

Chapter 166

2019 EDITION

Offenses Against Public Order; Firearms and Other Weapons; Racketeering

RIOT, DISORDERLY CONDUCT, HARASSMENT AND RELATED OFFENSES		166.262	Limitation on peace officer's authority to arrest for violating ORS 166.250 or 166.370
166.005	Treason	166.263	Authority of parole and probation officer to carry firearm
166.015	Riot	166.270	Possession of weapons by certain felons
166.023	Disorderly conduct in the first degree	166.272	Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers
166.025	Disorderly conduct in the second degree	166.273	Relief from firearm prohibitions related to mental health
166.065	Harassment	166.274	Relief from prohibition against possessing or receiving firearm; fees
166.070	Aggravated harassment	166.275	Possession of weapons by inmates of institutions
166.075	Abuse of venerated objects	166.279	Forfeiture of deadly weapons
166.076	Abuse of a memorial to the dead	166.282	Sale of weapons by political subdivision; disposition of proceeds
166.085	Abuse of corpse in the second degree	166.291	Issuance of concealed handgun license; application; fees; liability
166.087	Abuse of corpse in the first degree	166.292	Procedure for issuing; form of license; duration
166.090	Telephonic harassment	166.293	Denial or revocation of license; review
166.095	Misconduct with emergency telephone calls	166.295	Renewal of license
166.116	Interfering with public transportation	166.297	Annual report regarding revocation of licenses
BIAS CRIME		166.300	Killing or injuring another with firearm as cause for loss of right to bear arms
166.155	Bias crime in the second degree	166.320	Setting springgun or setgun
166.165	Bias crime in the first degree	166.330	Use of firearms with other than incombustible gun wadding
AUTHORITY TO REGULATE FIREARMS		166.350	Unlawful possession of armor piercing ammunition
166.170	State preemption	POSSESSION OF WEAPON OR DESTRUCTIVE DEVICE IN PUBLIC BUILDING OR COURT FACILITY	
166.171	Authority of county to regulate discharge of firearms	166.360	Definitions for ORS 166.360 to 166.380
166.172	Authority of city to regulate discharge of firearms	166.370	Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school
166.173	Authority of city or county to regulate possession of loaded firearms in public places	166.373	Possession of weapon in court facility by peace officer or federal officer
166.174	Authority of city, county, municipal corporation or district to regulate possession or sale of firearms	166.375	Possession of handgun or ammunition by Department of Corrections authorized staff member; rules
166.175	Authority of city to regulate purchase of used firearms	166.380	Examination of firearm by peace officer; presentation of concealed handgun license
166.176	Exception to preemption for certain county ordinances	166.382	Possession of destructive device prohibited; exceptions
POSSESSION AND USE OF WEAPONS		166.384	Unlawful manufacture of destructive device
166.180	Negligently wounding another	166.385	Possession of hoax destructive device
166.190	Pointing firearm at another; courts having jurisdiction over offense	SALE OR TRANSFER OF FIREARMS	
166.210	Definitions	166.410	Manufacture, importation or sale of firearms
166.220	Unlawful use of weapon		
166.240	Carrying of concealed weapons		
166.250	Unlawful possession of firearms		
166.255	Possession of firearm or ammunition by certain persons prohibited		
166.256	Relinquishment of firearm upon person becoming subject to certain court orders		
166.257	Return of relinquished firearm		
166.259	Relinquishment of firearm upon conviction of certain offenses		
166.260	Persons not affected by ORS 166.250		

CRIMES AND PUNISHMENTS

166.412	Definitions; firearms transaction record; criminal history record check; prohibited transfer report; liability; rules	166.530	Hearing on order; continuation or termination of order
166.414	Fees for conducting criminal history record checks	166.533	Hearing to terminate order
166.416	Providing false information in connection with a transfer of a firearm	166.535	Renewal of order
166.418	Improperly transferring a firearm	166.537	Surrender of deadly weapons pursuant to order
166.421	Stolen firearms; determination; telephone requests	166.540	Return of surrendered deadly weapons
166.422	Enforcement of ORS 166.412	166.543	Criminal penalties
166.425	Unlawfully purchasing a firearm		
166.427	Register of transfers of used firearms		
166.429	Firearms used in felony		
166.432	Definitions for ORS 166.412 and 166.433 to 166.441		
166.433	Findings regarding transfers of firearms		
166.434	Requirements for criminal background checks; fees		
166.435	Firearm transfers by unlicensed persons; requirements; exceptions; penalties		
166.436	Department of State Police criminal background checks for gun show firearm transfers; prohibited transfer report; liability		
166.438	Transfer of firearms at gun shows; penalties		
166.441	Form for transfer of firearm at gun show		
166.445	Short title		
166.450	Obliteration or change of identification number on firearms		
166.460	Antique firearms excepted		
166.470	Limitations and conditions for sales of firearms		
166.480	Sale or gift of explosives to children		
166.490	Purchase of firearms in certain other states		
EXTREME RISK PROTECTION ORDERS			
166.525	Definitions		
166.527	Petition for ex parte order; issuance and service of order; request for hearing		
			DISCHARGING WEAPONS
		166.630	Discharging weapon on or across highway, ocean shore recreation area or public utility facility
		166.635	Discharging weapon or throwing objects at trains
		166.638	Discharging weapon across airport operational surfaces
POSSESSION OF BODY ARMOR			
		166.641	Definitions for ORS 166.641 to 166.643
		166.642	Felon in possession of body armor
		166.643	Unlawful possession of body armor
MISCELLANEOUS			
		166.645	Hunting in cemeteries prohibited
		166.649	Throwing an object off an overpass in the second degree
		166.651	Throwing an object off an overpass in the first degree
		166.660	Unlawful paramilitary activity
		166.663	Casting artificial light from vehicle while possessing certain weapons prohibited
RACKETEERING			
		166.715	Definitions for ORS 166.715 to 166.735
		166.720	Racketeering activity unlawful; penalties
		166.725	Remedies for violation of ORS 166.720; time limitation
		166.730	Authority of investigative agency; compelling compliance with subpoena
		166.735	Short title; construction

**RIOT, DISORDERLY CONDUCT,
HARASSMENT AND RELATED
OFFENSES**

166.005 Treason. (1) A person commits the crime of treason if the person levies war against the State of Oregon or adheres to its enemies, giving them aid and comfort.

(2) No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or upon confession in open court.

(3) A person convicted of treason shall be punished by imprisonment for life. [1971 c.743 §217]

166.010 [Repealed by 1971 c.743 §432]

166.015 Riot. (1) A person commits the crime of riot if while participating with five or more other persons the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm.

(2) Riot is a Class C felony. [1971 c.743 §218]

166.020 [Repealed by 1971 c.743 §432]

166.023 Disorderly conduct in the first degree. (1) A person commits the crime of disorderly conduct in the first degree if, with intent to cause public inconvenience, annoyance or alarm, or knowingly creating a risk thereof, the person initiates or circulates a report, knowing it to be false:

(a) Concerning an alleged hazardous substance or an alleged or impending fire, explosion, catastrophe or other emergency; and

(b) Stating that the hazardous substance, fire, explosion, catastrophe or other emergency is located in or upon a court facility or a public building, as those terms are defined in ORS 166.360.

(2)(a) Disorderly conduct in the first degree is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, disorderly conduct in the first degree is a Class C felony if the defendant has at least one prior conviction for violating subsection (1) of this section. [2005 c.631 §3; 2015 c.361 §1]

166.025 Disorderly conduct in the second degree. (1) A person commits the crime of disorderly conduct in the second degree if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

(a) Engages in fighting or in violent, tumultuous or threatening behavior;

(b) Makes unreasonable noise;

(c) Disturbs any lawful assembly of persons without lawful authority;

(d) Obstructs vehicular or pedestrian traffic on a public way;

(e) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

(f) Creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.

(2)(a) Disorderly conduct in the second degree is a Class B misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, disorderly conduct in the second degree is a Class A misdemeanor if the crime is committed within 200 feet of the real property on which the person knows a funeral service is being conducted.

(3) As used in this section, "funeral service" means a burial or other memorial service for a deceased person. [1971 c.743 §220; 1983 c.546 §5; 2001 c.104 §55; 2005 c.631 §1; 2012 c.35 §1]

166.030 [Repealed by 1971 c.743 §432]

166.035 [1971 c.743 §221; repealed by 1975 c.715 §2]

166.040 [Repealed by 1971 c.743 §432]

166.045 [1971 c.743 §222; repealed by 1983 c.546 §3]

166.050 [Repealed by 1971 c.743 §432]

166.060 [Amended by 1959 c.436 §1; 1961 c.503 §1; repealed by 1971 c.743 §432]

166.065 Harassment. (1) A person commits the crime of harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; or

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;

(b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(2)(a) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.

(b) Harassment that is committed under the circumstances described in subsection (1)(c) of this section is committed in either the county in which the communication originated or the county in which the communication was received.

(3) Harassment is a Class B misdemeanor.

(4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a person violates:

(a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact and:

(A) The offensive physical contact consists of touching the sexual or other intimate parts of the other person; or

(B)(i) The victim of the offense is a family or household member of the person; and

(ii) The offense is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim; or

(b) Subsection (1)(c) of this section and:

(A) The person has a previous conviction under subsection (1)(c) of this section and the victim of the current offense was the victim or a member of the family of the victim of the previous offense;

(B) At the time the offense was committed, the victim was protected by a stalking protective order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person from contacting the victim;

(C) At the time the offense was committed, the person reasonably believed the victim to be under 18 years of age and more than three years younger than the person; or

(D)(i) The person conveyed a threat to kill the other person or any member of the family of the other person;

(ii) The person expressed the intent to carry out the threat; and

(iii) A reasonable person would believe that the threat was likely to be followed by action.

(5) The Oregon Criminal Justice Commission shall classify harassment as described in subsection (4)(a)(B) of this section as a person Class A misdemeanor under the rules of the commission.

(6)(a) As used in this section:

(A) "Electronic threat" means a threat conveyed by electronic mail, the Internet, a telephone text message or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means.

(B) "Family or household member" has the meaning given that term in ORS 135.230.

(b) For purposes of subsection (4) of this section, an offense is witnessed if the offense

is seen or directly perceived in any other manner by the minor child. [1971 c.743 §223; 1981 c.468 §1; 1985 c.498 §1; 1987 c.806 §3; 1995 c.802 §1; 2001 c.870 §2; 2009 c.783 §1; 2013 c.649 §26; 2017 c.430 §1; 2019 c.304 §3]

166.070 Aggravated harassment. (1) A person commits the crime of aggravated harassment if the person, knowing that the other person is a:

(a) Staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the staff member while the staff member is acting in the course of official duty or as a result of the staff member's official duties;

(b) Public safety officer, knowingly propels blood, urine, semen or feces at the public safety officer while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties; or

(c) Public safety officer, intentionally propels saliva at the public safety officer, and the saliva comes into physical contact with the public safety officer, while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties.

(2) Aggravated harassment is a Class C felony. When a person is convicted of violating subsection (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose a term of incarceration in a state correctional facility.

(3) As used in this section:

(a) "Public safety officer" means an emergency medical services provider as defined in ORS 682.025, a regulatory specialist as defined in ORS 471.001 or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181A.355.

(b) "Staff member" has the meaning given that term in ORS 163.165. [2009 c.783 §2; 2011 c.703 §28; 2012 c.54 §27; 2013 c.477 §1; 2015 c.614 §151]

Note: 166.070 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.075 Abuse of venerated objects. (1) A person commits the crime of abuse of venerated objects if the person intentionally abuses a public monument or structure, a place of worship or the national or state flag.

(2) As used in this section and ORS 166.085, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

(3) Abuse of venerated objects is a Class C misdemeanor. [1971 c.743 §224; 1995 c.261 §2]

166.076 Abuse of a memorial to the dead. (1) A person commits the crime of abuse of a memorial to the dead if the person:

(a) Intentionally destroys, mutilates, defaces, injures or removes any:

(A) Tomb, monument, gravestone or other structure or thing placed as or designed for a memorial to the dead; or

(B) Fence, railing, curb or other thing intended for the protection or for the ornamentation of any structure or thing listed in subparagraph (A) of this paragraph;

(b) Intentionally destroys, mutilates, removes, cuts, breaks or injures any tree, shrub or plant within any structure listed in paragraph (a) of this subsection; or

(c) Buys, sells or transports any object listed in paragraph (a) of this subsection that was stolen from a historic cemetery knowing that the object is stolen.

(2) Abuse of a memorial to the dead is a Class A misdemeanor.

(3)(a) Notwithstanding ORS 161.635, the maximum fine that a court may impose for abuse of a memorial to the dead is \$50,000 if:

(A) The person violates subsection (1)(a) of this section and the object destroyed, mutilated, defaced, injured or removed is or was located in a historic cemetery; or

(B) The person violates subsection (1)(c) of this section.

