

# House Bill 2968

Sponsored by Representatives SMITH DB, HIEB (Presession filed.)

## 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 **as introduced**.

Repeals prohibition on carrying concealed firearm on person or possessing concealed, readily accessible handgun within vehicle.

Authorizes entity that controls public building to adopt policy prohibiting possession of firearms within building by persons other than those exempted from prohibition under current law. Maintains exemptions from prohibitions and defenses to offenses for concealed handgun licensees under current law.

## A BILL FOR AN ACT

Relating to firearms; creating new provisions; and amending ORS 166.250, 166.260, 166.262, 166.273, 166.274, 166.370, 166.380, 166.412, 166.436 and 166.460.

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

## POSSESSION OF FIREARMS

**SECTION 1.** ORS 166.250 is amended to read:

166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.273, 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly[:]

*[(a) Carries any firearm concealed upon the person;]*

*[(b) Possesses a handgun that is concealed and readily accessible to the person within any vehicle;*  
or]

*[(c) possesses a firearm and:*

*[(A) (a) Is under 18 years of age;*

*[(B)(i) (b)(A) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and*

*[(ii) (B) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;*

*[(C) (c) Has been convicted of a felony;*

*[(D) (d) Was committed to the Oregon Health Authority under ORS 426.130;*

*[(E) (e) Was found to be a person with mental illness and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;*

*[(F) (f) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm;*

*[(G) (g) Has been found guilty except for insanity under ORS 161.295 of a felony; or*

**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 [(H)] (h) The possession of the firearm by the person is prohibited under ORS 166.255.

2 (2) This section does not prohibit:

3 (a) A minor, who is not otherwise prohibited under subsection [(1)(c)] (1) of this section, from  
4 possessing a firearm:

5 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or  
6 guardian or by another person with the consent of the minor's parent or guardian; or

7 (B) Temporarily for hunting, target practice or any other lawful purpose; or

8 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily  
9 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270  
10 and subsection (1) of this section, from owning, possessing or keeping within the person's place of  
11 residence or place of business any handgun, and no permit or license to purchase, own, possess or  
12 keep any such firearm at the person's place of residence or place of business is required of any such  
13 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle  
14 while used, for whatever period of time, as residential quarters.

15 [(3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.]

16 [(4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-  
17 cessible within the meaning of this section if the handgun is within the passenger compartment of the  
18 vehicle.]

19 [(b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage  
20 location that is outside the passenger compartment of the vehicle, a handgun is not readily accessible  
21 within the meaning of this section if:]

22 [(A) The handgun is stored in a closed and locked glove compartment, center console or other  
23 container; and]

24 [(B) The key is not inserted into the lock, if the glove compartment, center console or other con-  
25 tainer unlocks with a key.]

26 [(c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not readily  
27 accessible within the meaning of this section if:]

28 [(A) The handgun is in a locked container within or affixed to the vehicle; or]

29 [(B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the  
30 discharge of the firearm.]

31 [(5)] (3) Unlawful possession of a firearm is a Class A misdemeanor.

32 **SECTION 2. Section 3 of this 2023 Act is added to and made a part of ORS 166.360 to**  
33 **166.380.**

34 **SECTION 3. (1) An entity that controls a public building may adopt a policy prohibiting**  
35 **the possession of firearms within the public building by any person not described in ORS**  
36 **166.370 (3).**

37 **(2) An entity that adopts a policy under this section shall:**

38 **(a) Post a clearly visible sign, at all normal points of entry to the areas subject to the**  
39 **policy described in subsection (1) of this section, indicating that the possession of firearms**  
40 **by persons not described in ORS 166.370 (3) is prohibited.**

41 **(b) Post a notice on the entity's website identifying all areas subject to the policy de-**  
42 **scribed in subsection (1) of this section.**

43  
44 **CONFORMING AMENDMENTS**  
45

1       **SECTION 4.** ORS 166.260 is amended to read:

2       166.260. (1) ORS 166.250 does not apply to or affect:

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

5       (b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections of-  
6 ficer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer  
7 or corrections officer is acting within the scope of employment.

8       (c) An honorably retired law enforcement officer, unless the person who is a retired law  
9 enforcement officer has been convicted of an offense that would make the person ineligible to obtain  
10 a concealed handgun license under ORS 166.291 and 166.292.

