

Senate Bill 1008

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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 circumstances under which person convicted of felony may obtain relief from prohibition against possession and transfer of firearms.

Modifies firearms provisions related to commitment of person with mental illness.

Eliminates requirement that forfeiture counsel send copy of judgment to Asset Forfeiture Oversight Advisory Committee.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 131.588, 131A.300, 166.250, 166.260,
3 166.270, 166.274, 166.291 and 166.470; and declaring an emergency.

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

5 **SECTION 1.** ORS 166.270 is amended to read:

6 166.270. (1) Any person who has been convicted of a felony under the law of this state or any
7 other state, or who has been convicted of a felony under the laws of the Government of the United
8 States, who owns or has in the person's possession or under the person's custody or control any
9 firearm 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 state or any other state,
11 or who has been convicted of a felony under the laws of the Government of the United States, who
12 owns or has in the person's possession or under the person's custody or control any instrument or
13 weapon having a blade that projects or swings into position by force of a spring or by centrifugal
14 force or any blackjack, slungshot, sandclub, sandbag, sap glove, metal knuckles or an Electro-
15 Muscular Disruption Technology device as defined in ORS 165.540, or who carries a dirk, dagger
16 or stiletto, commits the crime of felon in possession of a restricted weapon.

17 (3) For the purposes of this section, a person "has been convicted of a felony" if, at the time
18 of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it
19 was committed. Such conviction shall not be deemed a conviction of a felony if:

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

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

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

23 (a) Convicted of only one felony under the law of this state or any other state, or who has been
24 convicted of only one felony under the laws of the United States, which felony did not involve
25 criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon
26 having a blade that projects or swings into position by force of a spring or by centrifugal force, and
27 who has been discharged from imprisonment, parole, **post-prison supervision** or probation for said
28 offense for a period of 15 years prior to the date of alleged violation of subsection (1) of this section;

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 or

2 (b) Granted relief from the disability under 18 U.S.C. 925(c) [*or ORS 166.274*] or has had the
3 person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

4 (5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted
5 weapon is a Class A misdemeanor.

6 **SECTION 2.** ORS 166.274 is amended to read:

7 166.274. (1) A person barred from possessing [*a firearm under ORS 166.250 (1)(c)(A) to (E) or*
8 *166.270 or barred from*] **or** purchasing a firearm [*under ORS 166.470 (1)(a) to (g)*] may file a petition
9 for relief from the bar [*in:*] **in accordance with subsection (2) of this section if:**

10 **(a) The person is barred from:**

11 **(A) Possessing a firearm under ORS 166.250 (1)(c)(A) to (E); or**

12 **(B) Purchasing a firearm under ORS 166.470 (1)(a) to (g); and**

13 **(b) The person is not barred from possessing a firearm under ORS 166.270.**

14 **(2) A petition for relief described in this section must be filed in:**

15 (a) A justice court in the petitioner's county of residence that is reasonably accessible to the
16 petitioner; or

17 (b) If no justice court is reasonably accessible, the circuit court.

18 [(2)] **(3)** A person may apply once per calendar year for relief under the provisions of this sec-
19 tion.

20 [(3)(a)] **(4)(a)** A person petitioning for relief under this section shall serve a copy of the petition
21 on:

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

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

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

26 [(4)(a)] **(5)(a)** When a petition is denied, the judge shall cause that information to be entered into
27 the Department of State Police computerized criminal history files.

28 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
29 the petitioner to be entered into the Department of State Police computerized criminal history files.
30 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
31 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
32 notify the court that granted relief under this section. The court shall review the order granting
33 relief and determine whether to rescind the order. The Department of State Police may charge a
34 reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

35 [(5)] **(6)** Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
36 county, district or other political subdivision or public corporation in this state, without appearance
37 by attorney, may appear as a party to an action under this section.

38 [(6)] **(7)** If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief
39 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
40 petitioner does not pose a threat to the safety of the public or the petitioner.

41 [(7)] **(8)** A person barred from possessing or purchasing a firearm because the person, while a
42 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
43 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not
44 eligible to petition for relief under this section until more than four years have passed since the
45 person was discharged from the jurisdiction of the juvenile court.

1 [(8)] (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days
 2 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge
 3 shall then make findings and conclusions and issue a judgment based on the findings and conclusions
 4 in accordance with the requirements of law.

5 [(9)] (10) Filing fees shall be as for any civil action filed in the court.

6 [(10)(a)] (11)(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 **SECTION 3.** ORS 166.274, as amended by section 19, chapter 826, Oregon Laws 2009, is
 12 amended to read:

13 166.274. (1) A person barred from possessing or purchasing a firearm may file a petition for relief
 14 from the bar in accordance with subsection (2) of this section if:

15 (a) **The person is barred from:**

16 (A) [*The person is barred from*] Possessing a firearm under ORS 166.250 (1)(c)(A) to (C) [*or*
 17 *166.270*]; or

18 [(b)] (B) [*The person is barred from*] Purchasing a firearm under ORS 166.470 (1)(a) to (d) or
 19 (g); **and**

20 (b) **The person is not barred from possessing a firearm under ORS 166.270.**

21 (2) A petition for relief described in this section must be filed in:

22 (a) A justice court in the petitioner's county of residence that is reasonably accessible to the
 23 petitioner; or

24 (b) If no justice court is reasonably accessible, the circuit court.

