

DRAFT

SUMMARY

Modifies and expands requirements for issuance of concealed handgun license. Allows certain persons to apply for renewal of concealed handgun license by mail.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.210,
3 166.291, 166.293 and 166.295.

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

5 **SECTION 1.** ORS 166.210 is amended to read:

6 166.210. As used in ORS 166.250 to 166.270, 166.291 to 166.295 and 166.410
7 to 166.470:

8 (1) "Antique firearm" means:

9 (a) Any firearm, including any firearm with a matchlock, flintlock, per-
10 cussion cap or similar type of ignition system, manufactured in or before
11 1898; and

12 (b) Any replica of any firearm described in paragraph (a) of this sub-
13 section if the replica:

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

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

19 (2) "Corrections officer" has the meaning given that term in ORS
20 181.610.

21 [(2)] (3) "Firearm" means a weapon, by whatever name known, which is

1 designed to expel a projectile by the action of powder and which is readily
2 capable of use as a weapon.

3 [(3)] (4) "Firearms silencer" means any device for silencing, muffling or
4 diminishing the report of a firearm.

5 [(4)] (5) "Handgun" means any pistol or revolver using a fixed cartridge
6 containing a propellant charge, primer and projectile, and designed to be
7 aimed or fired otherwise than from the shoulder.

8 [(5)] (6) "Machine gun" means a weapon of any description, by whatever
9 name known, loaded or unloaded, which is designed or modified to allow two
10 or more shots to be fired by a single pressure on the trigger device.

11 [(6)] (7) "Minor" means a person under 18 years of age.

12 [(7)] (8) "Parole and probation officer" has the meaning given that term
13 in ORS 181.610.

14 **(9) "Peace officer" has the meaning given that term in ORS 133.005.**

15 [(8)] (10) "Short-barreled rifle" means a rifle having one or more barrels
16 less than 16 inches in length and any weapon made from a rifle if the weapon
17 has an overall length of less than 26 inches.

18 [(9)] (11) "Short-barreled shotgun" means a shotgun having one or more
19 barrels less than 18 inches in length and any weapon made from a shotgun
20 if the weapon has an overall length of less than 26 inches.

21 **SECTION 2.** ORS 166.291 is amended to read:

22 166.291. (1) The sheriff of a county, upon a person's application for an
23 Oregon concealed handgun license, upon receipt of the appropriate fees and
24 after compliance with the procedures set out in this section, shall issue the
25 person a concealed handgun license if the person:

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

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

- 1 (b) Is at least 21 years of age;
- 2 (c) [*Has a principal residence in*] **Is a resident of** the county [*in which*
3 *the application is made*];
- 4 (d) Has no outstanding warrants for arrest;
- 5 (e) Is not free on any form of pretrial release;
- 6 (f) Demonstrates competence with a handgun by any one of the following:
- 7 (A) Completion of any hunter education or hunter safety course approved
8 by the State Department of Fish and Wildlife or a similar agency of another
9 state if handgun safety was a component of the course;
- 10 (B) Completion of any National Rifle Association firearms safety or
11 training course if handgun safety was a component of the course;
- 12 (C) Completion of any firearms safety or training course or class available
13 to the general public offered by law enforcement, community college, or pri-
14 vate or public institution or organization or firearms training school utiliz-
15 ing instructors certified by the National Rifle Association or a law
16 enforcement agency if handgun safety was a component of the course;
- 17 (D) Completion of any law enforcement firearms safety or training course
18 or class offered for security guards, investigators, reserve law enforcement
19 officers or any other law enforcement officers if handgun safety was a com-
20 ponent of the course;
- 21 (E) Presents evidence of equivalent experience with a handgun through
22 participation in organized shooting competition or military service;
- 23 (F) Is licensed or has been licensed to carry a firearm in this state, unless
24 the license has been revoked; or
- 25 (G) Completion of any firearms training or safety course or class con-
26 ducted by a firearms instructor certified by a law enforcement agency or the
27 National Rifle Association if handgun safety was a component of the course;
- 28 (g) Has never been convicted of a felony or found guilty, except for in-
29 sanity under ORS 161.295, of a felony;
- 30 (h) Has not been convicted of a misdemeanor or found guilty, except for
31 insanity under ORS 161.295, of a misdemeanor within the four years prior to

