

handgun as authorized by the provisions of the Oklahoma Self-Defense Act, and any future modifications thereto. The license shall be valid in this state for a period of five (5) years, unless subsequently surrendered, suspended or revoked as provided by law. The person shall have no authority to continue to carry a concealed handgun in this state pursuant to the Oklahoma Self-Defense Act when a license is expired or when a license has been voluntarily surrendered or suspended or revoked for any reason.

**B.** A license may be renewed any time within ninety (90) days prior to the expiration date as provided in this subsection. The Bureau shall send a renewal application to each eligible licensee with a return address requested. There shall be a thirty-day grace period on license renewals beginning on the date of expiration, thereafter the license is considered expired. However, any applicant shall have three (3) years from the expiration of the license to comply with the renewal requirements of this section.

1. To renew a handgun license, the licensee must first obtain a renewal form from the Oklahoma State Bureau of Investigation.

2. The applicant must complete the renewal form, attach two current passport size photographs of the applicant, and submit a renewal fee in the amount of Eighty-five Dollars (\$85.00) to the Bureau. The renewal fee may be paid with a nationally recognized credit card as provided in subparagraph b of paragraph 4 of subsection A of Section 1290.12 of this title, or by a cashier's check or money order made payable to the Oklahoma State Bureau of Investigation.

3. Upon receipt of the renewal application, photographs and fee, the Bureau will conduct a criminal history records name search, an investigation of medical records or other records or information deemed by the Bureau to be relevant to the renewal application. If the applicant appears not to have any prohibition to renewing the handgun license, the Bureau shall issue the renewed license for a period of five (5) years.

**C.** Upon the effective date of this act, any person making application for a concealed handgun license or any licensee seeking to renew a concealed handgun license shall have the option to request that said license be valid for a period of ten (10) years. The fee for any concealed handgun license issued for a period of ten (10) years shall be double the amount of the fee provided for in paragraph 4 of subsection A of Section 1290.12 of this title. The renewal fee for a concealed handgun license issued for a period of ten (10) years shall be double the amount of the fee provided for in paragraph 2 of subsection B of this section.

**1290.6. Prohibited ammunition.** Any concealed handgun when carried in a manner authorized by the provisions of the Oklahoma Self-Defense Act, Sections 1 through 25 of this act, when loaded with any ammunition which is

either a restricted bullet as defined by Section 1289.19 of Title 21 of the Oklahoma Statutes or is larger than .45 caliber or is otherwise prohibited by law shall be deemed a prohibited weapon for purposes of the Oklahoma Self-Defense Act. Any person violating the provisions of this section shall be punished for a criminal offense as provided by Section 1272 of Title 21 of the Oklahoma Statutes or any other applicable provision of law. In addition to any criminal prosecution for a violation of the provisions of this section, the licensee shall be subject to an administrative fine of Five Hundred Dollars (\$500.00), upon a hearing and determination by the Oklahoma State Bureau of Investigation that the person is in violation of the provisions of this section.

**1290.7. Construing authority of license.** The authority to carry a concealed handgun pursuant to a valid handgun license as authorized by the provisions of the Oklahoma Self-Defense Act, Sections 1 through 25 of this act, shall not be construed to authorize any person to:

1. Carry or possess any weapon other than an authorized pistol as defined by the provisions of Section 2 of this act;

2. Carry or possess any pistol in any manner or in any place otherwise prohibited by law;

3. Carry or possess any prohibited ammunition or any illegal, imitation or homemade pistol;

4. Carry or possess any pistol when the person is prohibited by state or federal law from carrying or possessing any firearm; or

5. Point, discharge, intentionally display the pistol, or use the pistol in any manner not otherwise authorized by law.

**1290.21. Replacement license.**

**A.** In the event a concealed handgun license becomes missing, lost, stolen or destroyed, the license shall be invalid, and the person to whom the license was issued shall notify the Oklahoma State Bureau of Investigation within thirty (30) days of the discovery of the fact that the license is not in the possession of the licensee. The person may obtain a substitute license upon furnishing a notarized statement to the Bureau that the license is missing, lost, stolen or destroyed and paying a fifteen-dollar replacement fee. During any period when a license is missing, lost, stolen or destroyed, the person shall have no authority to carry a concealed handgun pursuant to the provisions of the Oklahoma Self-Defense Act. The Bureau shall, upon receipt of the notarized statement and fee from the licensee, issue a substitute license with the same expiration date within ten (10) days of the receipt of the notarized statement and fee.

