

House Bill 3511

Sponsored by Representative CHAICHI

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**.

Modifies firearm permit application and issuance process. Provides that permit agent is Department of Transportation and modifies qualifications to obtain permit.

Directs Department of State Police to annually perform criminal background check on permit holders and to contract with entity to perform equity analysis on changes to permit system.

Provides that verification of permit eliminates criminal background check requirement at time of firearm transfer.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to firearm permits; creating new provisions; amending ORS 166.256, 166.259, 166.400,
3 166.412, 166.432, 166.435, 166.436, 166.438 and 166.460 and sections 3, 4 and 5, chapter 1, Oregon
4 Laws 2023; repealing ORS 166.434; and prescribing an effective date.

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

CHANGES TO PERMITTING PROCESS

6
7
8
9 **SECTION 1.** Section 3, chapter 1, Oregon Laws 2023 (Ballot Measure 114 (2022)), is amended
10 to read:

11 **Sec. 3.** *[Definitions.]* As used in *[sections 3 to 10 of this 2022 Act]* **sections 3 to 5, chapter 1,**
12 **Oregon Laws 2023 (Ballot Measure 114 (2022)):**

13 (1) "Criminal background check" has the *[same meaning given to this]* **meaning given that** term
14 in ORS 166.432 *[(1)(a) to (e)]*.

15 (2) "Department" means the Department of State Police.

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

19 (4) "Permit" *[or "permit-to-purchase" mean]* **means** an authorization issued **under section 4,**
20 **chapter 1, Oregon Laws 2023,** to a person to purchase or acquire a firearm, provided all other
21 requirements at the time of purchase or acquisition are met.

22 (5) "Permit **agent**" *[Agent"]* means *[a county sheriff or police chief with jurisdiction over the res-*
23 *idence of the person making an application for a permit-to-purchase, or their designees]* **the Depart-**
24 **ment of Transportation.**

25 (6) "Transfer" has the meaning given that term in ORS 166.435 *[(1)(a)]*.

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

28 **SECTION 2.** Section 4, chapter 1, Oregon Laws 2023 (Ballot Measure 114 (2022)), is amended

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 to read:

2 **Sec. 4.** (1)(a) A person may apply for a [*permit-to-purchase*] **permit to purchase or otherwise**
 3 **receive** a firearm or firearms under this section [*to the police chief or county sheriff with jurisdiction*
 4 *over the residence of the person making the application, or their designees*] **from the Department**
 5 **of Transportation**, hereinafter referred to as “permit **agent.**” [*agent*”.] **The application may be**
 6 **submitted electronically.**

7 (b) A person is qualified to be issued a [*permit-to-purchase*] **permit** under this section if the
 8 person:

9 (A) Is not prohibited from **possessing**, purchasing or acquiring a firearm under state or federal
 10 law, including but not limited to successfully completing a criminal background check as described
 11 under paragraph (e) of this subsection;

12 **(B) Has no outstanding warrants for the person’s arrest;**

13 **(C) Has not been dishonorably discharged from the Armed Forces of the United States;**

14 **(D) Affirms that the person is not an unlawful user of, or addicted to, a controlled sub-**
 15 **stance;**

16 **(E) Is not on any form of pretrial release;**

17 **(F) Is not required to report as a sex offender in any state;**

18 **(G) Has not been convicted or found guilty except for insanity of a misdemeanor within**
 19 **the four years prior to application;**

20 **(H) Is not the subject of a citation issued under ORS 163.735 or an order issued under**
 21 **ORS 39.866, 107.700 to 107.723 or 163.738;**

22 [(B)] **(I) Is not the subject of an order described in ORS 166.525 to 166.543;**

23 [(C)] **(J) Does not present reasonable grounds for a permit agent to conclude that the applicant**
 24 **has been or is reasonably likely to be a danger to self or others, or to the community at large, as**
 25 **a result of the applicant’s mental or psychological state or as demonstrated by the applicant’s past**
 26 **pattern of behavior involving unlawful violence or threats of unlawful violence;**

27 [(D)] **(K) Provides proof of completion of a firearm safety course as defined in subsection (8) of**
 28 **this section; and**

29 [(E)] **(L) Pays the fee described in [paragraph (b) of] subsection (3)(d) of this section.**

30 (c) An application for a permit under this section must state the applicant’s legal name, current
 31 address and telephone number, date and place of birth, physical description[,] and any additional
 32 information determined necessary by department rules. The application must be signed by the ap-
 33 plicant in front of the permit agent.

34 (d) The permit agent shall verify the applicant’s identity with a government-issued form of
 35 identification bearing a photograph of the applicant. **The permit agent shall ensure that there**
 36 **is a process by which the verification may be completed electronically.**

37 (e) The applicant must submit to fingerprinting and photographing by the permit agent. The
 38 permit agent shall fingerprint and photograph the applicant, **ensuring that there is a process by**
 39 **which the photographing may be completed electronically and fingerprinting completed re-**
 40 **motely in a manner determined by the department**, and shall conduct any investigation neces-
 41 sary to determine whether the applicant meets the qualifications described in paragraph (b) of this
 42 [*section*] **subsection.** The permit agent shall request the Department of State Police to conduct a
 43 criminal background check, including but not limited to a fingerprint identification, through the
 44 Federal Bureau of Investigation. **The criminal background check shall include a check of the**
 45 **National Instant Criminal Background Check System and a determination of whether the**

1 **permit applicant is prohibited by state or federal law from possessing or receiving a firearm.**
 2 The **department shall ensure that the** Federal Bureau of Investigation [*shall return*] **returns** the
 3 fingerprint cards used to conduct the criminal background check and may not keep any record of
 4 the fingerprints. Upon completion of the criminal background check and determination of whether
 5 the permit applicant is qualified or disqualified from [*purchasing or otherwise acquiring*] **possessing**
 6 **or receiving** a firearm, the department shall report the results, including the outcome of the
 7 fingerprint-based criminal background check, to the permit agent.

