

Requested by Representative WILLIAMSON

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1543**

1 On page 1 of the printed A-engrossed bill, line 3, after “162.375,” insert
2 “166.412, 166.436.”

3 On page 18, after line 29, insert:

4 **“SECTION 13.** If House Bill 4145 becomes law, ORS 166.412, as amended
5 by section 4, chapter _____, Oregon Laws 2018 (Enrolled House Bill 4145),
6 is amended to read:

7 “166.412. (1) As used in this section:

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

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

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

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

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

16 “(f) ‘Gun dealer’ means a person engaged in the business, as defined in
17 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether
18 the person is a retail dealer, pawnbroker or otherwise; and

19 “(g) ‘Purchaser’ means a person who buys, leases or otherwise receives a
20 firearm from a gun dealer.

21 “(2) Except as provided in subsections (3)(c) and (12) of this section, a gun

1 dealer shall comply with the following before a firearm is delivered to a
2 purchaser:

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

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

7 “(c) The gun dealer shall obtain the thumbprints of the purchaser on the
8 firearms transaction thumbprint form and attach the form to the gun dealer’s
9 copy of the firearms transaction record to be filed with that copy.

10 “(d) The gun dealer shall request by telephone that the department con-
11 duct a criminal history record check on the purchaser and shall provide the
12 following information to the department:

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

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

15 “(C) The place of transfer;

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

17 “(E) The make, model, caliber and manufacturer’s number of the firearm
18 being transferred;

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

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

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

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

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

29 “(3)(a) Upon receipt of a request of the gun dealer for a criminal history
30 record check, the department shall immediately, during the gun dealer’s

1 telephone call or by return call:

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

5 “(B) Notify the gun dealer when a purchaser is disqualified from com-
6 pleting the transfer or provide the gun dealer with a unique approval number
7 indicating that the purchaser is qualified to complete the transfer.

8 “(b) If the department is unable to determine if the purchaser is qualified
9 or disqualified from completing the transfer within 30 minutes, the depart-
10 ment shall notify the gun dealer and provide the gun dealer with an estimate
11 of the time when the department will provide the requested information.

12 “(c) If the department fails to provide a unique approval number to a gun
13 dealer or to notify the gun dealer that the purchaser is disqualified under
14 paragraph (a) of this subsection before the close of the gun dealer’s next
15 business day following the request by the gun dealer for a criminal history
16 record check, the gun dealer may deliver the firearm to the purchaser.

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

20 “(A) Is issued under the authority of the United States Government, a
21 state, a political subdivision of a state, a foreign government, a political
22 subdivision of a foreign government, an international governmental organ-
23 ization or an international quasi-governmental organization; and

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

26 “(b) If the identification presented by the purchaser under paragraph (a)
27 of this subsection does not include the current address of the purchaser, the
28 purchaser shall present a second piece of current identification that contains
29 the current address of the purchaser. The Superintendent of State Police may
30 specify by rule the type of identification that may be presented under this

1 paragraph.

2 “(c) The department may require that the gun dealer verify the identifi-
3 cation of the purchaser if that identity is in question by sending the
4 thumbprints of the purchaser to the department.

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

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

12 “(7)(a) The department may retain a record of the information obtained
13 during a request for a criminal history record check for no more than five
14 years.

15 “(b) The record of the information obtained during a request for a crimi-
16 nal history record check by a gun dealer is exempt from disclosure under
17 public records law.

18 “(c) If the department determines that a purchaser is prohibited from
19 possessing a firearm under ORS 166.250 (1)(c), the department shall report
20 the attempted transfer, the purchaser’s name and any other personally iden-
21 tifiable information to all federal, state and local law enforcement agencies
22 and district attorneys that have jurisdiction over the location or locations
23 where the attempted transfer was made and where the purchaser resides.

24 “(d) If the department determines that, based on the judgment of con-
25 viction, the purchaser is prohibited from possessing a firearm as a condition
26 of probation or that the purchaser is currently on post-prison supervision or
27 parole, the department shall report the attempted transfer to the purchaser’s
28 supervising officer and the district attorney of the county in which the con-
29 viction occurred.

30 “(e) If the department determines that the purchaser is prohibited from

1 possessing a firearm due to a court order described in ORS 166.255 (1)(a), the
2 department shall report the attempted transfer to the court that issued the
3 order.

4 “(f) If the department determines that the purchaser is under the juris-
5 diction of the Psychiatric Security Review Board, the department shall re-
6 port the attempted transfer to the board.

7 “(g) Reports required by paragraphs (c) to (f) of this subsection shall be
8 made within 24 hours after the determination is made, unless a report would
9 compromise an ongoing investigation, in which case the report may be de-
10 layed as long as necessary to avoid compromising the investigation.

11 “(h) On or before January 31 of each year, a law enforcement agency or
12 a prosecuting attorney’s office that received a report pursuant to paragraph
13 (c) of this subsection during the previous calendar year shall inform the de-
14 partment of [*the*] **any** action that was taken concerning [*each attempted*
15 *transfer*] **the report** and the outcome of the action.

