

# Senate Bill 396

Sponsored by Senators PROZANSKI, MANNING JR (at the request of Attorney General Ellen F. Rosenblum)  
(Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Defines "undetectable firearm." Punishes manufacturing, importing, offering for sale or transferring undetectable firearm by maximum of 10 years' imprisonment, \$250,000 fine, or both. Punishes possession of undetectable firearm by maximum of 364 days' imprisonment, \$6,250 fine, or both.

Defines "untraceable firearm." Punishes possessing, manufacturing, importing, offering for sale or transferring untraceable firearm by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Defines "unfinished frame or receiver." Requires gun dealer to conduct criminal background check before transferring unfinished frame or receiver. Punishes importing, offering for sale or transferring unfinished receiver by maximum of 10 years' imprisonment, \$250,000 fine, or both. Specifies exceptions. Punishes possession of unserialized unfinished frame or receiver by maximum of five years' imprisonment, \$125,000 fine, or both. Provides that person commits crime if person possesses unfinished frame or receiver and is prohibited from possessing firearms. Punishes by maximum of 364 days' imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

Relating to firearms; creating new provisions; and amending ORS 166.210, 166.250 and 166.412.

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

**SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS 166.250 to 166.270.**

**SECTION 2. (1) As used in this section:**

**(a) "Security exemplar" has the meaning given that term in 18 U.S.C. 922.**

**(b) "Undetectable firearm" means a firearm:**

**(A) Constructed or produced, including through a three-dimensional printing process, entirely of nonmetal substances;**

**(B) That is not as detectable as 3.7 ounces of 17-4 PH of stainless steel, or as the security exemplar, by a walk-through metal detector or magnetometer after all parts other than major components have been removed; or**

**(C) That includes a major component that, if the firearm were subjected to inspection by the types of X-ray machines or detection devices commonly used at airports for security screening, would not generate an image that accurately depicts the shape of the component.**

**(2) A person who knowingly manufactures or causes to be manufactured within this state, imports into this state, or offers for sale, sells or transfers, an undetectable firearm commits a Class B felony.**

**(3) A person who knowingly possesses an undetectable firearm commits a Class A misdemeanor.**

**SECTION 3. (1) As used in this section, "untraceable firearm" means a firearm, other than an antique firearm or a firearm manufactured prior to October 22, 1968, for which the sale or distribution chain, from a licensed retailer to the point of first retail sale, cannot be traced by a law enforcement agency by means of a serial number affixed to the firearm by**

**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 a federally licensed manufacturer or importer in accordance with 18 U.S.C. 923(i) and all  
 2 regulations issued under the authority of 18 U.S.C. 923(i), including but not limited to 27  
 3 C.F.R. 478.92.

4 (2) A person who knowingly possesses, manufactures, assembles, causes to be manufac-  
 5 tured or assembled, imports into this state, offers for sale, sells or transfers an untraceable  
 6 firearm commits a Class B felony.

7 (3) A person who knowingly imports into this state, offers for sale, sells or transfers an  
 8 unfinished frame or receiver commits a Class B felony unless:

9 (a) The person is a federally licensed gun dealer;

10 (b) The name of the manufacturer and an individual serial number is conspicuously  
 11 placed on the unfinished frame or receiver in accordance with the procedures for the se-  
 12 rialization of a firearm in 18 U.S.C. 923(i) and all regulations under the authority of 18 U.S.C.  
 13 923(i), including but not limited to 27 C.F.R. 478.92; and

14 (c) The person maintains records relating to the unfinished frame or receiver in accord-  
 15 ance with the procedures for record keeping related to firearms in 18 U.S.C. 923(g) and all  
 16 regulations issued under the authority of 18 U.S.C. 923(g), including but not limited to 27  
 17 C.F.R. 478.121 to 478.134.

18 (4) A person who knowingly possesses an unfinished frame or receiver that is not seri-  
 19 alized as provided in subsection (3)(b) of this section commits a Class C felony, unless:

20 (a) The person is a federally licensed gun manufacturer; and

21 (b) The unfinished frame or receiver is an unfinished part within a manufacturing pro-  
 22 cess that includes serialization.

23 **SECTION 4.** ORS 166.210 is amended to read:

24 166.210. As used in ORS 166.250 to 166.270, 166.291 to 166.295 and 166.410 to 166.470:

25 (1) "Antique firearm" means:

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

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

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

30 or

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

33 (2) "Corrections officer" has the meaning given that term in ORS 181A.355.