8 (2)(a) If during the background check, the department determines that:

9 (A) [*A purchaser*] **An applicant** is prohibited from possessing a firearm under ORS 166.250 (1)(c),
 10 the department shall report the attempted application for a permit, the [*purchaser's*] **applicant's**
 11 name and any other personally identifiable information to all federal, state and local law enforce-
 12 ment agencies and district attorneys that have jurisdiction over the location or locations where the
 13 attempted application for a permit was made and where the permit applicant resides.[;]

14 (B) Based on the judgment of conviction, the permit applicant is prohibited from possessing a
 15 firearm as a condition of probation or that the permit applicant is currently on post-prison super-
 16 vision or parole, the department shall report the attempted application for a permit to the permit
 17 applicant's supervising officer and the district attorney of the county in which the conviction oc-
 18 curred.

19 (C) The permit applicant is prohibited from possessing a firearm due to a court order described
 20 in ORS 166.255 (1)(a), the department shall report the attempted application for a permit to the court
 21 that issued the order.

22 (D) The permit applicant is under the jurisdiction of the Psychiatric Security Review Board, the
 23 department shall report the attempted application for a permit to the board.

24 (b) Reports required by [*paragraphs (A) to (D) of subsection (2)(a)*] **paragraph (a)(A) to (D) of**
 25 **this subsection** shall be made within 24 hours after the determination is made, unless a report
 26 would compromise an ongoing investigation, in which case the report may be delayed as long as
 27 necessary to avoid compromising the investigation.

28 (c) On or before January 31 of each year, beginning in 2024, the department shall annually
 29 publish a report indicating for each county the number of applications made to any permit agent,
 30 the number of [*permits-to-purchase*] **permits** issued and the number of [*permits-to-purchase*] **permits**
 31 denied and the reasons for denial. The department may, by rule, include any additional information
 32 that it determines would be helpful to ensuring the [*permit-to-purchase*] **permit** process is being ad-
 33 ministered in a consistent and equitable manner.

34 (3)(a) Within 30 days of receiving an application for a permit under this section, if the permit
 35 agent has verified the applicant's identity and determined that the applicant has met each of the
 36 qualifications described in [*paragraph*] **subsection (1)(b)** of this section, the permit agent shall issue
 37 the [*permit-to-purchase*] **permit**.

38 (b) **The permit described in this section shall consist of:**

39 (A) **An endorsement on the permit holder's driver license or identification card issued**
 40 **under ORS 807.400, or another manner of noting the permit on the license or card as deter-**
 41 **mined by the department; and**

42 (B) **A card indicating the date of issuance or renewal of the permit.**

43 (c) **The permit agent shall assign to each permit a permit number consisting of:**

44 (A) **The driver license number of the applicant; or**

45 (B) **If the applicant does not have a driver license, the number of the identification card**

1 **issued to the applicant under ORS 807.400.**

2 [(b)] (d) The permit agent may charge a reasonable fee reflecting the actual cost of the process
 3 but shall not exceed \$65, including the cost of fingerprinting, photographing and obtaining a criminal
 4 background check.

5 [(4)(a) *The department shall develop:*]

6 [(A) *A standardized application form for a permit under this section; and*]

7 [(B) *A form in quadruplicate for use by permit agents in issuing permits under this section.*]

8 [(b) *The issuing permit agent shall maintain a copy of each permit issued under this section.*]

9 [(c)] (4) The person named in a permit shall:

10 [(A)] (a) Maintain a copy of the permit as long as the permit is valid.

11 [(B)] (b) Present a copy of the permit to the gun dealer or transferor of a firearm when required
 12 under ORS 166.412, 166.435, 166.436 or 166.438.

13 [(5)(a) *The permit agent shall report the issuance of a permit under this section to the department,
 14 and shall provide to the department a copy of the permit and any information necessary for the de-
 15 partment to maintain an electronic searchable database of all permits issued under this section. A
 16 permit agent revoking a permit shall report the revocation to the department at the time that notice of
 17 the revocation has been sent to the permit holder.*]

18 (5)(a) **The Department of Transportation and the Department of State Police shall jointly
 19 develop a database of all permits issued under this section.**

20 (b) The [department] **departments** shall maintain the electronic database described in paragraph
 21 (a) of this subsection by ensuring that new permits are added to the database, renewed permits are
 22 assigned a new expiration date[,] and expired or revoked permits are marked expired or revoked but
 23 retained in the database.

24 (c) **The Department of State Police shall have access to the database described in this
 25 section for the purpose of verifying permits under ORS 166.412, 166.435, 166.436 and 166.438
 26 and performing the annual check described in section 5 (3), chapter 1, Oregon Laws 2023.**

27 (d) **The database described in this subsection must allow for a gun dealer or a person
 28 transferring a firearm at a gun show to securely address the database and verify a permit
 29 as described in ORS 166.412 and 166.436.**

30 (6)(a) A [permit-to-purchase] **permit** issued under this section does not create any right of the
 31 permit holder to receive a firearm.

32 (b) A [permit-to-purchase] **permit** issued under this section is not a limit on the number of
 33 firearms the permit holder may purchase or acquire during the time period when the permit is valid.

34 (7)(a) A [permit-to-purchase] **permit** issued under this section is valid for five years from the date
 35 of issuance, unless revoked.

36 (b) A person may renew an unexpired permit issued under this section by repeating the proce-
 37 dures set forth in subsection (1) of this section, except:

38 (A) A full [finger print] **fingerprint** set does not need to be taken again if the original set has
 39 been retained by the permit agent or is otherwise available; [and]

40 (B) **An additional training course must be taken on suicide prevention and the secure
 41 storage of firearms; and**

42 [(B)] (C) The training course does not need to be completed, provided the course previously
 43 taken fully complies with each of the requirements set forth in subsection [8] (8) of this section.