1 the application;

2 (i) Has not been committed to the Department of Human Services under
3 ORS 426.130;

4 (j) Has not been found to be mentally ill and is not subject to an order
5 under ORS 426.130 that the person be prohibited from purchasing or pos-
6 sessed a firearm as a result of that mental illness;

7 (k) Has been discharged from the jurisdiction of the juvenile court for
8 more than four years if, while a minor, the person was found to be within
9 the jurisdiction of the juvenile court for having committed an act that, if
10 committed by an adult, would constitute a felony or a misdemeanor involving
11 violence, as defined in ORS 166.470; *[and]*

12 (L) Is not subject to a citation issued under ORS 163.735 or an order is-
13 sued under ORS 30.866, 107.700 to 107.735 or 163.738;

14 (m) **Is not an unlawful user of, or addicted to, a controlled sub-**
15 **stance as defined in ORS 475.005;**

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

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

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

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

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

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

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

20 APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

21 Date _____

22 I hereby declare as follows:

23 I am a citizen of the United States or a legal resident alien who can
 24 document continuous residency in the county for at least six months and
 25 have declared in writing to the United States Citizenship and Immigration
 26 Services my intention to become a citizen and can present proof of the
 27 written declaration to the sheriff at the time of this application. I am at least
 28 21 years of age. I have been discharged from the jurisdiction of the juvenile
 29 court for more than four years if, while a minor, I was found to be within
 30 the jurisdiction of the juvenile court for having committed an act that, if
 31 committed by an adult, would constitute a felony or a misdemeanor involving

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

19
 20 Legal name _____
 21 Age _____ Date of birth _____
 22 Place of birth _____
 23 Social Security number _____

24 (Disclosure of your Social Security account number is voluntary. Solicita-
 25 tion of the number is authorized under ORS 166.291. It will be used only as
 26 a means of identification.)

27
 28 Proof of identification (Two pieces of current identification are required, one
 29 of which must bear a photograph of the applicant. The type of identification
 30 and the number on the identification are to be filled in by the sheriff.):

31 1. _____

1 2. _____

2

3 Height _____ Weight _____

4 Hair color _____ Eye color _____

5

6 Current address _____

7

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

8

9

10 City _____ County _____ Zip _____

11 Phone _____

12

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

16

17

(Signature of Applicant)

18

19 Character references.

20

Name Address

22

Name Address

24

25 Approved _____ Disapproved _____ by _____

26

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

28 Date _____ Fee Paid _____

29 License No. _____

30

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

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

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

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

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

9 (6) No civil or criminal liability shall attach to the sheriff or any au-
10 thorized representative engaged in the receipt and review of, or an investi-
11 gation connected with, any application for, or in the issuance, denial or
12 revocation of, any license under ORS 166.291 to 166.295 as a result of the
13 lawful performance of duties under those sections.

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

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

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

23 (a) Has a current Oregon driver license issued to the person show-
24 ing a residence address in the county;

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

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

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

1 county.

2 (10) For purposes of subsection (1)(m) of this section, a person is
3 an unlawful user of, or addicted to, a controlled substance if within
4 the four years prior to the application:

5 (a) There have been two or more official reports by a law enforce-
6 ment agency that document incidents involving the person's unlawful
7 use of a controlled substance;

8 (b) The person has admitted to being addicted to a controlled sub-
9 stance to a peace officer, a corrections officer or a parole and pro-
10 bation officer;

11 (c) The person has been addicted to a controlled substance and the
12 fact of the addiction has been documented, electronically or in writing,
13 during the course of an investigation by a law enforcement agency;
14 or

15 (d) The person has participated in a court-supervised drug diversion
16 program.

