

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 764**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 166.173, 166.175, 166.260, 166.262, 166.291, 166.370,
3 166.412, 166.434, 166.435, 166.436, 166.663 and 821.240; and prescribing an ef-
4 fective date”.

5 Delete lines 4 through 9 and insert:

6 **“SECTION 1. The amendments to ORS 166.173, 166.175, 166.260,**
7 **166.262, 166.291, 166.370, 166.412, 166.434, 166.435, 166.436, 166.663 and**
8 **821.240 by sections 2 to 13 of this 2017 Act shall be known and may be**
9 **cited as the ‘Oregon Firearm Regulation Modernization Act.’**

10

11

“PAWNSHOP AND SECONDHAND STORE SALES

12

13 **“SECTION 2.** ORS 166.175 is amended to read:

14 “166.175. (1) Notwithstanding any other provision of law, a city **or county**
15 may [*continue to*] regulate the purchase of used firearms by pawnshops and
16 secondhand stores.

17 “(2) As used in this section, ‘secondhand store’ means a store or business
18 whose primary source of revenue is the sale of used merchandise.

19

20

“FIREARM TRANSFERS

21

1 **“SECTION 3.** ORS 166.412 is amended to read:

2 “166.412. (1) As used in this section:

3 “(a) ‘Antique firearm’ has the meaning given that term in 18 U.S.C. 921;

4 “(b) ‘Department’ means the Department of State Police;

5 “(c) ‘Firearm’ has the meaning given that term in ORS 166.210, except
6 that it does not include an antique firearm;

7 “(d) ‘Firearms transaction record’ means the firearms transaction record
8 required by 18 U.S.C. 921 to 929;

9 “(e) ‘Firearms transaction thumbprint form’ means a form provided by the
10 department under subsection (11) of this section;

11 “(f) ‘Gun dealer’ means a person engaged in the business, as defined in
12 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether
13 the person is a retail dealer, pawnbroker or otherwise;

14 “(g) ‘Handgun’ has the meaning given that term in ORS 166.210; and

15 “(h) ‘Purchaser’ means a person who buys, leases or otherwise receives a
16 firearm from a gun dealer.

17 “(2) Except as provided in subsections (3)(c) and (12) of this section, a gun
18 dealer shall comply with the following before a handgun is delivered to a
19 purchaser:

20 “(a) The purchaser shall present to the dealer current identification
21 meeting the requirements of subsection (4) of this section.

22 “(b) The gun dealer shall complete the firearms transaction record and
23 obtain the signature of the purchaser on the record.

24 “(c) The gun dealer shall obtain the thumbprints of the purchaser on the
25 firearms transaction thumbprint form and attach the form to the gun dealer’s
26 copy of the firearms transaction record to be filed with that copy. **If the
27 purchaser is not able to provide a thumbprint due to a disability or
28 other physical limitation, the gun dealer shall substitute another fin-
29 gerprint on the form in accordance with department rules and shall
30 indicate on the form the finger from which the print was taken.**

1 “(d) The gun dealer shall request by telephone **or by electronic trans-**
2 **mission** that the department conduct a criminal [*history record*] **background**
3 check on the purchaser and shall provide the following information to the
4 department:

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

6 “(B) The business name of the gun dealer;

7 “(C) The place of transfer;

8 “(D) The name of the person making the transfer;

9 “(E) The make, model, caliber and manufacturer’s number of the handgun
10 being transferred;

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

12 “(G) The Social Security number of the purchaser if the purchaser vol-
13 untarily provides this number to the gun dealer; and

14 “(H) The type, issuer and identification number of the identification pre-
15 sented by the purchaser.

16 “(e) The gun dealer shall receive a unique approval number for the
17 transfer from the department and record the approval number on the firearms
18 transaction record and on the firearms transaction thumbprint form.

19 “(f) The gun dealer may destroy the firearms transaction thumbprint form
20 five years after the completion of the firearms transaction thumbprint form.

21 “(3)(a) Upon receipt of a request of the gun dealer for a criminal [*history*
22 *record*] **background** check, the department shall immediately, during the gun
23 dealer’s telephone call or by return call **or electronic transmission:**

24 “(A) Determine, from criminal records and other information available to
25 it, whether the purchaser is disqualified under ORS 166.470 from completing
26 the purchase; and

27 “(B) Notify the dealer when a purchaser is disqualified from completing
28 the transfer or provide the dealer with a unique approval number indicating
29 that the purchaser is qualified to complete the transfer.

30 “(b) If the department is unable to determine if the purchaser is qualified

1 or disqualified from completing the transfer within 30 minutes, the depart-
2 ment shall notify the dealer and provide the dealer with an estimate of the
3 time when the department will provide the requested information.

4 “(c) If the department fails to provide a unique approval number to a gun
5 dealer or to notify the gun dealer that the purchaser is disqualified under
6 paragraph (a) of this subsection before the close of the gun dealer’s next
7 business day following the request by the dealer for a criminal [*history*
8 *record*] **background** check, the dealer may deliver the handgun to the pur-
9 chaser.