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

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

15       (f) Active or reserve members of:

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

18       (B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

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

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

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

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

26       (2) It is an affirmative defense to a charge of violating ORS 166.250 [(1)(c)(C)] (1)(c) that the  
27 person has been granted relief from the disability under ORS 166.274.

28       (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS  
29 166.250 [(1)(c)] (1) or 166.270, ORS 166.250 does not apply to or affect:

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

34       (b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or re-  
35 turning from a hunting or fishing expedition.

36       (4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses  
37 to a charge of violating ORS 166.250.

38       **SECTION 5.** ORS 166.262 is amended to read:

39       166.262. A peace officer may not arrest or charge a person for violating ORS [166.250 (1)(a) or  
40 (b) or] 166.370 (1)(a) if the person has in the person's immediate possession:

41       (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292, unless the person  
42 possesses a firearm within the Capitol, within the passenger terminal of a commercial service air-  
43 port with over one million passenger boardings per year or on school grounds subject to a policy  
44 described in ORS 166.377;

45       (2) Proof that the person is a law enforcement officer; or

1 (3) Proof that the person is an honorably retired law enforcement officer, unless the person has  
 2 been convicted of an offense that would make the person ineligible to obtain a concealed handgun  
 3 license under ORS 166.291 and 166.292.

4 **SECTION 6.** ORS 166.273 is amended to read:

5 166.273. (1) A person barred from transporting, shipping, possessing or receiving a firearm may  
 6 file a petition with the Psychiatric Security Review Board for relief from the bar if:

7 (a) The person is barred from possessing a firearm under ORS 166.250 [(1)(c)(D) or (E)] **(1)(d)**  
 8 **or (e)**;

9 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f) or, if the person  
 10 has been found guilty except for insanity of a misdemeanor involving violence, ORS 166.470 (1)(g);  
 11 or

12 (c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18  
 13 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

14 (2) The petitioner shall serve a copy of the petition on:

15 (a) The Department of Human Services and the Oregon Health Authority; and

16 (b) The district attorney in each county in which:

17 (A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a  
 18 court as a person with mental illness, under ORS 426.130;

19 (B) The person was committed by a court to the Department of Human Services, or adjudicated  
 20 by a court as in need of commitment for residential care, treatment and training, under ORS 427.290;

21 (C) The person was found guilty except for insanity under ORS 161.295;

22 (D) The person was found responsible except for insanity under ORS 419C.411; or

23 (E) The person was found by a court to lack fitness to proceed under ORS 161.370.

24 (3) Following receipt of the petition, the board shall conduct a contested case hearing, make  
 25 written findings of fact and conclusions of law on the issues before the board and issue a final order.  
 26 Board members from the adult panel, the juvenile panel or a combination of both panels of the board  
 27 may conduct the hearings described in this section.

28 (4) The state and any person or entity described in subsection (2) of this section may appear and  
 29 object to and present evidence relevant to the relief sought by the petitioner.

30 (5) The board shall grant the relief requested in the petition if the petitioner demonstrates,  
 31 based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the  
 32 firearm disability and any other evidence in the record, that the petitioner will not be likely to act  
 33 in a manner that is dangerous to public safety and that granting the relief would not be contrary  
 34 to the public interest.

35 (6) If the board grants the relief requested in the petition, the board shall provide to the De-  
 36 partment of State Police the minimum information necessary, as defined in ORS 181A.290, to enable  
 37 the department to:

38 (a) Maintain the information and transmit the information to the federal government as required  
 39 under federal law; and

40 (b) Maintain a record of the person's relief from the disqualification to possess or receive a  
 41 firearm under ORS 166.250 [(1)(c)(D) or (E)] **(1)(d) or (e)** or 166.470 (1)(e), (f) or (g).

42 (7) The petitioner may petition for judicial review of a final order of the board. The petition  
 43 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-  
 44 view shall be conducted de novo and without a jury.

45 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by

1 the Court of Appeals shall be conducted in accordance with ORS 183.500.

2 (9) A person may file a petition for relief under this section no more than once every two years.

3 (10) The board shall adopt procedural rules to carry out the provisions of this section.