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

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

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

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

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

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

33 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
 34 the petitioner to be entered into the Department of State Police computerized criminal history files.
 35 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
 36 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
 37 notify the court that granted relief under this section. The court shall review the order granting
 38 relief and determine whether to rescind the order. The Department of State Police may charge a
 39 reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

40 (6) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
 41 district or other political subdivision or public corporation in this state, without appearance by at-
 42 torney, may appear as a party to an action under this section.

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

1 (8) A person barred from possessing or purchasing a firearm because the person, while a minor,
 2 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
 3 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
 4 igible to petition for relief under this section until more than four years have passed since the
 5 person was discharged from the jurisdiction of the juvenile court.

6 (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 7 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
 8 then make findings and conclusions and issue a judgment based on the findings and conclusions in
 9 accordance with the requirements of law.

10 (10) Filing fees shall be as for any civil action filed in the court.

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

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

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

16 **SECTION 4.** ORS 166.274, as amended by sections 19 and 20, chapter 826, Oregon Laws 2009,
 17 is amended to read:

18 166.274. (1) A person barred from possessing [*a firearm under ORS 166.250 (1)(c)(A) to (E) or*
 19 *166.270 or barred from*] **or** purchasing a firearm [*under ORS 166.470 (1)(a) to (g)*] may file a petition
 20 for relief from the bar [*in:*] **in accordance with subsection (2) of this section if:**

21 **(a) The person is barred from:**

22 **(A) Possessing a firearm under ORS 166.250 (1)(c)(A) to (E); or**

23 **(B) Purchasing a firearm under ORS 166.470 (1)(a) to (g); and**

24 **(b) The person is not barred from possessing a firearm under ORS 166.270.**

25 **(2) A petition for relief described in this section must be filed in:**

26 (a) A justice court in the petitioner's county of residence that is reasonably accessible to the
 27 petitioner; or

28 (b) If no justice court is reasonably accessible, the circuit court.

29 [(2)] **(3)** A person may apply once per calendar year for relief under the provisions of this sec-
 30 tion.

31 [(3)(a)] **(4)(a)** A person petitioning for relief under this section shall serve a copy of the petition
 32 on:

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

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

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

37 [(4)(a)] **(5)(a)** When a petition is denied, the judge shall cause that information to be entered into
 38 the Department of State Police computerized criminal history files.

39 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
 40 the petitioner to be entered into the Department of State Police computerized criminal history files.
 41 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
 42 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
 43 notify the court that granted relief under this section. The court shall review the order granting
 44 relief and determine whether to rescind the order. The Department of State Police may charge a
 45 reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

1 [(5)] (6) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
 2 county, district or other political subdivision or public corporation in this state, without appearance
 3 by attorney, may appear as a party to an action under this section.

4 [(6)] (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief
 5 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
 6 petitioner does not pose a threat to the safety of the public or the petitioner.

7 [(7)] (8) A person barred from possessing or purchasing a firearm because the person, while a
 8 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
 9 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not
 10 eligible to petition for relief under this section until more than four years have passed since the
 11 person was discharged from the jurisdiction of the juvenile court.

12 [(8)] (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days
 13 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge
 14 shall then make findings and conclusions and issue a judgment based on the findings and conclusions
 15 in accordance with the requirements of law.

16 [(9)] (10) Filing fees shall be as for any civil action filed in the court.

17 [(10)(a)] (11)(a) Initial appeals of petitions shall be heard de novo.

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

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

22 **SECTION 5.** ORS 166.250 is amended to read:

23 166.250. (1) Except as otherwise provided in this section or ORS 166.260, [166.270,] 166.274,
 24 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm
 25 if the person knowingly:

26 (a) Carries any firearm concealed upon the person;

27 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
 28 cle; or

29 (c) Possesses a firearm and:

30 (A) Is under 18 years of age;

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

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

36 (C) Has been convicted of a felony;

37 (D) Was committed to **the Department of Human Services or** the Oregon Health Authority
 38 under ORS 426.130;

39 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be
 40 prohibited from purchasing or possessing a firearm as a result of that mental illness; or

41 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

42 (2) This section does not prohibit:

43 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
 44 ssuming a firearm:

45 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or

1 guardian or by another person with the consent of the minor's parent or guardian; or

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

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

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

11 (4)(a) Except as provided in paragraph (b) of this subsection, a handgun is readily accessible
12 within the meaning of this section if the handgun is within the passenger compartment of the vehi-
13 cle.

14 (b) If a vehicle has no storage location that is outside the passenger compartment of the vehicle,
15 a handgun is not readily accessible within the meaning of this section if:

16 (A) The handgun is stored in a closed and locked glove compartment, center console or other
17 container; and

18 (B) The key is not inserted into the lock, if the glove compartment, center console or other
19 container unlocks with a key.

20 (5) Unlawful possession of a firearm is a Class A misdemeanor.

21 **SECTION 6.** ORS 166.250, as amended by section 8a, chapter 826, Oregon Laws 2009, is
22 amended to read:

23 166.250. (1) Except as otherwise provided in this section or ORS 166.260, [166.270,] 166.274,
24 166.291, 166.292 or 166.410 to 166.470 or section 5, chapter 826, Oregon Laws 2009, a person commits
25 the crime of unlawful possession of a firearm if the person knowingly:

26 (a) Carries any firearm concealed upon the person;

27 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
28 cle; or

29 (c) Possesses a firearm and:

30 (A) Is under 18 years of age;

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

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

36 (C) Has been convicted of a felony;

37 (D) Was committed to **the Department of Human Services or** the Oregon Health Authority
38 under ORS 426.130;

39 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be
40 prohibited from purchasing or possessing a firearm as a result of that mental illness; or

41 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

42 (2) This section does not prohibit:

43 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
44 ssuming a firearm:

45 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or

1 guardian or by another person with the consent of the minor's parent or guardian; or

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

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

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

11 (4)(a) Except as provided in paragraph (b) of this subsection, a handgun is readily accessible
12 within the meaning of this section if the handgun is within the passenger compartment of the vehi-
13 cle.