**B.** Any person who knowingly or intentionally carries a concealed handgun pursuant to a concealed handgun license authorized and issued pursuant to the provisions of the Oklahoma Self-Defense Act which is either stolen or belongs to another person shall, upon conviction, be guilty

of a felony punishable by a fine of Five Thousand Dollars (\$5,000.00). ...

**C.** A person may request during any license period an update for a change of address or change of name by submitting to the Bureau a fifteen-dollar replacement fee, and a notarized statement that the address or name of the licensee has changed. The Bureau shall issue an updated license with the same expiration date within ten (10) days of receipt of the request. The original license shall be destroyed upon the receipt of the updated handgun license.

**1290.25. Legislative intent.** The Legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed handguns for lawful self-defense and self-protection, and further finds it necessary to occupy the field of regulation of the bearing of concealed handguns to ensure that no honest, law-abiding citizen who qualifies pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, is subjectively or arbitrarily denied his or her rights. The Legislature does not delegate to the Oklahoma State Bureau of Investigation any authority to regulate or restrict the issuing of licenses except as provided by the provisions of this act. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those requirements detailed in the provisions of the Oklahoma Self-Defense Act or which create restrictions beyond those specified in this act are deemed to be in conflict with the intent of this act and are hereby prohibited. The Oklahoma Self-Defense Act shall be liberally construed to carry out the constitutional right to bear arms for self-defense and self-protection. The provisions of the Oklahoma Self-Defense Act are cumulative to existing rights to bear arms and nothing in Section 1290.1 et seq. of this title shall impair or diminish those rights.

However, the conditions that mandate the administrative actions of license denial, suspension, revocation or an administrative fine are intended to protect the health, safety and public welfare of the citizens of this state. The restricting conditions specified in the Oklahoma Self-Defense Act generally involve the criminal history, mental state, alcohol or substance abuse of the applicant or licensee, a hazard of domestic violence, a danger to police officers, or the ability of the Oklahoma State Bureau of Investigation to properly administer the Oklahoma Self-Defense Act. The restricting conditions that establish a risk of injury or harm to the public are tailored to reduce the risks to the benefit of the citizens of this state.

**[Current through Chapter 53 of the Second Regular Session of the 51<sup>st</sup> Legislature August 31, 2007 Annotation Service]**

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## OREGON OR. REV. STAT.

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### Title 16. Crimes and Punishments

#### Chapter 166. Offenses Against Public Order; Firearms and Other Weapons; Racketeering

##### Authority to Regulate Firearms

#### 166.170 State preemption.

(1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or

use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.

(2) Except as expressly authorized by state statute, no county, city or other municipal corpo-

ration or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void.

**166.173. Authority of city or county to regulate possession of loaded firearms in public places.**

(1) A city or county may adopt ordinances to regulate, restrict or prohibit the possession of loaded firearms in public places as defined in ORS 161.015.

(2) Ordinances adopted under subsection (1) of this section do not apply to or affect:

(a) A law enforcement officer in the performance of official duty.

(b) A member of the military in the performance of official duty.

(c) A person licensed to carry a concealed handgun.

(d) A person authorized to possess a loaded firearm while in or on a public building or court facility under ORS 166.370.

**166.174. City, county, municipal corporation or district regulation of possession or sale of firearms.** Notwithstanding any other provision of law, a city, county or other municipal corporation or district may not adopt ordinances that regulate, restrict or prohibit the possession or sale of firearms in a public building that is rented or leased to a person during the term of the lease.

**166.175. City regulation of purchase of used firearms.**

(1) Notwithstanding any other provision of law, a city may continue to regulate the purchase of used firearms by pawnshops and secondhand stores.

(2) As used in this section, "secondhand store" means a store or business whose primary source of revenue is the sale of used merchandise.

**166.176. Exception to preemption.**

(1) Nothing in ORS 166.170 or 166.171 is intended to preempt, invalidate or in any way affect the operation of any provision of a county ordinance that was in effect on November 2, 1995, to the extent that the provision:

(a) Established a procedure for regulating, restricting or prohibiting the discharge of firearms; or

(b) Regulated, restricted or prohibited the discharge of firearms.