(b) In addition to any other sentence a court may impose, if a defendant is convicted of violating this section under the circumstances described in paragraph (a)(A) of this subsection, the court shall consider ordering the defendant to pay restitution. The court shall base the amount of restitution on the historical value of the object destroyed, mutilated, defaced, injured or removed.

(4) This section does not apply to a person who is the burial right owner or that person's representative, an heir at law of the deceased, or a person having care, custody or control of a cemetery by virtue of law, contract or other legal right, if the person is acting within the scope of the person's legal capacity and the person's actions have the effect of maintaining, protecting or improving the tomb, monument, gravestone or other structure or thing placed as or designed for a memorial to the dead.

(5) As used in this section, "historic cemetery" means a cemetery that is listed with the Oregon Commission on Historic Cemeteries under ORS 97.782. [1995 c.261 §1; 1999 c.731 §12; 2003 c.291 §1; 2005 c.22 §113]

Note: 166.076 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

166.085 Abuse of corpse in the second degree. (1) A person commits the crime of abuse of corpse in the second degree if, except as otherwise authorized by law, the person intentionally:

(a) Abuses a corpse; or

(b) Disinters, removes or carries away a corpse.

(2) Abuse of corpse in the second degree is a Class C felony.

(3) As used in this section and ORS 166.087, "abuse of corpse" includes treatment of a corpse by any person in a manner not recognized by generally accepted standards of the community or treatment by a professional person in a manner not generally accepted as suitable practice by other members of the profession, as may be defined by rules applicable to the profession. [1971 c.743 §225; 1985 c.207 §2; 1993 c.294 §1]

166.087 Abuse of corpse in the first degree. (1) A person commits the crime of abuse of corpse in the first degree if the person:

(a) Engages in sexual activity with a corpse or involving a corpse; or

(b) Dismembers, mutilates, cuts or strikes a corpse.

(2) Abuse of corpse in the first degree is a Class B felony. [1993 c.294 §2]

Note: 166.087 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.090 Telephonic harassment. (1) A telephone caller commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person:

(a) By causing the telephone of the other person to ring, such caller having no communicative purpose;

(b) By causing such other person's telephone to ring, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone; or

(c) By sending to, or leaving at, the other person's telephone a text message, voice mail or any other message, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.

(2) Telephonic harassment is a Class B misdemeanor.

(3) It is an affirmative defense to a charge of violating subsection (1) of this section that the caller is a debt collector, as defined in ORS 646.639, who engaged in the

conduct proscribed by subsection (1) of this section while attempting to collect a debt. The affirmative defense created by this subsection does not apply if the debt collector committed the unlawful collection practice described in ORS 646.639 (2)(a) while engaged in the conduct proscribed by subsection (1) of this section. [1987 c.806 §2; 1999 c.115 §1; 2005 c.752 §1]

166.095 Misconduct with emergency telephone calls. (1) A person commits the crime of misconduct with emergency telephone calls if the person:

(a) Intentionally refuses to relinquish immediately a party line or public pay telephone after being informed that it is needed for an emergency call; or

(b) Requests another to relinquish a party line or public pay telephone to place an emergency call with knowledge that no such emergency exists.

(2) As used in this section:

(a) “Emergency call” means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential.

(b) “Party line” means a subscriber’s line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(3) Every telephone directory that is distributed to members of the general public in this state shall contain in a prominent place a notice of the offense punishable by this section.

(4) Misconduct with emergency telephone calls is a Class B misdemeanor. [1971 c.743 §288; 2005 c.22 §114]

166.110 [Amended by 1961 c.503 §2; repealed by 1971 c.743 §432]

166.115 [1981 c.783 §3; repealed by 2001 c.851 §2 (166.116 enacted in lieu of 166.115)]

166.116 Interfering with public transportation. (1) A person commits the crime of interfering with public transportation if the person:

(a) Intentionally or knowingly enters or remains unlawfully in or on a public transit vehicle or public transit station;

(b) Intentionally or knowingly interferes with the provision or use of public transportation services by, among other things, interfering with the movement of, or access to, public transit vehicles;

(c) While in or on a public transit vehicle or public transit station, engages in disorderly conduct in the second degree as defined in ORS 166.025; or

(d) Subjects a public transportation passenger, employee, agent or security officer or transit police officer to offensive physical contact.

(2)(a)(A) Interfering with public transportation as provided in subsection (1)(a) of this section is a Class C misdemeanor.

(B) Notwithstanding subparagraph (A) of this paragraph, interfering with public transportation as provided in subsection (1)(a) of this section is a Class A misdemeanor if the person has three or more prior convictions for interfering with public transportation as provided in subsection (1)(a) of this section.

(b) Interfering with public transportation as provided in subsection (1)(b) to (d) of this section is a Class A misdemeanor.

(3) As used in this section:

(a) “Enter or remain unlawfully” has the meaning given that term in ORS 164.205.

(b) “Public transit station” includes all facilities, structures, lands and rights of way that are owned, leased, held or used for the purposes of providing public transportation services.

(c) “Public transit vehicle” means a vehicle that is used for public transportation or operated by or under contract to any public body in order to provide public transportation.

(d) “Public transportation” means transportation provided by a city, county, special district or any other political subdivision or municipal or public corporation. [2001 c.851 §3 (enacted in lieu of 166.115); 2005 c.631 §4; 2017 c.454 §1]

166.120 [Repealed by 1971 c.743 §432]

166.130 [Repealed by 1971 c.743 §432]

166.140 [Repealed by 1971 c.743 §432]

166.150 [Repealed by 1971 c.743 §432]

BIAS CRIME

166.155 Bias crime in the second degree. (1) A person commits a bias crime in the second degree if the person:

(a) Tamper or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another person because of the person’s perception of the other person’s race, color, religion, gender identity, sexual orientation, disability or national origin;

(b) Intentionally subjects another person to offensive physical contact because of the person’s perception of the other person’s race, color, religion, gender identity, sexual orientation, disability or national origin; or

(c) Intentionally, because of the person’s perception of race, color, religion, gender identity, sexual orientation, disability or na-

tional origin of another person or of a member of the other person's family, subjects the other person to alarm by threatening:

(A) To inflict serious physical injury upon or to commit a felony affecting the other person, or a member of the other person's family; or

(B) To cause substantial damage to the property of the other person or of a member of the other person's family.

(2) A bias crime in the second degree is a Class A misdemeanor.

(3) As used in this section and ORS 166.165:

(a) "Gender identity" means an individual's gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.

(b) "Property" means any tangible personal property or real property. [1981 c.785 §1; 1983 c.521 §1; 1989 c.1029 §1; 2007 c.100 §18; 2011 c.421 §1; 2019 c.553 §1]

166.160 [Repealed by 1971 c.743 §432]

166.165 Bias crime in the first degree.

(1) A person commits a bias crime in the first degree if the person:

(a) Intentionally, knowingly or recklessly causes physical injury to another person because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin;

(b) With criminal negligence causes physical injury to another person by means of a deadly weapon because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin; or

(c) Intentionally, because of the person's perception of another person's race, color, religion, gender identity, sexual orientation, disability or national origin, places another person in fear of imminent serious physical injury.

(2) A bias crime in the first degree is a Class C felony. [1981 c.785 §2; 1983 c.521 §2; 1989 c.1029 §2; 1993 c.332 §1; 1995 c.79 §53; 1997 c.249 §50; 2007 c.100 §19; 2011 c.421 §2; 2019 c.553 §2]

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 corporation 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. [1995 s.s. c.1 §1]

166.171 Authority of county to regulate discharge of firearms. (1) A county may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within their boundaries.

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

(a) A person discharging a firearm in the lawful defense of person or property.

(b) A person discharging a firearm in the course of lawful hunting.

(c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger adjacent persons or property.

(d) A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.

(e) A person discharging a firearm in the course of target shooting on public land that is not inside an urban growth boundary or the boundary of a city, if the discharge will not endanger persons or property.

(f) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife. [1995 s.s. c.1 §2; 2009 c.556 §1]

166.172 Authority of city to regulate discharge of firearms. (1) A city may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within the city's boundaries.

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

(a) A person discharging a firearm in the lawful defense of person or property.

(b) A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.

(c) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm

in the course of the lawful taking of wildlife. [1995 s.s. c.1 §3; 2009 c.556 §2]

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.

(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.

(e) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a loaded firearm in the course of the lawful taking of wildlife.

(f) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292. [1995 s.s. c.1 §4; 1999 c.782 §8; 2009 c.556 §3; 2015 c.709 §1]

166.174 Authority of city, county, municipal corporation or district to regulate 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. [1995 s.s. c.1 §5]

166.175 Authority of city to regulate 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. [1995 s.s. c.1 §6]

166.176 Exception to preemption for certain county ordinances. (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:

(a) 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.

(b) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife. [1997 c.403 §1; 2009 c.556 §4]

POSSESSION AND USE OF WEAPONS

166.180 Negligently wounding another.

Any person who, as a result of failure to use ordinary care under the circumstances, wounds any other person with a bullet or shot from any firearm, or with an arrow from any bow, commits a Class B misdemeanor. In addition, any person so convicted shall forfeit any license to hunt, obtained under the laws of this state, and shall be ineligible to obtain a license to hunt for a period of 10 years following the date of conviction. [Formerly 163.310; 2011 c.597 §162]

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. [Formerly 163.320]

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 181A.355.

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

(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 181A.355.

(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. [Amended by 1977 c.769 §1; 1979 c.779 §3; 1989 c.839 §1; 1993 c.735 §14; 1995 c.670 §3; 1999 c.1040 §2; 2001 c.666 §§32,44; 2003 c.614 §7; 2007 c.368 §1; 2009 c.610 §4]

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;

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

(e) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife.

(3) Unlawful use of a weapon is a Class C felony. [Amended by 1975 c.700 §1; 1985 c.543 §1; 1991 c.797 §1; 2009 c.556 §5]

166.230 [Repealed by 1979 c.779 §7]

166.240 Carrying of concealed weapons. (1) Except as provided in subsection (2) of this section, any person who carries concealed upon the person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any dirk, dagger, ice pick, slungshot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person, commits a Class B misdemeanor.

(2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests. Justice courts have concurrent jurisdiction to try any person charged with violating any of the provisions of subsection (1) of this section. [Amended by 1977 c.454 §1; 1985 c.543 §2; 1989 c.839 §21; 1999 c.1040 §15]

166.245 [1989 c.839 §38; repealed by 1995 s.s. c.1 §7]

166.250 Unlawful possession of firearms. (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.

(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)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily accessible within the meaning of this section if the handgun is within the passenger compartment of the vehicle.

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

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

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

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

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

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

(5) Unlawful possession of a firearm is a Class A misdemeanor. [Amended by 1979 c.779 §4; 1985 c.543 §3; 1989 c.839 §13; 1993 c.732 §1; 1993 c.735 §12; 1999 c.1040 §1; 2001 c.666 §§33,45; 2003 c.614 §8; 2009 c.499 §1; 2009 c.595 §112; 2009 c.826 §§8a,11a; 2011 c.662 §1,2; 2013 c.360 §§6,7; 2015 c.50 §§12,13; 2015 c.201 §3; 2015 c.497 §§3,4]

166.255 Possession of firearm or ammunition by certain persons prohibited.

(1) It is unlawful for a person to knowingly possess a firearm or ammunition if:

(a) The person is the subject of a court order that:

(A)(i) Was issued or continued after a hearing for which the person had actual notice and during the course of which the person had an opportunity to be heard; or

(ii) Was issued, continued or remains in effect, by order or operation of law, after the person received notice of the opportunity to request a hearing in which to be heard on the order, and either requested a hearing but did not attend the hearing or withdrew the request before the hearing occurred, or did not request a hearing during the time period in which the opportunity was available;

(B) Restrains the person from stalking, intimidating, molesting or menacing a family or household member of the person, a child of a family or household member of the person or a child of the person; and

(C) Includes a finding that the person represents a credible threat to the physical safety of a family or household member of the person, a child of a family or household member of the person or a child of the person;

(b) The person has been convicted of a qualifying misdemeanor and, at the time of the offense, the person was:

(A) A family or household member of the victim of the offense; or

(B) A parent or guardian of the victim of the offense; or

(c) The person has been convicted of stalking under ORS 163.732.

(2) The prohibition described in subsection (1)(a) of this section does not apply with respect to the transportation, shipment, receipt, possession or importation of any firearm or ammunition imported for, sold or shipped to or issued for the use of the United States Government or any federal department or agency, or any state or department, agency or political subdivision of a state.

(3) As used in this section:

(a) "Convicted" means:

(A) The person was represented by counsel or knowingly and intelligently waived the right to counsel;

(B) The case was tried to a jury, if the crime was one for which the person was entitled to a jury trial, or the person knowingly and intelligently waived the person's right to a jury trial; and

(C) The conviction has not been set aside or expunged, and the person has not been pardoned.