10 “(4)(a) Identification required of the purchaser under subsection (2) of this
11 section shall include one piece of current identification bearing a photograph
12 and the date of birth of the purchaser that:

13 “(A) Is issued under the authority of the United States Government, a
14 state, a political subdivision of a state, a foreign government, a political
15 subdivision of a foreign government, an international governmental organ-
16 ization or an international quasi-governmental organization; and

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

19 “(b) If the identification presented by the purchaser under paragraph (a)
20 of this subsection does not include the current address of the purchaser, the
21 purchaser shall present a second piece of current identification that contains
22 the current address of the purchaser. The Superintendent of State Police may
23 specify by rule the type of identification that may be presented under this
24 paragraph.

25 “(c) The department may require that the dealer verify the identification
26 of the purchaser if that identity is in question by sending the thumbprints
27 of the purchaser, **or another fingerprint if the purchaser is unable to**
28 **provide a thumbprint as described in subsection (2) of this section,** to
29 the department.

30 “(5) The department shall establish **an electronic system or** a telephone

1 number that shall be operational seven days a week between the hours of 8
2 a.m. and 10 p.m. for the purpose of responding to inquiries from dealers for
3 a criminal [*history record*] **background** check under this section.

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

7 “(7)(a) The department may retain a record of the information obtained
8 during a request for a criminal [*history record*] **background** check for no
9 more than five years.

10 “(b) The record of the information obtained during a request for a crimi-
11 nal [*history record*] **background** check by a gun dealer is exempt from dis-
12 closure under public records law. **If the information concerns a person**
13 **protected by a court’s stalking protective order issued under ORS**
14 **30.866 or 163.738, the information is confidential and may not be dis-**
15 **closed except as authorized by paragraph (c) of this subsection or as**
16 **required by federal law.**

17 “(c) If the department determines that a purchaser is prohibited from
18 possessing a firearm under ORS 166.250 (1)(c), as soon as practicable, the
19 department may report the attempted transfer and the purchaser’s name to
20 the appropriate law enforcement agency.

21 “(8) A law enforcement agency may inspect the records of a gun dealer
22 relating to transfers of handguns with the consent of a gun dealer in the
23 course of a reasonable inquiry during a criminal investigation or under the
24 authority of a properly authorized subpoena or search warrant.

25 “(9) When a handgun is delivered, it shall be unloaded.

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

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

29 “(b) The maintenance of a procedure to correct errors in the criminal re-
30 cords of the department;

1 “(c) The provision of a security system to identify dealers who request a
2 criminal [*history record*] **background** check under subsection (2) of this
3 section; and

4 “(d) The creation and maintenance of a database of the business hours
5 of gun dealers.

6 “(11)(a) The department shall publish the firearms transaction thumbprint
7 form and shall furnish the form to gun dealers on application at cost.

8 “(b) **The department shall adopt rules establishing alternative fin-**
9 **gerprints that a person may provide in lieu of a thumbprint when the**
10 **person is unable to provide a thumbprint due to a disability or other**
11 **physical limitation.**

12 “(c) **The department may, in lieu of the firearms transaction**
13 **thumbprint form described in paragraph (a) of this subsection, accept**
14 **a firearms transaction record form issued by the federal Bureau of**
15 **Alcohol, Tobacco, Firearms and Explosives that includes thumbprints**
16 **or an alternative fingerprint as provided in subsection (2) of this sec-**
17 **tion.**

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

20 “(13)(a) If requested by a transferor who is not a gun dealer, a gun dealer
21 may request a criminal background check pursuant to ORS 166.435 or 166.438
22 and may charge a reasonable fee for providing the service.

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

27 “**SECTION 4.** ORS 166.434 is amended to read:

28 “166.434. (1) Notwithstanding the fact that ORS 166.412 requires a gun
29 dealer to request a criminal [*history record*] **background** check only when
30 transferring a handgun, a gun dealer shall comply with the requirements of

1 ORS 166.412 before transferring any firearm to a purchaser. The provisions
2 of ORS 166.412 apply to the transfer of firearms other than handguns to the
3 same extent that they apply to the transfer of handguns.

4 “(2) In addition to the determination required by ORS 166.412 (3)(a)(A),
5 in conducting a criminal background check or criminal history record check,
6 the Department of State Police shall also determine whether the recipient
7 is otherwise prohibited by state or federal law from possessing a firearm.

8 “(3) Notwithstanding ORS 166.412 (5), the department is not required to
9 operate the telephone number **or electronic system** established under ORS
10 166.412 (5) on Thanksgiving Day or Christmas Day.

11 “(4)(a) The department may charge a fee, not to exceed the amount au-
12 thorized under ORS 166.414, for criminal background checks required under
13 this section or ORS 166.435 or 166.436.

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

17 **“SECTION 5.** ORS 166.435 is amended to read:

18 “166.435. (1) As used in this section:

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

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

28 “(B) For the purpose of hunting, trapping or target shooting, during the
29 time in which the transferee is **preparing to engage in, is engaged in or**
30 **is in the process of completing** activities related to hunting, trapping or

1 target shooting;

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

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

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

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

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

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

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

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

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

1 “(c) A gun dealer who agrees to complete a transfer of a firearm under
2 this section shall request a criminal [*history record*] **background** check on
3 the transferee as described in ORS 166.412 and shall comply with all re-
4 quirements of federal law.

