

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3093**

1 On page 1 of the printed A-engrossed bill, line 3, before “166.663” insert
2 “166.436,” and after “2014” insert “, and section 2, chapter 50, Oregon Laws
3 2015 (Enrolled Senate Bill 941)”.

4 On page 5, after line 43, insert:

5 **“SECTION 10.** If Senate Bill 941 becomes law, section 2, chapter 50,
6 Oregon Laws 2015 (Enrolled Senate Bill 941), is amended to read:

7 **“Sec. 2.** (1) As used in this section:

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

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

17 “(B) For the purpose of hunting, trapping or target shooting, during the
18 time in which the transferee is **preparing to engage in, is engaged in or**
19 **is in the process of completing** activities related to hunting, trapping or
20 target shooting;

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

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

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

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

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

12 “(c) ‘Transferor’ 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 deliver
14 a firearm to a transferee.

15 “(2) Except as provided in ORS 166.436 and 166.438 and [*subsection (4)*]
16 **subsections (4) and (5)** of this section, a transferor may not transfer a
17 firearm to a transferee unless the transfer is completed through a gun dealer
18 as described in subsection (3) of this section.

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

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

28 “(c) A gun dealer who agrees to complete a transfer of a firearm under
29 this section shall request a criminal history record check on the transferee
30 as described in ORS 166.412 and shall comply with all requirements of federal

1 law.

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

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

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

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

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

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

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

25 “(c) The transfer of a firearm to:

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

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

28 “(C) A transferor’s child or stepchild;

29 “(D) A transferor’s sibling;

30 “(E) A transferor’s grandparent;

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

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

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

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

13 **“(5)(a) A transferor temporarily transferring a firearm without**
14 **consideration for a period of no more than seven calendar days to a**
15 **transferee who is personally known to the transferor may request a**
16 **criminal background check under ORS 166.436 instead of completing**
17 **the transfer through a gun dealer as described in subsections (2) and**
18 **(3) of this section.**

19 **“(b) A transferor who requests a criminal background check under**
20 **paragraph (a) of this subsection instead of completing the transfer**
21 **through a gun dealer:**

22 **“(A) Shall have the transferee complete the form described in ORS**
23 **166.441, shall retain the completed form and shall make the completed**
24 **form available to law enforcement agencies for the purpose of a**
25 **criminal investigation.**

26 **“(B) May not transfer the firearm to the transferee unless the**
27 **transferor receives a unique approval number from the Department**
28 **of State Police indicating that the transferee is qualified to complete**
29 **the transfer.**

30 **“(C) Commits a Class A misdemeanor if the transferred firearm, as**

1 **a result of the temporary transfer:**

2 **“(i) Is used in the commission of a crime; or**

3 **“(ii) Is possessed by a person prohibited from possessing a firearm**
4 **under state or federal law.**

5 “[5)(a)] **(6)(a)** A transferor who fails to comply with the requirements of
6 this section commits a Class A misdemeanor.

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

11 **“SECTION 11.** If Senate Bill 941 becomes law, ORS 166.436, as amended
12 by section 3, chapter 50, Oregon Laws 2015 (Enrolled Senate Bill 941), is
13 amended to read:

14 “166.436. (1) The Department of State Police shall make the telephone
15 number established under ORS 166.412 (5) available for requests for criminal
16 background checks under this section from persons who are not gun dealers
17 and who are transferring firearms at gun shows **and from transferors**
18 **temporarily transferring firearms under section 2 (5), chapter 50,**
19 **Oregon Laws 2015 (Enrolled Senate Bill 941).**

20 **“(2)** Prior to transferring a firearm at a gun show **or in accordance with**
21 **section 2 (5), chapter 50, Oregon Laws 2015 (Enrolled Senate Bill 941),**
22 a transferor who is not a gun dealer may request by telephone that the de-
23 partment conduct a criminal background check on the recipient and shall
24 provide the following information to the department:

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

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

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

29 **“(d)** The Social Security number of the recipient if the recipient volun-
30 tarily provides that number;

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

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

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

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

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

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

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

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

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

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

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

10 “(7)(a) Except as otherwise provided in paragraph (b) of this subsection
11 **and section 2 (5), chapter 50, Oregon Laws 2015 (Enrolled Senate Bill**
12 **941)**, a transferor who receives notification under this section that the re-
13 cipient is qualified to complete the transfer of a firearm, has the recipient
14 fill out the form required by ORS 166.438 (1)(a) and retains the form as re-
15 quired by ORS 166.438 (2) is immune from civil liability for any use of the
16 firearm from the time of the transfer unless the transferor knows, or rea-
17 sonably should know, that the recipient is likely to commit an unlawful act
18 involving the firearm.

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

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

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

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