(b) "Deadly weapon" has the meaning given that term in ORS 161.015.

(c) "Family or household member" has the meaning given that term in ORS 135.230.

(d) "Possess" has the meaning given that term in ORS 161.015.

(e) "Qualifying misdemeanor" means a misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon. [2015 c.497 §2; 2018 c.5 §1; 2019 c.201 §1]

166.256 Relinquishment of firearm upon person becoming subject to certain court orders. (1)(a) When a respondent becomes subject to an order described in ORS 166.255 (1)(a) prohibiting the respondent from possessing firearms or ammunition, the court shall:

(A) Indicate in the order that the respondent is prohibited from possessing firearms and ammunition under ORS 166.250 and 166.255 while the order is in effect.

(B) Ensure that the respondent is subject to an additional order:

(i) Requiring the respondent to transfer all firearms and ammunition in the respondent's possession in accordance with subsection (2) of this section; and

(ii) Requiring the respondent to file a declaration as described in subsection (4) of this section.

(b) If the respondent becomes subject to the order while the respondent is present in court, the court shall:

(A) Inform the respondent, orally and in writing, that the respondent is prohibited from possessing firearms and ammunition;

(B) Order in writing that the respondent transfer all firearms and ammunition in the respondent's possession in accordance with subsection (2) of this section; and

(C) Order that the respondent file a declaration as described in subsection (4) of this section.

(2)(a) Within 24 hours of becoming subject to the court order under subsection (1)(a)(B) of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall transfer all firearms and ammunition in the respondent's possession to a local law enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the respondent, and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer to a third party under this subsection must be in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition pursuant to this subsection shall issue to the respondent a written proof of transfer. The proof of transfer must include the respondent's name, the date of transfer and the serial number, make and model of each transferred firearm. A proof of transfer issued by a third party must also include the unique approval number from the Department of State Police from the criminal background check conducted under ORS 166.435.

(c) A respondent transferring a firearm or ammunition to a third party under this subsection shall additionally obtain from the third party a declaration under penalty of perjury confirming receipt of the firearm or ammunition and attesting that:

(A) The third party understands that the respondent is prohibited from possessing firearms and ammunition; and

(B) The third party is subject to criminal penalties if the third party allows the respondent access to the firearm or ammunition during the prohibition.

(3)(a) A law enforcement agency may accept a firearm or ammunition transferred under this section.

(b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred under this section.

(4)(a) Within two judicial days of becoming subject to the court order under subsection (1)(a)(B) of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall file with the court a declaration under penalty of perjury attesting that:

(A) All firearms and ammunition in the respondent's possession have been transferred under subsection (2) of this section to:

- (i) A law enforcement agency;
- (ii) A gun dealer; or
- (iii) A third party;

(B) The respondent was not in possession of any firearms at the time of the court's order and continues to not possess any firearms; or

(C) The respondent is asserting the respondent's constitutional right against self-incrimination.

(b) The respondent shall file with the declaration a copy of the proof of transfer, if applicable, and a copy of the third party declaration, if applicable.

(5) The respondent shall concurrently file with the district attorney copies of the declaration, proof of transfer and third party declaration filed with the court under subsection (4) of this section.

(6) A respondent in possession of a firearm or ammunition in violation of ORS 166.255 (1)(a) may not be prosecuted under ORS 166.250 if:

(a) The respondent is in possession of a court order described in subsection (1)(a)(B) or (1)(b)(B) of this section that went into effect or was issued within the previous 24 hours;

(b) The firearm is unloaded; and

(c) The respondent is transporting the firearm or ammunition to a law enforcement agency, gun dealer or third party for transfer in accordance with subsection (2) of this section.

(7) Upon the expiration or termination of the order described in ORS 166.255 (1)(a), at the request of the respondent:

(a) A law enforcement agency shall return any stored firearms and ammunition to the respondent in accordance with ORS 166.257.

(b) A gun dealer shall return any stored firearms and ammunition to the respondent after performing a criminal background check as defined in ORS 166.432 to confirm that the respondent is not prohibited from possessing a firearm or ammunition under state or federal law.

(c) A third party shall return any stored firearms and ammunition to the respondent only after requesting a criminal background check in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(8) If the respondent does not file a declaration described in subsection (4) of this section, the district attorney may commence contempt proceedings under ORS 33.015 to 33.155. [2019 c.201 §4]

Note: 166.256 and 166.257 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.257 Return of relinquished firearm. (1) Upon receiving a request to return a firearm or ammunition relinquished to a law enforcement agency pursuant to ORS 166.256, the law enforcement agency shall:

(a) Notify the Department of Justice of the return request for the purposes of notifying the petitioner of the order; and

(b) Hold the firearm or ammunition for 72 hours after receiving the request.

(2) Prior to returning the firearm or ammunition, the law enforcement agency shall:

(a) Confirm that the person to whom the law enforcement agency will return the firearm or ammunition is the lawful owner of the firearm or ammunition, or a person with a possessory right to the firearm or ammunition; and

(b) Perform a criminal background check as defined in ORS 166.432 to confirm that the person is not prohibited from possessing a firearm or ammunition under state or federal law. [2019 c.201 §5]

Note: See note under 166.256.

166.259 Relinquishment of firearm upon conviction of certain offenses. (1) When a person is convicted of an offense described in ORS 166.255 (1)(b) or (c), the court shall, at the time of conviction:

(a) Indicate in the judgment of conviction that the person is prohibited from possessing firearms and ammunition under ORS 166.250 and 166.255;

(b) Inform the person, orally and in writing, that the person is prohibited from possessing firearms and ammunition;

(c) Order in writing that the person transfer all firearms and ammunition in the person's possession in accordance with subsection (2) of this section; and

(d) Order that the person file a declaration as described in subsection (4) of this section.

(2)(a) Within 24 hours of the court's order under subsection (1) of this section, the

person shall transfer all firearms and ammunition in the person's possession to a local law enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the person, and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer to a third party under this subsection must be in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition pursuant to this subsection shall issue to the person a written proof of transfer. The proof of transfer must include the person's name, the date of transfer and the serial number, make and model of each transferred firearm. A proof of transfer issued by a third party must also include the unique approval number from the Department of State Police from the criminal background check conducted under ORS 166.435.

(c) A person transferring a firearm or ammunition to a third party under this subsection shall additionally obtain from the third party a declaration under penalty of perjury confirming receipt of the firearm or ammunition and attesting that:

(A) The third party understands that the person is prohibited from possessing firearms and ammunition; and

(B) The third party is subject to criminal penalties if the third party allows the person access to the firearm or ammunition during the prohibition.

(3)(a) A law enforcement agency may accept a firearm or ammunition transferred under this section.

(b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred under this section.

(4)(a) Within two judicial days of the court's order under subsection (1) of this section, the person shall file with the court a declaration under penalty of perjury attesting that:

(A) All firearms and ammunition in the person's possession have been transferred under subsection (2) of this section to:

- (i) A law enforcement agency;
- (ii) A gun dealer; or
- (iii) A third party;

(B) The person was not in possession of any firearms at the time of the court's order and continues to not possess any firearms; or

(C) The person is asserting the person's constitutional right against self-incrimination.

(b) The person shall file with the declaration a copy of the proof of transfer, if applicable, and a copy of the third party declaration, if applicable.

(5) The person shall concurrently file with the district attorney copies of the declaration, proof of transfer and third party declaration filed with the court under subsection (4) of this section.

(6) A person in possession of a firearm or ammunition in violation of ORS 166.255 (1)(b) or (c) may not be prosecuted under ORS 166.250 if:

(a) The person is in possession of a court order described in subsection (1) of this section issued within the previous 24 hours;

(b) The firearm is unloaded; and

(c) The person is transporting the firearm or ammunition to a law enforcement agency, gun dealer or third party for transfer in accordance with subsection (2) of this section.

(7) If the person does not file the declaration required under subsection (4) of this section, the district attorney may commence contempt proceedings under ORS 33.015 to 33.155. [2019 c.201 §3]

166.260 Persons not affected by ORS 166.250. (1) ORS 166.250 does not apply to or affect:

(a) A parole and probation officer, police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(d) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to assist in making arrests or preserving the peace, while the summoned person is engaged in assisting the officer.

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

(f) Active or reserve members of:

(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty;

(B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

(C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.

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

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

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

(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.

(3) 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.

(4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses to a charge of violating ORS 166.250. [Amended by 1977 c.207 §1; 1991 c.67 §36; 1993 c.735 §1; 1995 c.670 §2; 1999 c.1040 §3; 2009 c.316 §2; 2009 c.499 §4; 2012 c.106 §3; 2015 c.709 §2]

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:

(1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292;

(2) Proof that the person is a law enforcement officer; or

(3) Proof that the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292. [1999 c.1040 §5; 2015 c.709 §3]

166.263 Authority of parole and probation officer to carry firearm. When authorized by the officer's employer, a parole and probation officer, as defined in ORS

181A.355, may carry a firearm while engaged in official duties if the officer has completed:

(1) A firearms training program recognized by the Board on Public Safety Standards and Training; and

(2) A psychological screening. [1995 c.670 §1]

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, metal knuckles or an Electro-Muscular Disruption Technology device as defined in ORS 165.540, 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 ORS 166.274 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. [Amended by 1975 c.702 §1; 1985 c.543 §4; 1985 c.709 §2; 1987 c.853 §1; 1989 c.839 §4; 1993 c.735 §2; 1995 c.518 §1; 1999 c.1040 §16; 2003 c.14 §64; 2009 c.189 §1; 2009 c.499 §3]

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. [1989 c.839 §13a; 1997 c.749 §8; 1997 c.798 §1]

166.273 Relief from firearm prohibitions related to mental health. (1) A person barred from transporting, shipping, possessing or receiving a firearm may file a petition with the Psychiatric Security Review Board for relief from the bar if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

(b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f) or, if the person has been found guilty except for insanity of a misdemeanor involving violence, ORS 166.470 (1)(g); or

(c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

(2) The petitioner shall serve a copy of the petition on:

(a) The Department of Human Services and the Oregon Health Authority; and

(b) The district attorney in each county in which:

(A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a court as a person with mental illness, under ORS 426.130;

(B) The person was committed by a court to the Department of Human Services, or adjudicated by a court as in need of commitment for residential care, treatment and training, under ORS 427.290;

(C) The person was found guilty except for insanity under ORS 161.295;

(D) The person was found responsible except for insanity under ORS 419C.411; or

(E) The person was found by a court to lack fitness to proceed under ORS 161.370.

(3) Following receipt of the petition, the board shall conduct a contested case hearing, make written findings of fact and conclusions of law on the issues before the board and issue a final order. Board members from the adult panel, the juvenile panel or a combination of both panels of the board may conduct the hearings described in this section.

(4) The state and any person or entity described in subsection (2) of this section may appear and object to and present evidence relevant to the relief sought by the petitioner.

(5) The board shall grant the relief requested in the petition if the petitioner demonstrates, based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(6) If the board grants the relief requested in the petition, the board shall provide to the Department of State Police the minimum information necessary, as defined in ORS 181A.290, to enable the department to:

(a) Maintain the information and transmit the information to the federal government as required under federal law; and

(b) Maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e), (f) or (g).

(7) The petitioner may petition for judicial review of a final order of the board. The petition shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The review shall be conducted de novo and without a jury.

(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by the Court of Appeals shall be conducted in accordance with ORS 183.500.

(9) A person may file a petition for relief under this section no more than once every two years.

(10) The board shall adopt procedural rules to carry out the provisions of this section.

(11) As used in this section, "state mental health determination" means:

(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter;

(c) A commitment by a court to the Oregon Health Authority, or an adjudication by a court that a person is a person with mental illness, under ORS 426.130; or

(d) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is in need of commitment for residential care, treatment and training, under ORS 427.290. [2009 c.826 §5; 2009 c.826 §§18,18a; 2011 c.658 §32; 2013 c.360 §68; 2015 c.201 §2]

166.274 Relief from prohibition against possessing or receiving firearm; fees. (1) Except as provided in subsection (11) of this section, a person barred from possessing or receiving a firearm may file a petition for relief from the bar in accordance with subsection (2) of this section if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A), (C) or (H) or 166.270; or

(b) The person is barred from receiving a firearm under ORS 166.470 (1)(a) or (b) or, if the person has been convicted of a misdemeanor involving violence, ORS 166.470 (1)(g).

(2) A petition for relief described in this section must be filed in the circuit court in the petitioner's county of residence.

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

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

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

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

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

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

(b) When a petition is granted, the judge shall cause that information and a fingerprint card of the petitioner to be entered into the Department of State Police computerized criminal history files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall notify the court that granted relief under this section. The court shall review the order granting relief and determine whether to rescind the order. The Department of State Police may charge a reasonable fee, under ORS 192.324, for the entry and maintenance of information under this section.