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

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

10 “(B) Receives notification that the transferee is prohibited by state or
11 federal law from possessing or receiving the firearm, the gun dealer shall
12 notify the transferor and neither the transferor nor the gun dealer shall
13 transfer the firearm to the transferee. If the transferor shipped or delivered
14 the firearm to the gun dealer pursuant to paragraph (b) of this subsection,
15 the gun dealer shall comply with federal law when returning the firearm to
16 the transferor.

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

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

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

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

28 “(c) The transfer of a firearm to:

29 “(A) A transferor’s spouse or domestic partner;

30 “(B) A transferor’s parent or stepparent;

- 1 “(C) A transferor’s child or stepchild;
2 “(D) A transferor’s sibling;
3 “(E) A transferor’s grandparent;
4 “(F) A transferor’s grandchild;
5 “(G) A transferor’s aunt or uncle;
6 “(H) A transferor’s first cousin;
7 “(I) A transferor’s niece or nephew; or
8 “(J) The spouse or domestic partner of a person specified in subpara-
9 graphs (B) to (I) of this paragraph.

10 “(d) The transfer of a firearm that occurs because of the death of the
11 firearm owner, provided that:

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

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

16 “(e) **The transfer of a firearm to a transferee who is a certified**
17 **participant in the Address Confidentiality Program under ORS 192.820**
18 **to 192.868, if the transferor:**

19 “(A) **Requests a criminal background check from the Department**
20 **of State Police by telephone or electronic transmission as described in**
21 **ORS 166.436; and**

22 “(B) **Receives a unique approval number from the department indi-**
23 **cating that the transferee is qualified to complete the transfer.**

24 “(f) **The transfer of a firearm to a transferee with an Oregon driver**
25 **license bearing a ‘Continuous Traveler’ residence address if the**
26 **transferor:**

27 “(A) **Requests a criminal background check from the Department**
28 **of State Police by telephone or electronic transmission as described in**
29 **ORS 166.436; and**

30 “(B) **Receives a unique approval number from the department indi-**

1 **cating that the transferee is qualified to complete the transfer.**

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

4 “(b) Notwithstanding paragraph (a) of this subsection, a transferor who
5 fails to comply with the requirements of this section commits a Class B fel-
6 ony if the transferor has a previous conviction under this section at the time
7 of the offense.

8 **“SECTION 6.** ORS 166.436 is amended to read:

9 “166.436. (1) The Department of State Police shall make the telephone
10 number **or electronic system** established under ORS 166.412 (5) available
11 for requests for criminal background checks under this section from persons
12 who are not gun dealers and who are transferring firearms:

13 “(a) At gun shows[.];

14 “(b) **To a person who is a certified participant in the Address**
15 **Confidentiality Program under ORS 192.820 to 192.868; or**

16 “(c) **To a person with an Oregon driver license bearing a ‘Contin-**
17 **uous Traveler’ residence address.**

18 “(2) Prior to transferring a firearm [*at a gun show*] **as described in**
19 **subsection (1) of this section**, a transferor who is not a gun dealer may
20 request by telephone **or electronic transmission** that the department con-
21 duct a criminal background check on the recipient and shall provide the
22 following information to the department:

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

24 “(b) The make, model, caliber and manufacturer’s number of the firearm
25 being transferred;

26 “(c) The name, date of birth, race, sex and address of the recipient;

27 “(d) The Social Security number of the recipient if the recipient volun-
28 tarily provides that number;

29 “(e) The address of the place where the transfer is occurring; and

30 “(f) The type, issuer and identification number of a current piece of

1 identification bearing a recent photograph of the recipient presented by the
2 recipient. The identification presented by the recipient must meet the re-
3 quirements of ORS 166.412 (4)(a).

4 “(3)(a) Upon receipt of a request for a criminal background check under
5 this section, the department shall immediately, during the telephone call or
6 by return call **or electronic transmission:**

7 “(A) Determine from criminal records and other information available to
8 it whether the recipient is disqualified under ORS 166.470 from completing
9 the transfer or is otherwise prohibited by state or federal law from possess-
10 ing a firearm; and

11 “(B) Notify the transferor when a recipient is disqualified from complet-
12 ing the transfer or provide the transferor with a unique approval number
13 indicating that the recipient is qualified to complete the transfer. The unique
14 approval number is a permit valid for 24 hours for the requested transfer. If
15 the firearm is not transferred from the transferor to the recipient within 24
16 hours after receipt of the unique approval number, a new request must be
17 made by the transferor.

18 “(b) If the department is unable to determine whether the recipient is
19 qualified for or disqualified from completing the transfer within 30 minutes
20 of receiving the request, the department shall notify the transferor and pro-
21 vide the transferor with an estimate of the time when the department will
22 provide the requested information.

23 “(4) A public employee or public agency incurs no criminal or civil li-
24 ability for performing the criminal background checks required by this sec-
25 tion, provided the employee or agency acts in good faith and without malice.

