

Requested by Senator PROZANSKI

**PROPOSED AMENDMENTS TO
SENATE BILL 393**

1 In line 2 of the printed bill, after “safety” insert “; amending ORS 166.412;
2 and prescribing an effective date”.

3 Delete lines 4 through 9 and insert:

4 **“SECTION 1.** ORS 166.412, as amended by section 6, chapter 1, Oregon
5 Laws 2023, is amended to read:

6 “166.412. (1) As used in this section:

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

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

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

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

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

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

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

20 “(2) Except as provided in subsection (12) of this section, a gun dealer
21 shall comply with the following before a firearm is delivered to a purchaser:

1 “(a) The purchaser shall present to the gun dealer current identification
2 meeting the requirements of subsection (4) of this section and a valid permit
3 issued under section 4, chapter 1, Oregon Laws 2023.

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

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

9 “(d) The gun dealer shall, by telephone or computer, verify that the pur-
10 chaser has a valid [*permit-to-purchase*] **permit to purchase** a firearm issued
11 under section 4, chapter 1, Oregon Laws 2023, and request that the depart-
12 ment conduct a criminal history record check on the purchaser and shall
13 provide the following information to the department:

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

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

16 “(C) The place of transfer;

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

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

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

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

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

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

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

30 “(3)(a) Upon receipt of a request of the gun dealer for a criminal history

1 record check, the department shall immediately, during the gun dealer's
2 telephone call or by return call:

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

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

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

14 “(c) The dealer may not transfer the firearm unless:

15 “(A) The dealer receives a unique approval number from the
16 department; and[,]

17 “(B) **Seventy-two hours has elapsed since receipt of the unique ap-
18 proval number.**

19 “(d) Within 48 hours of completing the transfer, the dealer shall notify
20 the [*state*] **department** that the transfer to the permit holder was completed.

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

24 “(A) Is issued under the authority of the United States Government, a
25 state, a political subdivision of a state, a foreign government, a political
26 subdivision of a foreign government, an international governmental organ-
27 ization or an international quasi-governmental organization; and

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

30 “(b) If the identification presented by the purchaser under paragraph (a)

1 of this subsection does not include the current address of the purchaser, the
2 purchaser shall present a second piece of current identification that contains
3 the current address of the purchaser. The Superintendent of State Police may
4 specify by rule the type of identification that may be presented under this
5 paragraph.

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

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

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

16 “(7)(a) The department may retain a record of the information obtained
17 during a request for a criminal history record check for no more than five
18 years, except for the information provided to the dealer under subsection
19 (2)(d) of this section, sufficient to reflect each firearm purchased by a permit
20 holder, which must be attached to the electronic record of the permit stored
21 by the department. The department may develop a system for removal of the
22 information in subsection (2)(d)(E) of this section, upon proof of sale or
23 transfer of the firearm to another permit holder and for recording of the in-
24 formation to reflect the transfer of ownership to the permit of the new
25 owner.

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

29 “(c) If the department determines that a purchaser is prohibited from
30 possessing a firearm under ORS 166.250 (1)(c), the department shall report

1 the attempted transfer, the purchaser's name and any other personally iden-
2 tifiable information to all federal, state and local law enforcement agencies
3 and district attorneys that have jurisdiction over the location or locations
4 where the attempted transfer was made and where the purchaser resides.

5 “(d) If the department determines that, based on the judgment of con-
6 viction, the purchaser is prohibited from possessing a firearm as a condition
7 of probation or that the purchaser is currently on post-prison supervision or
8 parole, the department shall report the attempted transfer to the purchaser's
9 supervising officer and the district attorney of the county in which the con-
10 viction occurred.

11 “(e) If the department determines that the purchaser is prohibited from
12 possessing a firearm due to a court order described in ORS 166.255 (1)(a), the
13 department shall report the attempted transfer to the court that issued the
14 order.

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

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

22 “(h) On or before January 31 of each year, a law enforcement agency or
23 a prosecuting attorney's office that received a report pursuant to paragraph
24 (c) of this subsection during the previous calendar year shall inform the de-
25 partment of any action that was taken concerning the report and the out-
26 come of the action.

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

30 “(A) The number of purchasers whom the department determined were

1 prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by
2 category of prohibition;

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

5 “(C) The number of investigations arising from the reports made pursuant
6 to paragraph (c) of this subsection, the number of investigations concluded
7 and the number of investigations referred for prosecution, all arranged by
8 category of prohibition; and

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

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

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

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

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

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

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

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

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

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

7 “(A) Requests the criminal background check as described in this section
8 [*and also provided that the dealer*];

9 “(B) **Receives a unique approval number from the department indi-**
10 **cating successful completion of the criminal background check;**

11 “(C) **Allows 72 hours to elapse between receipt of the unique ap-**
12 **proval number and transfer of the firearm; and**

13 “(D) Verifies that the recipient has a valid [*permit-to-purchase*] **permit**
14 **to purchase** the firearm [*and the dealer has received a unique approval*
15 *number from the department indicating successful completion of the back-*
16 *ground check*].

17 “(14) Knowingly selling or delivering a firearm to a purchaser or
18 transferee who does not have a valid [*permit-to-purchase*] **permit to pur-**
19 **chase** a firearm in violation of subsection (2)(d) of this section, or prior to
20 receiving a unique approval number from the department based on the
21 criminal background check in violation of subsection (3)(c) of this section is
22 a Class A misdemeanor.

23 “**SECTION 2. This 2023 Act takes effect on the 91st day after the**
24 **date on which the 2023 regular session of the Eighty-second Legislative**
25 **Assembly adjourns sine die.”.**

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