44 (c) The permit agent may charge a reasonable fee for renewal of the permit, reflecting the actual
 45 cost of the process but shall not exceed \$50, including the cost of obtaining a criminal background

1 check and photographing.

2 (8)(a) As used in this section, “proof of completion of a firearm safety course” means the fol-
 3 lowing:

4 [(a)] (A) Proof of completion of any firearms training course or class available to the general
 5 public that is offered by law enforcement, a community college, [or] a private or public institution
 6 or **an** organization or firearms training school utilizing instructors certified by a law enforcement
 7 agency, and that includes the components set forth in paragraph [(c)] (b) of this subsection; or

8 [(b)] (B) Proof of completion of any law enforcement firearms training course or class that is
 9 offered for security guards, investigators, reserve law enforcement officers[,] or any other law
 10 enforcement officers, and that includes the components set forth in paragraph [(c)] (b) of this sub-
 11 section.[:]

12 [(c)] (b) A firearms training course or class required for issuance of a [permit-to-purchase] **permit**
 13 must include:

14 (A) Review of federal and state laws in place at the time of the class and other safe practices
 15 related to ownership, purchase, transfer, use and transportation of firearms;

16 (B) Review of federal and state safe storage laws in place at the time of the class and other safe
 17 practices related to safe storage, including reporting lost and stolen guns;

18 (C) Prevention of abuse or misuse of firearms, including the impact of homicide and suicide on
 19 families, communities and the country as a whole; and

20 (D) In-person demonstration of the applicant’s ability to lock, load, unload, fire and store a
 21 firearm before an instructor certified by a law enforcement agency. This requirement may be met
 22 separately from the other course requirements in subparagraphs (A), (B) and (C) of **this** paragraph
 23 [(c)], which may be completed in an [on-line] **online** course, provided the [on-line] **online** course has
 24 been conducted by a trainer certified by law enforcement.

25 [(d)] (c) Proof of successful completion of a training course in order to meet the requirements
 26 for a concealed handgun license issued under ORS 166.291 and 166.292 may be submitted for a per-
 27 mit as a substitute for the requirements in paragraph [(c)] (b) of this subsection, provided the com-
 28 pleted course included each of the components set forth in paragraph [(c)] (b) of this subsection.

29 (9) The Department **of Transportation and the Department of State Police** may adopt rules
 30 to carry out the provisions of this section.

31 **SECTION 3.** Section 5, chapter 1, Oregon Laws 2023 (Ballot Measure 114 (2022)), is amended
 32 to read:

33 **Sec. 5.** (1) If [the] **an** application for [the] **a** [permit-to-purchase] **permit described in section**
 34 **4, chapter 1, Oregon Laws 2023**, is denied, the permit agent shall set forth in writing the reasons
 35 for the denial. The denial shall be placed in the mail to the applicant by certified mail, restricted
 36 delivery, within 30 days after the application was made. If no decision is issued within 30 days, the
 37 person may seek review under the procedures in subsection (5) of this section.

38 (2) Notwithstanding [subsections (1) to (3) of section 4 of this 2022 Act] **section 4 (1) to (3),**
 39 **chapter 1, Oregon Laws 2023 (Ballot Measure 114 (2022))**, and subject to review as provided in
 40 subsection (5) of this section, a permit agent may deny a [permit-to-purchase] **permit** if the permit
 41 agent has reasonable grounds to believe that the applicant has been or is reasonably likely to be a
 42 danger to self or others, or to the community at large, as a result of the applicant’s mental or psy-
 43 chological state or as demonstrated by the applicant’s past pattern of behavior involving unlawful
 44 violence or threats of unlawful violence.

45 (3)(a) Any act or condition that would prevent the issuance of a [permit-to-purchase] **permit**

1 **under section 4, chapter 1, Oregon Laws 2023**, is cause for revoking a [*permit-to-purchase*]
 2 **permit**.

3 (b) A permit agent may revoke a permit by serving on the [*permittee*] **permit holder** a notice
 4 of revocation. The notice must contain the grounds for the revocation and must be served either
 5 personally or by certified mail, restricted delivery. The notice and return of service shall be included
 6 in the file of the permit holder. The revocation is effective upon the permit holder's receipt of the
 7 notice.

8 **(c) The Department of State Police shall annually complete a criminal background check**
 9 **on each permit holder that includes a check of the National Instant Criminal Background**
 10 **Check System and a determination of whether the permit applicant is prohibited by state or**
 11 **federal law from possessing or receiving a firearm. If the department determines that any**
 12 **permit holder is prohibited from possessing or receiving a firearm, the department shall**
 13 **immediately report the determination to the permit agent, and the permit agent immediately**
 14 **revoke the permit as described in this subsection.**

15 (4) Any peace officer or corrections officer may seize a [*permit-to-purchase*] **permit** and return
 16 it to the issuing permit agent if the permit is held by a person who has been arrested or cited for
 17 a crime that can or would otherwise disqualify the person from being issued a permit. The issuing
 18 permit agent shall hold the permit for 30 days. If the person is not charged with a crime within the
 19 30 days, the permit agent shall return the permit unless the permit agent revokes the permit as
 20 provided in subsection (3) of this section.

21 (5) A person denied a [*permit-to-purchase*] **permit** or whose permit is revoked or not renewed
 22 may petition the circuit court in the petitioner's county of residence to review the denial,
 23 nonrenewal or revocation. The petition must be filed within 30 days after the receipt of the notice
 24 of the denial or revocation.