(2) Subsection (1) of this section does not apply to ordinances regulating, restricting or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or other area designed and built for the purpose of target shooting.

**Possession and Use of Weapons**

**166.190. Pointing firearm at another; courts having jurisdiction over offense.** Any person over the age of 12 years who, with or without malice, purposely points or aims any loaded or empty pistol, gun, revolver or other firearm, at or toward any other person within range of the firearm, except in self-defense, shall be fined upon conviction in any sum not less than \$10 nor more than \$500, or be imprisoned in the county jail not less than 10 days nor more than six months, or both. Justice courts have jurisdiction concurrent with the circuit court of the trial of violations of this section. When any person is

charged before a justice court with violation of this section, the court shall, upon motion of the district attorney, at any time before trial, act as a committing magistrate, and if probable cause be established, hold such person to the grand jury

**166.210. Definitions.** As used in ORS 166.250 to 166.270, 166.291 to 166.295 and 166.410 to 166.470:

(1) "Antique firearm" means:

(a) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured in or before 1898; and

(b) Any replica of any firearm described in paragraph (a) of this subsection if the replica:

(A) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade.

(2) 'Corrections officer' has the meaning given that term in ors 181.610.

(3) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder and which is readily capable of use as a weapon.

(4) "Firearms silencer" means any device for silencing, muffling or diminishing the report of a firearm.

(5) "Handgun" means any pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

(6) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, which is designed or modified to allow two or more shots to be fired by a single pressure on the trigger device.

(7) "Minor" means a person under 18 years of age.

(8) 'Offense' has the meaning given that term in ORS 161.505.

(9) "Parole and probation officer" has the meaning given that term in ORS 181.610.

(10) 'Peace officer' has the meaning given that term in ORS 133.005.

(11) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle if the weapon has an overall length of less than 26 inches.

(12) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if the weapon has an overall length of less than 26 inches.

**166.220. Unlawful use of weapon.**

(1) A person commits the crime of unlawful use of a weapon if the person:

(a) Attempts to use unlawfully against another, or carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon as defined in ORS 161.015; or

(b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge.

(2) This section does not apply to:

(a) Police officers or military personnel in the lawful performance of their official duties;

(b) Persons lawfully defending life or property as provided in ORS 161.219;

(c) Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices upon public or private shooting ranges, shooting galleries or other areas designated and built for the purpose of target shooting; or

(d) Persons lawfully engaged in hunting in compliance with rules and regulations adopted by the State Department of Fish and Wildlife.

(3) Unlawful use of a weapon is a Class C felony.

**166.250. Unlawful possession of firearms.**

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

(a) Carries any firearm concealed upon the person;

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

(c) Possesses a firearm and:

(A) Is under 18 years of age;

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

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

(C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(D) Was committed to the Department of Human Services under ORS 426.130; or

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

(2) This section does not prohibit:

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

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

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

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

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

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

**166.260. Persons not affected by ORS 166.250.**

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

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

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

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

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

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

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

(g) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.

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

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

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

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

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

**166.262. Limitation on peace officer's authority to arrest for violating ORS 166.250 or 166.370.** A peace officer may not arrest or charge a person for violating ORS 166.250(1)(a) or (b) or 166.370 (1) if the person has in the person's immediate possession a valid license to carry a firearm as provided in ORS 166.291 and 166.292.

**166.270. Possession of weapons by certain felons.**

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

(2) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any instrument or weapon having a blade that projects or swings into position by force of a spring or by centrifugal force or any blackjack, slungshot, sandclub, sandbag, sap glove or metal knuckles, or who carries a dirk, dagger or stiletto, commits the crime of felon in possession of a restricted weapon.

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

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

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

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

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

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

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

**166.272. Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.**

(1) A person commits the crime of unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer if the person knowingly possesses any machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer.

(2) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is a Class B felony.

(3) A peace officer may not arrest or charge a person for violating subsection (1) of this section if the person has in the person's immediate possession documentation showing that the machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is registered as required under federal law.

(4) It is an affirmative defense to a charge of violating subsection (1) of this section that the machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer was registered as required under federal law.

