

Senate Bill 501

Sponsored by Senator WAGNER, Representative SALINAS (at the request of Students for Change) (Pre-session 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**.

Requires person to secure permit before purchasing or otherwise receiving firearm. Specifies qualifications for permit and manner of applying for permit. Creates procedures for appealing denial of permit. Punishes receipt of firearm without valid permit by maximum of 364 days' imprisonment, \$6,250 fine, or both.

Requires person who owns or possesses firearm to secure firearm with trigger or cable lock or in locked container. Punishes failure to secure firearm by maximum of 30 days' imprisonment, \$1,250 fine, or both.

Requires person who owns or possesses firearm to report to law enforcement agency loss or theft of firearm within 24 hours. Punishes failure to report loss or theft by maximum of 30 days' imprisonment, \$1,250 fine, or both.

Prohibits possession of magazine with capacity to hold more than five rounds of ammunition. Provides that person in possession of such magazine must sell or otherwise dispose of magazine within 180 days of effective date of Act. Punishes unlawful possession of magazine capable of holding more than five rounds by maximum of 364 days' imprisonment, \$6,250 fine, or both.

Requires criminal background check before transfer of ammunition. Restricts ammunition receipt to 20 rounds within 30-day period.

Prohibits transfer of firearm by gun dealer or private party until latter of 14 days or Department of State Police has determined that recipient is qualified to receive firearm.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.412, 166.435, 166.436 and
3 166.438.

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

5 **SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS 166.410**
6 **to 166.470.**

7 **SECTION 2. (1) Except as provided in subsection (9) of this section, a person may not**
8 **purchase or otherwise receive a firearm unless the person has first secured a permit to re-**
9 **ceive a firearm under this section.**

10 **(2)(a) A person may apply for a permit to receive a firearm from the sheriff of the county**
11 **in which the person resides.**

12 **(b) The sheriff may charge a reasonable fee for processing applications for permits under**
13 **this section.**

14 **(3) Within 30 days of receiving an application for a permit under this section, the sheriff**
15 **shall issue a permit to receive a firearm if the applicant:**

16 **(a) Is at least 21 years of age;**

17 **(b) Has no prior criminal convictions;**

18 **(c) Has not been found in contempt of court for violating a restraining order, stalking**
19 **order or other court protective order;**

20 **(d) Is not an unlawful user of or addicted to any controlled substance; and**

21 **(e) Provides proof of completion of a firearm safety course.**

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 (4) A permit issued under this section is valid for a period of 90 days from the date of
2 issue.

3 (5) A person may apply, during any 30-day period, for:

4 (a) One permit to receive a handgun; and

5 (b) One permit to receive a rifle or shotgun.

6 (6) Notwithstanding subsection (3) of this section, a sheriff may deny a permit to receive
7 a firearm if the sheriff has reasonable grounds to believe that the applicant has been or is
8 reasonably likely to be a danger to self or others, or to the community at large, as a result
9 of the applicant's mental or psychological state or as demonstrated by the applicant's past
10 pattern of behavior involving unlawful violence or threats of unlawful violence.

11 (7) If a sheriff denies an application for a permit, the sheriff shall provide in writing the
12 reasons for the denial. The denial shall be sent to the applicant by certified mail within 30
13 days after the application was made.

14 (8)(a) The Department of State Police shall develop a form in quadruplicate for use by
15 sheriffs in issuing permits under this section.

16 (b) The sheriff shall maintain a copy of each permit issued under this section.

17 (c) The person named in a permit shall:

18 (A) Keep a copy of the permit for a period of at least one year after using the permit to
19 receive a firearm.

20 (B) Provide a copy of the permit to the transferor of the firearm.

21 (9) This section does not apply to a person receiving a firearm who is:

22 (a) A gun dealer; or

23 (b) A federal, state or local law enforcement officer.

24 (10) A person who knowingly receives a firearm without a valid permit issued under this
25 section commits a Class A misdemeanor.

26 (11) As used in this section:

27 (a) "Gun dealer" has the meaning given that term in ORS 166.412.

28 (b) "Handgun" has the meaning given that term in ORS 166.210.