34 (3) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile  
 35 by the action of powder.

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

38 (5) "Frame or receiver" means the part of a firearm that provides housing for the ham-  
 39 mer, bolt or breechlock and firing mechanism and that is usually threaded at its forward  
 40 portion to receive the barrel.

41 [(5)] (6) "Handgun" means any pistol or revolver using a fixed cartridge containing a propellant  
 42 charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

43 [(6)] (7) "Machine gun" means a weapon of any description by whatever name known, loaded  
 44 or unloaded, which is designed or modified to allow two or more shots to be fired by a single pres-  
 45 sure on the trigger device.

[7] (8) “Minor” means a person under 18 years of age.

[8] (9) “Offense” has the meaning given that term in ORS 161.505.

[9] (10) “Parole and probation officer” has the meaning given that term in ORS 181A.355.

[10] (11) “Peace officer” has the meaning given that term in ORS 133.005.

[11] (12) “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] (13) “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.

(14)(a) **“Unfinished frame or receiver” means a partially completed frame or receiver consisting of a blank, casting or machined body that:**

(A) **Requires further machining or molding to be used as part of a functional firearm; and**

(B) **Is designed and intended to be used in the assembly of a functional firearm.**

(b) **“Unfinished frame or receiver” does not include:**

(A) **A component designed and intended for use in an antique firearm;**

(B) **A piece of material that has solely had its chemical composition altered; or**

(C) **A piece of material that has had its size or shape altered solely to facilitate transportation or storage.**

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

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

(a) Carries any firearm concealed upon the person;

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

(c) Possesses a firearm and:

(A) 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;

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

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

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

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

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

**(d) Possesses an unfinished frame or receiver and is prohibited from possessing firearms under paragraph (c) of this subsection.**

(2) This section does not prohibit:

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

1 possessing a firearm:

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

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

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

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

13 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-  
 14 cessible within the meaning of this section if the handgun is within the passenger compartment of  
 15 the vehicle.

16 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage  
 17 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-  
 18 sible within the meaning of this section if:

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

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

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

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

26 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the  
 27 discharge of the firearm.

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

29 **SECTION 6.** ORS 166.412 is amended to read:

30 166.412. (1) As used in this section:

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

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

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

35 (d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C.  
 36 921 to 929;

37 (e) "Firearms transaction thumbprint form" means a form provided by the department under  
 38 subsection (11) of this section;

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

42 (g) "Purchaser" means a person who buys, leases or otherwise receives a firearm **or unfinished**  
 43 **frame or receiver** from a gun dealer[.]; **and**

44 **(h) "Unfinished frame or receiver" has the meaning given that term in ORS 166.210.**

45 (2) Except as provided in subsections (3)(c) and (12) of this section, a gun dealer shall comply

1 with the following before a firearm **or unfinished frame or receiver** is delivered to a purchaser:

2 (a) The purchaser shall present to the gun dealer current identification meeting the require-  
3 ments of subsection (4) of this section.

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

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

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

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

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

13 (C) The place of transfer;

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

15 (E) The make, model, caliber and manufacturer's number of the firearm being transferred **or a**  
16 **description of the unfinished frame or receiver being transferred;**

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

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

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

21 (e) The gun dealer shall receive a unique approval number for the transfer from the department  
22 and record the approval number on the firearms transaction record and on the firearms transaction  
23 thumbprint form.

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

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

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

30 (B) Notify the gun dealer when a purchaser is disqualified from completing the transfer or pro-  
31 vide the gun dealer with a unique approval number indicating that the purchaser is qualified to  
32 complete the transfer.

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

37 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the  
38 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close  
39 of the gun dealer's next business day following the request by the gun dealer for a criminal history  
40 record check, the gun dealer may deliver the firearm **or unfinished frame or receiver** to the pur-  
41 chaser.

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

44 (A) Is issued under the authority of the United States Government, a state, a political subdivi-  
45 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-

1 tional governmental organization or an international quasi-governmental organization; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers of  
9 firearms **and unfinished frames or receivers** with the consent of a gun dealer in the course of a  
10 reasonable inquiry during a criminal investigation or under the authority of a properly authorized  
11 subpoena or search warrant.

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

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

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

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

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

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

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

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

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

27 (b) A gun dealer that requests a criminal background check under this subsection is immune  
28 from civil liability for any use of the firearm **or unfinished frame or receiver** by the recipient or  
29 transferee, provided that the gun dealer requests the criminal background check as described in this  
30 section.

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