**166.275. Possession of weapons by inmates of institutions.** Any person committed to any institution who, while under the jurisdiction of any institution or while being conveyed to or from any institution, possesses or carries upon the person, or has under the custody or control of the person any dangerous instrument, or any weapon including but not limited to any blackjack, slingshot, billy, sand club, metal knuckles, explosive substance, dirk, dagger, sharp instrument, pistol, revolver or other firearm without lawful authority, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the custody of the Department of Corrections for a term not more than 20 years.

**166.291. Issuance of concealed handgun license; application; fees; liability.**

(1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person: ...

**166.292 Procedure for issuing; form of license; duration.**

(1) If the application for the license is approved, the sheriff shall issue and mail or otherwise deliver to the applicant at the address shown on the application, within 45 days of the application, a wallet sized license bearing the photograph of the licensee. The license must be signed by the licensee and carried whenever the licensee carries a concealed handgun.

(2) Failure of a person who carries a concealed handgun also to carry a concealed handgun license is prima facie evidence that the person does not have such a license.

(3) Licenses for concealed handguns shall be uniform throughout the state in substantially the following form: ...

(4) An Oregon concealed handgun license issued under ORS 166.291 and this section, unless revoked under ORS 166.293, is valid for a period of four years from the date on which it is issued.

(5) The sheriff shall keep a record of each license issued under ORS 166.291 and this section, or renewed pursuant to ORS 166.295.

(6) When a sheriff issues a concealed handgun license under this section, the sheriff shall provide the licensee with a list of those places where carrying concealed handguns is prohibited or restricted by state or federal law.

**166.295 Renewal of license.**

(1)(a) A concealed handgun license is renewable by repeating the procedures set out in ORS 166.291 and 166.292, except for the requirement to submit fingerprints and provide character references. A licensee may submit the application for renewal by mail if the licensee:

(A) Is an active member of the armed forces of the United States, the National Guard of the United States or the Oregon National Guard; and

(B) Submits with the application proof of the licensee's military orders and a copy of the licensee's military identification.

(b) An otherwise expired concealed handgun license continues to be valid for up to 45 days after the licensee applies for renewal if:

(A) The licensee applies for renewal before the original license expires;

(B) The licensee has proof of the application for renewal; and

(C) The application for renewal has not been denied.

(2) If a licensee changes residence, the licensee shall report the change of address and the sheriff shall issue a new license as a duplication for a change of address. The license shall expire upon the same date as would the original.

**166.300. Killing another as cause for loss of right to bear arms.**

(1) Any person who has committed, with firearms of any kind or description, murder in any degree, or manslaughter, either voluntary or involuntary, or who in a careless or reckless manner, kills or injures another with firearms, and who, at any time after committing murder or manslaughter or after said careless or reckless killing or injury of another, carries or bears firearms of any kind or description within this state, shall be punished upon conviction by a fine of not more than \$500, or by imprisonment in the county jail not to exceed one year, or both.

(2) Subsection (1) of this section does not deprive the people of this state of the right to bear arms for the defense of themselves and the state, and does not apply to any peace officer in the discharge of official duties or to a member of



(b) To contain a destructive device, as described in ORS 166.382 (1)(a), or an explosive, as defined in ORS 166.660.

### Sale or Transfer of Firearms

**166.410. Manufacture, importation or sale of firearms.** Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or offers, exposes for sale, or sells or transfers a handgun, short-barreled rifle, short-barreled shotgun, firearms silencer or machine gun, otherwise than in accordance with ORS 166.250, 166.260, 166.270, 166.291, 166.292 166.425, 166.450, 166.460 and 166.470, is guilty of a Class B felony.

**166.412. Definitions; firearms transaction record; criminal record check.**

(1) As used in this section:

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

(b) "Department" means the Department of State Police;

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

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

(e) "Firearms transaction thumbprint form" means a form provided by the department under subsection (12) of this section;

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

(g) "Handgun" has the meaning given that term in ORS 166.210; and

(h) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a gun dealer.

(2) Except as provided in subsections (3)(c) and (13) of this section, a gun dealer shall comply with the following before a handgun is delivered to a purchaser:

(a) The purchaser shall present to the dealer current identification meeting the requirements of subsection (4) of this section.