25 (6) [*The*] **A** judgment affirming or overturning [*the*] **a** permit agent's decision shall be based on
 26 whether the petitioner meets the criteria that are used for issuance of a [*permit-to-purchase*] **permit**
 27 and, if the petitioner was denied a permit, whether the permit agent has reasonable grounds for
 28 denial under subsection (2) of this section. Whenever the petitioner has been previously sentenced
 29 for a crime under ORS 161.610 [*Enhanced penalty for use of firearm during commission of felony*]
 30 or for a crime of violence for which the person could have received a sentence of more than 10
 31 years, the court shall grant relief only if the court finds that relief should be granted in the interest
 32 of justice.

33 (7) Notwithstanding the provisions of ORS 9.320 [*Necessity for employment of attorney*], a party
 34 that is not a natural person, the state or any city, county, district or other political subdivision or
 35 public corporation in this state, without appearance by attorney, may appear as a party to an action
 36 under this section.

37 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 38 filing or as soon as practicable thereafter.

39 (9) Filing fees for actions shall be as for any civil action filed in the court. If the petitioner
 40 prevails, the amount of the filing fee shall be paid by the respondent to the petitioner and may be
 41 incorporated into the court order.

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

43 (11) Any party to a judgment under this section may appeal to the Court of Appeals in the same
 44 manner as for any other civil action.

45 (12) If the governmental entity files an appeal under this section and does not prevail, it shall

1 be ordered to pay the attorney fees for the prevailing party.

2 **SECTION 4. (1) The Department of State Police shall contract with a private entity to**
 3 **perform an equity analysis of the changes to the firearm permitting process resulting from**
 4 **the amendments to sections 3 to 5, chapter 1, Oregon Laws 2023, by sections 1 to 3 of this**
 5 **2023 Act.**

6 **(2) The department shall report the results of the analysis, in the manner described in**
 7 **ORS 192.245, to the appropriate interim committees of the Legislative Assembly no later than**
 8 **December 31, 2026.**

9 **SECTION 5. Section 4 of this 2023 Act is repealed on January 1, 2027.**

10
 11 **FIREARM TRANSFERS**

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

15 166.412. (1) As used in this section:

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

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

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

20 (d) “Firearms transaction record” means the firearms transaction record required by 18 U.S.C.
 21 921 to 929;

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

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

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

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

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

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

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

39 (d) The gun dealer shall[, *by telephone or computer,*] **contact the department to** verify that the
 40 purchaser has a valid [*permit-to-purchase*] **permit to purchase or otherwise acquire** a firearm is-
 41 sued **or renewed within the previous five years** under section 4, chapter 1, Oregon Laws 2023,
 42 [*and request that the department conduct a criminal history record check on the purchaser*] and shall
 43 provide the following information to the department:

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

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

1 (C) The place of transfer;

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

3 (E) The make, model, caliber and manufacturer's number of the firearm being transferred;

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

5 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
6 number to the gun dealer; and

7 (H) The type, issuer and identification number of the identification presented by the purchaser.

8 *[(e) The gun dealer shall receive a unique approval number for the transfer from the department
9 and record the approval number on the firearms transaction record and on the firearms transaction
10 thumbprint form.]*

11 *[(f)] (e)* The gun dealer may destroy the firearms transaction thumbprint form five years after
12 the completion of the firearms transaction thumbprint form.

13 *[(3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the depart-
14 ment shall immediately, during the gun dealer's telephone call or by return call:]*

15 *[(A) Determine, from criminal records and other information available to it, whether the purchaser
16 is disqualified under ORS 166.470 from completing the purchase; and]*

17 *[(B) Notify the gun dealer when a purchaser is disqualified from completing the transfer or provide
18 the gun dealer with a unique approval number indicating that the purchaser is qualified to complete
19 the transfer.]*

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

23 *[(c)] (3)* The dealer may not transfer the firearm unless the dealer *[receives a unique approval
24 number from the department and,]* **verifies that the purchaser has a valid permit issued or re-
25 newed within the previous five years under section 4, chapter 1, Oregon Laws 2023.** Within
26 48 hours of completing the transfer, the dealer shall notify the *[state]* **department** that the transfer
27 to the permit holder was completed.

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

30 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
31 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
32 tional governmental organization or an international quasi-governmental organization; and

33 (B) Is intended to be used for identification of an individual or is commonly accepted for the
34 purpose of identification of an individual.

35 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does
36 not include the current address of the purchaser, the purchaser shall present a second piece of
37 current identification that contains the current address of the purchaser. The Superintendent of
38 State Police may specify by rule the type of identification that may be presented under this para-
39 graph.

40 (c) The department may require that the gun dealer verify the identification of the purchaser if
41 that identity is in question by sending the thumbprints of the purchaser to the department.

42 (5) The Department of **Transportation and the Department of State Police** shall *[establish
43 a telephone number that shall be operational seven days a week between the hours of 8 a.m. and 10
44 p.m.]* **make the database described in section 4, chapter 1, Oregon Laws 2023, available to gun
45 dealers** for the purpose of *[responding to inquiries from gun dealers for a criminal history record*

1 *check*] **verifying permits** under this section.

2 (6) No public employee, official or agency shall be held criminally or civilly liable for performing
3 the investigations required by this section provided the employee, official or agency acts in good
4 faith and without malice.

5 (7)(a) The Department **of Transportation and the Department of State Police** may retain a
6 record of the information obtained during a request for a [*criminal history record check*] **permit**
7 **verification** for no more than five years[, *except for the information provided to the dealer under*
8 *subsection (2)(d) of this section, sufficient to reflect each firearm purchased by a permit holder, which*
9 *must be attached to the electronic record of the permit stored by the department. The department may*
10 *develop a system for removal of the information in subsection (2)(d)(E) of this section, upon proof of*
11 *sale or transfer of the firearm to another permit holder and for recording of the information to reflect*
12 *the transfer of ownership to the permit of the new owner].*

13 (b) The record of the information obtained during a request for a [*criminal history record*
14 *check*] **permit verification** by a gun dealer is exempt from disclosure under public records law.

