:

4 (A) Receives a unique approval number from the Department of State
5 Police indicating that the transferee is qualified to complete the transfer, the
6 gun dealer shall notify the transferor, enter the firearm into the gun dealer's
7 inventory and transfer the firearm to the transferee.

8 (B) Receives notification that the transferee is prohibited by state or
9 federal law from possessing or receiving the firearm, **or that the depart-**
10 **ment is unable to determine if the transferee is qualified or disquali-**
11 **fied from completing the transfer**, the gun dealer shall notify the
12 transferor and neither the transferor nor the gun dealer shall transfer the
13 firearm to the transferee. If the transferor shipped or delivered the firearm
14 to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer
15 shall comply with federal law when returning the firearm to the transferor.

16 (e) A gun dealer may charge a reasonable fee for facilitating a firearm
17 transfer pursuant to this section.

18 (4) The requirements of subsections (2) and (3) of this section do not apply
19 to:

20 (a) The transfer of a firearm by or to a law enforcement agency, or by
21 or to a law enforcement officer, private security professional or member of
22 the Armed Forces of the United States, while that person is acting within
23 the scope of official duties.

24 (b) The transfer of a firearm as part of a firearm turn-in or buyback event,
25 in which a law enforcement agency receives or purchases firearms from
26 members of the public.

27 (c) The transfer of a firearm to:

28 (A) A transferor's spouse or domestic partner;

29 (B) A transferor's parent or stepparent;

30 (C) A transferor's child or stepchild;

31 (D) A transferor's sibling;

- 1 (E) A transferor's grandparent;
- 2 (F) A transferor's grandchild;
- 3 (G) A transferor's aunt or uncle;
- 4 (H) A transferor's first cousin;
- 5 (I) A transferor's niece or nephew; or
- 6 (J) The spouse or domestic partner of a person specified in subparagraphs
- 7 (B) to (I) of this paragraph.

8 (d) The transfer of a firearm that occurs because of the death of the
9 firearm owner, provided that:

10 (A) The transfer is conducted or facilitated by a personal representative,
11 as defined in ORS 111.005, or a trustee of a trust created in a will; and

12 (B) The transferee is related to the deceased firearm owner in a manner
13 specified in paragraph (c) of this subsection.

14 (5)(a) A transferor who fails to comply with the requirements of this
15 section commits a Class A misdemeanor.

16 (b) Notwithstanding paragraph (a) of this subsection, a transferor who
17 fails to comply with the requirements of this section commits a Class B fel-
18 ony if the transferor has a previous conviction under this section at the time
19 of the offense.

20 **SECTION 6.** ORS 166.436 is amended to read:

21 166.436. (1) The Department of State Police shall make the telephone
22 number established under ORS 166.412 (5) available for requests for criminal
23 background checks under this section from persons who are not gun dealers
24 and who are transferring firearms at gun shows.

25 (2) Prior to transferring a firearm at a gun show, a transferor who is not
26 a gun dealer may request by telephone that the department conduct a crim-
27 inal background check on the recipient and shall provide the following in-
28 formation to the department:

29 (a) The name, address and telephone number of the transferor;

30 (b) The make, model, caliber and manufacturer's number of the firearm
31 being transferred;

- 1 (c) The name, date of birth, race, sex and address of the recipient;
- 2 (d) The Social Security number of the recipient if the recipient voluntar-
- 3 ily provides that number;
- 4 (e) The address of the place where the transfer is occurring; and
- 5 (f) The type, issuer and identification number of a current piece of iden-
- 6 tification bearing a recent photograph of the recipient presented by the re-
- 7 cipient. The identification presented by the recipient must meet the
- 8 requirements of ORS 166.412 (4)(a).

9 (3)(a) Upon receipt of a request for a criminal background check under

10 this section, the department shall immediately, during the telephone call or

11 by return call:

12 (A) Determine from criminal records and other information available to

13 it whether the recipient is disqualified under ORS 166.470 from completing

14 the transfer or is otherwise prohibited by state or federal law from possess-

15 ing a firearm; and

16 (B) Notify the transferor when a recipient is disqualified from completing

17 the transfer or provide the transferor with a unique approval number indi-

18 cating that the recipient is qualified to complete the transfer. The unique

19 approval number is a permit valid for 24 hours for the requested transfer. If

20 the firearm is not transferred from the transferor to the recipient within 24

21 hours after receipt of the unique approval number, a new request must be

22 made by the transferor.

23 (b) If the department is unable to determine whether the recipient is

24 qualified for or disqualified from completing the transfer within 30 minutes

25 of receiving the request, the department shall notify the transferor and pro-

26 vide the transferor with an estimate of the time when the department will

27 provide the requested information.

28 (4) A public employee or public agency incurs no criminal or civil liabil-

29 ity for performing the criminal background checks required by this section,

30 provided the employee or agency acts in good faith and without malice.

31 (5)(a) The department may retain a record of the information obtained

1 during a request for a criminal background check under this section for the
2 period of time provided in ORS 166.412 (7).

3 (b) The record of the information obtained during a request for a criminal
4 background check under this section is exempt from disclosure under public
5 records law.