14 (b) If a vehicle has no storage location that is outside the passenger compartment of the vehicle,
15 a handgun is not readily accessible within the meaning of this section if:

16 (A) The handgun is stored in a closed and locked glove compartment, center console or other
17 container; and

18 (B) The key is not inserted into the lock, if the glove compartment, center console or other
19 container unlocks with a key.

20 (5) Unlawful possession of a firearm is a Class A misdemeanor.

21 **SECTION 7.** ORS 166.250, as amended by sections 8a and 11a, chapter 826, Oregon Laws 2009,
22 is amended to read:

23 166.250. (1) Except as otherwise provided in this section or ORS 166.260, [166.270,] 166.274,
24 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm
25 if the person knowingly:

26 (a) Carries any firearm concealed upon the person;

27 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
28 cle; or

29 (c) Possesses a firearm and:

30 (A) Is under 18 years of age;

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

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

36 (C) Has been convicted of a felony;

37 (D) Was committed to **the Department of Human Services** or the Oregon Health Authority
38 under ORS 426.130;

39 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be
40 prohibited from purchasing or possessing a firearm as a result of that mental illness; or

41 (F) Has been found guilty except for insanity under ORS 161.295 of a felony.

42 (2) This section does not prohibit:

43 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
44 sessed a firearm:

45 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or

1 guardian or by another person with the consent of the minor's parent or guardian; or

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

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

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

11 (4)(a) Except as provided in paragraph (b) of this subsection, a handgun is readily accessible
12 within the meaning of this section if the handgun is within the passenger compartment of the vehi-
13 cle.

14 (b) If a vehicle has no storage location that is outside the passenger compartment of the vehicle,
15 a handgun is not readily accessible within the meaning of this section if:

16 (A) The handgun is stored in a closed and locked glove compartment, center console or other
17 container; and

18 (B) The key is not inserted into the lock, if the glove compartment, center console or other
19 container unlocks with a key.

20 (5) Unlawful possession of a firearm is a Class A misdemeanor.

21 **SECTION 8.** ORS 166.260 is amended to read:

22 166.260. (1) ORS 166.250 does not apply to or affect:

23 (a) Sheriffs, constables, marshals, parole and probation officers, police officers, whether active
24 or honorably retired, or other duly appointed peace officers.

25 (b) Any person summoned by any such officer to assist in making arrests or preserving the
26 peace, while said person so summoned is actually engaged in assisting the officer.

27 (c) The possession or transportation by any merchant of unloaded firearms as merchandise.

28 (d) Active or reserve members of the Army, Navy, Air Force, Coast Guard or Marine Corps of
29 the United States, or of the National Guard, when on duty.

30 (e) Organizations which are by law authorized to purchase or receive weapons described in ORS
31 166.250 from the United States, or from this state.

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

34 (g) A corrections officer while transporting or accompanying an individual convicted of or ar-
35 rested for an offense and confined in a place of incarceration or detention while outside the confines
36 of the place of incarceration or detention.

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

38 (2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has
39 been granted relief from the disability under ORS 166.274 **or 18 U.S.C. 925(c) or the expunction**
40 **laws of this state or an equivalent law of another jurisdiction.**

41 (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS
42 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

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

1 ranges.

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

4 (4) The exceptions listed in subsection (1)(b) to (h) of this section constitute affirmative defenses
5 to a charge of violating ORS 166.250.

6 **SECTION 9.** ORS 166.470 is amended to read:

7 166.470. (1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction
8 laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell,
9 deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that
10 the recipient:

11 (a) Is under 18 years of age;

12 (b) Has been convicted of a felony;

13 (c) Has any outstanding felony warrants for arrest;

14 (d) Is free on any form of pretrial release for a felony;

15 (e) Was committed to **the Department of Human Services** or the Oregon Health Authority
16 under ORS 426.130;

17 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
18 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
19 illness;

20 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
21 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
22 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
23 163.187, 163.190, 163.195 or 166.155 (1)(b); or

24 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

25 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
26 reasonably should know is stolen.

27 (3) Subsection (1)(a) of this section does not prohibit:

28 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
29 minor from transferring to the minor a firearm, other than a handgun; or

30 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
31 lawful purpose.

32 (4) Violation of this section is a Class A misdemeanor.

33 **SECTION 10.** ORS 166.470, as amended by section 8, chapter 826, Oregon Laws 2009, is
34 amended to read:

35 166.470. (1) Unless relief has been granted under ORS 166.274 or section 5, chapter 826, Oregon
36 Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another
37 jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the
38 transferor knows or reasonably should know that the recipient:

39 (a) Is under 18 years of age;

40 (b) Has been convicted of a felony;

41 (c) Has any outstanding felony warrants for arrest;

42 (d) Is free on any form of pretrial release for a felony;

43 (e) Was committed to **the Department of Human Services** or the Oregon Health Authority
44 under ORS 426.130;

45 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130

1 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
2 illness;

3 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
4 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
5 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
6 163.187, 163.190, 163.195 or 166.155 (1)(b); or

7 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

8 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
9 reasonably should know is stolen.

10 (3) Subsection (1)(a) of this section does not prohibit:

11 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
12 minor from transferring to the minor a firearm, other than a handgun; or

13 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
14 lawful purpose.