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

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

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

(9) A person filing a petition under this section must pay the filing fee established under ORS 21.135.

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

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

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

(11) The court may not grant relief under this section to a person who:

(a) Has been convicted of a person felony, as that term is defined in the rules of the Oregon Criminal Justice Commission, or the statutory counterpart to a person felony in any other jurisdiction, if the offense involved the use of a firearm or a deadly weapon as defined in ORS 161.015;

(b) Has been convicted of an offense listed in ORS 137.700 or the statutory counterpart to an offense listed in ORS 137.700 in any other jurisdiction; or

(c) Is currently serving a felony sentence as defined in ORS 10.030 or has served a felony sentence in the one-year period preceding the filing of the petition. [1989 c.839 §11; 1991 c.67 §37; 1993 c.732 §§3,4; 1995 c.518 §2; 1995 c.658 §88; 2009 c.499 §2; 2009 c.826 §§19,20; 2010 c.86 §§1,2,3; 2011 c.595 §§59,60; 2011 c.662 §§3,4; 2015 c.7 §§6,7; 2015 c.201 §4; 2015 c.497 §§5,6]

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. [1953 c.533 §1; 1987 c.320 §88]

166.279 Forfeiture of deadly weapons. (1) Except as provided in subsection (4) of this section, ORS 131.550 to 131.600 do not apply to the forfeiture of a firearm or other deadly weapon that was possessed, used or available for use to facilitate a criminal offense.

(2) Except as provided in subsection (3) of this section, at the time of sentencing for any criminal offense in which a firearm or other deadly weapon was possessed, used or available for use to facilitate the offense, the court shall declare the weapon to be contraband and order that the weapon be forfeited.

(3) If a firearm or other deadly weapon that was possessed, used or available for use to facilitate a criminal offense was stolen from its lawful owner and was recovered from a person other than the lawful owner, the court may not order that the weapon be forfeited but shall order that the weapon be restored to the lawful owner as soon as the weapon is no longer needed for evidentiary purposes.

(4) The court shall release a firearm or other deadly weapon forfeited under subsec-

tion (2) of this section to the law enforcement agency that seized the weapon. The law enforcement agency may destroy or sell the weapon, use the weapon as a service weapon or use the weapon for training, identification or demonstration purposes. When a weapon is sold pursuant to this subsection, the law enforcement agency shall pay the proceeds from the sale, less the costs of the sale, as provided in ORS 131.594 and 131.597.

(5) As used in this section, “deadly weapon” has the meaning given that term in ORS 161.015. [2003 c.614 §4; 2005 c.830 §24]

166.280 [Amended by 1981 c.767 §1; 1993 c.625 §2; 1997 c.480 §5; 1997 c.693 §2; repealed by 2001 c.666 §56]

166.281 [2001 c.666 §52; repealed by 2003 c.614 §13]

166.282 Sale of weapons by political subdivision; disposition of proceeds. (1) A political subdivision in this state that sells a weapon described in subsection (2) of this section shall pay the proceeds from the sale of the weapon, less the costs of the sale, to the account of the police agency that received the weapon, to be used for purposes of public safety, law enforcement and crime prevention and detection.

(2) Subsection (1) of this section applies to a weapon that is donated to the police agency. [1997 c.693 §1; 2001 c.666 §§25,37; 2003 c.614 §5]

166.290 [Amended by 1973 c.391 §1; repealed by 1989 c.839 §7 (166.291 to 166.293 enacted in lieu of 166.290)]

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:

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

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

(b) Is at least 21 years of age;

(c) Is a resident of the county;

(d) Has no outstanding warrants for arrest;

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

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

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

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

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

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

(E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;

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

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

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

(h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor conviction for the possession of marijuana as described in paragraph (L) of this subsection;

(i) Has not been committed to the Oregon Health Authority under ORS 426.130;

(j) Has not been found to be a person with mental illness and is not 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;

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

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

(A) The person can demonstrate that the person has been convicted only once of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

(B) The person can demonstrate that the person has only once completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

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

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

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

(p) Is not presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm.

(2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

(3) Before the sheriff may issue a license:

(a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previ-

ous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1) of this section. The application may include the Social Security number of the applicant if the applicant voluntarily provides this number. The application must be signed by the applicant.

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

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

APPLICATION FOR LICENSE TO CARRY
CONCEALED HANDGUN

Date _____

I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if commit-

ted by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a person with mental illness and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. I am not under a court order to participate in assisted outpatient treatment that includes an order prohibiting me from purchasing or possessing a firearm. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

Legal name _____

Age _____ Date of birth _____

Place of birth _____

Social Security number _____

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

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

1. _____

2. _____

Height _____ Weight _____

Hair color _____ Eye color _____

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

City _____ County _____ Zip _____
Phone _____

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

(Signature of Applicant)

Character references.

Name:	Address
Name:	Address

Approved _____ Disapproved _____ by _____

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

Date _____ Fee Paid _____

License No. _____

(5)(a) Fees for concealed handgun li-
censes are:

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

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

(C) \$15 to the sheriff for the duplication
of a license because of loss or change of ad-
dress.

(b) The sheriff may enter into an agree-
ment with the Department of Transportation
to produce the concealed handgun license.

(6) No civil or criminal liability shall at-
tach to the sheriff or any authorized repre-
sentative engaged in the receipt and review
of, or an investigation connected with, any
application for, or in the issuance, denial or
revocation of, any license under ORS 166.291
to 166.295 as a result of the lawful perform-
ance of duties under those sections.

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

(8) The county sheriff may waive the
residency requirement in subsection (1)(c) of
this section for a resident of a contiguous

state who has a compelling business interest
or other legitimate demonstrated need.

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

(a) Has a current Oregon driver license
issued to the person showing a residence ad-
dress in the county;

(b) Is registered to vote in the county and
has a voter notification card issued to the
person under ORS 247.181 showing a resi-
dence address in the county;

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

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

(10) As used in this section, "drug diver-
sion program" means a program in which a
defendant charged with a marijuana pos-
session offense completes a program under
court supervision and in which the
marijuana possession offense is dismissed
upon successful completion of the diversion
program. [1989 c.839 §8 (166.291 to 166.293 enacted in
lieu of 166.290); 1991 c.67 §38; 1993 c.732 §2; 1993 c.735
§4; 1995 c.729 §6; 1999 c.1052 §6; 2001 c.104 §56; 2003 c.166
§1; 2005 c.22 §115; 2007 c.368 §2; 2009 c.595 §113; 2009
c.826 §§7,10; 2011 c.547 §§33,34; 2013 c.243 §§4,5; 2013 c.360
§§8,9; 2013 c.591 §§6,7; 2014 c.62 §§1,2; 2015 c.50 §§15,16;
2015 c.201 §5]

**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 appli-
cant 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 substan-
tially the following form:

**OREGON CONCEALED HANDGUN
LICENSE**

County _____	License Number _____
Expires _____	Date of birth _____
Height _____	Weight _____
Name _____	Address _____
Licensee's City _____	Zip _____ Photograph
Signature _____	

Issued by _____
Date of issue _____

(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. [1989 c.839 §9 (166.291 to 166.293 enacted in lieu of 166.290); 1993 c.625 §5; 1993 c.693 §2; 1993 c.735 §5]

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

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

(3)(a) Any act or condition that would prevent the issuance of a concealed handgun license is cause for revoking a concealed handgun license.

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

(4) Any peace officer or corrections officer may seize a concealed handgun license and return it to the issuing sheriff if the license is held by a person who has been arrested or cited for a crime that can or would otherwise disqualify the person from being issued a concealed handgun license. The is-

suing sheriff shall hold the license for 30 days. If the person is not charged with a crime within the 30 days, the sheriff shall return the license unless the sheriff revokes the license as provided in subsection (3) of this section.

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

(6) The judgment affirming or overturning the sheriff's decision shall be based on whether the petitioner meets the criteria that are used for issuance of a concealed handgun license and, if the petitioner was denied a concealed handgun license, whether the sheriff has reasonable grounds for denial under subsection (2) of this section. Whenever the petitioner has been previously sentenced for a crime under ORS 161.610 or for a crime of violence for which the person could have received a sentence of more than 10 years, the court shall grant relief only if the court finds that relief should be granted in the interest of justice.

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

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

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

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

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

(12) If the governmental entity files an appeal under this section and does not prevail, it shall be ordered to pay the attorney fees for the prevailing party. [1989 c.839 §9a (166.291 to 166.293 enacted in lieu of 166.290); 1993 c.735 §6; 1995 c.518 §3; 1995 c.658 §89; 1999 c.1052 §7; 2003 c.14 §65; 2007 c.202 §1; 2007 c.368 §3; 2015 c.7 §8]

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. [1989 c.839 §10; 1993 c.735 §7; 2007 c.368 §4]

166.297 Annual report regarding revocation of licenses. (1) The sheriff of a county shall submit annually to the Department of State Police a report containing the number of concealed handgun licenses revoked during the reporting period and the reasons for the revocations.

(2) The Department of State Police shall compile the reports submitted under subsection (1) of this section and shall submit the compilation to the Legislative Assembly biennially. [1993 c.735 §13]

166.300 Killing or injuring another with firearm 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, commits a Class A misdemeanor.

(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 du-

ties or to a member of any regularly constituted military organization while on duty with such military organization. [Amended by 2011 c.597 §163]

166.310 [Repealed by 1985 c.709 §4]

166.320 Setting springgun or setgun.

(1) Any person who places or sets any loaded springgun, setgun, or any gun, firearm or other device of any kind designed for containing or firing explosives, in any place where it may be fired, exploded or discharged by the contact of any person or animal with any string, wire, rod, stick, spring or other contrivance affixed to or connected with it, or with its trigger, commits a Class B misdemeanor.

(2) Subsection (1) of this section does not apply to any loaded springgun, setgun, firearm or other device placed for the purpose of destroying gophers, moles or other burrowing rodents, and does not prevent the use of a coyote getter by employees of county, state or federal governments engaged in cooperative predatory animal control work. [Amended by 2011 c.597 §164]

166.330 Use of firearms with other than incombustible gun wadding. Any person who uses in any firearms discharged on lands within this state, not owned by the person, anything other than incombustible gun wadding, commits a Class C misdemeanor. [Amended by 2011 c.597 §165]

166.340 [1965 c.20 §§2,3; 1969 c.351 §1; repealed by 1981 c.41 §3]

166.350 Unlawful possession of armor piercing ammunition. (1) A person commits the crime of unlawful possession of armor piercing ammunition if the person:

(a) Makes, sells, buys or possesses any handgun ammunition the bullet or projectile of which is coated with Teflon or any chemical compound with properties similar to Teflon and which is intended to penetrate soft body armor, such person having the intent that the ammunition be used in the commission of a felony; or

(b) Carries any ammunition described in paragraph (a) of this subsection while committing any felony during which the person or any accomplice of the person is armed with a firearm.

(2) As used in this section, "handgun ammunition" means ammunition principally for use in pistols or revolvers notwithstanding that the ammunition can be used in some rifles.

(3) Unlawful possession of armor piercing ammunition is a Class A misdemeanor. [1985 c.755 §2; 1987 c.158 §29]

**POSSESSION OF WEAPON OR
DESTRUCTIVE DEVICE IN PUBLIC
BUILDING OR COURT FACILITY**

166.360 Definitions for ORS 166.360 to 166.380. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the State Office Building, the State Library Building, the Labor and Industries Building, the State Transportation Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Court facility" means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

(3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

(4) "Judicial district" means a circuit court district established under ORS 3.012 or a justice of the peace district established under ORS 51.020.

(5) "Juvenile court" has the meaning given that term in ORS 419A.004.

(6) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot or projectile in the barrel or cylinder.

(7) "Local court facility" means the portion of a building in which a justice court, a municipal court, a probate court or a juvenile court conducts business, during the hours in which the court operates.

(8) "Probate court" has the meaning given that term in ORS 111.005.

(9) "Public building" means a hospital, a capitol building, a public or private school, as defined in ORS 339.315, a college or university, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation, as

defined in ORS 297.405, other than a court facility.

(10) "Weapon" means:

(a) A firearm;

(b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife, other than an ordinary pocketknife with a blade less than four inches in length, the use of which could inflict injury upon a person or property;

(c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

(d) An electrical stun gun or any similar instrument;

(e) A tear gas weapon as defined in ORS 163.211;

(f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any similar instrument, the use of which could inflict injury upon a person or property; or

(g) A dangerous or deadly weapon as those terms are defined in ORS 161.015. [1969 c.705 §1; 1977 c.769 §2; 1979 c.398 §1; 1989 c.982 §4; 1993 c.741 §2; 1999 c.577 §2; 1999 c.782 §6; 2001 c.201 §1; 2015 c.351 §1]

166.370 Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.

(b) The presiding judge of a judicial district or a municipal court may enter an order

permitting the possession of specified weapons in a court facility.