6 *[(c) If the department determines that a recipient is prohibited from pos-*
7 *sessing a firearm under ORS 166.250 (1)(c), as soon as practicable, the de-*
8 *partment may report the attempted transfer and the recipient's name to the*
9 *appropriate law enforcement agency.]*

10 **(c) If the department determines that a recipient is prohibited from**
11 **possessing a firearm under ORS 166.250 (1)(c), the department shall**
12 **report the attempted transfer and the recipient's name to the United**
13 **States Attorney for the District of Oregon and to all state and local**
14 **law enforcement agencies and district attorneys that have jurisdiction**
15 **over the location or locations where the attempted transfer was made**
16 **and where the recipient resides.**

17 **(d) If the department determines that the recipient is prohibited**
18 **from possessing a firearm as a condition of probation under ORS**
19 **137.540 (1)(L), the department shall report the attempted transfer to**
20 **the recipient's probation officer.**

21 **(e) If the department determines that the recipient is prohibited**
22 **from possessing a firearm due to a court order described in ORS**
23 **166.255 (1)(a), the department shall report the attempted transfer to**
24 **the court that issued the order.**

25 **(f) The report required by paragraphs (c), (d) and (e) of this sub-**
26 **section shall be made within 24 hours after the determination is made,**
27 **unless the report would compromise an ongoing investigation, in**
28 **which case the report may be delayed as long as necessary to avoid**
29 **compromising the investigation.**

30 **(g) On or before January 31 of each year, a law enforcement agency**
31 **or a prosecuting attorney's office that received a report pursuant to**

1 **paragraph (c) of this subsection during the previous calendar year**
2 **shall inform the department of the action that was taken concerning**
3 **each attempted transfer and the outcome of the action.**

4 **(h) After receiving the information described in paragraph (g) of**
5 **this subsection, the department shall annually publish a written report**
6 **detailing the following information for the previous year:**

7 **(A) The number of attempted recipients whom the department de-**
8 **termined were prohibited from possessing a firearm under ORS 166.250**
9 **(1)(c), arranged by category of prohibited possessor;**

10 **(B) The number of reports made pursuant to paragraph (c) of this**
11 **subsection;**

12 **(C) The number of investigations arising from the reports made**
13 **pursuant to paragraph (c) of this subsection, the number of investi-**
14 **gations concluded and the number of investigations referred for pros-**
15 **ecution, all arranged by category of prohibited possessor; and**

16 **(D) The number of criminal charges arising from the reports made**
17 **pursuant to paragraph (c) of this subsection and the disposition of the**
18 **charges, both arranged by category of prohibited possessor.**

19 (6) The recipient of the firearm must be present when the transferor re-
20 quests a criminal background check under this section.

21 (7)(a) Except as otherwise provided in paragraph (b) of this subsection, a
22 transferor who receives notification under this section that the recipient is
23 qualified to complete the transfer of a firearm, has the recipient fill out the
24 form required by ORS 166.438 (1)(a) and retains the form as required by ORS
25 166.438 (2) is immune from civil liability for any use of the firearm from the
26 time of the transfer unless the transferor knows, or reasonably should know,
27 that the recipient is likely to commit an unlawful act involving the firearm.

28 (b) The immunity provided by paragraph (a) of this subsection does not
29 apply:

30 (A) If the transferor knows, or reasonably should know, that the recipient
31 of the firearm intends to deliver the firearm to a third person who the

1 transferor knows, or reasonably should know, may not lawfully possess the
2 firearm; or

3 (B) In any product liability civil action under ORS 30.900 to 30.920.

4 **SECTION 7.** ORS 166.255 is amended to read:

5 166.255. (1) It is unlawful for a person to knowingly possess a firearm or
6 ammunition if:

7 (a) The person is the subject of a court order that:

8 (A) Was issued or continued after a hearing for which the person had
9 actual notice and during the course of which the person had an opportunity
10 to be heard;

11 (B) Restrains the person from stalking, intimidating, molesting or men-
12 acing [*an intimate partner*] **a family or household member**, a child of [*an*
13 *intimate partner*] **a family or household member** or a child of the person;
14 and

15 (C) Includes a finding that the person represents a credible threat to the
16 physical safety of [*an intimate partner*] **a family or household member**, a
17 child of [*an intimate partner*] **a family or household member** or a child of
18 the person; [*or*]

19 (b) The person has been convicted of a qualifying misdemeanor and, at the
20 time of the offense, the person was a family **or household** member of the
21 victim of the offense[.]; **or**

22 **(c) The person has been convicted of stalking under ORS 163.732.**

23 (2) The prohibition described in subsection (1)(a) of this section does not
24 apply with respect to the transportation, shipment, receipt, possession or
25 importation of any firearm or ammunition imported for, sold or shipped to
26 or issued for the use of the United States Government or any federal de-
27 partment or agency, or any state or department, agency or political subdivi-
28 sion of a state.

29 (3) As used in this section:

30 (a) "Convicted" means:

31 (A) The person was represented by counsel or knowingly and intelligently

1 waived the right to counsel;

2 (B) The case was tried to a jury, if the crime was one for which the per-
3 son was entitled to a jury trial, or the person knowingly and intelligently
4 waived the person's right to a jury trial; and

5 (C) The conviction has not been set aside or expunged, and the person
6 has not been pardoned.

7 (b) "Deadly weapon" has the meaning given that term in ORS 161.015.

8 (c) "Family **or household** member" [*means, with respect to the victim, the*
9 *victim's spouse, the victim's former spouse, a person with whom the victim*
10 *shares a child in common, the victim's parent or guardian, a person cohabiting*
11 *with or who has cohabited with the victim as a spouse, parent or guardian or*
12 *a person similarly situated to a spouse, parent or guardian of the victim*] **has**
13 **the meaning given that term in ORS 135.230.**

14 [(d) "*Intimate partner*" means, with respect to a person, the person's spouse,
15 the person's former spouse, a parent of the person's child or another person
16 who has cohabited or is cohabiting with the person in a relationship akin to
17 a spouse.]

18 [(e)] (d) "Possess" has the meaning given that term in ORS 161.015.

19 [(f)] (e) "Qualifying misdemeanor" means a misdemeanor that has, as an
20 element of the offense, the use or attempted use of physical force or the
21 threatened use of a deadly weapon.

22