29 **SECTION 3.** (1) A person denied a permit to receive a firearm under section 2 of this 2019
30 Act may petition the circuit court in the petitioner's county of residence to review the de-
31 nial. The petition must be filed within 30 days after the receipt of the notice of denial.

32 (2) The judgment affirming or overturning the sheriff's decision must be based on
33 whether the petitioner meets the criteria that are used for issuance of a permit to receive
34 a firearm and whether the sheriff had reasonable grounds for denial under section 2 (6) of
35 this 2019 Act.

36 (3) Notwithstanding the provisions of ORS 9.320, a party that is not a natural person, the
37 state or any city, county, district or other political subdivision or public corporation in this
38 state, without appearance by attorney, may appear as a party to an action under this section.

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

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

44 (6) Initial appeals of petitions shall be heard de novo.

45 (7) Any party to a judgment under this section may appeal to the Court of Appeals in the

1 same manner as for any other civil action.

2 (8) If the governmental entity files an appeal under this section and does not prevail, it
3 shall be ordered to pay the attorney fees for the prevailing party.

4 **SECTION 4. (1) A person who owns or possesses a firearm must secure the firearm:**

5 (a) With a trigger lock or cable lock; or

6 (b) In a locked container.

7 (2) Subsection (1) of this section does not apply to a firearm:

8 (a) Carried by or within reach of the owner or possessor of the firearm; or

9 (b) Carried by or within reach of a person the owner or possessor has authorized to carry
10 or control the firearm.

11 (3) A violation of subsection (1) of this section is a Class C misdemeanor.

12 **SECTION 5. (1)(a) A person who owns or possesses a firearm shall report the loss or**
13 **theft of the firearm to a law enforcement agency with jurisdiction over the location in which**
14 **the loss or theft occurred within 24 hours of the time the person knew or should have known**
15 **of the loss or theft.**

16 (b) If a means of reporting a loss or theft of a firearm within 24 hours as required by
17 paragraph (a) of this subsection is not reasonably available, the person must report the loss
18 or theft within 24 hours of the means of reporting becoming available.

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

20 **SECTION 6. (1) As used in this section:**

21 (a) "Detachable" means that an ammunition feeding device can be loaded or unloaded
22 while detached from a firearm and readily inserted into a firearm.

23 (b) "Fixed" means that an ammunition feeding device is contained in or permanently at-
24 tached to a firearm in such a manner that the device cannot be removed without disassembly
25 of the firearm action.

26 (c) "Large-capacity magazine" means an ammunition feeding device, whether fixed or
27 detachable, with the capacity to accept more than five rounds of ammunition, but does not
28 include any of the following:

29 (A) An ammunition feeding device that has been permanently altered so that it is not
30 capable, now or in the future, of holding more than five rounds of ammunition;

31 (B) A 0.22 caliber tube ammunition feeding device; or

32 (C) A tubular ammunition feeding device that is contained in a lever-action firearm.

33 (2) Except as provided in this section, a person may not possess a large-capacity maga-
34 zine at any time after 180 days after the effective date of this 2019 Act.

35 (3) Prior to the 180th day following the effective date of this 2019 Act, a person in pos-
36 session of a large-capacity magazine shall take one of the following actions with respect to
37 each magazine:

38 (a) Permanently alter the magazine so that it is not capable, now or in the future, of
39 holding more than five rounds of ammunition;

40 (b) Transfer or sell the magazine to a gun dealer out of state;

41 (c) Otherwise remove the magazine from the state;

42 (d) Transfer the magazine to a law enforcement agency; or

43 (e) Permanently dispose of the magazine.