26 “(5)(a) The department may retain a record of the information obtained
27 during a request for a criminal background check under this section for the
28 period of time provided in ORS 166.412 (7).

29 “(b) The record of the information obtained during a request for a crimi-
30 nal background check under this section is exempt from disclosure under

1 public records law. **If the information concerns a person who is a cer-**
2 **tified participant in the Address Confidentiality Program under ORS**
3 **192.820 to 192.868, or a person protected by a court’s stalking protective**
4 **order issued under ORS 30.866 or 163.738, the information is confiden-**
5 **tial and may not be disclosed except as authorized by paragraph (c)**
6 **of this subsection or as required by federal law.**

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

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

13 “(7)(a) Except as otherwise provided in paragraph (b) of this subsection,
14 a transferor **transferring a firearm at a gun show** who receives notifica-
15 tion under this section that the recipient is qualified to complete the transfer
16 of a firearm, has the recipient fill out the form required by ORS 166.438 (1)(a)
17 and retains the form as required by ORS 166.438 (2) is immune from civil li-
18 ability for any use of the firearm from the time of the transfer unless the
19 transferor knows, or reasonably should know, that the recipient is likely to
20 commit an unlawful act involving the firearm.

21 “(b) The immunity provided by paragraph (a) of this subsection does not
22 apply:

23 “(A) If the transferor knows, or reasonably should know, that the recipi-
24 ent of the firearm intends to deliver the firearm to a third person who the
25 transferor knows, or reasonably should know, may not lawfully possess the
26 firearm; or

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

28

29

“FIREARM POSSESSION

30

1 **“SECTION 7.** ORS 166.173 is amended to read:

2 “166.173. (1) A city or county may adopt ordinances to regulate, restrict
3 or prohibit the possession of loaded firearms in public places as defined in
4 ORS 161.015.

5 “(2) Ordinances adopted under subsection (1) of this section do not apply
6 to or affect:

7 “(a) A law enforcement officer.

8 “(b) A member of the military in the performance of official duty.

9 “(c) A person **who is licensed under ORS 166.291 and 166.292** to carry
10 a concealed handgun.

11 “(d) A person authorized to possess a loaded firearm while in or on a
12 public building or court facility under ORS 166.370.

13 “(e) An employee of the United States Department of Agriculture, acting
14 within the scope of employment, who possesses a loaded firearm in the course
15 of the lawful taking of wildlife.

16 “(f) An honorably retired law enforcement officer **or an honorably re-**
17 **tired parole and probation officer**, unless the person who is a retired law
18 enforcement officer **or retired parole and probation officer** has been con-
19 victed of an offense that would make the person ineligible to obtain a con-
20 cealed handgun license under ORS 166.291 and 166.292.

21 **“(3) As used in this section, ‘honorably retired’:**

22 **“(a) Includes all officers who have qualified for and accepted a ser-**
23 **vice or disability retirement; and**

24 **“(b) Does not include an officer who has agreed to a service retire-**
25 **ment in lieu of termination.**

26 **“SECTION 8.** ORS 166.291 is amended to read:

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

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

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

7 “(b) Is at least 21 years of age **or, if the person is a servicemember,**
8 **at least 18 years of age;**

9 “(c) Is a resident of the county;

10 “(d) Has no outstanding warrants for arrest;

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

12 “(f) Demonstrates competence with a handgun by:

13 **“(A) Any one of the following, so long as the course or class was at-**
14 **tended in person and not through the Internet or other electronic**
15 **means, had an instructor physically present and incorporated a live**
16 **fire practice exercise with a minimum of 25 rounds fired, training in**
17 **the safe loading, unloading, storage and carrying of handguns and**
18 **training in the current laws governing the lawful use of a firearm,**
19 **including self-defense, the use of force, including deadly force, and the**
20 **transportation and concealment of handguns:**

21 “[(A)] (i) Completion of any hunter education or hunter safety course
22 approved by the State Department of Fish and Wildlife or a similar agency
23 of another state if handgun safety was a component of the course;

24 “[(B)] (ii) Completion of any National Rifle Association firearms safety
25 or training course if handgun safety was a component of the course;

26 “[(C)] (iii) Completion of any firearms safety or training course or class
27 available to the general public offered by law enforcement, community col-
28 lege, or private or public institution or organization or firearms training
29 school utilizing instructors certified by the National Rifle Association or a
30 law enforcement agency if handgun safety was a component of the course;

1 “[(D)] (iv) Completion of any law enforcement firearms safety or training
2 course or class offered for security guards, investigators, reserve law
3 enforcement officers or any other law enforcement officers if handgun safety
4 was a component of the course; **or**

5 **“(v) Completion of any firearms training or safety course or class
6 conducted by a firearms instructor certified by a law enforcement
7 agency or the National Rifle Association if handgun safety was a
8 component of the course; or**

9 **“(B) Either of the following:**

10 “[(E)] (i) [*Presents*] **Presenting** evidence of equivalent experience with a
11 handgun through participation in organized shooting competition or military
12 service; **or**