4 (11) As used in this section, “state mental health determination” means:

5 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

6 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-  
7 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric  
8 Security Review Board thereafter;

9 (c) A commitment by a court to the Oregon Health Authority, or an adjudication by a court that  
10 a person is a person with mental illness, under ORS 426.130; or

11 (d) A commitment by a court to the Department of Human Services, or an adjudication by a  
12 court that a person is in need of commitment for residential care, treatment and training, under ORS  
13 427.290.

14 **SECTION 7.** ORS 166.274 is amended to read:

15 166.274. (1) Except as provided in subsection (11) of this section, a person barred from possessing  
16 or receiving a firearm may file a petition for relief from the bar in accordance with subsection (2)  
17 of this section if:

18 (a) The person is barred from possessing a firearm under ORS 166.250 [(1)(c)(A), (C) or (H)]  
19 **(1)(a), (c) or (h)** or 166.270; or

20 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(a) or (b) or, if the per-  
21 son has been convicted of a misdemeanor involving violence, ORS 166.470 (1)(g).

22 (2) A petition for relief described in this section must be filed in the circuit court in the  
23 petitioner’s county of residence.

24 (3) A person may apply once per calendar year for relief under the provisions of this section.

25 (4)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

26 (A) The city chief of police if the court in which the petition is filed is located in a city; or

27 (B) The sheriff of the county in which the court is located.

28 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the  
29 petition is filed at the court.

30 (5)(a) When a petition is denied, the judge shall cause that information to be entered into the  
31 Department of State Police computerized criminal history files.

32 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of  
33 the petitioner to be entered into the Department of State Police computerized criminal history files.  
34 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-  
35 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall  
36 notify the court that granted relief under this section. The court shall review the order granting  
37 relief and determine whether to rescind the order. The Department of State Police may charge a  
38 reasonable fee, under ORS 192.324, for the entry and maintenance of information under this section.

39 (6) Notwithstanding the provisions of ORS 9.320, a party that is not a natural person, the state  
40 or any city, county, district or other political subdivision or public corporation in this state, without  
41 appearance by attorney, may appear as a party to an action under this section.

42 (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall  
43 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner  
44 does not pose a threat to the safety of the public or the petitioner.

45 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of

1 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall  
 2 then make findings and conclusions and issue a judgment based on the findings and conclusions in  
 3 accordance with the requirements of law.

4 (9) A person filing a petition under this section must pay the filing fee established under ORS  
 5 21.135.

6 (10)(a) Initial appeals of petitions shall be heard de novo.

7 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the  
 8 same manner as for any other civil action.

9 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall  
 10 be ordered to pay the attorney fees for the prevailing party.

11 (11) The court may not grant relief under this section to a person who:

12 (a) Has been convicted of a person felony, as that term is defined in the rules of the Oregon  
 13 Criminal Justice Commission, or the statutory counterpart to a person felony in any other jurisdic-  
 14 tion, if the offense involved the use of a firearm or a deadly weapon as defined in ORS 161.015;

15 (b) Has been convicted of an offense listed in ORS 137.700 or the statutory counterpart to an  
 16 offense listed in ORS 137.700 in any other jurisdiction; or

17 (c) Is currently serving a felony sentence as defined in ORS 10.030 or has served a felony sen-  
 18 tence in the one-year period preceding the filing of the petition.

19 **SECTION 8.** ORS 166.370 is amended to read:

20 166.370. (1)(a) Any person who intentionally possesses a loaded or unloaded firearm or any other  
 21 instrument used as a dangerous weapon, while in or on a public building **subject to a policy de-**  
 22 **scribed in section 3 of this 2023 Act, within the Capitol, within the passenger terminal of a**  
 23 **commercial service airport with over one million passenger boardings per year or on school**  
 24 **grounds subject to a policy described in ORS 166.377**, shall upon conviction be guilty of a Class  
 25 C felony.

26 (b) Notwithstanding paragraph (a) of this subsection, in a prosecution under this section for the  
 27 possession of a firearm within the Capitol, within the passenger terminal of a commercial service  
 28 airport with over one million passenger boardings per year or on school grounds subject to a policy  
 29 described in ORS 166.377, if the person proves by a preponderance of the evidence that, at the time  
 30 of the possession, the person was licensed under ORS 166.291 and 166.292 to carry a concealed  
 31 handgun, upon conviction the person is guilty of a Class A misdemeanor.