44 (4) The prohibition on the possession of large-capacity magazines in subsection (2) of this
45 section does not apply to the possession of a large-capacity magazine by law enforcement

1 **officers or members of the Armed Forces of the United States so long as the possession is**
 2 **necessary for the lawful performance of official duties and the use is limited to activities**
 3 **within the scope of those duties.**

4 **(5)(a) A person commits the crime of unlawful possession of a large-capacity magazine**
 5 **if the person knowingly possesses a large-capacity magazine in violation of this section.**

6 **(b) Unlawful possession of a large-capacity magazine is a Class A misdemeanor.**

7 **SECTION 7. (1) Notwithstanding the fact that ORS 166.412, 166.435 and 166.438 require a**
 8 **gun dealer or other person transferring a firearm to request a criminal background check**
 9 **only when transferring a firearm, a gun dealer or other person transferring ammunition**
 10 **shall comply with the requirements of ORS 166.412, 166.435 and 166.438 before transferring**
 11 **any ammunition to another person.**

12 **(2) A person may not receive more than 20 rounds of ammunition in any 30-day time**
 13 **period.**

14 **(3)(a) Any person transferring ammunition shall maintain a record of all ammunition**
 15 **transferred by the person to ensure that a person does not receive more than 20 rounds of**
 16 **ammunition in any 30-day time period.**

17 **(b) The Department of State Police is not required to maintain a record of ammunition**
 18 **transfers under this section to ensure compliance with subsection (2) of this section.**

19 **(4) This section does not apply to ammunition purchased and used at a target shooting**
 20 **range.**

21 **SECTION 8.** ORS 166.412, as amended by section 4, chapter 5, Oregon Laws 2018, and section
 22 15, chapter 120, Oregon Laws 2018, is amended to read:

23 166.412. (1) As used in this section:

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

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

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

28 (d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C.
 29 921 to 929;

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

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

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

37 (2) Except as provided in subsections (3)(c) and (12) of this section, a gun dealer shall comply
 38 with the following before a firearm is delivered to a purchaser:

39 (a) The purchaser shall present to the gun dealer current identification meeting the require-
 40 ments of subsection (4) of this section **and a valid permit to receive a firearm issued under**
 41 **section 2 of this 2019 Act.**

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

44 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
 45 thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to

1 be filed with that copy.

2 (d) The gun dealer shall request by telephone that the department conduct a criminal [*history*
3 *record*] **background** check on the purchaser and shall provide the following information to the de-
4 partment:

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

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

7 (C) The place of transfer;

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

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

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

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

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

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

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

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

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

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

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

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

34 (c) **The gun dealer may not transfer the firearm until the latter of:**

35 (A) **Fourteen days from the date of the request for the criminal background check; or**

36 (B) **The provision by the department of a unique approval number indicating that the**
37 **purchaser is qualified to complete the transfer.**

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

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

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

45 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does

1 not include the current address of the purchaser, the purchaser shall present a second piece of
2 current identification that contains the current address of the purchaser. The Superintendent of
3 State Police may specify by rule the type of identification that may be presented under this para-
4 graph.

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

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

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

13 (7)(a) The department may retain a record of the information obtained during a request for a
14 criminal [*history record*] **background** check for no more than five years.

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

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

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

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

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

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

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

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

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

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

44 (C) The number of investigations arising from the reports made pursuant to paragraph (c) of this
45 subsection, the number of investigations concluded and the number of investigations referred for

1 prosecution, all arranged by category of prohibition; and

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

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

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

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

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

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

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

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

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

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

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

22 (b) A gun dealer that requests a criminal background check under this subsection is immune
 23 from civil liability for any use of the firearm by the recipient or transferee, provided that the gun
 24 dealer requests the criminal background check as described in this section.

25 **SECTION 9.** ORS 166.435 is amended to read:

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

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

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

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

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

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

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

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

45 (b) "Transferee" means a person who is not a gun dealer or licensed as a manufacturer or

1 importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

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

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

7 (3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except
8 as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the
9 transferee must appear in person before a gun dealer, with the firearm **and a valid permit to re-**
10 **ceive a firearm issued under section 2 of this 2019 Act**, and request that the gun dealer perform
11 a criminal background check on the transferee.

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

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

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

19 (A) Receives a unique approval number from the Department of State Police indicating that the
20 transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the
21 firearm into the gun dealer's inventory and **may** transfer the firearm to the transferee **only in ac-**
22 **cordance with paragraph (e) of this subsection.**

23 (B) Receives notification that the transferee is prohibited by state or federal law from possessing
24 or receiving the firearm, the gun dealer shall notify the transferor and neither the transferor nor
25 the gun dealer shall transfer the firearm to the transferee. If the transferor shipped or delivered the
26 firearm to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer shall comply
27 with federal law when returning the firearm to the transferor.