13 “[(F)] (ii) [*Is*] **Being** licensed or [*has*] **having** been licensed **within the
14 previous five years** to carry a firearm in this state, unless the license has
15 been revoked; [*or*]

16 “[(G) *Completion of any firearms training or safety course or class con-
17 ducted by a firearms instructor certified by a law enforcement agency or the
18 National Rifle Association if handgun safety was a component of the course;*]

19 “(g) Has never been convicted of a felony or found guilty, except for in-
20 sanity under ORS 161.295, of a felony;

21 “(h) Has not been convicted of a misdemeanor or found guilty, except for
22 insanity under ORS 161.295, of a misdemeanor within the four years prior to
23 the application, including a misdemeanor conviction for the possession of
24 marijuana as described in paragraph (L) of this subsection;

25 “(i) Has not been committed to the Oregon Health Authority under ORS
26 426.130;

27 “(j) Has not been found to be a person with mental illness and is not
28 subject to an order under ORS 426.130 that the person be prohibited from
29 purchasing or possessing a firearm as a result of that mental illness;

30 “(k) Has been discharged from the jurisdiction of the juvenile court for

1 more than four years if, while a minor, the person was found to be within
2 the jurisdiction of the juvenile court for having committed an act that, if
3 committed by an adult, would constitute a felony or a misdemeanor involving
4 violence, as defined in ORS 166.470;

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

8 “(A) The person can demonstrate that the person has been convicted only
9 once of a marijuana possession offense that constituted a misdemeanor or
10 violation under the law of the jurisdiction of the offense, and has not com-
11 pleted a drug diversion program for a marijuana possession offense that
12 constituted a misdemeanor or violation under the law of the jurisdiction of
13 the offense; or

14 “(B) The person can demonstrate that the person has only once completed
15 a drug diversion program for a marijuana possession offense that constituted
16 a misdemeanor or violation under the law of the jurisdiction of the offense,
17 and has not been convicted of a marijuana possession offense that consti-
18 tuted a misdemeanor or violation under the law of the jurisdiction of the
19 offense;

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

22 “(n) Has not received a dishonorable discharge from the Armed Forces
23 of the United States;

24 “(o) Is not required to register as a sex offender in any state; and

25 “(p) Is not presently subject to an order under ORS 426.133 prohibiting
26 the person from purchasing or possessing a firearm.

27 “(2) A person who has been granted relief under ORS 166.273, 166.274 or
28 166.293 or 18 U.S.C. 925(c) or has had the person’s record expunged under the
29 laws of this state or equivalent laws of other jurisdictions is not subject to
30 the disabilities in subsection (1)(g) to (L) of this section.

1 “(3) Before the sheriff may issue a license:

2 “(a) The application must state the applicant’s legal name, current ad-
3 dress and telephone number, date and place of birth, hair and eye color and
4 height and weight. The application must also list the applicant’s residence
5 address or addresses for the previous three years. The application must con-
6 tain a statement by the applicant that the applicant meets the requirements
7 of subsection (1) of this section. The application may include the Social Se-
8 curity number of the applicant if the applicant voluntarily provides this
9 number. The application must be signed by the applicant.

10 “(b) The applicant must submit to fingerprinting and photographing by
11 the sheriff. The sheriff shall fingerprint and photograph the applicant and
12 shall conduct any investigation necessary to corroborate the requirements
13 listed under subsection (1) of this section. If a nationwide criminal records
14 check is necessary, the sheriff shall request the Department of State Police
15 to conduct the check, including fingerprint identification, through the Fed-
16 eral Bureau of Investigation. The Federal Bureau of Investigation shall re-
17 turn the fingerprint cards used to conduct the criminal records check and
18 may not keep any record of the fingerprints. The Department of State Police
19 shall report the results of the fingerprint-based criminal records check to the
20 sheriff. The Department of State Police shall also furnish the sheriff with
21 any information about the applicant that the Department of State Police may
22 have in its possession including, but not limited to, manual or computerized
23 criminal offender information.

24 “(4) Application forms for concealed handgun licenses shall be supplied
25 by the sheriff upon request. The forms shall be uniform throughout this state
26 in substantially the following form:

27 “ _____
28 APPLICATION FOR LICENSE TO CARRY
29 CONCEALED HANDGUN
30 Date_____

1 I hereby declare as follows:

2 I am a citizen of the United States or a legal resident alien who can
3 document continuous residency in the county for at least six months and
4 have declared in writing to the United States Citizenship and Immigration
5 Services my intention to become a citizen and can present proof of the
6 written declaration to the sheriff at the time of this application. I am at least
7 21 years of age **or I am a servicemember and am at least 18 years of**
8 **age**. I have been discharged from the jurisdiction of the juvenile court for
9 more than four years if, while a minor, I was found to be within the juris-
10 diction of the juvenile court for having committed an act that, if committed
11 by an adult, would constitute a felony or a misdemeanor involving violence,
12 as defined in ORS 166.470. I have never been convicted of a felony or found
13 guilty, except for insanity under ORS 161.295, of a felony in the State of
14 Oregon or elsewhere. I have not, within the last four years, been convicted
15 of a misdemeanor or found guilty, except for insanity under ORS 161.295, of
16 a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been
17 convicted of an offense involving controlled substances or completed a
18 court-supervised drug diversion program. There are no outstanding warrants
19 for my arrest and I am not free on any form of pretrial release. I have not
20 been committed to the Oregon Health Authority under ORS 426.130, nor have
21 I been found to be a person with mental illness and presently subject to an
22 order prohibiting me from purchasing or possessing a firearm because of
23 mental illness. I am not under a court order to participate in assisted out-
24 patient treatment that includes an order prohibiting me from purchasing or
25 possessing a firearm. If any of the previous conditions do apply to me, I have
26 been granted relief or wish to petition for relief from the disability under
27 ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records
28 expunged. I am not subject to a citation issued under ORS 163.735 or an or-
29 der issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never re-
30 ceived a dishonorable discharge from the Armed Forces of the United States.

1 I am not required to register as a sex offender in any state. I understand I
2 will be fingerprinted and photographed.

3

4 Legal name _____

5 Age _____ Date of birth _____

6 Place of birth _____

7 Social Security number _____

8 (Disclosure of your Social Security account number is voluntary. Solicita-
9 tion of the number is authorized under ORS 166.291. It will be used only as
10 a means of identification.)

11

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

15 1. _____

16 2. _____

17

18 Height _____ Weight _____

19 Hair color _____ Eye color _____

20

21 Current address _____

22

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

23

24

25 City _____ County _____ Zip _____

26 Phone _____

27

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

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(Signature of Applicant)

Character references.

Name: Address

Name: Address

Approved ____ Disapproved ____ by ____

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

Date _____ Fee Paid _____

License No. _____

“ _____

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

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

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

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

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

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

“(7) Immediately upon acceptance of an application for a concealed

1 handgun license, the sheriff shall enter the applicant's name into the Law
2 Enforcement Data System indicating that the person is an applicant for a
3 concealed handgun license or is a license holder.

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

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

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

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

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

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

18 “(10) As used in this section[,]:

19 “(a) ‘Drug diversion program’ means a program in which a defendant
20 charged with a marijuana possession offense completes a program under
21 court supervision and in which the marijuana possession offense is dismissed
22 upon successful completion of the diversion program.

23 “(b) ‘**Servicemember**’ has the meaning given that term in ORS
24 **135.881**.

25 “**SECTION 9.** ORS 166.260 is amended to read:

26 “166.260. (1) ORS 166.250 does not apply to or affect:

27 “(a) A parole and probation officer, police officer or reserve officer, as
28 those terms are defined in ORS 181A.355.

29 “(b) A federal officer, as defined in ORS 133.005, or a certified reserve
30 officer or corrections officer, as those terms are defined in ORS 181A.355,

1 while the federal officer, certified reserve officer or corrections officer is
2 acting within the scope of employment.

3 “(c) An honorably retired law enforcement officer **or an honorably re-**
4 **tired parole and probation officer**, unless the person who is a retired law
5 enforcement officer **or retired parole and probation officer** has been con-
6 victed of an offense that would make the person ineligible to obtain a con-
7 cealed handgun license under ORS 166.291 and 166.292.

8 “(d) Any person summoned by an officer described in paragraph (a) or (b)
9 of this subsection to assist in making arrests or preserving the peace, while
10 the summoned person is engaged in assisting the officer.

11 “(e) The possession or transportation by any merchant of unloaded
12 firearms as merchandise.

13 “(f) Active or reserve members of:

14 “(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the
15 United States, or of the National Guard, when on duty;

16 “(B) The commissioned corps of the National Oceanic and Atmospheric
17 Administration; or

18 “(C) The Public Health Service of the United States Department of Health
19 and Human Services, when detailed by proper authority for duty with the
20 Army or Navy of the United States.

21 “(g) Organizations which are by law authorized to purchase or receive
22 weapons described in ORS 166.250 from the United States, or from this state.

23 “(h) Duly authorized military or civil organizations while parading, or the
24 members thereof when going to and from the places of meeting of their or-
25 ganization.

26 “(i) A person who is licensed under ORS 166.291 and 166.292 to carry a
27 concealed handgun.

28 “(2) It is an affirmative defense to a charge of violating ORS 166.250
29 (1)(c)(C) that the person has been granted relief from the disability under
30 ORS 166.274.

1 “(3) Except for persons who are otherwise prohibited from possessing a
2 firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to
3 or affect:

4 “(a) Members of any club or organization, for the purpose of practicing
5 shooting at targets upon the established target ranges, whether public or
6 private, while such members are using any of the firearms referred to in ORS
7 166.250 upon such target ranges, or while going to and from such ranges.

8 “(b) Licensed hunters or fishermen while engaged in hunting or fishing,
9 or while going to or returning from a hunting or fishing expedition.

10 “(4) The exceptions listed in subsection (1)(d) to (i) of this section con-
11 stitute affirmative defenses to a charge of violating ORS 166.250.