32 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-  
 33 tionally possesses:

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

37 (B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon  
 38 to a law enforcement officer or to immediately remove it from the court facility. A person who fails  
 39 to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

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

43 (b) The presiding judge of a judicial district or a municipal court may enter an order permitting  
 44 the possession of specified weapons in a court facility.

45 (c) Within a shared court facility, the presiding judge of a municipal court or justice of the

1 peace district may not enter an order concerning the possession of weapons in the court facility that  
 2 is in conflict with an order entered by the presiding judge of the circuit court.

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

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

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

7 (c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections of-  
 8 ficer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer  
 9 or corrections officer is acting within the scope of employment.

10 (d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to  
 11 assist in making an arrest or preserving the peace, while the summoned person is engaged in as-  
 12 sisting the officer.

13 (e) An honorably retired law enforcement officer.

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

16 (g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun, ex-  
 17 cept as provided in subsection (1)(b) of this section.

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

20 (i) An employee of the United States Department of Agriculture, acting within the scope of em-  
 21 ployment, who possesses a firearm in the course of the lawful taking of wildlife.

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

23 (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

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

25 (k) A person who possesses a firearm in the passenger terminal of a commercial service airport,  
 26 if the firearm is unloaded and in a locked hard-sided container for the purposes of transporting the  
 27 firearm as checked baggage in accordance with federal law.

28 (4)(a) Except as provided in subsection (1)(b) of this section, the exceptions listed in subsection  
 29 (3)(d) to (k) of this section constitute affirmative defenses to a charge of violating subsection (1)(a)  
 30 of this section.

31 (b) A person may not use the affirmative defense described in subsection (3)(e) of this section  
 32 if the person has been convicted of an offense that would make the person ineligible to obtain a  
 33 concealed handgun license under ORS 166.291 and 166.292.

34 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges  
 35 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-  
 36 viction be guilty of a Class C felony.

37 (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

38 (A) As part of a program approved by a school in the school by an individual who is partic-  
 39 ipating in the program;

40 (B) By a law enforcement officer acting in the officer's official capacity; or

41 (C) By an employee of the United States Department of Agriculture, acting within the scope of  
 42 employment, in the course of the lawful taking of wildlife.

43 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS  
 44 166.279.

45 (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a

1 violation of both subsections (1) and (5) of this section, the district attorney may charge the person  
 2 with only one of the offenses.

3 (8) As used in this section, “dangerous weapon” means a dangerous weapon as that term is de-  
 4 fined in ORS 161.015.

5 **SECTION 9.** ORS 166.380 is amended to read:

6 166.380. (1) Except as provided in subsection (2) of this section, a peace officer may examine a  
 7 firearm possessed by anyone on the person while in or on a public building **subject to a policy**  
 8 **described in section 3 of this 2023 Act** to determine whether the firearm is a loaded firearm.

9 (2) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun may  
 10 present a valid concealed handgun license to the peace officer instead of providing the firearm to  
 11 the peace officer for examination.

12 **SECTION 10.** ORS 166.412, as amended by section 6, chapter 1, Oregon Laws 2023, is amended  
 13 to read:

14 166.412. (1) As used in this section:

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

16 (b) “Department” means the Department of State Police;

17 (c) “Firearm” has the meaning given that term in ORS 166.210, except that it does not include  
 18 an antique firearm;

19 (d) “Firearms transaction record” means the firearms transaction record required by 18 U.S.C.  
 20 921 to 929;

21 (e) “Firearms transaction thumbprint form” means a form provided by the department under  
 22 subsection (11) of this section;

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

26 (g) “Purchaser” means a person who buys, leases or otherwise receives a firearm from a gun  
 27 dealer.

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

30 (a) The purchaser shall present to the gun dealer current identification meeting the require-  
 31 ments of subsection (4) of this section and a valid permit issued under section 4, chapter 1, Oregon  
 32 Laws 2023.

33 (b) The gun dealer shall complete the firearms transaction record and obtain the signature of  
 34 the purchaser on the record.