15 (4) Violation of this section is a Class A misdemeanor.

16 **SECTION 11.** ORS 166.470, as amended by sections 8 and 11, chapter 826, Oregon Laws 2009,
17 is amended to read:

18 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C. 925(c) or the
19 expunction laws of this state or an equivalent law of another jurisdiction, a person may not inten-
20 tionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably
21 should know that the recipient:

22 (a) Is under 18 years of age;

23 (b) Has been convicted of a felony;

24 (c) Has any outstanding felony warrants for arrest;

25 (d) Is free on any form of pretrial release for a felony;

26 (e) Was committed to **the Department of Human Services** or the Oregon Health Authority
27 under ORS 426.130;

28 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
29 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
30 illness;

31 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
32 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
33 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
34 163.187, 163.190, 163.195 or 166.155 (1)(b); or

35 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

36 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
37 reasonably should know is stolen.

38 (3) Subsection (1)(a) of this section does not prohibit:

39 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
40 minor from transferring to the minor a firearm, other than a handgun; or

41 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
42 lawful purpose.

43 (4) Violation of this section is a Class A misdemeanor.

44 **SECTION 12.** ORS 166.291 is amended to read:

45 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed

1 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
2 out in this section, shall issue the person a concealed handgun license if the person:

3 (a)(A) Is a citizen of the United States; or

4 (B) Is a legal resident alien who can document continuous residency in the county for at least
5 six months and has declared in writing to the United States Citizenship and Immigration Services
6 the intent to acquire citizenship status and can present proof of the written declaration to the
7 sheriff at the time of application for the license;

8 (b) Is at least 21 years of age;

9 (c) Is a resident of the county;

10 (d) Has no outstanding warrants for arrest;

11 (e) Is not free on any form of pretrial release;

12 (f) Demonstrates competence with a handgun by any one of the following:

13 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
14 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
15 of the course;

16 (B) Completion of any National Rifle Association firearms safety or training course if handgun
17 safety was a component of the course;

18 (C) Completion of any firearms safety or training course or class available to the general public
19 offered by law enforcement, community college, or private or public institution or organization or
20 firearms training school utilizing instructors certified by the National Rifle Association or a law
21 enforcement agency if handgun safety was a component of the course;

22 (D) Completion of any law enforcement firearms safety or training course or class offered for
23 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
24 cers if handgun safety was a component of the course;

25 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
26 ized shooting competition or military service;

27 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
28 revoked; or

29 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
30 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
31 was a component of the course;

32 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
33 of a felony;

34 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
35 161.295, of a misdemeanor within the four years prior to the application;

36 (i) Has not been committed to **the Department of Human Services** or the Oregon Health
37 Authority under ORS 426.130;

38 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
39 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

40 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
41 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
42 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
43 volving violence, as defined in ORS 166.470;

44 (L) Has not been convicted of an offense involving controlled substances or participated in a
45 court-supervised drug diversion program, except this disability does not operate to exclude a person

1 if:

2 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
3 a court-supervised drug diversion program under ORS 135.907; or

4 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
5 has not been convicted of violating ORS 475.864 (3);

6 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
7 107.700 to 107.735 or 163.738;

8 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

9 (o) Is not required to register as a sex offender in any state.

10 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
11 has had the person’s record expunged under the laws of this state or equivalent laws of other ju-
12 risdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

13 (3) Before the sheriff may issue a license:

14 (a) The application must state the applicant’s legal name, current address and telephone number,
15 date and place of birth, hair and eye color and height and weight. The application must also list the
16 applicant’s residence address or addresses for the previous three years. The application must contain
17 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
18 section. The application may include the Social Security number of the applicant if the applicant
19 voluntarily provides this number. The application must be signed by the applicant.

20 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
21 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
22 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
23 records check is necessary, the sheriff shall request the Department of State Police to conduct the
24 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
25 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
26 check and may not keep any record of the fingerprints. The Department of State Police shall report
27 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
28 Police shall also furnish the sheriff with any information about the applicant that the Department
29 of State Police may have in its possession from its central bureau of criminal identification includ-
30 ing, but not limited to, manual or computerized criminal offender information.

31 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
32 quest. The forms shall be uniform throughout the state in substantially the following form:

33 _____

34

35

APPLICATION FOR LICENSE TO CARRY
CONCEALED HANDGUN

36

37

Date_____

38

I hereby declare as follows:

39

40

41

42

43

44

45

I am a citizen of the United States or a legal resident alien who can document continuous res-
idency in the county for at least six months and have declared in writing to the United States Cit-
izenship and Immigration Services my intention to become a citizen and can present proof of the
written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined

1 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
2 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
3 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
4 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
5 volving controlled substances or completed a court-supervised drug diversion program. There are
6 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
7 been committed to **the Department of Human Services** or the Oregon Health Authority under
8 ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me
9 from purchasing or possessing a firearm because of mental illness. If any of the previous conditions
10 do apply to me, I have been granted relief or wish to petition for relief from the disability under
11 ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to
12 a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or
13 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States.
14 I am not required to register as a sex offender in any state. I understand I will be fingerprinted and
15 photographed.

16

17 Legal name _____
18 Age _____ Date of birth _____
19 Place of birth _____
20 Social Security number _____

21 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
22 thorized under ORS 166.291. It will be used only as a means of identification.)