12 “(5) **As used in this section, ‘honorably retired’ has the meaning**
13 **given that term in ORS 166.173.**

14 “**SECTION 10.** ORS 166.262 is amended to read:

15 “166.262. (1) A peace officer may not arrest or charge a person for vio-
16 lating ORS 166.250 (1)(a) or (b) or 166.370 (1) if the person has in the person’s
17 immediate possession:

18 “[1] (a) A valid license to carry a firearm as provided in ORS 166.291
19 and 166.292;

20 “[2] (b) Proof that the person is a law enforcement officer; or

21 “[3] (c) Proof that the person is an honorably retired law enforcement
22 officer **or an honorably retired parole and probation officer**, unless the
23 person has been convicted of an offense that would make the person ineligi-
24 ble to obtain a concealed handgun license under ORS 166.291 and 166.292.

25 “(2) **As used in this section, ‘honorably retired’ has the meaning**
26 **given that term in ORS 166.173.**

27 “**SECTION 11.** ORS 166.370 is amended to read:

28 “166.370. (1) Any person who intentionally possesses a loaded or unloaded
29 firearm or any other instrument used as a dangerous weapon, while in or on
30 a public building, shall upon conviction be guilty of a Class C felony.

1 “(2)(a) Except as otherwise provided in paragraph (b) of this subsection,
2 a person who intentionally possesses:

3 “(A) A firearm in a court facility is guilty, upon conviction, of a Class
4 C felony. A person who intentionally possesses a firearm in a court facility
5 shall surrender the firearm to a law enforcement officer.

6 “(B) A weapon, other than a firearm, in a court facility may be required
7 to surrender the weapon to a law enforcement officer or to immediately re-
8 move it from the court facility. A person who fails to comply with this sub-
9 paragraph is guilty, upon conviction, of a Class C felony.

10 “(C) A firearm in a local court facility is guilty, upon conviction, of a
11 Class C felony if, prior to the offense, the presiding judge of the local court
12 facility entered an order prohibiting firearms in the area in which the court
13 conducts business and during the hours in which the court operates.

14 “(b) The presiding judge of a judicial district or a municipal court may
15 enter an order permitting the possession of specified weapons in a court fa-
16 cility.

17 “(c) Within a shared court facility, the presiding judge of a municipal
18 court or justice of the peace district may not enter an order concerning the
19 possession of weapons in the court facility that is in conflict with an order
20 entered by the presiding judge of the circuit court.

21 “(3) Subsection (1) of this section does not apply to:

22 “(a) A police officer or reserve officer, as those terms are defined in ORS
23 181A.355.

24 “(b) A parole and probation officer, as defined in ORS 181A.355, while the
25 parole and probation officer is acting within the scope of employment.

26 “(c) A federal officer, as defined in ORS 133.005, or a certified reserve
27 officer or corrections officer, as those terms are defined in ORS 181A.355,
28 while the federal officer, certified reserve officer or corrections officer is
29 acting within the scope of employment.

30 “(d) A person summoned by an officer described in paragraph (a), (b) or

1 (c) of this subsection to assist in making an arrest or preserving the peace,
2 while the summoned person is engaged in assisting the officer.

3 “(e) An honorably retired law enforcement officer **or an honorably re-**
4 **tired parole and probation officer.**

5 “(f) An active or reserve member of the military forces of this state or the
6 United States, when engaged in the performance of duty.

7 “(g) A person who is licensed under ORS 166.291 and 166.292 to carry a
8 concealed handgun.

9 “(h) A person who is authorized by the officer or agency that controls the
10 public building to possess a firearm or dangerous weapon in that public
11 building.

12 “(i) An employee of the United States Department of Agriculture, acting
13 within the scope of employment, who possesses a firearm in the course of the
14 lawful taking of wildlife.

15 “(j) Possession of a firearm on school property if the firearm:

16 “(A) Is possessed by a person who is not otherwise prohibited from pos-
17 sessed the firearm; and

18 “(B) Is unloaded and locked in a motor vehicle.

19 “(4)(a) The exceptions listed in subsection (3)(d) to (j) of this section
20 constitute affirmative defenses to a charge of violating subsection (1) of this
21 section.

22 “(b) A person may not use the affirmative defense described in subsection
23 (3)(e) of this section if the person has been convicted of an offense that
24 would make the person ineligible to obtain a concealed handgun license un-
25 der ORS 166.291 and 166.292.

26 “(5)(a) Any person who knowingly, or with reckless disregard for the
27 safety of another, discharges or attempts to discharge a firearm at a place
28 that the person knows is a school shall upon conviction be guilty of a Class
29 C felony.

30 “(b) Paragraph (a) of this subsection does not apply to the discharge of

1 a firearm:

2 “(A) As part of a program approved by a school in the school by an in-
3 dividual who is participating in the program;

4 “(B) By a law enforcement officer acting in the officer’s official capacity;
5 or

6 “(C) By an employee of the United States Department of Agriculture,
7 acting within the scope of employment, in the course of the lawful taking
8 of wildlife.

9 “(6) Any weapon carried in violation of this section is subject to the
10 forfeiture provisions of ORS 166.279.