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

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

(d) The gun dealer shall request by telephone that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:

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

(B) The business name of the gun dealer;

(C) The place of transfer;

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

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

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

(G) The social security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and

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

(e) The gun dealer shall receive a unique approval number for the transfer from the depart-

ment and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.

(f) The gun dealer may destroy the firearms transaction thumbprint form five years after the completion of the firearms transaction thumbprint form.

(3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the department shall immediately, during the gun dealer's telephone call or by return call:

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

(B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

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

(c) If the department fails to provide a unique approval number to a gun dealer or to notify the gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close of the gun dealer's next business day following the request by the dealer for a criminal history record check, the dealer may deliver the handgun to the purchaser.

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

(A) Is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

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

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

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

(5) The department shall establish a telephone number that shall be operational seven days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

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

(7)(a) The department may retain a record of the information obtained during a request for a criminal records check for no more than five years.

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

(8) The Department of Human Services shall provide the Department of State Police with direct electronic access to information from the Department of Human Services' database of information identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The Department of State Police and the Department of Human Services shall enter into an agreement describing the access to information under this subsection.

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

(10) When a handgun is delivered, it shall be unloaded.

(11) In accordance with applicable provisions of ORS 183.310 to 183.550, the Superintendent of State Police may adopt rules necessary for:

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

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

(c) The provision of a security system to identify dealers who request a criminal history record check under subsection (2) of this section; and

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

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

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

**166.414. Fees for conducting criminal history record checks.**

(1) The Department of State Police may adopt a fee schedule for criminal history record checks required under ORS 166.412 and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to recover the cost of performing criminal history record checks required under ORS 166.412, but may not exceed \$10 per record check.

(2) Fees collected under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the State Police Account.

**166.416. Providing false information in connection with a transfer of a firearm.**

(1) A person commits the crime of providing false information in connection with a transfer of a firearm if the person knowingly provides a false name or false information or presents false identification in connection with a purchase or transfer of a firearm.

(2) Providing false information in connection with a transfer of a firearm is a Class A misdemeanor.

**166.418. Improperly transferring a firearm.**

(1) A person commits the crime of improperly transferring a firearm if the person is a gun dealer as defined in ORS 166.412 and sells, leases or otherwise transfers a firearm and intentionally violates ORS 166.412 or 166.434.

(2) Improperly transferring a firearm is a Class A misdemeanor.

**166.421. Telephone request for firearms check.** The Department of State Police may respond to a telephone request from any person requesting that the department determine if

department records show that a fire-arm is stolen. No public employee, official or agency shall be held criminally or civilly liable for performing the investigation allowed by this section provided that the employee, official or agency acts in good faith and without malice.

**166.422. Enforcement of ORS 166.412.** Where appropriate, a person may enforce the legal duties imposed by ORS 166.412 (7), by the provisions of ORS 30.260 to 30.300 and ORS chapter 183.

**166.425. Unlawful purchase of firearm.**

(1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state or federal law from owning or possessing the firearm or having the firearm under the person's custody or control, purchases or attempts to purchase the firearm.

(2) Unlawfully purchasing a firearm is a Class A misdemeanor.

**166.427. Register of transfers of used firearms.**

(1) Whenever a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise, buys or accepts in trade, a used firearm, the person shall enter in a register the time, date and place of purchase or trade, the name of the person selling or trading the firearm, the number of the identification documentation presented by the person and the make, model and manufacturer's number of the firearm. The register shall be obtained from and furnished by the Department of State Police to the dealer on application at cost.

(2) The duplicate sheet of the register shall, on the day of purchase or trade, be hand delivered or mailed to the local law enforcement authority.

(3) Violation of this section by any person engaged in the business of selling, leasing or otherwise transferring a firearm is a Class C misdemeanor.

**166.432. Definitions for ORS 166.412 and 166.433 to 166.441.**

(1) As used in ORS 166.412, 166.433, 166.434, 166.436 and 166.438, "criminal background check" or "criminal history record check" means determining the eligibility of a person to purchase or possess a firearm by reviewing state and federal databases including, but not limited to, the:

- (a) Oregon computerized criminal history system;
- (b) Oregon mental health data system;
- (c) Law Enforcement Data System;
- (d) National Instant Criminal Background Check System; and
- (e) Stolen guns system.