23

24 Proof of identification (Two pieces of current identification are required, one of which must bear a
25 photograph of the applicant. The type of identification and the number on the identification are to
26 be filled in by the sheriff.):

- 27 1. _____
- 28 2. _____

29

30 Height _____ Weight _____
31 Hair color _____ Eye color _____

32

33 Current address _____

34

(List residence addresses for the
35 past three years on the back.)

36

37 City _____ County _____ Zip _____
38 Phone _____

39

40 I have read the entire text of this application, and the statements therein are correct and true.
41 (Making false statements on this application is a misdemeanor.)

42

43 _____
(Signature of Applicant)

44

45 Character references.

1 _____
2 Name Address
3 _____

4 Name Address

5

6 Approved _____ Disapproved _____ by _____

7

8 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

9 Date _____ Fee Paid _____

10 License No. _____

11 _____

12

13 (5)(a) Fees for concealed handgun licenses are:

14 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

15 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

16 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

17 (b) The sheriff may enter into an agreement with the Department of Transportation to produce

18 the concealed handgun license.

19 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-

20 gaged in the receipt and review of, or an investigation connected with, any application for, or in the

21 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful

22 performance of duties under those sections.

23 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff

24 shall enter the applicant's name into the Law Enforcement Data System indicating that the person

25 is an applicant for a concealed handgun license or is a license holder.

26 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section

27 for a resident of a contiguous state who has a compelling business interest or other legitimate

28 demonstrated need.

29 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the

30 person:

31 (a) Has a current Oregon driver license issued to the person showing a residence address in the

32 county;

33 (b) Is registered to vote in the county and has a memorandum card issued to the person under

34 ORS 247.181 showing a residence address in the county;

35 (c) Has documentation showing that the person currently leases or owns real property in the

36 county; or

37 (d) Has documentation showing that the person filed an Oregon tax return for the most recent

38 tax year showing a residence address in the county.

39 **SECTION 13.** ORS 166.291, as amended by section 7, chapter 826, Oregon Laws 2009, is

40 amended to read:

41 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed

42 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set

43 out in this section, shall issue the person a concealed handgun license if the person:

44 (a)(A) Is a citizen of the United States; or

45 (B) Is a legal resident alien who can document continuous residency in the county for at least

1 six months and has declared in writing to the United States Citizenship and Immigration Services
2 the intent to acquire citizenship status and can present proof of the written declaration to the
3 sheriff at the time of application for the license;

4 (b) Is at least 21 years of age;

5 (c) Is a resident of the county;

6 (d) Has no outstanding warrants for arrest;

7 (e) Is not free on any form of pretrial release;

8 (f) Demonstrates competence with a handgun by any one of the following:

9 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
10 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
11 of the course;

12 (B) Completion of any National Rifle Association firearms safety or training course if handgun
13 safety was a component of the course;

14 (C) Completion of any firearms safety or training course or class available to the general public
15 offered by law enforcement, community college, or private or public institution or organization or
16 firearms training school utilizing instructors certified by the National Rifle Association or a law
17 enforcement agency if handgun safety was a component of the course;

18 (D) Completion of any law enforcement firearms safety or training course or class offered for
19 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
20 cers if handgun safety was a component of the course;

21 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
22 ized shooting competition or military service;

23 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
24 revoked; or

25 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
26 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
27 was a component of the course;

28 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
29 of a felony;

30 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
31 161.295, of a misdemeanor within the four years prior to the application;

32 (i) Has not been committed to **the Department of Human Services** or the Oregon Health
33 Authority under ORS 426.130;

34 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
35 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

36 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
37 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
38 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
39 volving violence, as defined in ORS 166.470;

40 (L) Has not been convicted of an offense involving controlled substances or participated in a
41 court-supervised drug diversion program, except this disability does not operate to exclude a person
42 if:

43 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
44 a court-supervised drug diversion program under ORS 135.907; or

45 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and

1 has not been convicted of violating ORS 475.864 (3);

2 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
3 107.700 to 107.735 or 163.738;

4 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

5 (o) Is not required to register as a sex offender in any state.

6 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
7 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person’s record expunged under the laws of
8 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
9 (1)(g) to (L) of this section.

10 (3) Before the sheriff may issue a license:

11 (a) The application must state the applicant’s legal name, current address and telephone number,
12 date and place of birth, hair and eye color and height and weight. The application must also list the
13 applicant’s residence address or addresses for the previous three years. The application must contain
14 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
15 section. The application may include the Social Security number of the applicant if the applicant
16 voluntarily provides this number. The application must be signed by the applicant.

17 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
18 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
19 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
20 records check is necessary, the sheriff shall request the Department of State Police to conduct the
21 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
22 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
23 check and may not keep any record of the fingerprints. The Department of State Police shall report
24 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
25 Police shall also furnish the sheriff with any information about the applicant that the Department
26 of State Police may have in its possession from its central bureau of criminal identification includ-
27 ing, but not limited to, manual or computerized criminal offender information.

28 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
29 quest. The forms shall be uniform throughout the state in substantially the following form:

30 _____
31
32 APPLICATION FOR LICENSE TO CARRY
33 CONCEALED HANDGUN

34 Date_____

35 I hereby declare as follows:

36 I am a citizen of the United States or a legal resident alien who can document continuous resi-
37 dency in the county for at least six months and have declared in writing to the United States Cit-
38 izenship and Immigration Services my intention to become a citizen and can present proof of the
39 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
40 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
41 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
42 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
43 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
44 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
45 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a

1 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
2 volving controlled substances or completed a court-supervised drug diversion program. There are
3 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
4 been committed to **the Department of Human Services** or the Oregon Health Authority under
5 ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me
6 from purchasing or possessing a firearm because of mental illness. If any of the previous conditions
7 do apply to me, I have been granted relief or wish to petition for relief from the disability under
8 ORS 166.274 or 166.293 or section 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or have had
9 the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued
10 under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from
11 the Armed Forces of the United States. I am not required to register as a sex offender in any state.
12 I understand I will be fingerprinted and photographed.

