

Minority Report
A-Engrossed
Senate Bill 348

Ordered by the Senate April 14
Including Senate Minority Report Amendments dated April 14

Sponsored by nonconcurring members of the Senate Committee on Judiciary: Senators LINTHICUM, THATCHER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Directs Department of Justice to study ways to address unlawful possession of firearms, and to provide results of study to interim committees of Legislative Assembly no later than December 31, 2024.]

Directs Oregon Criminal Justice Commission to classify crime of felon in possession of a firearm as crime category 8.

Exempts transferee who is certified participant in Address Confidentiality Program from private firearm transfer criminal background check requirement.

[Sunsets January 2, 2025.]

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.270 and 166.435.

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

4 **SECTION 1.** ORS 166.270 is amended to read:

5 166.270. (1) Any person who has been convicted of a felony under the law of this state or any
6 other state, or who has been convicted of a felony under the laws of the Government of the United
7 States, who owns or has in the person's possession or under the person's custody or control any
8 firearm commits the crime of felon in possession of a firearm.

9 (2) Any person who has been convicted of a felony under the law of this state or any other state,
10 or who has been convicted of a felony under the laws of the Government of the United States, who
11 owns or has in the person's possession or under the person's custody or control any instrument or
12 weapon having a blade that projects or swings into position by force of a spring or by centrifugal
13 force or any blackjack, slungshot, sandclub, sandbag, sap glove, metal knuckles or an Electro-
14 Muscular Disruption Technology device as defined in ORS 165.540, or who carries a dirk, dagger
15 or stiletto, commits the crime of felon in possession of a restricted weapon.

16 (3) For the purposes of this section, a person "has been convicted of a felony" if, at the time
17 of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it
18 was committed. Such conviction shall not be deemed a conviction of a felony if:

19 (a) The court declared the conviction to be a misdemeanor at the time of judgment; or

20 (b) The offense was possession of marijuana and the conviction was prior to January 1, 1972.

21 (4) Subsection (1) of this section does not apply to any person who has been:

22 (a) Convicted of only one felony under the law of this state or any other state, or who has been
23 convicted of only one felony under the laws of the United States, which felony did not involve

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon
2 having a blade that projects or swings into position by force of a spring or by centrifugal force, and
3 who has been discharged from imprisonment, parole or probation for said offense for a period of 15
4 years prior to the date of alleged violation of subsection (1) of this section; or

5 (b) Granted relief from the disability under 18 U.S.C. 925(c) or ORS 166.274 or has had the
6 person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

7 (5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted
8 weapon is a Class A misdemeanor.

9 **(6) The Oregon Criminal Justice Commission shall classify the crime of felon in pos-**
10 **session of a firearm as crime category 8 of the sentencing guidelines grid of the commission.**

11 **SECTION 2.** ORS 166.435, as amended by section 7, chapter 1, Oregon Laws 2023, is amended
12 to read:

13 166.435. (1) As used in this section:

14 (a) "Transfer" means the delivery of a firearm from a transferor to a transferee, including, but
15 not limited to, the sale, gift, loan or lease of the firearm. "Transfer" does not include the temporary
16 provision of a firearm to a transferee if the transferor has no reason to believe the transferee is
17 prohibited from possessing a firearm or intends to use the firearm in the commission of a crime, and
18 the provision occurs:

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

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

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

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

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

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

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

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

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

39 (3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except
40 as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the
41 transferee must appear in person before a gun dealer, with the firearm and a valid permit-to-
42 purchase issued to the transferee under section 4, chapter 1, Oregon Laws 2023, and request that
43 the gun dealer perform a criminal background check on the transferee.

44 (b) If the transferor and the transferee reside over 40 miles from each other, the transferor may
45 ship or deliver the firearm to a gun dealer located near the transferee or a gun dealer designated

1 by the transferee, and the transferor need not appear before the gun dealer in person.

2 (c) A gun dealer who agrees to complete a transfer of a firearm under this section shall request
3 a criminal history record check on the transferee as described in ORS 166.412 and shall comply with
4 all requirements 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 Police indicating that the
7 transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the
8 firearm into the gun dealer's inventory and transfer the firearm to the transferee.

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

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

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

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

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

23 (c) The transfer of a firearm to:

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

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

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

27 (D) A transferor's sibling;

28 (E) A transferor's grandparent;

29 (F) A transferor's grandchild;

30 (G) A transferor's aunt or uncle;

31 (H) A transferor's first cousin;

32 (I) A transferor's niece or nephew; or

33 (J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this par-
34 agraph.

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

37 (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS
38 111.005, or a trustee of a trust created in a will; and

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

41 **(e) The transfer of a firearm to a transferee who is a certified participant in the Address**
42 **Confidentiality Program under ORS 192.820 to 192.868.**

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

45 (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the

1 requirements of this section commits a Class B felony if the transferor has a previous conviction
2 under this section at the time of the offense.

3 **SECTION 3. The amendments to ORS 166.435 by section 2 of this 2023 Act apply to**
4 **firearm transfers occurring on or after the effective date of this 2023 Act.**

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