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

20 [(d) *If the department determines that, based on the judgment of conviction, the purchaser is pro-*
21 *hibited from possessing a firearm as a condition of probation or that the purchaser is currently on*
22 *post-prison supervision or parole, the department shall report the attempted transfer to the purchaser's*
23 *supervising officer and the district attorney of the county in which the conviction occurred.]*

24 [(e) *If the department determines that the purchaser is prohibited from possessing a firearm due to*
25 *a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer to the*
26 *court that issued the order.]*

27 [(f) *If the department determines that the purchaser is under the jurisdiction of the Psychiatric*
28 *Security Review Board, the department shall report the attempted transfer to the board.]*

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

32 [(h) *On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's*
33 *office that received a report pursuant to paragraph (c) of this subsection during the previous calendar*
34 *year shall inform the department of any action that was taken concerning the report and the outcome*
35 *of the action.]*

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

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

40 [(B) *The number of reports made pursuant to paragraph (c) of this subsection;]*

41 [(C) *The number of investigations arising from the reports made pursuant to paragraph (c) of this*
42 *subsection, the number of investigations concluded and the number of investigations referred for pros-*
43 *ecution, all arranged by category of prohibition; and]*

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

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

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

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

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

8 (b) The maintenance of a procedure to correct errors in the criminal records of the department;

9 (c) The provision of a security system to identify gun dealers that request [*a criminal history*
10 *record check*] **to verify a permit** under subsection (2) of this section; and

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

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

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

16 (13)(a) If requested by a transferor who is not a gun dealer, a gun dealer may [*request a criminal*
17 *background check*] **verify a permit** pursuant to ORS 166.435 or 166.438 and may charge a reasonable
18 fee for providing the service.

19 (b) A gun dealer that [*requests a criminal background check*] **verifies a permit** under this sub-
20 section is immune from civil liability for any use of the firearm by the recipient or transferee[,
21 *provided that the gun dealer requests the criminal background check as described in this section and*
22 *also provided that the dealer verifies that the recipient has a valid permit-to-purchase the firearm and*
23 *the dealer has received a unique approval number from the department indicating successful completion*
24 *of the background check*].

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

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

31 166.435. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

12 (3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except
 13 as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the
 14 transferee must appear in person before a gun dealer, with the firearm and a valid [*permit-to-*
 15 *purchase*] **permit** issued to the transferee under section 4, chapter 1, Oregon Laws 2023, and request
 16 that the gun dealer [*perform a criminal background check on the transferee*] **verify the permit**.

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

20 (c) A gun dealer who agrees to complete a transfer of a firearm under this section shall [*request*
 21 *a criminal history record check on the transferee*] **verify the permit** as described in ORS 166.412 and
 22 shall comply with all requirements of federal law.

23 (d) If, upon completion of a [*criminal background check*] **permit verification**, the gun dealer:

24 (A) Receives [*a unique approval number*] **verification** from the Department of State Police indi-
 25 cating that the [*transferee is qualified to complete the transfer*] **permit is valid**, the gun dealer shall
 26 notify the transferor, enter the firearm into the gun dealer’s inventory and transfer the firearm to
 27 the transferee.

28 (B) Receives notification that the [*transferee is prohibited by state or federal law from possessing*
 29 *or receiving the firearm or that the department is unable to determine if the transferee is qualified or*
 30 *disqualified from completing the transfer*] **permit is not valid**, the gun dealer shall notify the
 31 transferor and neither the transferor nor the gun dealer shall transfer the firearm to the transferee.
 32 If the transferor shipped or delivered the firearm to the gun dealer pursuant to paragraph (b) of this
 33 subsection, the gun dealer shall comply with federal law when returning the firearm to the
 34 transferor.

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

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

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

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

43 (c) The transfer of a firearm to:

44 (A) A transferor’s spouse or domestic partner;

45 (B) A transferor’s parent or stepparent;

1 (C) A transferor’s child or stepchild;

2 (D) A transferor’s sibling;

3 (E) A transferor’s grandparent;

4 (F) A transferor’s grandchild;

5 (G) A transferor’s aunt or uncle;

6 (H) A transferor’s first cousin;

7 (I) A transferor’s niece or nephew; or

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

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

12 (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS
13 111.005, or a trustee of a trust created in a will; and

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

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

18 (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the
19 requirements of this section commits a Class B felony if the transferor has a previous conviction
20 under this section at the time of the offense.

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

23 166.436. (1) The Department of State Police **and the Department of Transportation** shall make
24 the *[telephone number established under ORS 166.412 (5)]* **database described in section 4, chapter**
25 **1, Oregon Laws 2023**, available for requests *[for criminal background checks under this section]* **to**
26 **verify permits issued or renewed under section 4, chapter 1, Oregon Laws 2023**, from persons
27 who are not gun dealers and who are transferring firearms at gun shows.