13
14 Legal name _____
15 Age _____ Date of birth _____
16 Place of birth _____
17 Social Security number _____

18 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
19 thorized under ORS 166.291. It will be used only as a means of identification.)

20
21 Proof of identification (Two pieces of current identification are required, one of which must bear a
22 photograph of the applicant. The type of identification and the number on the identification are to
23 be filled in by the sheriff.):

- 24 1. _____
25 2. _____

26
27 Height _____ Weight _____
28 Hair color _____ Eye color _____

29
30 Current address _____

(List residence addresses for the
past three years on the back.)

31
32
33
34 City _____ County _____ Zip _____
35 Phone _____

36
37 I have read the entire text of this application, and the statements therein are correct and true.
38 (Making false statements on this application is a misdemeanor.)

39 _____
40 (Signature of Applicant)

41
42 Character references.
43 _____
44 Name Address
45 _____

1 Name Address
 2
 3 Approved _____ Disapproved _____ by _____
 4
 5 Competence with handgun demonstrated by _____ (to be filled in by sheriff)
 6 Date _____ Fee Paid _____
 7 License No. _____
 8

- 9
- 10 (5)(a) Fees for concealed handgun licenses are:
- 11 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
- 12 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
- 13 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- 14 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
- 15 the concealed handgun license.
- 16 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
- 17 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
- 18 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
- 19 performance of duties under those sections.
- 20 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
- 21 shall enter the applicant’s name into the Law Enforcement Data System indicating that the person
- 22 is an applicant for a concealed handgun license or is a license holder.
- 23 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
- 24 for a resident of a contiguous state who has a compelling business interest or other legitimate
- 25 demonstrated need.
- 26 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
- 27 person:
- 28 (a) Has a current Oregon driver license issued to the person showing a residence address in the
- 29 county;
- 30 (b) Is registered to vote in the county and has a memorandum card issued to the person under
- 31 ORS 247.181 showing a residence address in the county;
- 32 (c) Has documentation showing that the person currently leases or owns real property in the
- 33 county; or
- 34 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
- 35 tax year showing a residence address in the county.
- 36 **SECTION 14.** ORS 166.291, as amended by sections 7 and 10, chapter 826, Oregon Laws 2009,
- 37 is amended to read:
- 38 166.291. (1) The sheriff of a county, upon a person’s application for an Oregon concealed
- 39 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
- 40 out in this section, shall issue the person a concealed handgun license if the person:
- 41 (a)(A) Is a citizen of the United States; or
- 42 (B) Is a legal resident alien who can document continuous residency in the county for at least
- 43 six months and has declared in writing to the United States Citizenship and Immigration Services
- 44 the intent to acquire citizenship status and can present proof of the written declaration to the
- 45 sheriff at the time of application for the license;

- 1 (b) Is at least 21 years of age;
- 2 (c) Is a resident of the county;
- 3 (d) Has no outstanding warrants for arrest;
- 4 (e) Is not free on any form of pretrial release;
- 5 (f) Demonstrates competence with a handgun by any one of the following:
- 6 (A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component
- 7 of the course;
- 8
- 9 (B) Completion of any National Rifle Association firearms safety or training course if handgun
- 10 safety was a component of the course;
- 11 (C) Completion of any firearms safety or training course or class available to the general public
- 12 offered by law enforcement, community college, or private or public institution or organization or
- 13 firearms training school utilizing instructors certified by the National Rifle Association or a law
- 14 enforcement agency if handgun safety was a component of the course;
- 15 (D) Completion of any law enforcement firearms safety or training course or class offered for
- 16 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
- 17 cers if handgun safety was a component of the course;
- 18 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
- 19 ized shooting competition or military service;
- 20 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
- 21 revoked; or
- 22 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
- 23 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
- 24 was a component of the course;
- 25 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
- 26 of a felony;
- 27 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
- 28 161.295, of a misdemeanor within the four years prior to the application;
- 29 (i) Has not been committed to **the Department of Human Services** or the Oregon Health
- 30 Authority under ORS 426.130;
- 31 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
- 32 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- 33 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
- 34 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
- 35 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
- 36 volving violence, as defined in ORS 166.470;
- 37 (L) Has not been convicted of an offense involving controlled substances or participated in a
- 38 court-supervised drug diversion program, except this disability does not operate to exclude a person
- 39 if:
- 40 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
- 41 a court-supervised drug diversion program under ORS 135.907; or
- 42 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
- 43 has not been convicted of violating ORS 475.864 (3);
- 44 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
- 45 107.700 to 107.735 or 163.738;

(n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

(o) Is not required to register as a sex offender in any state.

(2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

(3) Before the sheriff may issue a license:

(a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1) of this section. The application may include the Social Security number of the applicant if the applicant voluntarily provides this number. The application must be signed by the applicant.

(b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff shall fingerprint and photograph the applicant and shall conduct any investigation necessary to corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession from its central bureau of criminal identification including, but not limited to, manual or computerized criminal offender information.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout the state in substantially the following form:

APPLICATION FOR LICENSE TO CARRY
CONCEALED HANDGUN

Date _____

I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to **the Department of Human Services** or the Oregon Health Authority under

1 ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me
2 from purchasing or possessing a firearm because of mental illness. If any of the previous conditions
3 do apply to me, I have been granted relief or wish to petition for relief from the disability under
4 ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to
5 a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or
6 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States.
7 I am not required to register as a sex offender in any state. I understand I will be fingerprinted and
8 photographed.