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

(3) Subsection (1) of this section does not apply to:

(a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

(f) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

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

(h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

(i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

(j) Possession of a firearm on school property if the firearm:

(A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

(B) Is unloaded and locked in a motor vehicle.

(4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.

(b) A person may not use the affirmative defense described in subsection (3)(e) of this

section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.

(b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

(A) As part of a program approved by a school in the school by an individual who is participating in the program;

(B) By a law enforcement officer acting in the officer's official capacity; or

(C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.

(6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.279.

(7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (5) of this section, the district attorney may charge the person with only one of the offenses.

(8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015. [1969 c.705 §§2,4; 1977 c.207 §2; 1979 c.398 §2; 1989 c.839 §22; 1989 c.982 §5; 1991 c.67 §39; 1993 c.625 §1; 1999 c.782 §7; 1999 c.1040 §4; 2001 c.666 §§24,36; 2003 c.614 §6; 2009 c.556 §6; 2015 c.351 §2; 2015 c.709 §4]

166.372 [1993 c.625 §3; repealed by 1996 c.16 §5]

166.373 Possession of weapon in court facility by peace officer or federal officer.

(1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this section, a peace officer, as defined in ORS 161.015, or a federal officer, as defined in ORS 133.005, may possess a weapon in a court facility if the officer:

(a) Is acting in an official capacity and is officially on duty;

(b) Is carrying a weapon that the employing agency of the officer has authorized the officer to carry; and

(c) Is in compliance with any security procedures established under subsections (3) and (4) of this section.

(2) A judge may prohibit a peace officer or a federal officer from possessing a weapon in a courtroom. A notice of the prohibition of the possession of a weapon by an officer in a courtroom must be posted outside the entrance to the courtroom.

(3) A presiding judge of a judicial district or a municipal court or the Chief Justice of the Supreme Court may establish procedures regulating the possession of a weapon in a court facility by a peace officer or a federal officer subject to the following:

(a) The procedures for a circuit court must be established through a plan for court security improvement, emergency preparedness and business continuity under ORS 1.177 or 1.180;

(b) The procedures for a justice court or a municipal court may only prohibit the possession of weapons within the area in which the court conducts business and during the hours in which the court operates;

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not establish procedures in conflict with the procedures established by the presiding judge of the circuit court; and

(d) Notice of the procedures must be posted at the entrance to the court facility, or at an entrance for peace officers or federal officers if the entrance is separate from the entrance to the court facility, and at a security checkpoint in the court facility.

(4) A judge may establish procedures regulating the possession of a weapon in a courtroom by a peace officer or a federal officer. A notice of the procedures regulating the possession of a weapon by an officer must be posted outside the entrance to the courtroom. [2001 c.201 §3; 2005 c.804 §7; 2015 c.351 §3]

166.375 Possession of handgun or ammunition by Department of Corrections authorized staff member; rules. (1) Notwithstanding ORS 162.135 and 162.185 or any Department of Corrections regulation, rule, policy or provision of an employment contract to the contrary, if the department has not provided a secure and locked location for the storage of personal handguns and ammunition by authorized staff, authorized staff may possess a personal handgun and ammunition in the authorized staff member's personal vehicle when the vehicle is parked in a department parking lot if the authorized staff member:

(a) Is present at a public building owned or occupied by the department;

(b) Has a valid concealed handgun license issued pursuant to ORS 166.291 and 166.292; and

(c) Has secured the personal handgun and ammunition in a closed and locked container designed for the storage of firearms inside the vehicle.

(2)(a) Authorized staff may possess and store only the amount and types of ammunition authorized by the department by written policy or rule.

(b) The department shall adopt written policies or rules to carry out the purposes of this section. The policies or rules shall include, at a minimum, procedures for and responsibilities of authorized staff when possessing and storing personal handguns and ammunition on property owned or occupied by the department under this section.

(3) As used in this section and ORS 423.045:

(a) "Authorized staff" means employees of the department and employees of the State Board of Parole and Post-Prison Supervision and Oregon Corrections Enterprises who are assigned to work in or at a public building owned or occupied by the department.

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

(c) "Vehicle" means a vehicle that is self-propelled and that is commonly known as a passenger car, van, truck or motorcycle. [2014 c.88 §2; 2015 c.246 §1]

166.380 Examination of firearm by peace officer; presentation of concealed handgun license. (1) Except as provided in subsection (2) of this section, a peace officer may examine a firearm possessed by anyone on the person while in or on a public building to determine whether the firearm is a loaded firearm.

(2) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun may present a valid concealed handgun license to the peace officer instead of providing the firearm to the peace officer for examination. [1969 c.705 §3; 2015 c.605 §1]

166.382 Possession of destructive device prohibited; exceptions. (1) A person commits the crime of unlawful possession of a destructive device if the person possesses:

(a) Any of the following devices with an explosive, incendiary or poison gas component:

(A) Bomb;

(B) Grenade;

(C) Rocket having a propellant charge of more than four ounces;

(D) Missile having an explosive or incendiary charge of more than one-quarter ounce; or

(E) Mine; or

(b) Any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) of this subsection and from

which a destructive device may be readily assembled.

(2) As used in this section:

(a) “Destructive device” does not include any device which is designed primarily or redesigned primarily for use as a signaling, pyrotechnic, line throwing, safety or similar device.

(b) “Possess” has the meaning given that term in ORS 161.015.

(3) This section does not apply to:

(a) Persons who possess explosives as provided in ORS 480.200 to 480.290.

(b) The possession of an explosive by a member of the Armed Forces of the United States while on active duty and engaged in the performance of official duties or by a member of a regularly organized fire or police department of a public agency while engaged in the performance of official duties.

(c) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation.

(d) The possession, sale, transfer or manufacture of an explosive by a person acting in accordance with the provisions of any applicable federal law or regulation that provides substantially the same requirements as the comparable provisions of ORS 480.200 to 480.290.

(4) Possession of a destructive device is a Class C felony. [1989 c.982 §1]

166.384 Unlawful manufacture of destructive device. (1) A person commits the crime of unlawful manufacture of a destructive device if the person assembles, produces or otherwise manufactures:

(a) A destructive device, as defined in ORS 166.382; or

(b) A pyrotechnic device containing two or more grains of pyrotechnic charge in violation of chapter 10, Title 18 of the United States Code.

(2) Unlawful manufacture of a destructive device is a Class C felony. [1989 c.982 §2]

166.385 Possession of hoax destructive device. (1) A person commits the crime of possession of a hoax destructive device if the person knowingly places another person in fear of serious physical injury by:

(a) Possessing, manufacturing, selling, delivering, placing or causing to be placed a hoax destructive device; or

(b) Sending a hoax destructive device to another person.

(2) Possession of a hoax destructive device is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, possession of a hoax destructive device is a Class C felony if a person possesses, or threatens to use, a hoax destructive device while the person is committing or attempting to commit a felony.

(4) As used in this section, “hoax destructive device” means an object that reasonably appears, under the circumstances:

(a) To be a destructive device, as described in ORS 166.382 (1)(a), or an explosive, as defined in ORS 166.660, but is an inoperative imitation of a destructive device or explosive; or

(b) To contain a destructive device, as described in ORS 166.382 (1)(a), or an explosive, as defined in ORS 166.660. [1997 c.749 §1]

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. [Amended by 1979 c.779 §5; 1987 c.320 §89; 1989 c.839 §23; 1995 c.729 §7; 2001 c.666 §§34,46; 2003 c.14 §§66,67; 2003 c.614 §9]

166.412 Definitions; firearms transaction record; criminal history record check; prohibited transfer report; liability; rules. (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 (11) 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; and

(g) “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 (12) of this section, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(a) The purchaser shall present to the gun 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 firearm 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 department 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 gun dealer when a purchaser is disqualified from completing the transfer or provide the gun 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 gun dealer and provide the gun 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 gun dealer for a criminal history record check, the gun dealer may deliver the firearm 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 gun 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 gun 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 history record check for no more than five years.

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms 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.

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

(10) In accordance with applicable provisions of ORS chapter 183, 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 gun dealers that 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.

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

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

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

(b) A gun dealer that requests a criminal background check under this subsection is immune from civil liability for any use of the firearm by the recipient or transferee, provided that the gun dealer requests the criminal background check as described in this section. [1995 c.729 §1; 2001 c.900 §25; 2009 c.595 §114; 2009 c.826 §17; 2015 c.50 §4; 2018 c.5 §4; 2018 c.120 §15]

Note: 166.412 to 166.421 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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. [1995 c.729 §2]

Note: See note under 166.412.

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. [1995 c.729 §3; 2001 c.1 §9]

Note: See note under 166.412.

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.

(2) Improperly transferring a firearm is a Class A misdemeanor. [1995 c.729 §4; 2001 c.1 §10; 2018 c.5 §7]

Note: See note under 166.412.

166.420 [Amended by 1989 c.839 §2; 1993 c.4 §1; 1993 c.594 §4; 1993 c.693 §1; repealed by 1995 c.729 §13]

166.421 Stolen firearms; determination; telephone requests. 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 firearm 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. [1995 c.729 §5]

Note: See note under 166.412.

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

and ORS chapter 183. [1989 c.839 §12; 1995 c.729 §8; 2015 c.50 §5]

Note: 166.422 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.425 Unlawfully purchasing a firearm. (1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state 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. [1989 c.839 §15; 2011 c.662 §5]

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. [1989 c.839 §16; 1993 c.4 §3; 2001 c.539 §12]

166.429 Firearms used in felony. Any person who, with intent to commit a felony or who knows or reasonably should know that a felony will be committed with the firearm, ships, transports, receives, sells or otherwise furnishes any firearm in the furtherance of the felony is guilty of a Class B felony. [1989 c.839 §17]

166.430 [Amended by 1971 c.464 §1; repealed by 1989 c.839 §39]

166.432 Definitions for ORS 166.412 and 166.433 to 166.441. (1) As used in ORS 166.412, 166.433, 166.434, 166.435, 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, 166.435, 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. [2001 c.1 §3; 2015 c.50 §6; 2018 c.5 §8]

Note: 166.432, 166.433 and 166.445 were made a part of 166.432 to 166.445 by law but were not added to or made a part of ORS chapter 166 or any other series therein. See Preface to Oregon Revised Statutes for further explanation.

166.433 Findings regarding transfers of firearms. The people of this state find that:

(1) The laws of Oregon regulating the sale of firearms contain a loophole that allows people other than gun dealers to sell firearms at gun shows without first conducting criminal background checks; and

(2) It is necessary for the safety of the people of Oregon that any person who transfers a firearm at a gun show be required to request a criminal background check before completing the transfer of the firearm. [2001 c.1 §1; 2015 c.50 §7]

Note: See note under 166.432.

166.434 Requirements for criminal background checks; fees. (1) 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.

(2) 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.

(3)(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 166.435 or 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. [2001 c.1 §5; 2015 c.50 §8; 2018 c.5 §6]

166.435 Firearm transfers by unlicensed persons; requirements; exceptions; penalties. (1) As used in this section:

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

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

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

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

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

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

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

(b) “Transferee” means a person who is not a gun dealer or licensed as a manufacturer or importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

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

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

(3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the transferee must appear in person before a gun dealer, with the firearm, and request that the gun dealer perform a criminal background check on the transferee.

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

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

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

(A) Receives a unique approval number from the Department of State Police indicating that the transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the firearm into the gun dealer's inventory and transfer the firearm to the transferee.

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

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

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

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

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

(c) The transfer of a firearm to:

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

(B) A transferor's parent or stepparent;

(C) A transferor's child or stepchild;

(D) A transferor's sibling;

(E) A transferor's grandparent;

(F) A transferor's grandchild;

(G) A transferor's aunt or uncle;

(H) A transferor's first cousin;

(I) A transferor's niece or nephew; or

(J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this paragraph.

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

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

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

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

(b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the requirements of this section commits a Class B felony if the transferor has a previous conviction under this section at the time of the offense. [2015 c.50 §2]

Note: Section 1, chapter 50, Oregon Laws 2015, provides:

Sec. 1. Section 2 of this 2015 Act [166.435] and the amendments to ORS 166.250, 166.291, 166.412, 166.422, 166.432, 166.433, 166.434, 166.436, 166.438, 166.460, 166.470, 181.150, 181.740 and 426.133 by sections 3 to 19 of this 2015 Act shall be known and may be cited as the "Oregon Firearms Safety Act." [2015 c.50 §1]

Note: 166.435 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.436 Department of State Police criminal background checks for gun show firearm transfers; prohibited transfer report; liability. (1) The Department of State Police shall make the telephone number established under ORS 166.412 (5) available for requests for criminal background checks under this section from persons who are not gun dealers and who are transferring firearms at gun shows.

(2) Prior to transferring a firearm at a gun show, a transferor who is not 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 transferor 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.