28 (e) **The transferor may not transfer the firearm until the latter of:**

29 (A) **Fourteen days from the date of the request for the criminal background check; or**

30 (B) **The provision by the department of a unique approval number indicating that the**
31 **transferee is qualified to complete the transfer.**

32 [(e)] (f) A gun dealer may charge a reasonable fee for facilitating a firearm transfer pursuant
33 to this section.

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

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

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

40 (c) The transfer of a firearm to:

41 (A) A transferor's spouse or domestic partner;

42 (B) A transferor's parent or stepparent;

43 (C) A transferor's child or stepchild;

44 (D) A transferor's sibling;

45 (E) A transferor's grandparent;

1 (F) A transferor’s grandchild;

2 (G) A transferor’s aunt or uncle;

3 (H) A transferor’s first cousin;

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

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

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

9 (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS
10 111.005, or a trustee of a trust created in a will; and

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

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

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

18 **SECTION 10.** ORS 166.436, as amended by section 5, chapter 5, Oregon Laws 2018, and section
19 16, chapter 120, Oregon Laws 2018, is amended to read:

20 166.436. (1) The Department of State Police shall make the telephone number established under
21 ORS 166.412 (5) available for requests for criminal background checks under this section from per-
22 sons who are not gun dealers and who are transferring firearms at gun shows.

23 (2) Prior to transferring a firearm at a gun show, a transferor who is not a gun dealer may re-
24 quest by telephone that the department conduct a criminal background check on the recipient and
25 shall provide the following information to the department:

26 (a) The name, address and telephone number of the transferor;

27 (b) The make, model, caliber and manufacturer’s number of the firearm being transferred;

28 (c) The name, date of birth, race, sex and address of the recipient;

29 (d) The Social Security number of the recipient if the recipient voluntarily provides that number;

30 (e) The address of the place where the transfer is occurring; and

31 (f) The type, issuer and identification number of a current piece of identification bearing a re-
32 cent photograph of the recipient presented by the recipient. The identification presented by the re-
33 cipient must meet the requirements of ORS 166.412 (4)(a).

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

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

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

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

1 the transferor and provide the transferor with an estimate of the time when the department will
2 provide the requested information.

3 **(c) The transferor may not transfer the firearm until the latter of:**

4 **(A) Fourteen days from the date of the request for the criminal background check; or**

5 **(B) The provision by the department of a unique approval number indicating that the**
6 **recipient is qualified to complete the transfer.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) The recipient of the firearm must be present when the transferor requests a criminal back-
 2 ground check under this section.

3 (7)(a) Except as otherwise provided in paragraph (b) of this subsection, a transferor who receives
 4 notification under this section that the recipient is qualified to complete the transfer of a firearm,
 5 has the recipient fill out the form required by ORS 166.438 (1)(a) and retains the form as required
 6 by ORS 166.438 (2) is immune from civil liability for any use of the firearm from the time of the
 7 transfer unless the transferor knows, or reasonably should know, that the recipient is likely to
 8 commit an unlawful act involving the firearm.

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

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

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

14 **SECTION 11.** ORS 166.438 is amended to read:

15 166.438. (1) A transferor who is not a gun dealer may not transfer a firearm at a gun show un-
 16 less **the recipient has a valid permit to receive a firearm issued under section 2 of this 2019**
 17 **Act and** the transferor:

18 (a)(A) Requests a criminal background check under ORS 166.436 prior to completing the trans-
 19 fer;

20 (B) Receives a unique approval number from the Department of State Police indicating that the
 21 recipient is qualified to complete the transfer; and

22 (C) Has the recipient complete the form described in ORS 166.441; or

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

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

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

30 (4) Subsection (1) of this section does not apply if the transferee is licensed as a dealer under
 31 18 U.S.C. 923.

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

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

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

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