9
10 Legal name _____
11 Age _____ Date of birth _____
12 Place of birth _____
13 Social Security number _____

14 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
15 thorized under ORS 166.291. It will be used only as a means of identification.)

16
17 Proof of identification (Two pieces of current identification are required, one of which must bear a
18 photograph of the applicant. The type of identification and the number on the identification are to
19 be filled in by the sheriff.):

- 20 1. _____
- 21 2. _____

22
23 Height _____ Weight _____
24 Hair color _____ Eye color _____

25
26 Current address _____

(List residence addresses for the
past three years on the back.)

27
28
29
30 City _____ County _____ Zip _____
31 Phone _____

32
33 I have read the entire text of this application, and the statements therein are correct and true.
34 (Making false statements on this application is a misdemeanor.)

35 _____
36 (Signature of Applicant)

37
38 Character references.

39 _____

Name	Address
_____	_____
_____	_____

41 _____

Name	Address
_____	_____
_____	_____

42
43
44 Approved _____ Disapproved _____ by _____
45

1 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

2 Date _____ Fee Paid _____

3 License No. _____

4 _____

5
6 (5)(a) Fees for concealed handgun licenses are:

7 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

8 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

9 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

10 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
11 the concealed handgun license.

12 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
13 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
14 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
15 performance of duties under those sections.

16 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
17 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
18 is an applicant for a concealed handgun license or is a license holder.

19 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
20 for a resident of a contiguous state who has a compelling business interest or other legitimate
21 demonstrated need.

22 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
23 person:

24 (a) Has a current Oregon driver license issued to the person showing a residence address in the
25 county;

26 (b) Is registered to vote in the county and has a memorandum card issued to the person under
27 ORS 247.181 showing a residence address in the county;

28 (c) Has documentation showing that the person currently leases or owns real property in the
29 county; or

30 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
31 tax year showing a residence address in the county.

32 **SECTION 15.** ORS 131A.300 is amended to read:

33 131A.300. (1) A judgment forfeiting property shall recite the basis for the judgment.

34 (2) After entry of a judgment forfeiting property, the forfeiting agency may transfer good and
35 sufficient title for the property to purchasers and other transferees, and the title shall be recognized
36 by all courts and public bodies. Any public body whose official functions include the issuance of
37 certificates of title or other evidence of title is immune from civil or criminal liability if the issuance
38 is pursuant to a judgment of forfeiture.

39 (3) If real property is forfeited under a judgment forfeiting property, the forfeiting agency shall
40 warrant the title of the property against constitutional defect. A warranty under this section is
41 limited to the purchase price of the real property.

42 *[(4) Forfeiture counsel shall send a copy of each judgment entered in forfeiture proceedings, in-*
43 *cluding ex parte judgments entered under ORS 131A.200, to the Asset Forfeiture Oversight Advisory*
44 *Committee.]*

45 *[(5)]* (4) A forfeiting agency may apply to any circuit court judge for a writ of assistance di-

1 recting the sheriff of the county to assist the forfeiting agency in seizing property identified in a
2 judgment forfeiting property.

3 **SECTION 16.** ORS 131.588 is amended to read:

4 131.588. (1) If no financial institution has filed the affidavit described in ORS 131.579 (1), and if
5 the court has failed to uphold the claim or affidavit of any other person claiming an interest in the
6 property, the effect of the judgment is that:

7 (a) Title to the property passes to the seizing agency free of any interest or encumbrance
8 thereon in favor of any person who has been given notice;

9 (b) The seizing agency may transfer good and sufficient title to any subsequent purchaser or
10 transferee, and all courts, the state and the departments and agencies of this state, and any political
11 subdivision shall recognize the title. In the case of real property, the seizing agency shall warrant
12 the title against constitutional defect. A warranty under this paragraph is limited to the purchase
13 price of the real property; and

14 (c) Any department, agency or officer of this state or any political subdivision whose official
15 functions include the issuance of certificates or other evidence of title is immune from civil or
16 criminal liability when such issuance is pursuant to a judgment of criminal forfeiture.

17 (2) If an affidavit is filed by a financial institution under ORS 131.579 (1), or if a person files an
18 affidavit under ORS 131.579 (2):

19 (a) The court shall foreclose all security interests, liens and vendor's interests of financial in-
20 stitutions and claimants as to which the court determines that there is a legal or equitable basis for
21 foreclosure; and

22 (b) All other interests applicable to the property that are not foreclosed or otherwise eliminated
23 through a judgment of foreclosure, if and to the extent that they are valid and subsisting, remain
24 in effect and the property remains subject to them upon completion of the criminal forfeiture pro-
25 ceeding.

26 (3) Notwithstanding any other provision of law, if a financial institution or other person has
27 filed an affidavit described in ORS 131.579, or if the court has upheld the claim of any claimant, then
28 as to each item of property seized:

29 (a) If the court has determined that the property should not be forfeited and has not foreclosed
30 the security interests, liens or other interests covering the property, the court shall render judgment
31 in favor of the owner of the property, the property must be returned to the owner and all security
32 interests, liens and other interests applicable to the property remain in effect as though the property
33 had never been seized. If the property is a motor vehicle with a hidden compartment, the seizing
34 agency is not liable for any diminution in the value of the property as a result of disabling the
35 compartment. Upon the return of the property to the owner, the seizing agency shall pay all costs
36 and expenses relating to towing and storage of the property and shall cause to be discharged any
37 possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to
38 the property since the seizure.