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

38 (d) The gun dealer shall, by telephone or computer, verify that the purchaser has a valid  
 39 permit-to-purchase a firearm issued under section 4, chapter 1, Oregon Laws 2023, and request that  
 40 the department conduct a criminal history record check on the purchaser and shall provide the  
 41 following information to the department:

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

43 (B) The business name of the gun dealer;

44 (C) The place of transfer;

45 (D) The name of the person making the transfer;

- 1 (E) The make, model, caliber and manufacturer's number of the firearm being transferred;
- 2 (F) The name and date of birth of the purchaser;
- 3 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this  
4 number to the gun dealer; and
- 5 (H) The type, issuer and identification number of the identification presented by the purchaser.
- 6 (e) The gun dealer shall receive a unique approval number for the transfer from the department  
7 and record the approval number on the firearms transaction record and on the firearms transaction  
8 thumbprint form.
- 9 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the  
10 completion of the firearms transaction thumbprint form.
- 11 (3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the de-  
12 partment shall immediately, during the gun dealer's telephone call or by return call:
- 13 (A) Determine, from criminal records and other information available to it, whether the pur-  
14 chaser is disqualified under ORS 166.470 from completing the purchase; and
- 15 (B) Notify the gun dealer when a purchaser is disqualified from completing the transfer or pro-  
16 vide the gun dealer with a unique approval number indicating that the purchaser is qualified to  
17 complete the transfer.
- 18 (b) If the department is unable to determine if the purchaser is qualified or disqualified from  
19 completing the transfer within 30 minutes, the department shall notify the gun dealer and provide  
20 the gun dealer with an estimate of the time when the department will provide the requested infor-  
21 mation.
- 22 (c) The dealer may not transfer the firearm unless the dealer receives a unique approval number  
23 from the department and, within 48 hours of completing the transfer, the dealer shall notify the state  
24 that the transfer to the permit holder was completed.
- 25 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include  
26 one piece of current identification bearing a photograph and the date of birth of the purchaser that:
- 27 (A) Is issued under the authority of the United States Government, a state, a political subdivi-  
28 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-  
29 tional governmental organization or an international quasi-governmental organization; and
- 30 (B) Is intended to be used for identification of an individual or is commonly accepted for the  
31 purpose of identification of an individual.
- 32 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does  
33 not include the current address of the purchaser, the purchaser shall present a second piece of  
34 current identification that contains the current address of the purchaser. The Superintendent of  
35 State Police may specify by rule the type of identification that may be presented under this para-  
36 graph.
- 37 (c) The department may require that the gun dealer verify the identification of the purchaser if  
38 that identity is in question by sending the thumbprints of the purchaser to the department.
- 39 (5) The department shall establish a telephone number that shall be operational seven days a  
40 week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from gun  
41 dealers for a criminal history record check under this section.
- 42 (6) No public employee, official or agency shall be held criminally or civilly liable for performing  
43 the investigations required by this section provided the employee, official or agency acts in good  
44 faith and without malice.
- 45 (7)(a) The department may retain a record of the information obtained during a request for a

1 criminal history record check for no more than five years, except for the information provided to  
 2 the dealer under subsection (2)(d) of this section, sufficient to reflect each firearm purchased by a  
 3 permit holder, which must be attached to the electronic record of the permit stored by the depart-  
 4 ment. The department may develop a system for removal of the information in subsection (2)(d)(E)  
 5 of this section, upon proof of sale or transfer of the firearm to another permit holder and for re-  
 6 cording of the information to reflect the transfer of ownership to the permit of the new owner.

7 (b) The record of the information obtained during a request for a criminal history record check  
 8 by a gun dealer is exempt from disclosure under public records law.

9 (c) If the department determines that a purchaser is prohibited from possessing a firearm under  
 10 ORS 166.250 [(1)(c)] (1), the department shall report the attempted transfer, the purchaser's name  
 11 and any other personally identifiable information to all federal, state and local law enforcement  
 12 agencies and district attorneys that have jurisdiction over the location or locations where the at-  
 13 tempted transfer was made and where the purchaser resides.