(c) If the department determines that a recipient is prohibited from possessing a firearm under ORS 166.250 (1)(c), the department shall report the attempted transfer, the recipient's name and any other personally identifiable information to all federal, state and local law enforcement agencies and district attorneys that have jurisdiction over

the location or locations where the attempted transfer was made and where the recipient resides.

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

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

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

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

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

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

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

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

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

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

(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 paragraph (b) of this subsection, a transferor who receives notification under this section that the recipient is qualified to complete the transfer of a firearm, 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) 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) 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. [2001 c.1 §6; 2015 c.50 §3; 2018 c.5 §5; 2018 c.120 §16]

166.438 Transfer of firearms at gun shows; penalties. (1) A transferor who is not 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 a unique approval number from the Department of State Police indicating 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. [2001 c.1 §7; 2015 c.50 §9]

166.440 [Repealed by 1989 c.839 §39]

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. [2001 c.1 §8]

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. [2001 c.1 §2]

Note: See note under 166.432.

166.450 Obliteration or change of identification number on firearms. Any person who intentionally alters, removes or obliterates the identification number of any firearm for an unlawful 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 presumptive evidence that the possessor has altered, removed or obliterated the identification number. [Amended by 1987 c.320 §90; 1989 c.839 §24]

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) to (D) or (G) constitutes a violation of ORS 166.250. [Amended by 1979 c.779 §6; 1989 c.839 §25; 1993 c.735 §8; 1995 c.729 §9; 2001 c.1 §11; 2001 c.666 §§35,47; 2003 c.614 §10; 2009 c.499 §5; 2015 c.50 §14]

166.470 Limitations and conditions for sales of firearms. (1) Unless relief has been granted under ORS 166.273 or 166.274 or 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;
- (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 Oregon Health Authority under ORS 426.130;
- (f) After January 1, 1990, 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;

(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);

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

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

(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. [Amended by 1989 c.839 §3; 1991 c.67 §40; 1993 c.735 §11; 2001 c.828 §2; 2003 c.577 §7; 2009 c.499 §6; 2009 c.595 §115; 2009 c.826 §§8,11; 2013 c.360 §§10,11; 2015 c.50 §§17,18; 2015 c.201 §6]

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. [Amended by 1989 c.839 §26]

166.490 Purchase of firearms in certain other states. (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. [1969 c.289 §§1,2,3,4]

166.510 [Amended by 1957 c.290 §1; 1973 c.746 §1; 1983 c.546 §2; repealed by 1985 c.709 §4]

166.515 [1973 c.746 §2; repealed by 1985 c.709 §4]

166.520 [Amended by 1973 c.746 §3; repealed by 1985 c.709 §4]

EXTREME RISK PROTECTION ORDERS

166.525 Definitions. As used in ORS 166.525 to 166.543:

(1) "Deadly weapon" means:

(a) Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury; or

(b) A firearm, whether loaded or unloaded.

(2) "Family or household member" means a spouse, intimate partner, mother, father, child or sibling of the respondent, or any person living within the same household as the respondent.

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

(4) "Law enforcement agency" means an agency or department of the State of Oregon or of a political subdivision of the State of Oregon whose principal function is the apprehension of criminal offenders.

(5) “Law enforcement officer” means a member of the Oregon State Police, a sheriff, a municipal police officer or an authorized tribal police officer as defined in ORS 181A.680.

(6) “Petitioner” means a person who petitions for an order under ORS 166.525 to 166.543.

(7) “Respondent” means a person against whom an order is filed under ORS 166.525 to 166.543. [2017 c.737 §1]

166.527 Petition for ex parte order; issuance and service of order; request for hearing. (1) A law enforcement officer or a family or household member of a person may file a petition requesting that the court issue an extreme risk protection order enjoining the person from having in the person’s custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.

(2) An extreme risk protection order petition shall be heard by the court and issued or denied on the same day the petition is submitted to the court or on the judicial business day immediately following the day the petition is filed.

(3) The petition for an extreme risk protection order must be supported by a written affidavit signed by the petitioner under oath, or an oral statement taken under oath by the petitioner or any other witness the petitioner may produce.

(4) In determining whether to issue an extreme risk protection order, the court shall consider the following:

(a) A history of suicide threats or attempts or acts of violence by the respondent directed against another person;

(b) A history of use, attempted use or threatened use of physical force by the respondent against another person;

(c) A previous conviction for:

(A) A misdemeanor involving violence as defined in ORS 166.470;

(B) A stalking offense under ORS 163.732 or 163.750, or a similar offense in another jurisdiction;

(C) An offense constituting domestic violence as defined in ORS 135.230;

(D) Driving under the influence of intoxicants under ORS 813.010 or 813.011; or

(E) An offense involving cruelty or abuse of animals;

(d) Evidence of recent unlawful use of controlled substances;

(e) Previous unlawful and reckless use, display or brandishing of a deadly weapon by the respondent;

(f) A previous violation by the respondent of a court order issued pursuant to ORS 107.716 or 107.718;

(g) Evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a deadly weapon; and

(h) Any additional information the court finds to be reliable, including a statement by the respondent.

(5)(a) The petitioner has the burden of proof at the ex parte hearing.

(b) The petitioner may appear in person or by electronic video transmission.

(c) The court may continue a hearing under this section upon a showing of good cause.

(6)(a) The court shall issue an extreme risk protection order if the court finds by clear and convincing evidence, based on the petition and supporting documentation and after considering a statement by the respondent, if provided, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person. The court may not include in the findings any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(b) Upon making the findings described in paragraph (a) of this subsection, the court shall issue an extreme risk protection order prohibiting the respondent from having in the respondent’s custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.

(7) An extreme risk protection order issued under this section must include:

(a) A statement of the evidence and the court’s findings supporting issuance of the order;

(b) The date and time the order was issued;

(c) A description of the manner in which the respondent may request a hearing described in subsection (9) of this section;

(d) The address of the court to which a request for a hearing must be sent;

(e) A description of the requirements for surrender of deadly weapons in the respondent’s possession under ORS 166.537; and

(f) A statement in substantially the following form:

To the subject of this protection order:
An extreme risk protection order has been

issued by the court and is now in effect. You are required to surrender all deadly weapons in your custody, control or possession. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, deadly weapons while this order is in effect. You must, within 24 hours, surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must, within 24 hours, surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may request a hearing to contest this order. If you do not request a hearing, the extreme risk protection order against you will be in effect for one year unless terminated by the court. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

(8)(a) The respondent shall be personally served with both a copy of the extreme risk protection order and a hearing request form described in subsection (9) of this section.

(b) Whenever an extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.

(c) If the person serving the order cannot complete service within 10 days, the person shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the person shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(d) Upon receipt of a copy of the order and notice of completion of service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a

member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System, and shall request that the information be entered into the databases of the National Crime Information Center, upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of the proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

(9)(a) Within 30 days after an extreme risk protection order is served on the respondent under this section, the respondent may request a court hearing using a form prescribed by the State Court Administrator.

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner and the respondent of the date and time of the hearing and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner and the respondent shall give to the clerk of the court information sufficient to allow such notification.

(c) The hearing shall occur within 21 days of the date of the respondent's request for a hearing.

(10) If the respondent fails to request a hearing within 30 days after an extreme risk protection order is served, the protection order is confirmed by operation of law and is effective for a period of one year from the date the original order was issued or until the order is terminated, whichever is sooner.

(11) A filing fee, service fee or hearing fee may not be charged for proceedings under this section or ORS 166.530 or 166.533.

(12) If the court declines to issue an extreme risk protection order under this section, the court shall state with particularity the reasons for the denial on the record. [2017 c.737 §2]

166.530 Hearing on order; continuation or termination of order. (1) At a hearing on an extreme risk protection order requested by the respondent under ORS 166.527 (9), the court may:

(a) Examine under oath the petitioner, the respondent and any witness either party may produce, including a mental health professional selected by the respondent, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and

(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

(2)(a) The Oregon Evidence Code shall apply in a hearing under this section.

(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.

(3)(a) At the hearing, the court shall determine:

(A) Whether to terminate the extreme risk protection order or continue the order for a duration of one year; and

(B) Whether any deadly weapons surrendered to a law enforcement agency pursuant to ORS 166.537 shall be returned to the respondent or retained by the law enforcement agency.

(b) The petitioner has the burden of proving, by clear and convincing evidence, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(c) If the court finds that the petitioner has met the burden of proof, the court shall:

(A) Order that the extreme risk protection order continue for the duration of one year from the date the original order was issued.

(B) Order that any deadly weapons surrendered to a law enforcement agency pursuant to ORS 166.537 remain in the custody of the law enforcement agency while the order is in effect.

(d) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(4) An extreme risk protection order continued under this section must include:

(a) A statement of the evidence and the court's findings supporting issuance of the order;

(b) The date and time the order was issued;

(c) The date and time of the expiration of the order;

(d) A description of the requirements for surrender of deadly weapons in the respondent's possession under ORS 166.537; and

(e) A statement in substantially the following form:

To the subject of this protection order: This order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

(5) When the court continues an extreme risk protection order under this section, the court shall inform the respondent that the respondent is entitled to request termination of the order in the manner described in ORS 166.533. The court shall provide the respondent with a form with which to request a termination hearing.

(6) The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.

(7) If the court terminates an extreme risk protection order after a hearing under this section:

(a) The court shall state with particularity the reasons for the termination on the record.

(b) The clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice. [2017 c.737 §3]

166.533 Hearing to terminate order. (1)

The petitioner or the respondent of an extreme risk protection order issued or continued under ORS 166.527 or 166.530 may each submit a written request once during the 12-month effective period of the order, and once during any 12-month effective period of

an order renewed under ORS 166.535, for a hearing to terminate the order. A hearing under this section is in addition to any hearing requested under ORS 166.527.

(2) Upon receipt of a request described in subsection (1) of this section, the court shall schedule a termination hearing and provide notice of the hearing to both parties at least five days before the hearing.

(3)(a) The person filing the termination request has the burden of proving, by clear and convincing evidence, that the respondent no longer presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(b) The Oregon Evidence Code shall apply in a hearing under this section.

(c) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.

(4)(a) If the court finds that the petitioner has met the burden of proof as described in subsection (3) of this section, the court shall terminate the extreme risk protection order.

(b) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(5) When an extreme risk protection order is terminated by order of the court, the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice. [2017 c.737 §4]

166.535 Renewal of order. (1) A law enforcement officer or a family or household member of a respondent, including but not limited to the law enforcement officer or family or household member who petitioned the court for the original extreme risk protection order issued under ORS 166.527, may request a renewal of the order within 90 days before the expiration date of the order by filing a written request with the court.

(2) Upon receipt of the request for renewal described in subsection (1) of this section, the court shall schedule a hearing and provide notice of the hearing to both parties at least 14 days before the hearing.

(3) At a hearing to determine whether to renew an extreme risk protection order under this section, the court may:

(a) Examine under oath the petitioner, the respondent and any witness either party may produce or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and

(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

(4) The person requesting the renewal of the extreme risk protection order has the burden of proving, by clear and convincing evidence, that the respondent continues to present a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(5)(a) The Oregon Evidence Code shall apply in a hearing under this section.

(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the original extreme risk protection order shall remain in effect until the next hearing date.

(c) The petitioner may appear in person or by electronic video transmission.

(6)(a) If the court finds that the petitioner has met the burden of proof, the court may renew the extreme risk protection order for a duration of up to one year.

(b) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(7) An extreme risk protection order renewed under this section must include:

(a) A statement of the evidence and the court's findings supporting issuance of the order;

(b) The date and time the order was issued;

(c) The date and time of the expiration of the order;

(d) A description of the requirements for surrender of deadly weapons in the respondent's possession under ORS 166.537; and

(e) A statement in substantially the following form:

To the subject of this protection order: This renewed order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in

your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this renewed order every 12 months that this order is in effect, starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

(8) When the court renews an extreme risk protection order, the court shall inform the respondent that the respondent is entitled to request termination of the renewed order in the manner described in ORS 166.533. The court shall provide the respondent with a form with which to request a termination hearing.

(9)(a) Service of a renewed extreme risk protective order shall be made by personal delivery of a copy of the order to the respondent. The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.

(b) Whenever a renewed extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.

(c) If service of the order is not required under paragraph (a) of this subsection, a copy of the order must be delivered to the sheriff by the court.

(d) Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System and request that the order be entered into the databases of the National Crime Infor-

mation Center upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of any required proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

(10) If the court declines to renew an extreme risk protection order, the court shall state with particularity the reasons for the denial on the record.

(11) A renewed extreme risk protection order may be further renewed as described in this section. [2017 c.737 §5]

166.537 Surrender of deadly weapons pursuant to order. (1) Upon issuance of an extreme risk protection order under ORS 166.527, the court shall further order that the respondent:

(a) Within 24 hours surrender all deadly weapons in the respondent's custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and

(b) Within 24 hours surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.