(2) As used in ORS 166.433, 166.434, 166.436, 166.438 and 166.441:

- (a) "Gun dealer" has the meaning given that term in ORS 166.412.
- (b) "Gun show" means an event at which more than 25 firearms are on site and available for transfer.

**166.434. Application of ORS 166.412 to all firearm transfers by gun dealers; fees for criminal background checks.**

(1) Notwithstanding the fact that ORS 166.412 requires a gun dealer to request a criminal history record check only when transferring a handgun, a gun dealer shall comply with the requirements of ORS 166.412 before transferring any firearm to a purchaser. The provisions of ORS 166.412 apply to the transfer of firearms other

than handguns to the same extent that they apply to the transfer of handguns.

(2) In addition to the determination required by ORS 166.412 (3)(a)(A), in conducting a criminal background check or criminal history record check, the Department of State Police shall also determine whether the recipient is otherwise prohibited by state or federal law from possessing a firearm.

(3) Notwithstanding ORS 166.412 (5), the department is not required to operate the telephone number established under ORS 166.412 (5) on Thanksgiving Day or Christmas Day.

(4)(a) The department may charge a fee, not to exceed the amount authorized under ORS 166.414, for criminal background checks required under this section or ORS 166.436.

(b) The department shall establish a reduced fee for subsequent criminal background checks on the same recipient that are performed during the same day between the hours of 8 a.m. and 10 p.m.

**166.436. Firearm transfers by persons other than gun dealers; criminal background checks authorized; liability.**

(1) The Department of State Police shall make the telephone number established under ORS 166.412 (5) available for requests from persons other than gun dealers for criminal background checks under this section.

(2) Prior to transferring a firearm, a transferor other than a gun dealer may request by telephone that the department conduct a criminal background check on the recipient and shall provide the following information to the department:

- (a) The name, address and telephone number of the transferor;
- (b) The make, model, caliber and manufacturer's number of the firearm being transferred;
- (c) The name, date of birth, race, sex and address of the recipient;
- (d) The social security number of the recipient if the recipient voluntarily provides that number;
- (e) The address of the place where the transfer is occurring; and
- (f) The type, issuer and identification number of a current piece of identification bearing a recent photograph of the recipient presented by the recipient. The identification presented by the recipient must meet the requirements of ORS 166.412 (4)(a).

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

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

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

(b) If the department is unable to determine whether the recipient is qualified for or disqualified from completing the transfer within 30 minutes of receiving the request, the department shall notify the transferor and provide the trans-

feror with an estimate of the time when the department will provide the requested information.

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

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

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

(6) The recipient of the firearm must be present when the transferor requests a criminal background check under this section.

(7)(a) Except as otherwise provided in paragraphs (b) and (c) of this subsection, a transferor who receives notification under this section that the recipient is qualified to complete the transfer of a firearm is immune from civil liability for any use of the firearm from the time of the transfer unless the transferor knows, or reasonably should know, that the recipient is likely to commit an unlawful act involving the firearm.

(b) If the transferor is required to request a criminal background check under ORS 166.438, the immunity provided by paragraph (a) of this subsection applies only if, in addition to receiving the notification required by this section, the transferor has the recipient fill out the form required by ORS 166.438 (1)(a) and retains the form as required by ORS 166.438 (2).

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

- (A) If the transferor knows, or reasonably should know, that the recipient of the firearm intends to deliver the firearm to a third person who the transferor knows, or reasonably should know, may not lawfully possess the firearm; or
- (B) In any product liability civil action under ORS 30.900 to 30.920.

**166.438. Transfer of firearms at gun shows; persons other than gun dealers.**

(1) A transferor other than a gun dealer may not transfer a firearm at a gun show unless the transferor:

- (a)(A) Requests a criminal background check under ORS 166.436 prior to completing the transfer;
- (B) Receives notification that the recipient is qualified to complete the transfer; and
- (C) Has the recipient complete the form described in ORS 166.441; or
- (b) Completes the transfer through a gun dealer.

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

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

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

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

(b) Notwithstanding paragraph (a) of this subsection, failure to comply with the requirements

of subsection (1), (2) or (3) of this section is a Class C felony if the person has two or more previous convictions under this section.