14 (d) If the department determines that, based on the judgment of conviction, the purchaser is  
 15 prohibited from possessing a firearm as a condition of probation or that the purchaser is currently  
 16 on post-prison supervision or parole, the department shall report the attempted transfer to the  
 17 purchaser's supervising officer and the district attorney of the county in which the conviction oc-  
 18 curred.

19 (e) If the department determines that the purchaser is prohibited from possessing a firearm due  
 20 to a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer  
 21 to the court that issued the order.

22 (f) If the department determines that the purchaser is under the jurisdiction of the Psychiatric  
 23 Security Review Board, the department shall report the attempted transfer to the board.

24 (g) Reports required by paragraphs (c) to (f) of this subsection shall be made within 24 hours  
 25 after the determination is made, unless a report would compromise an ongoing investigation, in  
 26 which case the report may be delayed as long as necessary to avoid compromising the investigation.

27 (h) On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's  
 28 office that received a report pursuant to paragraph (c) of this subsection during the previous cal-  
 29 endar year shall inform the department of any action that was taken concerning the report and the  
 30 outcome of the action.

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

33 (A) The number of purchasers whom the department determined were prohibited from possessing  
 34 a firearm under ORS 166.250 [(1)(c)] (1), arranged by category of prohibition;

35 (B) The number of reports made pursuant to paragraph (c) of this subsection;

36 (C) The number of investigations arising from the reports made pursuant to paragraph (c) of this  
 37 subsection, the number of investigations concluded and the number of investigations referred for  
 38 prosecution, all arranged by category of prohibition; and

39 (D) The number of criminal charges arising from the reports made pursuant to paragraph (c) of  
 40 this subsection and the disposition of the charges, both arranged by category of prohibition.

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

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

45 (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of State

1 Police may adopt rules necessary for:

- 2 (a) The design of the firearms transaction thumbprint form;
- 3 (b) The maintenance of a procedure to correct errors in the criminal records of the department;
- 4 (c) The provision of a security system to identify gun dealers that request a criminal history
- 5 record check under subsection (2) of this section; and
- 6 (d) The creation and maintenance of a database of the business hours of gun dealers.

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

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

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

14 (b) A gun dealer that requests a criminal background check under this subsection is immune  
15 from civil liability for any use of the firearm by the recipient or transferee, provided that the gun  
16 dealer requests the criminal background check as described in this section and also provided that  
17 the dealer verifies that the recipient has a valid permit-to-purchase the firearm and the dealer has  
18 received a unique approval number from the department indicating successful completion of the  
19 background check.

20 (14) Knowingly selling or delivering a firearm to a purchaser or transferee who does not have  
21 a valid permit-to-purchase a firearm in violation of subsection (2)(d) of this section, or prior to re-  
22 ceiving a unique approval number from the department based on the criminal background check in  
23 violation of subsection (3)(c) of this section is a Class A misdemeanor.

24 **SECTION 11.** ORS 166.436, as amended by section 8, chapter 1, Oregon Laws 2023, is amended  
25 to read:

26 166.436. (1) The Department of State Police shall make the telephone number established under  
27 ORS 166.412 (5) available for requests for criminal background checks under this section from per-  
28 sons who are not gun dealers and who are transferring firearms at gun shows.

29 (2) Prior to transferring a firearm at a gun show, a transferor who is not a gun dealer shall by  
30 telephone verify that the transferee has a valid permit-to-purchase a firearm under section 4, chapter  
31 1, Oregon Laws 2023, and request that the department conduct a criminal background check on the  
32 recipient upon providing the following information to the department:

- 33 (a) The name, address and telephone number of the transferor;
- 34 (b) The make, model, caliber and manufacturer's number of the firearm being transferred;
- 35 (c) The name, date of birth, race, sex and address of the recipient;
- 36 (d) The Social Security number of the recipient if the recipient voluntarily provides that number;
- 37 (e) The address of the place where the transfer is occurring; and
- 38 (f) The type, issuer and identification number of a current piece of identification bearing a re-  
39 cent photograph of the recipient presented by the recipient. The identification presented by the re-  
40 cipient must meet the requirements of ORS 166.412 (4)(a).