28 (2) Prior to transferring a firearm at a gun show, a transferor who is not a gun dealer shall
29 *[by telephone]* verify that the transferee has a valid *[permit-to-purchase]* **permit to purchase** a
30 firearm **issued or renewed** under section 4, chapter 1, Oregon Laws 2023, **within the previous five**
31 **years** and *[request that the department conduct a criminal background check on the recipient upon*
32 *providing]* **provide** the following information to the Department of State Police:

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]* **to verify a permit** under this
42 section, the department shall **determine whether the recipient has a valid permit and provide**
43 **the results of that determination to the transferor.** *[immediately, during the telephone call or by*
44 *return call:]*

45 *[(A) Determine from criminal records and other information available to it whether the recipient*

1 *is disqualified under ORS 166.470 from completing the transfer or is otherwise prohibited by state or*
2 *federal law from possessing a firearm; and]*

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

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

12 *[(c) (b) The transferor may not transfer the firearm unless the transferor [receives a unique*
13 *approval number from the department] **has verified the recipient's permit as described in this***
14 ***section** and, within 48 hours of the completed transfer, the transferor shall notify the [state] de-*
15 ***partment** that the transfer to the permit holder was completed.*

16 (4) A public employee or public agency incurs no criminal or civil liability for performing the
17 *[criminal background checks] **permit verifications** required by this section, provided the employee*
18 *or agency acts in good faith and without malice.*

19 (5)(a) The Department **of Transportation and the Department of State Police** may retain a
20 record of the information obtained during a request for a *[criminal background check] **permit ver-***
21 ***ification** under this section for the period of time provided in ORS 166.412 (7)[, as amended by*
22 *chapter 1, Oregon Laws 2023].*

23 (b) The record of the information obtained during a request for a *[criminal background check]*
24 ***permit verification** under this section is exempt from disclosure under public records law.*

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

30 *[(d) If the department determines that, based on the judgment of conviction, the recipient is pro-*
31 *hibited from possessing a firearm as a condition of probation or that the recipient is currently on*
32 *post-prison supervision or parole, the department shall report the attempted transfer to the recipient's*
33 *supervising officer and the district attorney of the county in which the conviction occurred.]*

34 *[(e) If the department determines that the recipient is prohibited from possessing a firearm due to*
35 *a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer to the*
36 *court that issued the order.]*

37 *[(f) If the department determines that the recipient is under the jurisdiction of the Psychiatric Se-*
38 *curity Review Board, the department shall report the attempted transfer to the board.]*

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

42 *[(h) On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's*
43 *office that received a report pursuant to paragraph (c) of this subsection during the previous calendar*
44 *year shall inform the department of any action that was taken concerning the report and the outcome*
45 *of the action.]*

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

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

5 *[(B) The number of reports made pursuant to paragraph (c) of this subsection;]*

6 *[(C) The number of investigations arising from the reports made pursuant to paragraph (c) of this*
 7 *subsection, the number of investigations concluded and the number of investigations referred for pros-*
 8 *ecution, all arranged by category of prohibition; and]*

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

11 (6) The recipient of the firearm must be present when the transferor requests [*a criminal back-*
 12 *ground check*] **to verify the recipient's permit** under this section.

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

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

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

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

24 **SECTION 9.** ORS 166.438, as amended by section 9, chapter 1, Oregon Laws 2023, is amended
 25 to read:

26 166.438. (1) A transferor who is not a gun dealer may not transfer a firearm at a gun show un-
 27 less the transferor:

28 (a)(A) Verifies with the Department of State Police that the recipient has a valid [*permit-to-*
 29 *purchase*] **permit issued to the recipient** under section 4, chapter 1, Oregon Laws 2023, **within the**
 30 **previous five years, or renewed by the recipient within the previous five years; and**

31 [*(B) Requests a criminal background check under ORS 166.436 prior to completing the transfer;*]

32 [*(C) Receives a unique approval number from the department indicating that the recipient is qual-*
 33 *ified to complete the transfer; and]*

34 [*(D)*] **(B)** Has the recipient complete the form described in ORS 166.441; or

35 (b) Completes the transfer through a gun dealer.

36 (2) The transferor shall retain the completed form referred to in subsection (1) of this section
 37 for at least five years and shall make the completed form available to law enforcement agencies for
 38 the purpose of criminal investigations.

39 (3) A person who organizes a gun show shall post in a prominent place at the gun show a notice
 40 explaining the requirements of subsections (1) and (2) of this section. The person shall provide the
 41 form required by subsection (1) of this section to any person transferring a firearm at the gun show.

42 (4) Subsection (1) of this section does not apply if the transferee is licensed as a dealer under
 43 18 U.S.C. 923.

44 (5)(a) Failure to comply with the requirements of subsection (1), (2) or (3) of this section is a
 45 Class A misdemeanor.

1 (b) Notwithstanding paragraph (a) of this subsection, failure to comply with the requirements
 2 of subsection (1), (2) or (3) of this section is a Class C felony if the person has two or more previous
 3 convictions under this section at the time of the offense.

4 (6) It is an affirmative defense to a charge of violating subsection (1) or (3) of this section that
 5 the person did not know, or reasonably could not know, that more than 25 firearms were at the site
 6 and available for transfer.

7
 8 **CONFORMING AMENDMENTS**

9
 10 **SECTION 10.** ORS 166.256 is amended to read:

11 166.256. (1)(a) When a respondent becomes subject to an order described in ORS 166.255 (1)(a)
 12 prohibiting the respondent from possessing firearms or ammunition, the court shall:

13 (A) Indicate in the order that the respondent is prohibited from possessing firearms and ammu-
 14 nition under ORS 166.250 and 166.255 while the order is in effect.

15 (B) Ensure that the respondent is subject to an additional order:

16 (i) Requiring the respondent to transfer all firearms and ammunition in the respondent's pos-
 17 session in accordance with subsection (2) of this section; and

18 (ii) Requiring the respondent to file a declaration as described in subsection (4) of this section.

19 (b) If the respondent becomes subject to the order while the respondent is present in court, the
 20 court shall:

21 (A) Inform the respondent, orally and in writing, that the respondent is prohibited from pos-
 22 sesseding firearms and ammunition;

23 (B) Order in writing that the respondent transfer all firearms and ammunition in the
 24 respondent's possession in accordance with subsection (2) of this section; and

25 (C) Order that the respondent file a declaration as described in subsection (4) of this section.