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

**166.441. Form for transfer of firearm at gun show.**

(1) The Department of State Police shall develop a form to be completed by a person seeking to obtain a firearm at a gun show from a transferor other than a gun dealer. The department shall consider including in the form all of the requirements for disclosure of information that are required by federal law for over-the-counter firearms transactions.

(2) The department shall make the form available to the public at no cost.

**166.445. Short title.** ORS 166.432 to 166.445 and the amendments to ORS 166.416, 166.418 and 166.460 by sections 9, 10 and 11, chapter 1, Oregon Laws 2001, shall be known as the Gun Violence Prevention Act.

**166.450. Alteration, removal, or obliteration of firearm identification number.**

Any person who intentionally alters, removes or obliterated the identification number of any firearm for an un-lawful purpose, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. Possession of any such firearm is pre-sumptive evidence that the possessor has altered, removed or obliterated the identification number.

**166.460. Antique firearms excepted.**

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

(2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique firearm by a person described in ORS 166.250 (1)(c)(B), (C) or (D) constitutes a violation of ORS 166.250.

**166.470. Limitations on sale of firearms.**

(1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell,

deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

(a) Is under 18 years of age;

(b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(c) Has any outstanding felony warrants for arrest;

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

(e) Was committed to the Mental Health and Developmental Disability Services Division under ORS 426.130;

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

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

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

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

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

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

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

**166.480. Sale or gift of explosives to children.** Any person who sells, exchanges, barter or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing not more than 10 grains of gunpowder or who sells, exchanges, barter or gives to any such child, any instrument or apparatus, the chief utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase

the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor.

**166.490. Out-of-state purchase of firearms.**

(1) As used in this section, unless the context requires otherwise:

(a) "Contiguous state" means California, Idaho, Nevada or Washington.

(b) "Resident" includes an individual or a corporation or other business entity that maintains a place of business in this state.

(2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.

(3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

(4) This section expires and stands repealed upon the date that section 922(b) (3) of the Gun Control Act of 1968 (18 U.S.C. 922(b) (3)) and regulations pursuant thereto are repealed or rescinded.

**Title 38. Protection from Fire**

**Chapter 480. Explosives; Flammable Materials; Pressure Vessels**

480.070. Possession of fire bombs prohibited.

(1) No person shall possess a fire bomb. For the purpose of this section a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having an integral wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illuminating shall be deemed to be a fire bomb for the purpose of this section.

(2) This section shall not prohibit the authorized use or possession of such fire bomb by a member of the Armed Forces of the United States or by any member of a regularly organized public fire or police department.

[Current through the 2007 Regular Session of the 74th Legislative Assembly]

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**Title 18. Crimes and Offenses**

**Chapter 61. Firearms and Other Dangerous Articles**

**Subchapter A. Uniform Firearms Act**

**6101. Short title of subchapter.** This subchapter shall be known and may be cited as the Pennsylvania Uniform Firearms Act of 1995.

**6102. Definitions.** Subject to additional definitions contained in subsequent provisions of this subchapter which are applicable to specific provisions of this subchapter, the following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**"Commissioner."** The Commissioner of the Pennsylvania State Police.

**"Commonwealth Photo Imaging Network."** The computer network administered by the Commonwealth and used to record and store digital photographs of an individual's face and any scars, marks, tattoos or other unique features of the individual.

**"Conviction."** A conviction, a finding of guilty or the entering of a plea of guilty or nolo contendere, whether or not judgment of sentence has been imposed, as determined by the law of the jurisdiction in which the prosecution was held. The term does not include a conviction which has been expunged or overturned or for which an individual has been pardoned unless the pardon expressly provides that the individual may not possess or transport firearms.

**"County treasurer."** The county treasurer or, in home rule or optional plan counties, the person whose duties encompass those of a county treasurer.

**"Crime punishable by imprisonment exceeding one year."** The term does not include any of the following:

(1) Federal or State offenses pertaining to anti-trust, unfair trade practices, restraints on trade or regulation of business.

(2) State offenses classified as misdemeanors and punishable by a term of imprisonment not to exceed two years.

**"Firearm."** Any pistol or revolver with a barrel length less than 15 inches, any shotgun with a barrel length less than 18 inches or any rifle with a barrel length less than 16 inches, or any pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a fire-