41 (3)(a) Upon receipt of a request for a criminal background check under this section, the de-  
42 partment shall immediately, during the telephone call or by return call:

43 (A) Determine from criminal records and other information available to it whether the recipient  
44 is disqualified under ORS 166.470 from completing the transfer or is otherwise prohibited by state  
45 or federal law from possessing a firearm; and

1 (B) Notify the transferor when a recipient is disqualified from completing the transfer or provide  
 2 the transferor with a unique approval number indicating that the recipient is qualified to complete  
 3 the transfer. The unique approval number is a permit valid for 24 hours for the requested transfer.  
 4 If the firearm is not transferred from the transferor to the recipient within 24 hours after receipt  
 5 of the unique approval number, a new request must be made by the transferor.

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

10 (c) The transferor may not transfer the firearm unless the transferor receives a unique approval  
 11 number from the department and, within 48 hours of the completed transfer, the transferor shall  
 12 notify the state that the transfer to the permit holder was completed.

13 (4) A public employee or public agency incurs no criminal or civil liability for performing the  
 14 criminal background checks required by this section, provided the employee or agency acts in good  
 15 faith and without malice.

16 (5)(a) The department may retain a record of the information obtained during a request for a  
 17 criminal background check under this section for the period of time provided in ORS 166.412 (7)[,  
 18 *as amended by chapter 1, Oregon Laws 2023*].

19 (b) The record of the information obtained during a request for a criminal background check  
 20 under this section is exempt from disclosure under public records law.

21 (c) If the department determines that a recipient is prohibited from possessing a firearm under  
 22 ORS 166.250 [(1)(c)] (1), the department shall report the attempted transfer, the recipient's name and  
 23 any other personally identifiable information to all federal, state and local law enforcement agencies  
 24 and district attorneys that have jurisdiction over the location or locations where the attempted  
 25 transfer was made and where the recipient resides.

26 (d) If the department determines that, based on the judgment of conviction, the recipient is  
 27 prohibited from possessing a firearm as a condition of probation or that the recipient is currently  
 28 on post-prison supervision or parole, the department shall report the attempted transfer to the  
 29 recipient's supervising officer and the district attorney of the county in which the conviction oc-  
 30 curred.

31 (e) If the department determines that the recipient is prohibited from possessing a firearm due  
 32 to a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer  
 33 to the court that issued the order.

34 (f) If the department determines that the recipient is under the jurisdiction of the Psychiatric  
 35 Security Review Board, the department shall report the attempted transfer to the board.

36 (g) Reports required by paragraphs (c) to (f) of this subsection shall be made within 24 hours  
 37 after the determination is made, unless a report would compromise an ongoing investigation, in  
 38 which case the report may be delayed as long as necessary to avoid compromising the investigation.

39 (h) On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's  
 40 office that received a report pursuant to paragraph (c) of this subsection during the previous cal-  
 41 endar year shall inform the department of any action that was taken concerning the report and the  
 42 outcome of the action.

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

45 (A) The number of recipients whom the department determined were prohibited from possessing

1 a firearm under ORS 166.250 [(1)(c)] (1), arranged by category of prohibition;

2 (B) The number of reports made pursuant to paragraph (c) of this subsection;

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

6 (D) The number of criminal charges arising from the reports made pursuant to paragraph (c) of  
7 this subsection and the disposition of the charges, both arranged by category of prohibition.

8 (6) The recipient of the firearm must be present when the transferor requests a criminal back-  
9 ground check under this section.

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

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

17 (A) If the transferor knows, or reasonably should know, that the recipient of the firearm intends  
18 to deliver the firearm to a third person who the transferor knows, or reasonably should know, may  
19 not lawfully possess the firearm; or

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

21 **SECTION 12.** ORS 166.460 is amended to read:

22 166.460. (1) ORS 166.250, 166.260, 166.291 to 166.295, 166.410, 166.412, 166.425, 166.434, 166.438  
23 and 166.450 do not apply to antique firearms.

24 (2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique  
25 firearm by a person described in ORS 166.250 [(1)(c)(B) to (D) or (G)] (1)(b) to (d) or (g) constitutes  
26 a violation of ORS 166.250.

27  
28 **CAPTIONS**

29  
30 **SECTION 13.** The unit captions used in this 2023 Act are provided only for the conven-  
31 ience of the reader and do not become part of the statutory law of this state or express any  
32 legislative intent in the enactment of this 2023 Act.