26 (2)(a) Within 24 hours of becoming subject to the court order under subsection (1)(a)(B) of this
 27 section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall
 28 transfer all firearms and ammunition in the respondent's possession to a local law enforcement
 29 agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the
 30 respondent, and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer
 31 to a third party under this subsection must be in accordance with ORS 166.435, except that the
 32 [criminal background check] exceptions in ORS 166.435 (4) do not apply.

33 (b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition
 34 pursuant to this subsection shall issue to the respondent a written proof of transfer. The proof of
 35 transfer must include the respondent's name, the date of transfer and the serial number, make and
 36 model of each transferred firearm. A proof of transfer issued by a third party must also include the
 37 [unique approval number from the Department of State Police from the criminal background check
 38 conducted under ORS 166.435] **number of the permit issued to the recipient under section 4,
 39 chapter 1, Oregon Laws 2023.**

40 (c) A respondent transferring a firearm or ammunition to a third party under this subsection
 41 shall additionally obtain from the third party a declaration under penalty of perjury confirming re-
 42 ceipt of the firearm or ammunition and attesting that:

43 (A) The third party understands that the respondent is prohibited from possessing firearms and
 44 ammunition; and

45 (B) The third party is subject to criminal penalties if the third party allows the respondent ac-

1 cess to the firearm or ammunition during the prohibition.

2 (3)(a) A law enforcement agency may accept a firearm or ammunition transferred under this
3 section.

4 (b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred
5 under this section.

6 (4)(a) Within two judicial days of becoming subject to the court order under subsection (1)(a)(B)
7 of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent
8 shall file with the court a declaration under penalty of perjury attesting that:

9 (A) All firearms and ammunition in the respondent's possession have been transferred under
10 subsection (2) of this section to:

11 (i) A law enforcement agency;

12 (ii) A gun dealer; or

13 (iii) A third party;

14 (B) The respondent was not in possession of any firearms **or ammunition** at the time of the
15 court's order and continues to not possess any firearms **or ammunition**; or

16 (C) The respondent is asserting the respondent's constitutional right against self-incrimination.

17 (b) The respondent shall file with the declaration a copy of the proof of transfer, if applicable,
18 and a copy of the third party declaration, if applicable.

19 (5) The respondent shall concurrently file with the district attorney copies of the declaration,
20 proof of transfer and third party declaration filed with the court under subsection (4) of this section.

21 (6) A respondent in possession of a firearm or ammunition in violation of ORS 166.255 (1)(a) may
22 not be prosecuted under ORS 166.250 if:

23 (a) The respondent is in possession of a court order described in subsection (1)(a)(B) or (1)(b)(B)
24 of this section that went into effect or was issued within the previous 24 hours;

25 (b) The firearm is unloaded; and

26 (c) The respondent is transporting the firearm or ammunition to a law enforcement agency, gun
27 dealer or third party for transfer in accordance with subsection (2) of this section.

28 (7) Upon the expiration or termination of the order described in ORS 166.255 (1)(a), at the re-
29 quest of the respondent:

30 (a) A law enforcement agency shall return any stored firearms and ammunition to the respond-
31 ent in accordance with ORS 166.257.

32 (b) A gun dealer shall return any stored firearms and ammunition to the respondent after per-
33 forming a criminal background check as defined in ORS 166.432 to confirm that the respondent is
34 not prohibited from possessing a firearm or ammunition under state or federal law.

35 (c) A third party shall return any stored firearms and ammunition to the respondent only after
36 requesting a criminal background check in accordance with ORS 166.435, except that the [*criminal*
37 *background check*] exceptions in ORS 166.435 (4) do not apply.

38 (8) If the respondent does not file a declaration described in subsection (4) of this section, the
39 district attorney may commence contempt proceedings under ORS 33.015 to 33.155.

40 **SECTION 11.** ORS 166.259 is amended to read:

41 166.259. (1) When a person is convicted of an offense described in ORS 166.255 (1)(b) or (c), the
42 court shall, at the time of conviction:

43 (a) Indicate in the judgment of conviction that the person is prohibited from possessing firearms
44 and ammunition under ORS 166.250 and 166.255;

45 (b) Inform the person, orally and in writing, that the person is prohibited from possessing

1 firearms and ammunition;

2 (c) Order in writing that the person transfer all firearms and ammunition in the person's pos-
 3 session in accordance with subsection (2) of this section; and

4 (d) Order that the person file a declaration as described in subsection (4) of this section.

5 (2)(a) Within 24 hours of the court's order under subsection (1) of this section, the person shall
 6 transfer all firearms and ammunition in the person's possession to a local law enforcement agency,
 7 to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the person,
 8 and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer to a third
 9 party under this subsection must be in accordance with ORS 166.435, except that the *[criminal*
 10 *background check]* exceptions in ORS 166.435 (4) do not apply.

11 (b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition
 12 pursuant to this subsection shall issue to the person a written proof of transfer. The proof of
 13 transfer must include the person's name, the date of transfer and the serial number, make and model
 14 of each transferred firearm. A proof of transfer issued by a third party must also include the *[unique*
 15 *approval number from the Department of State Police from the criminal background check conducted*
 16 *under ORS 166.435]* **number of the permit issued to the recipient under section 4, chapter 1,**
 17 **Oregon Laws 2023.**

18 (c) A person transferring a firearm or ammunition to a third party under this subsection shall
 19 additionally obtain from the third party a declaration under penalty of perjury confirming receipt
 20 of the firearm or ammunition and attesting that:

21 (A) The third party understands that the person is prohibited from possessing firearms and am-
 22 munition; and

23 (B) The third party is subject to criminal penalties if the third party allows the person access
 24 to the firearm or ammunition during the prohibition.

25 (3)(a) A law enforcement agency may accept a firearm or ammunition transferred under this
 26 section.

27 (b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred
 28 under this section.

