

SB 348-MR4
(LC 2422)
4/5/23 (JLM/ps)

Requested by Senator THATCHER

**PROPOSED MINORITY REPORT AMENDMENTS TO
SENATE BILL 348**

1 In line 2 of the printed bill, after “firearms” insert “; creating new pro-
2 visions; and amending ORS 166.270 and 166.435”.

3 Delete lines 4 through 9 and insert:

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

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

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

19 “(3) For the purposes of this section, a person ‘has been convicted of a
20 felony’ if, at the time of conviction for an offense, that offense was a felony
21 under the law of the jurisdiction in which it was committed. Such conviction

1 shall not be deemed a conviction of a felony if:

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

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

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

8 “(a) Convicted of only one felony under the law of this state or any other
9 state, or who has been convicted of only one felony under the laws of the
10 United States, which felony did not involve criminal homicide, as defined in
11 ORS 163.005, or the possession or use of a firearm or a weapon having a
12 blade that projects or swings into position by force of a spring or by
13 centrifugal force, and who has been discharged from imprisonment, parole
14 or probation for said offense for a period of 15 years prior to the date of
15 alleged violation of subsection (1) of this section; or

16 “(b) Granted relief from the disability under 18 U.S.C. 925(c) or ORS
17 166.274 or has had the person’s record expunged under the laws of this state
18 or equivalent laws of another jurisdiction.

19 “(5) Felon in possession of a firearm is a Class C felony. Felon in pos-
20 session of a restricted weapon is a Class A misdemeanor.

21 “(6) **The Oregon Criminal Justice Commission shall classify the**
22 **crime of felon in possession of a firearm as crime category 8 of the**
23 **sentencing guidelines grid of the commission.**

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

26 “166.435. (1) As used in this section:

27 “(a) ‘Transfer’ means the delivery of a firearm from a transferor to a
28 transferee, including, but not limited to, the sale, gift, loan or lease of the
29 firearm. ‘Transfer’ does not include the temporary provision of a firearm to
30 a transferee if the transferor has no reason to believe the transferee is pro-

1 hibited from possessing a firearm or intends to use the firearm in the com-
2 mission of a crime, and the provision occurs:

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

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

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

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

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

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

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

22 “(c) ‘Transferor’ means a person who is not a gun dealer or licensed as
23 a manufacturer or importer under 18 U.S.C. 923 and who intends to deliver
24 a firearm to a transferee.

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

29 “(3)(a) A transferor may transfer a firearm to a transferee only as pro-
30 vided in this section. Except as provided in paragraph (b) of this subsection,

1 prior to the transfer both the transferor and the transferee must appear in
2 person before a gun dealer, with the firearm and a valid permit-to-purchase
3 issued to the transferee under section 4, chapter 1, Oregon Laws 2023, and
4 request that the gun dealer perform a criminal background check on the
5 transferee.

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

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

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

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

19 “(B) Receives notification that the transferee is prohibited by state or
20 federal law from possessing or receiving the firearm or that the department
21 is unable to determine if the transferee is qualified or disqualified from
22 completing the transfer, the gun dealer shall notify the transferor and nei-
23 ther the transferor nor the gun dealer shall transfer the firearm to the
24 transferee. If the transferor shipped or delivered the firearm to the gun
25 dealer pursuant to paragraph (b) of this subsection, the gun dealer shall
26 comply with federal law when returning the firearm to the transferor.

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

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

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

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

8 “(c) The transfer of a firearm to:

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

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

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

12 “(D) A transferor’s sibling;

13 “(E) A transferor’s grandparent;

14 “(F) A transferor’s grandchild;

15 “(G) A transferor’s aunt or uncle;

16 “(H) A transferor’s first cousin;

17 “(I) A transferor’s niece or nephew; or

18 “(J) The spouse or domestic partner of a person specified in subpara-
19 graphs (B) to (I) of this paragraph.

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

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

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

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

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

1 “(b) Notwithstanding paragraph (a) of this subsection, a transferor who
2 fails to comply with the requirements of this section commits a Class B fel-
3 ony if the transferor has a previous conviction under this section at the time
4 of the offense.

5 “**SECTION 3. The amendments to ORS 166.435 by section 2 of this**
6 **2023 Act apply to firearm transfers occurring on or after the effective**
7 **date of this 2023 Act.”.**

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