16 “(i) The department shall annually publish a written report, based on any
17 information received under paragraph (h) of this subsection, detailing the
18 following information for the previous year:

19 “(A) The number of purchasers whom the department determined were
20 prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by
21 category of prohibition;

22 “(B) The number of reports made pursuant to paragraph (c) of this sub-
23 section;

24 “(C) The number of investigations arising from the reports made pursuant
25 to paragraph (c) of this subsection, the number of investigations concluded
26 and the number of investigations referred for prosecution, all arranged by
27 category of prohibition; and

28 “(D) The number of criminal charges arising from the reports made pur-
29 suant to paragraph (c) of this subsection and the disposition of the charges,
30 both arranged by category of prohibition.

1 “(8) A law enforcement agency may inspect the records of a gun dealer
2 relating to transfers of firearms with the consent of a gun dealer in the
3 course of a reasonable inquiry during a criminal investigation or under the
4 authority of a properly authorized subpoena or search warrant.

5 “(9) When a firearm is delivered, it shall be unloaded.

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

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

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

11 “(c) The provision of a security system to identify gun dealers that re-
12 quest a criminal history record check under subsection (2) of this section;
13 and

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

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

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 14.** If House Bill 4145 becomes law, ORS 166.436, as amended
28 by section 5, chapter _____, Oregon Laws 2018 (Enrolled House Bill 4145),
29 is amended to read:

30 “166.436. (1) The Department of State Police shall make the telephone

1 number established under ORS 166.412 (5) available for requests for criminal
2 background checks under this section from persons who are not gun dealers
3 and who are transferring firearms at gun shows.

4 “(2) Prior to transferring a firearm at a gun show, a transferor who is
5 not a gun dealer may request by telephone that the department conduct a
6 criminal background check on the recipient and shall provide the following
7 information to the department:

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

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

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

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

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

15 “(f) The type, issuer and identification number of a current piece of
16 identification bearing a recent photograph of the recipient presented by the
17 recipient. The identification presented by the recipient must meet the re-
18 quirements of ORS 166.412 (4)(a).

19 “(3)(a) Upon receipt of a request for a criminal background check under
20 this section, the department shall immediately, during the telephone call or
21 by return call:

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

26 “(B) Notify the transferor when a recipient is disqualified from complet-
27 ing the transfer or provide the transferor with a unique approval number
28 indicating that the recipient is qualified to complete the transfer. The unique
29 approval number is a permit valid for 24 hours for the requested transfer. If
30 the firearm is not transferred from the transferor to the recipient within 24

1 hours after receipt of the unique approval number, a new request must be
2 made by the transferor.

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

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

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

14 “(b) The record of the information obtained during a request for a crimi-
15 nal background check under this section is exempt from disclosure under
16 public records law.

17 “(c) If the department determines that a recipient is prohibited from pos-
18 sessing a firearm under ORS 166.250 (1)(c), the department shall report the
19 attempted transfer, the recipient’s name and any other personally identifiable
20 information to all federal, state and local law enforcement agencies and
21 district attorneys that have jurisdiction over the location or locations where
22 the attempted transfer was made and where the recipient resides.

23 “(d) If the department determines that, based on the judgment of con-
24 viction, the recipient is prohibited from possessing a firearm as a condition
25 of probation or that the recipient is currently on post-prison supervision or
26 parole, the department shall report the attempted transfer to the recipient’s
27 supervising officer and the district attorney of the county in which the con-
28 viction occurred.

29 “(e) If the department determines that the recipient is prohibited from
30 possessing a firearm due to a court order described in ORS 166.255 (1)(a), the

1 department shall report the attempted transfer to the court that issued the
2 order.

3 “(f) If the department determines that the recipient is under the jurisdic-
4 tion of the Psychiatric Security Review Board, the department shall report
5 the attempted transfer to the board.

6 “(g) Reports required by paragraphs (c) to (f) of this subsection shall be
7 made within 24 hours after the determination is made, unless a report would
8 compromise an ongoing investigation, in which case the report may be de-
9 layed as long as necessary to avoid compromising the investigation.

10 “(h) On or before January 31 of each year, a law enforcement agency or
11 a prosecuting attorney’s office that received a report pursuant to paragraph
12 (c) of this subsection during the previous calendar year shall inform the de-
13 partment of [*the*] **any** action that was taken concerning [*each attempted*
14 *transfer*] **the report** and the outcome of the action.

15 “(i) The department shall annually publish a written report, based on any
16 information received under paragraph (h) of this subsection, detailing the
17 following information for the previous year:

18 “(A) The number of recipients whom the department determined were
19 prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by
20 category of prohibition;

21 “(B) The number of reports made pursuant to paragraph (c) of this sub-
22 section;

23 “(C) The number of investigations arising from the reports made pursuant
24 to paragraph (c) of this subsection, the number of investigations concluded
25 and the number of investigations referred for prosecution, all arranged by
26 category of prohibition; and

27 “(D) The number of criminal charges arising from the reports made pur-
28 suant to paragraph (c) of this subsection and the disposition of the charges,
29 both arranged by category of prohibition.

30 “(6) The recipient of the firearm must be present when the transferor re-

1 quests a criminal background check under this section.

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

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

12 “(A) If the transferor knows, or reasonably should know, that the recipi-
13 ent of the firearm intends to deliver the firearm to a third person who the
14 transferor knows, or reasonably should know, may not lawfully possess the
15 firearm; or

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

17 **“SECTION 15. The amendments to ORS 166.412 and 166.436 by**
18 **sections 13 and 14 of this 2018 Act become operative on January 1,**
19 **2019.”.**

20 In line 30, delete “13” and insert “16”.

21 In line 32, delete “14” and insert “17”.

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