29 (4)(a) Within two judicial days of the court's order under subsection (1) of this section, the per-
 30 son shall file with the court a declaration under penalty of perjury attesting that:

31 (A) All firearms and ammunition in the person's possession have been transferred under sub-
 32 section (2) of this section to:

33 (i) A law enforcement agency;

34 (ii) A gun dealer; or

35 (iii) A third party;

36 (B) The person was not in possession of any firearms **or ammunition** at the time of the court's
 37 order and continues to not possess any firearms **or ammunition**; or

38 (C) The person is asserting the person's constitutional right against self-incrimination.

39 (b) The person shall file with the declaration a copy of the proof of transfer, if applicable, and
 40 a copy of the third party declaration, if applicable.

41 (5) The person shall concurrently file with the district attorney copies of the declaration, proof
 42 of transfer and third party declaration filed with the court under subsection (4) of this section.

43 (6) A person in possession of a firearm or ammunition in violation of ORS 166.255 (1)(b) or (c)
 44 may not be prosecuted under ORS 166.250 if:

45 (a) The person is in possession of a court order described in subsection (1) of this section issued

1 within the previous 24 hours;

2 (b) The firearm is unloaded; and

3 (c) The person is transporting the firearm or ammunition to a law enforcement agency, gun
4 dealer or third party for transfer in accordance with subsection (2) of this section.

5 (7) If the person does not file the declaration required under subsection (4) of this section, the
6 district attorney may commence contempt proceedings under ORS 33.015 to 33.155.

7 **SECTION 12.** ORS 166.400 is amended to read:

8 166.400. (1) If a person transfers a firearm and [*a criminal background check*] **the verification**
9 **of a valid permit issued under section 4, chapter 1, Oregon Laws 2023, is required** under ORS
10 166.435 [*is required*] prior to the transfer, the person shall transfer the firearm:

11 (a) With an engaged trigger or cable lock; or

12 (b) In a locked container.

13 (2)(a) A violation of subsection (1) of this section is a Class C violation.

14 (b) Each firearm transferred in violation of subsection (1) of this section constitutes a separate
15 violation.

16 (3) If a firearm transferred in a manner that violates subsection (1) of this section is used to
17 injure a person or property within two years of the violation, in an action against the transferor to
18 recover damages for the injury, the violation of subsection (1) of this section constitutes per se
19 negligence, and the presumption of negligence may not be overcome by a showing that the
20 transferor acted reasonably.

21 (4) Subsection (3) of this section does not apply if the injury results from a lawful act of self-
22 defense or defense of another person.

23 (5) This section does not apply to:

24 (a) The transfer of a firearm made inoperable for the specific purpose of being used as a prop
25 in the making of a motion picture or a television, digital or similar production.

26 (b) A transfer that occurs when a firearm is taken from the owner or possessor of the firearm
27 by force.

28 **SECTION 13.** ORS 166.432 is amended to read:

29 166.432. (1) As used in ORS [*166.412,*] 166.433, [*166.434, 166.435, 166.436 and 166.438,*] “criminal
30 background check” or “criminal history record check” means determining the eligibility of a person
31 to purchase or possess a firearm by reviewing state and federal databases including, but not limited
32 to, the:

33 (a) Oregon computerized criminal history system;

34 (b) Oregon mental health data system;

35 (c) Law Enforcement Data System;

36 (d) National Instant Criminal Background Check System; and

37 (e) Stolen guns system.

38 (2) As used in ORS 166.433, 166.435, 166.436, 166.438 and 166.441:

39 (a) “Gun dealer” has the meaning given that term in ORS 166.412.

40 (b) “Gun show” means an event at which more than 25 firearms are on site and available for
41 transfer.

42 **SECTION 14.** ORS 166.460 is amended to read:

43 166.460. (1) ORS 166.250, 166.260, 166.291 to 166.295, 166.410, 166.412, 166.425, [*166.434,*] 166.438
44 and 166.450 do not apply to antique firearms.

45 (2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique

1 firearm by a person described in ORS 166.250 (1)(c)(B) to (D) or (G) constitutes a violation of ORS
2 166.250.

3 **SECTION 15. ORS 166.434 is repealed.**

4
5 **OPERATIVE DATE**

6
7 **SECTION 16. (1) Section 4 of this 2023 Act, the amendments to ORS 166.256, 166.259,
8 166.400, 166.412, 166.432, 166.435, 166.436, 166.438 and 166.460 and sections 3, 4 and 5, chapter
9 1, Oregon Laws 2023, by sections 1 to 3 and 6 to 14 of this 2023 Act and the repeal of ORS
10 166.432 by section 15 of this 2023 Act become operative on January 1, 2025.**

11 **(2) The Department of State Police and the Department of Transportation may take any
12 action before the operative date specified in subsection (1) of this section that is necessary
13 to enable the departments to exercise, on and after the operative date specified in subsection
14 (1) of this section, all of the duties, functions and powers conferred on the departments by
15 section 4 of this 2023 Act, the amendments to ORS 166.256, 166.259, 166.400, 166.412, 166.432,
16 166.435, 166.436, 166.438 and 166.460 and sections 3, 4 and 5, chapter 1, Oregon Laws 2023, by
17 sections 1 to 3 and 6 to 14 of this 2023 Act and the repeal of ORS 166.432 by section 15 of this
18 2023 Act.**

19
20 **CAPTIONS**

21
22 **SECTION 17. The unit captions used in this 2023 Act are provided only for the conven-
23 ience of the reader and do not become part of the statutory law of this state or express any
24 legislative intent in the enactment of this 2023 Act.**

25
26 **EFFECTIVE DATE**

27
28 **SECTION 18. This 2023 Act takes effect on the 91st day after the date on which the 2023
29 regular session of the Eighty-second Legislative Assembly adjourns sine die.**

30