11 “(7) Notwithstanding the fact that a person’s conduct in a single criminal
12 episode constitutes a violation of both subsections (1) and (5) of this section,
13 the district attorney may charge the person with only one of the offenses.

14 “(8) As used in this section[,]:

15 “(a) ‘Dangerous weapon’ means a dangerous weapon as that term is de-
16 fined in ORS 161.015.

17 “(b) ‘**Honorably retired**’ has the meaning given that term in ORS
18 **166.173**.

19 “**SECTION 12.** ORS 166.663 is amended to read:

20 “166.663. (1) A person may not cast from a motor vehicle an artificial light
21 while there is in the possession or in the immediate physical presence of the
22 person a bow and arrow or a firearm.

23 “(2) Subsection (1) of this section does not apply to a person casting an
24 artificial light:

25 “(a) From the headlights of a motor vehicle that is being operated on a
26 road in the usual manner.

27 “(b) When the bow and arrow or firearm that the person has in the pos-
28 session or immediate physical presence of the person is disassembled or
29 stored, or in the trunk or storage compartment of the motor vehicle.

30 “(c) When the ammunition or arrows are stored separate from the weapon.

1 “(d) On land owned or lawfully occupied by that person.

2 “(e) On publicly owned land when that person has an agreement with the
3 public body to use that property.

4 “(f) When the person is a peace officer, or is a government employee en-
5 gaged in the performance of official duties.

6 “(g) When the person has been issued a license under ORS 166.291 and
7 166.292 to carry a concealed handgun.

8 “(h) When the person is an honorably retired law enforcement officer **or**
9 **an honorably retired parole and probation officer**, unless the person has
10 been convicted of an offense that would make the person ineligible to obtain
11 a concealed handgun license under ORS 166.291 and 166.292.

12 “(3) A peace officer may issue a citation to a person for a violation of
13 subsection (1) of this section when the violation is committed in the presence
14 of the peace officer or when the peace officer has probable cause to believe
15 that a violation has occurred based on a description of the vehicle or other
16 information received from a peace officer who observed the violation.

17 “(4) Violation of subsection (1) of this section is punishable as a Class B
18 violation.

19 “(5) As used in this section[,]:

20 “(a) **‘Honorably retired’ has the meaning given that term in ORS**
21 **166.173.**

22 “(b) ‘Peace officer’ has the meaning given that term in ORS 161.015.

23 **“SECTION 13.** ORS 821.240 is amended to read:

24 “821.240. (1) A person commits the offense of operating a snowmobile or
25 an all-terrain vehicle while carrying a firearm or bow if the person operates
26 any snowmobile or all-terrain vehicle with a firearm in the possession of the
27 person, unless the firearm is unloaded, or with a bow, unless all arrows are
28 in a quiver.

29 “(2) Subsection (1) of this section does not apply to:

30 “(a) A person who is licensed under ORS 166.291 and 166.292 to carry a

1 concealed handgun;

2 “(b) A law enforcement officer; or

3 “(c) An honorably retired law enforcement officer **or an honorably re-**
4 **tired parole and probation officer**, unless the person who is a retired law
5 enforcement officer **or retired parole and probation officer** has been con-
6 victed of an offense that would make the person ineligible to obtain a con-
7 cealed handgun license under ORS 166.291 and 166.292.

8 “(3) As used in this section[,]:

9 “(a) **‘Honorably retired’ has the meaning given that term in ORS**
10 **166.173.**

11 “(b) ‘Unloaded’ means:

12 “[a] (A) If the firearm is a revolver, that there is no live cartridge in
13 the chamber that is aligned with the hammer of the revolver;

14 “[b] (B) If the firearm is a muzzle-loading firearm, that the firearm is
15 not capped or primed; or

16 “[c] (C) If the firearm is other than a revolver or a muzzle-loading
17 firearm, that there is no live cartridge in the chamber.

18 “(4) The offense described in this section, operating a snowmobile or an
19 all-terrain vehicle while carrying a firearm or bow, is a Class B traffic vio-
20 lation.

21

22 **“CAPTIONS**

23

24 **“SECTION 14. The unit captions used in this 2017 Act are provided**
25 **only for the convenience of the reader and do not become part of the**
26 **statutory law of this state or express any legislative intent in the**
27 **enactment of this 2017 Act.**

28

29 **“APPLICABILITY**

30

1 **“SECTION 15. (1) The amendments to ORS 166.173, 166.175, 166.260,**
2 **166.262, 166.370, 166.412, 166.434, 166.435, 166.436, 166.663 and 821.240 by**
3 **sections 2 to 7 and 9 to 13 of this 2017 Act apply to conduct occurring**
4 **on or after the effective date of this 2017 Act.**

5 **“(2) The amendments to ORS 166.291 by section 8 of this 2017 Act**
6 **apply to applications for a concealed handgun license or renewal of a**
7 **concealed handgun license submitted on or after the effective date of**
8 **this 2017 Act.**

9

10

“EFFECTIVE DATE

11

12 **“SECTION 16. This 2017 Act takes effect on the 91st day after the**
13 **date on which the 2017 regular session of the Seventy-ninth Legislative**
14 **Assembly adjourns sine die.”.**

15