(2) Upon continuance of an extreme risk protection order after a hearing under ORS 166.530, or renewal of an extreme risk protection order under ORS 166.535, the court shall further order that the respondent:

(a) Immediately surrender all deadly weapons in the respondent's custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and

(b) Immediately surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.

(3)(a) A law enforcement officer serving an extreme risk protection order issued under ORS 166.527 shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent's custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The law enforcement officer shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered by the respondent. If the respondent indicates an intention to surrender the deadly weapons to a gun dealer or a third party, the law en-

forcement officer shall request that the respondent identify the gun dealer or third party.

(b) A law enforcement officer serving an extreme risk protection order continued after a hearing under ORS 166.530, or renewed under ORS 166.535, shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent's custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The officer may conduct any search permitted by law for deadly weapons in the custody, control or possession of the respondent and shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered, in plain sight or discovered pursuant to a lawful search.

(4) At the time of the surrender of any deadly weapons or concealed handgun licenses under subsection (3) of this section, the law enforcement officer taking possession shall issue a receipt identifying all surrendered items and provide a copy of the receipt to the respondent. Within 72 hours after service of the order, the law enforcement officer serving the order shall file the original receipt with the court and shall ensure that the law enforcement agency employing the law enforcement officer retains a copy of the receipt.

(5) If a third party claims lawful ownership or right of possession of a deadly weapon surrendered pursuant to this section, the law enforcement agency may return the deadly weapon to the third party if the third party provides proof of lawful ownership or right of possession of the deadly weapon, in a sworn affidavit, affirms that:

(a) The third party may lawfully possess the deadly weapon;

(b) The third party did not consent to the prior possession of the deadly weapon by the respondent; and

(c) The third party will prevent the respondent from accessing or possessing the deadly weapon in the future. [2017 c.737 §6]

166.540 Return of surrendered deadly weapons. (1) If an extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any deadly weapon or concealed handgun license that has been surrendered pursuant to the order shall return the surrendered items as requested by the respondent of the order only after:

(a) Confirming through a criminal background check, if the deadly weapon is a firearm, that the respondent is legally eligi-

ble to own or possess firearms under state and federal law; and

(b) Confirming that the extreme risk protection order is no longer in effect.

(2) The owner of a deadly weapon, if the deadly weapon is a firearm, in the custody of a law enforcement agency pursuant to ORS 166.537 who does not wish to have the firearm returned is entitled to sell or transfer title of any firearm to a licensed gun dealer as defined in ORS 166.412, provided that the firearm is lawful to own or possess and the person has a legal right to transfer title of the firearm.

(3) A deadly weapon surrendered by a person pursuant to ORS 166.537 that remains unclaimed by the owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of deadly weapons in the agency's custody. [2017 c.737 §7]

166.543 Criminal penalties. (1) A person commits a Class A misdemeanor if:

(a) The person knowingly possesses a deadly weapon; and

(b) The person is prohibited from possessing deadly weapons pursuant to an extreme risk protection order:

(A) Issued after notice and a hearing under ORS 166.530;

(B) Confirmed by operation of law after the person failed to request a hearing under ORS 166.527 (9); or

(C) Renewed under ORS 166.535.

(2) A person convicted under subsection (1) of this section shall be prohibited from having in the person's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms for a five-year period beginning when the extreme risk protection order expires or is terminated, or the judgment of conviction is entered, whichever occurs later.

(3) A person who files a petition for any extreme risk protection order under ORS 166.525 to 166.543 with the intent to harass the respondent, or knowing that the information in the petition is false, is guilty of a Class A misdemeanor. [2017 c.737 §8]

166.560 [1965 c.118 §1; repealed by 1971 c.743 §432]

166.610 [Repealed by 1971 c.743 §432]

166.620 [Repealed by 1963 c.94 §2]

DISCHARGING WEAPONS

166.630 Discharging weapon on or across highway, ocean shore recreation area or public utility facility. (1) Except as provided in ORS 166.220, any person is guilty of a violation who discharges or attempts to

discharge any blowgun, bow and arrow, crossbow, air rifle or firearm:

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605.

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility, telecommunications utility or railroad within range of the weapon.

(2) Any blowgun, bow and arrow, crossbow, air rifle or firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon. This section does not prevent:

(a) The discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation.

(b) The discharge of firearms by an employee of the United States Department of Agriculture acting within the scope of employment in the course of the lawful taking of wildlife.

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section.

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

(b) "Public utility" has the meaning given that term in ORS 164.365 (2).

(c) "Railroad" has the meaning given that term in ORS 824.020. [Amended by 1963 c.94 §1; 1969 c.501 §2; 1969 c.511 §4; 1973 c.196 §1; 1973 c.723 §118; 1981 c.900 §1; 1987 c.447 §113; 1991 c.797 §2; 2009 c.556 §7]

166.635 Discharging weapon or throwing objects at trains. (1) A person shall not knowingly throw an object at, drop an object on, or discharge a bow and arrow, air rifle, rifle, gun, revolver or other firearm at a railroad train, a person on a railroad train or a commodity being transported on a railroad train. This subsection does not prevent a peace officer or a railroad employee from performing the duty of a peace officer or railroad employee.

(2) Violation of subsection (1) of this section is a misdemeanor. [1973 c.139 §4]

166.638 Discharging weapon across airport operational surfaces. (1) Any person who knowingly or recklessly discharges any bow and arrow, gun, air gun or other

firearm upon or across any airport operational surface commits a Class A misdemeanor. Any bow and arrow, gun, air gun or other firearm in the possession of the person that was used in committing a violation of this subsection may be confiscated and forfeited to the State of Oregon, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund.

(2) As used in subsection (1) of this section, "airport operational surface" means any surface of land or water developed, posted or marked so as to give an observer reasonable notice that the surface is developed for the purpose of storing, parking, taxiing or operating aircraft, or any surface of land or water when actually being used for such purpose.

(3) Subsection (1) of this section does not prohibit the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation, or otherwise lawful hunting, wildlife control or other discharging of firearms done with the consent of the proprietor, manager or custodian of the airport operational surface.

(4) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty provided in subsection (1) of this section. [1981 c.901 §2; 1987 c.858 §2]

166.640 [Repealed by 1971 c.743 §432]

POSSESSION OF BODY ARMOR

166.641 Definitions for ORS 166.641 to 166.643. As used in this section and ORS 166.642 and 166.643:

(1) "Body armor" means any clothing or equipment designed in whole or in part to minimize the risk of injury from a deadly weapon.

(2) "Deadly weapon" has the meaning given that term in ORS 161.015.

(3) "Misdemeanor involving violence" has the meaning given that term in ORS 166.470. [2001 c.635 §1]

166.642 Felon in possession of body armor. (1) A person commits the crime of felon in possession of body armor if the person:

(a) Has been convicted of a felony or misdemeanor involving violence under the law of any state or the United States; and

(b) Knowingly is in possession or control of body armor.

(2) Felon in possession of body armor is a Class C felony.

(3) For purposes of subsection (1) of this section, a person who has been found to be within the jurisdiction of a juvenile court for

having committed an act that would constitute a felony or misdemeanor involving violence has been convicted of a felony or misdemeanor involving violence.

(4) Subsection (1) of this section does not apply to:

(a) A person who is wearing body armor provided by a peace officer for the person's safety or protection while the person is being transported or accompanied by a peace officer; or

(b) A person who has been 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 law of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, and who has been discharged from imprisonment, parole or probation for the offense for a period of 15 years prior to the date of the alleged violation of subsection (1) of this section.

(5) It is an affirmative defense to a charge of violating subsection (1) of this section that a protective order or restraining order has been entered to the benefit of the person. The affirmative defense created by this subsection is not available if the person possesses the body armor while committing or attempting to commit a crime. [2001 c.635 §2]

166.643 Unlawful possession of body armor. (1) A person commits the crime of unlawful possession of body armor if the person, while committing or attempting to commit a felony or misdemeanor involving violence, knowingly:

(a) Wears body armor; and

(b) Possesses a deadly weapon.

(2) Unlawful possession of body armor is a Class B felony. [2001 c.635 §3]

MISCELLANEOUS

166.645 Hunting in cemeteries prohibited. (1) Hunting in cemeteries is prohibited.

(2) As used in subsection (1) of this section "hunting" has the meaning for that term provided in ORS 496.004.

(3) Violation of subsection (1) of this section is a misdemeanor. [1973 c.468 §2; 1987 c.158 §30]

166.649 Throwing an object off an overpass in the second degree. (1) A person commits the crime of throwing an object off an overpass in the second degree if the person:

(a) With criminal negligence throws an object off an overpass; and

(b) Knows, or reasonably should have known, that the object was of a type or size

to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the second degree is a Class A misdemeanor.

(3) As used in this section and ORS 166.651, "overpass" means a structure carrying a roadway or pedestrian pathway over a roadway. [1993 c.731 §1]

166.650 [Repealed by 1971 c.743 §432]

166.651 Throwing an object off an overpass in the first degree. (1) A person commits the crime of throwing an object off an overpass in the first degree if the person:

(a) Recklessly throws an object off an overpass; and

(b) Knows, or reasonably should have known, that the object was of a type or size to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the first degree is a Class C felony. [1993 c.731 §2]

166.660 Unlawful paramilitary activity.

(1) A person commits the crime of unlawful paramilitary activity if the person:

(a) Exhibits, displays or demonstrates to another person the use, application or making of any firearm, explosive or incendiary device or any technique capable of causing injury or death to persons and intends or knows that such firearm, explosive or incendiary device or technique will be unlawfully employed for use in a civil disorder; or

(b) Assembles with one or more other persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device or technique capable of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive or incendiary device or technique in a civil disorder.

(2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed in the otherwise lawful performance of the officer's official duties.

(b) Nothing in this section makes unlawful any activity of the State Department of Fish and Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful activity related to firearms instruction and training intended to teach the safe handling and use of firearms, or any other lawful sports or activities related to the individual recreational use or possession of firearms, including but not limited to hunting activities, target shooting, self-defense, firearms collection or

any organized activity including, but not limited to any hunting club, rifle club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450 or the knowledge of or the intent to cause or further a civil disorder.

(3) Unlawful paramilitary activity is a Class C felony.

(4) As used in this section:

(a) “Civil disorder” means acts of physical violence by assemblages of three or more persons which cause damage or injury, or immediate danger thereof, to the person or property of any other individual.

(b) “Firearm” has the meaning given that term in ORS 166.210.

(c) “Explosive” means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(d) “Law enforcement officer” means any duly constituted police officer of the United States, any state, any political subdivision of a state or the District of Columbia, and also includes members of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C. 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS 161.015 (4) when in the performance of official duties. [1983 c.792 §2; 1987 c.858 §3; 2001 c.666 §§26,38; 2005 c.830 §27; 2009 c.610 §7; 2013 c.24 §12]

166.663 Casting artificial light from vehicle while possessing certain weapons prohibited. (1) A person may not cast from a motor vehicle an artificial light while there is in the possession or in the immediate physical presence of the person a bow and arrow or a firearm.

(2) Subsection (1) of this section does not apply to a person casting an artificial light:

(a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.

(b) When the bow and arrow or firearm that the person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of the motor vehicle.

(c) When the ammunition or arrows are stored separate from the weapon.

(d) On land owned or lawfully occupied by that person.

(e) On publicly owned land when that person has an agreement with the public body to use that property.

(f) When the person is a peace officer, or is a government employee engaged in the performance of official duties.

(g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a concealed handgun.

(h) When the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(3) A peace officer may issue a citation to a person for a violation of subsection (1) of this section when the violation is committed in the presence of the peace officer or when the peace officer has probable cause to believe that a violation has occurred based on a description of the vehicle or other information received from a peace officer who observed the violation.

(4) Violation of subsection (1) of this section is punishable as a Class B violation.

(5) As used in this section, “peace officer” has the meaning given that term in ORS 161.015. [1989 c.848 §2; 1999 c.1051 §159; 2005 c.22 §116; 2009 c.610 §3; 2015 c.709 §5]

166.710 [1957 c.601 §1; repealed by 1971 c.743 §432]

RACKETEERING

166.715 Definitions for ORS 166.715 to 166.735. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(1) “Documentary material” means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(2) “Enterprise” includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) “Investigative agency” means the Department of Justice or any district attorney.