39 (b) If the court has determined that the property should not be forfeited and has foreclosed one
40 or more interests covering the property, including security interests or liens covering the property
41 or contracts for the transfer or conveyance of the property, the seizing agency shall pay all costs
42 and expenses relating to towing and storage of the property and shall cause to be discharged any
43 possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to
44 the property since the seizure, and the court shall order the property sold pursuant to a sheriff's
45 sale or other sale authorized by the court within such time as may be prescribed by the court fol-

1 lowing entry of the judgment. If any interests covering the property have not been foreclosed, in-
2 cluding any liens or security interests of a claimant whose claim has been upheld, or of a financial
3 institution that has filed the affidavit described in ORS 131.579, the property must be sold subject
4 to those interests. The judgment shall order the proceeds of the sale applied in the following order:

5 (A) To the payment of the costs of the sale;

6 (B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing
7 agency for the cost of disabling the hidden compartment;

8 (C) To the satisfaction of the foreclosed liens, security interests and contracts in order of their
9 priority; and

10 (D) The excess, if any, to the owner of the property.

11 (c) If the court has determined that the property should be forfeited and has foreclosed one or
12 more security interests, liens, contracts or other interests covering the property, the seizing agency
13 shall pay all costs and expenses relating to towing and storage of the property and shall cause to
14 be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that
15 have attached to the property since the seizure, and the court shall order the property sold pursuant
16 to a sheriff's sale or other sale authorized by the court. If any interest in the property was claimed
17 by a financial institution or other claimant and the interest was upheld but not foreclosed, the
18 property must be sold subject to the interest. The sale of the property must be held within such time
19 as may be prescribed by the court following entry of the judgment. The judgment shall also order
20 the proceeds of such sale applied in the following order:

21 (A) To the payment of the costs of the sale;

22 (B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing
23 agency for the cost of disabling the hidden compartment;

24 (C) To the satisfaction of the foreclosed liens, security interests and contracts in the order of
25 their priority; and

26 (D) The excess, if any, to the seizing agency to be disposed of as provided in ORS 131.594 or
27 131.597.

28 (d) If the court has determined that the property should be forfeited and has not foreclosed the
29 interests of any party in the property, the seizing agency shall pay all costs and expenses relating
30 to towing and storage of the property and shall cause to be discharged any possessory chattel liens
31 on the property arising under ORS 87.152 to 87.162 that have attached to the property since the
32 seizure. The court shall enter a judgment awarding the property to the seizing agency, subject to
33 the interests of any claimants whose claims or affidavits were upheld by the court, and subject to
34 the interests of any financial institutions that filed affidavits under ORS 131.579 (1), that remain in
35 full force and effect. If the property is a motor vehicle with a hidden compartment, the interests of
36 any claimants or financial institutions shall be reduced on a pro rata basis by the cost of disabling
37 the hidden compartment.

38 (4) Upon motion of the state, the court may include in the judgment of criminal forfeiture an
39 order that directs the seizing agency to distribute to the victim of the crime of conviction a portion
40 of any proceeds from property received by the seizing agency if the court included an order of
41 restitution in the criminal judgment.

42 (5) The seizing agency is not liable to any person as a consequence of obedience to a judgment
43 directing conveyance to a financial institution.

44 [(6) *The forfeiture counsel shall send a copy of the judgment to the Asset Forfeiture Oversight*
45 *Advisory Committee.*]

1 [(7)(a)] **(6)(a)** On entry of judgment for a claimant in any proceeding to forfeit property under
 2 ORS 131.550 to 131.600, unless the court has foreclosed one or more security interests, liens or other
 3 interests covering the property, the property or interest in property must be returned or conveyed
 4 immediately to the claimant designated by the court.

5 (b) If it appears that there was reasonable suspicion that the property was subject to criminal
 6 forfeiture, the court shall cause a finding to be entered and no claimant or financial institution is
 7 entitled to damages nor is the person who made the seizure, the seizing agency or forfeiture counsel
 8 liable to suit or judgment on account of the seizure or action. An order directing seizure issued
 9 under ORS 131.561 constitutes a finding of reasonable suspicion that the property was subject to
 10 criminal forfeiture.

11 [(8)] **(7)** Except for deficiencies resulting from disabling a hidden compartment in a motor vehicle
 12 with a hidden compartment, nothing in this section prevents a claimant or financial institution from
 13 obtaining any deficiency to which the claimant or financial institution would otherwise be entitled.

14 [(9)] **(8)** Nothing in this section or in ORS 131.564 prevents a seizing agency from entering into
 15 an agreement with a claimant or other person for the reimbursement of the seizing agency for the
 16 costs and expenses relating to towing and storage of property or the cost of discharging any
 17 possessory chattel lien on the property arising under ORS 87.152 to 87.162 that attached to the
 18 property in the period between the seizure of the property and the release or criminal forfeiture of
 19 the property.

20 **SECTION 17.** (1) **The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections**
 21 **3, 6, 10 and 13 of this 2010 Act become operative on the date the rule described in section 13**
 22 **(1), chapter 826, Oregon Laws 2009, is adopted.**

23 **(2) The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections 4, 7, 11 and**
 24 **14 of this 2010 Act become operative on January 2, 2012.**

25 **SECTION 18.** **This 2010 Act being necessary for the immediate preservation of the public**
 26 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
 27 **on its passage.**