17 **SECTION 3.** ORS 166.293 is amended to read:

18 166.293. (1) If the application for the concealed handgun license is denied,
19 the sheriff shall set forth in writing the reasons for the denial. The denial
20 shall be sent to the applicant by certified mail, restricted delivery, within
21 45 days after the application was made. If no decision is issued within 45
22 days, the person may seek review under the procedures in subsection (5) of
23 this section.

24 (2) Notwithstanding ORS 166.291 (1), and subject to review as provided in
25 subsection (5) of this section, a sheriff may deny a concealed handgun license
26 if the sheriff has reasonable grounds to believe that the applicant has been
27 or is reasonably likely to be a danger to self or others, or to the community
28 at large, as a result of the applicant's mental or psychological state[,] or as
29 demonstrated by the applicant's past pattern of behavior [*or participation*
30 *in incidents*] involving unlawful violence or threats of unlawful violence.

31 (3)(a) Any act or condition that would prevent the issuance of a license

1 under ORS 166.291 and 166.292 is cause for revoking a concealed handgun
2 license.

3 (b) A sheriff may revoke a license by serving upon the licensee a notice
4 of revocation. The notice must contain the grounds for the revocation and
5 must be served either personally or by certified mail, restricted delivery. The
6 notice and return of service shall be included in the file of the licensee. The
7 revocation is effective upon the licensee's receipt of the notice.

8 (4) Any peace officer or corrections officer may seize a concealed handgun
9 license and return it to the issuing sheriff [*when*] if the license is held by a
10 person who has been arrested or cited for a crime that can or would other-
11 wise disqualify the person from being issued a concealed handgun license
12 **or if the officer knows of the existence of any other circumstance that**
13 **would disqualify the person from being issued a concealed handgun**
14 **license.** The issuing sheriff shall hold the license for 30 days. If the person
15 is not charged with a crime within the 30 days, the sheriff shall return the
16 license unless the sheriff revokes the license as provided in subsection (3)
17 of this section.

18 (5) A person denied a concealed handgun license or whose license is re-
19 voked or not renewed under ORS 166.291 to 166.295 may petition the circuit
20 court in the petitioner's county of residence to review the denial, nonrenewal
21 or revocation. The petition must be filed within 30 days after the receipt of
22 the notice of denial or revocation.

23 (6) The judgment affirming or overturning the sheriff's decision shall be
24 based [*solely*] on whether the petitioner meets the criteria that are used for
25 issuance of the license under ORS 166.291 and 166.292 **and, if the petitioner**
26 **was denied a concealed handgun license, whether the sheriff has rea-**
27 **sonable grounds for denial under subsection (2) of this section.** When-
28 ever the petitioner has been previously sentenced for a crime under ORS
29 161.610 or for a crime of violence for which the person could have received
30 a sentence of more than 10 years, the court shall [*only*] grant relief **only** if
31 the court finds that relief should be granted in the interest of justice.

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

5 (8) Petitions filed under this section shall be heard and disposed of within
6 15 judicial days of filing or as soon as practicable thereafter.

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

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

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

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

17 **SECTION 4.** ORS 166.295 is amended to read:

18 166.295. (1)(a) A concealed handgun license is renewable by repeating the
19 procedures set out in ORS 166.291 and 166.292, except for the requirement to
20 submit fingerprints and provide character references. **A licensee may sub-**
21 **mit the application for renewal by mail if the licensee:**

22 **(A) Is an active member of the Armed Forces of the United States,**
23 **the National Guard of the United States or the Oregon National**
24 **Guard; and**

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

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

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

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

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

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

5 **SECTION 5. (1) The amendments to ORS 166.291 and 166.293 by**
6 **sections 2 and 3 of this 2007 Act apply to applications for concealed**
7 **handgun licenses filed on or after the effective date of this 2007 Act.**

8 (2) The amendments to ORS 166.295 by section 4 of this 2007 Act
9 apply to concealed handgun licenses issued before, on or after the ef-
10 fective date of this 2007 Act.

11