(4) “Pattern of racketeering activity” means engaging in at least two incidents of

rackeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of rackeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of rackeering activity may be used to establish a pattern of rackeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Rackeering activity" includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(A) ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

(B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

(C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;

(D) ORS 162.405 to 162.425, relating to abuse of public office;

(E) ORS 162.455, relating to interference with legislative operation;

(F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

(G) ORS 163.160 to 163.205, relating to assault and related offenses;

(H) ORS 163.225 and 163.235, relating to kidnapping;

(I) ORS 163.275, relating to coercion;

(J) ORS 163.665 to 163.693, relating to sexual conduct of children;

(K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125,

164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;

(L) ORS 164.315 to 164.335, relating to arson and related offenses;

(M) ORS 164.345 to 164.365, relating to criminal mischief;

(N) ORS 164.395 to 164.415, relating to robbery;

(O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a recording;

(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;

(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

(R) ORS 165.540 and 165.555, relating to communication crimes;

(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating to firearms and other weapons;

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

(U) ORS 171.990, relating to legislative witnesses;

(V) ORS 260.575 and 260.665, relating to election offenses;

(W) ORS 314.075, relating to income tax;

(X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and the directories developed under ORS 180.425 and 180.477;

(Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments or medical assistance benefits, and ORS 411.990 (2) and (3);

(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

(AA) ORS 463.995, relating to entertainment wrestling and unarmed combat sports, as defined in ORS 463.015;

(BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;

(CC) ORS 475B.010 to 475B.545, relating to marijuana items as defined in ORS 475B.015;

(DD) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;

(EE) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

(FF) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

(GG) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;

(HH) ORS chapter 706, relating to banking law administration;

(II) ORS chapter 714, relating to branch banking;

(JJ) ORS chapter 716, relating to mutual savings banks;

(KK) ORS chapter 723, relating to credit unions;

(LL) ORS chapter 726, relating to pawnbrokers;

(MM) ORS 166.382 and 166.384, relating to destructive devices;

(NN) ORS 165.074;

(OO) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;

(PP) ORS chapter 496, 497 or 498, relating to wildlife;

(QQ) ORS 163.355 to 163.427, relating to sexual offenses;

(RR) ORS 166.015, relating to riot;

(SS) ORS 166.155 and 166.165, relating to bias crimes;

(TT) ORS chapter 696, relating to real estate and escrow;

(UU) ORS chapter 704, relating to outfitters and guides;

(VV) ORS 165.692, relating to making a false claim for health care payment;

(WW) ORS 162.117, relating to public investment fraud;

(XX) ORS 164.170 or 164.172;

(YY) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

(ZZ) ORS 164.886;

(AAA) ORS 167.312 and 167.388;

(BBB) ORS 164.889;

(CCC) ORS 165.800; or

(DDD) ORS 163.263, 163.264 or 163.266.

(b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

(7) “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforce-

able in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(A) ORS chapter 462, relating to racing;

(B) ORS 167.108 to 167.164, relating to gambling; or

(C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute. [1981 c.769 §2; 1983 c.338 §898; 1983 c.715 §1; 1985 c.176 §5; 1985 c.557 §8; 1987 c.158 §31; 1987 c.249 §7; 1987 c.789 §20; 1987 c.907 §12; 1989 c.384 §2; 1989 c.839 §27; 1989 c.846 §13; 1989 c.982 §6; 1991 c.398 §3; 1991 c.962 §6; 1993 c.95 §13; 1993 c.215 §1; 1993 c.508 §45; 1993 c.680 §29; 1995 c.301 §35; 1995 c.440 §13; 1995 c.768 §10; 1997 c.631 §420; 1997 c.789 §1; 1997 c.867 §23; 1999 c.722 §8; 1999 c.878 §4; 2001 c.146 §1; 2001 c.147 §3; 2003 c.111 §1; 2003 c.484 §8; 2003 c.801 §15; 2003 c.804 §66; 2007 c.498 §3; 2007 c.585 §26; 2007 c.811 §7; 2007 c.869 §7; 2009 c.717 §25; 2011 c.597 §166; 2011 c.681 §6; 2013 c.584 §27; 2013 c.688 §23; 2017 c.21 §46; 2017 c.235 §21; 2019 c.553 §15]

166.720 Racketeering activity unlawful; penalties.

(1) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest or equity in, real property or in the establishment or operation of any enterprise.

(2) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any real property or enterprise.

(3) It is unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(4) It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsections (1), (2) or (3) of this section.

(5)(a) Any person convicted of engaging in activity in violation of the provisions of

subsections (1) to (4) of this section is guilty of a Class A felony.

(b) In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of subsections (1) to (4) of this section, through which the person derived a pecuniary value, or by which the person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(c) The court shall hold a hearing to determine the amount of the fine authorized by paragraph (b) of this subsection.

(d) For the purposes of paragraph (b) of this subsection, "pecuniary value" means:

(A) Anything of value in the form of money, a negotiable instrument, a commercial interest or anything else the primary significance of which is economic advantage; or

(B) Any other property or service that has a value in excess of \$100.

(6) An allegation of a pattern of racketeering activity is sufficient if it contains substantially the following:

(a) A statement of the acts constituting each incident of racketeering activity in ordinary and concise language, and in a manner that enables a person of common understanding to know what is intended;

(b) A statement of the relation to each incident of racketeering activity that the conduct was committed on or about a designated date, or during a designated period of time;

(c) A statement, in the language of ORS 166.715 (4) or other ordinary and concise language, designating which distinguishing characteristic or characteristics interrelate the incidents of racketeering activity; and

(d) A statement that the incidents alleged were not isolated. [1981 c.769 §§3,4; 1997 c.789 §2]

166.725 Remedies for violation of ORS 166.720; time limitation. (1) Any circuit court may, after making due provision for the rights of innocent persons, enjoin violations of the provisions of ORS 166.720 (1) to (4) by issuing appropriate orders and judgments, including, but not limited to:

(a) Ordering a divestiture by the defendant of any interest in any enterprise, including real property.

(b) Imposing reasonable restrictions upon the future activities or investments of any

defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of the provisions of ORS 166.720 (1) to (4).

(c) Ordering the dissolution or reorganization of any enterprise.

(d) Ordering the suspension or revocation of a license, permit or prior approval granted to any enterprise by any agency of the state.

(e) Ordering the forfeiture of the charter of a corporation organized under the laws of this state, or the revocation of a certificate of authority authorizing a foreign corporation to conduct business within this state, upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of ORS 166.720 (1) to (4) and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate of authority revoked.

(2) All property, real or personal, including money, used in the course of, derived from or realized through conduct in violation of a provision of ORS 166.715 to 166.735 is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. Forfeited property shall be distributed as follows:

(a)(A) All moneys and the clear proceeds of all other property forfeited shall be deposited with the State Treasurer to the credit of the Common School Fund.

(B) For purposes of subparagraph (A) of this paragraph, "clear proceeds" means proceeds of forfeited property less costs of maintaining and preserving property pending its sale or other disposition, less costs of sale or disposition and, if the Department of Justice has not otherwise recovered its costs and expenses of the investigation and prosecution leading to the forfeiture, less 30 percent of the remaining proceeds of the property which is awarded to the department as reasonable reimbursement for costs of such investigation and prosecution.

(b) Any amounts awarded to the Department of Justice pursuant to paragraph (a) of this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury.

(3) Property subject to forfeiture under this section may be seized by a police officer, as defined in ORS 133.525 (2), upon court process. Seizure without process may be made if:

(a) The seizure is incident to a lawful arrest or search or an inspection under an administrative inspection warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) In the event of a seizure under subsection (3) of this section, a forfeiture proceeding shall be instituted promptly. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the police officer making the seizure, subject only to the order of the court. When property is seized under this section, pending forfeiture and final disposition, the police officer may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the court; or

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(5) The Attorney General, any district attorney or any state agency having jurisdiction over conduct in violation of a provision of ORS 166.715 to 166.735 may institute civil proceedings under this section. In any action brought under this section, the circuit court shall give priority to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper. The Attorney General, district attorney or state agency bringing an action under this section may be awarded, upon entry of a judgment in favor of the state, costs of investigation and litigation, reasonably incurred. Amounts recovered may include costs and expenses of state and local governmental departments and agencies incurred in connection with the investigation or litigation.

(6)(a) Any aggrieved person may institute a proceeding under subsection (1) of this section:

(A) If the proceeding is based upon racketeering activity for which a criminal conviction has been obtained, any rights of appeal have expired and the action is against the individual convicted of the racketeering activity; or

(B) If the person is entitled to pursue a cause of action under subsection (7)(a)(B) of this section.

(b) In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that no showing of special or irreparable damage to the person shall have to be made. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any such action before a final determination on the merits.

(7)(a) Any person who is injured by reason of any violation of the provisions of ORS 166.720 (1) to (4) shall have a cause of action for three-fold the actual damages sustained and, when appropriate, punitive damages:

(A) If a criminal conviction for the racketeering activity that is the basis of the violation has been obtained, any rights of appeal have expired and the action is against the individual convicted of the racketeering activity; or

(B) If the violation is based on racketeering activity as defined in ORS 166.715 (6)(a)(B) to (J), (K) as it relates to burglary and criminal trespass, (L) to (P), (S), (T), (U), (V), (X) to (Z), (AA) to (EE), (LL), (MM) or (PP) to (WW).

(b) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this subsection.

(c) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds.

(8) An investigative agency may bring an action for civil penalties for any violation of ORS 166.720 (1) to (4). Upon proof of any such violation, the court shall impose a civil penalty of not more than \$250,000.

(9) A judgment rendered in favor of the state in any criminal proceeding under ORS 166.715 to 166.735 shall estop the defendant in any subsequent civil action or proceeding brought by the state or any other person as to all matters as to which such judgment would be an estoppel as between the state and the defendant.

(10) The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under subsection (6) or (7) of this section if the Attorney General certifies that, in the opinion of the Attorney General, the action or proceeding is of general public importance. In such action or proceeding, the state shall be entitled to the same relief as if the Attorney General instituted the action or proceeding.

(11)(a) Notwithstanding any other provision of law, a criminal or civil action or proceeding under ORS 166.715 to 166.735 may be commenced at any time within five years after the conduct in violation of a provision of ORS 166.715 to 166.735 terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent or restrain any violation of the provisions of ORS 166.715 to 166.735, the running of the period of limitations prescribed by this section with respect to any cause of action arising under subsection (6) or (7) of this section which is based in whole or in part upon any matter complained of in any such prosecution, action or proceeding shall be suspended during the pendency of such prosecution, action or proceeding and for two years following its termination.

(b) A cause of action arising under subsection (6)(a)(A) or (7)(a)(A) of this section accrues when the criminal conviction for the underlying activity is obtained. In addition to any suspension of the running of the period of limitations provided for in paragraph (a) of this subsection, the period of limitations prescribed by paragraph (a) of this subsection is suspended during any appeal from the criminal conviction for the underlying activity.

(12) The application of one civil remedy under any provision of ORS 166.715 to 166.735 shall not preclude the application of any other remedy, civil or criminal, under ORS 166.715 to 166.735 or any other provision of law. Civil remedies under ORS 166.715 to 166.735 are supplemental and not mutually exclusive.

(13) Notwithstanding subsection (6) or (7) of this section, a person may not institute a proceeding under subsection (6) of this section and does not have a cause of action under subsection (7) of this section if the conduct that is the basis of the proceeding or action could also be the basis of a claim of discrimination because of sex that constitutes sexual harassment.

(14) In an action brought under the provisions of this section by a person other than the Attorney General, a district attorney or a state agency, the court may award reasonable attorney fees to the prevailing party. In a civil action brought under the provisions of this section by the Attorney General, a district attorney or a state agency:

(a) The court may award reasonable attorney fees to the Attorney General, district attorney or state agency if the Attorney General, district attorney or state agency prevails in the action; and

(b) The court may award reasonable attorney fees to a defendant who prevails in an action under this section if the court determines that the Attorney General, district attorney or state agency had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court. [1981 c.769 §5; 1983 c.715 §2; 1995 c.79 §54; 1995 c.618 §58a; 1995 c.619 §1; 1995 c.696 §17; 1997 c.249 §51; 1997 c.789 §3; 2003 c.576 §390; 2007 c.869 §8; 2017 c.21 §101]

166.730 Authority of investigative agency; compelling compliance with subpoena. (1) If, pursuant to the civil enforcement provisions of ORS 166.725, an investigative agency has reason to believe that a person or other enterprise has engaged in, or is engaging in, activity in violation of ORS 166.715 to 166.735, the investigative agency may administer oaths or affirmations, subpoena witnesses or documents or other material, and collect evidence pursuant to the Oregon Rules of Civil Procedure.

(2) If matter that the investigative agency seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such matter available to the investigative agency or its representative for examination at the place where such matter is located. The investigative agency may designate representatives, including officials of the jurisdiction in which the matter is located, to inspect the matter on its behalf and may respond to

similar requests from officials of other jurisdictions.

(3) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court for the judicial district in which such person or enterprise resides, is found or transacts business for an

order compelling compliance. [1981 c.769 §6; 1983 c.715 §3]

166.735 Short title; construction. (1) ORS 166.715 to 166.735 may be cited as the Oregon Racketeer Influenced and Corrupt Organization Act.

(2) The provisions of ORS 166.715 to 166.735 shall be liberally construed to effectuate its remedial purposes. [1981 c.769 §§1,7; 1983 c.715 §4]

