



LPRO: Legislative Policy and Research Office

FIREARMS

BACKGROUND BRIEF

This brief focuses on Oregon gun control laws and analyzes Oregon legislation on transfer or sale of firearms, concealed handgun permits and prohibitions on possession of firearms. It also highlights changes to Oregon public records laws relating to disclosure of information on an application for a concealed handgun permit. The brief does not cover federal firearm issues.

POSSESSION OF FIREARMS

CONCEALED FIREARMS

Under Oregon law, it is a crime to carry a concealed firearm upon one's person, or to possess a handgun that is concealed and readily accessible in a vehicle, without a concealed handgun permit. This prohibition does not apply to people who are in their own home or place of business. A firearm carried openly on a belt holster is not considered concealed.

JUVENILES

A person under the age of 18 may possess firearms, but only in limited circumstances. A juvenile may possess a firearm, other than a handgun, if transferred by a parent or guardian to the juvenile, or transferred by another person to the juvenile with the

consent of the parent or guardian. In addition, a juvenile can temporarily possess any firearm for hunting, target practice or any other lawful purpose. A juvenile, who has been adjudicated in a juvenile court of a crime that would be a violent crime if tried as an adult, can under no circumstances possess a firearm within four years of release from the court's jurisdiction.

DISQUALIFIED PERSONS

Several other groups of people are disqualified from possessing firearms. These groups include:

- Persons convicted of a felony;
- Persons found guilty except for insanity of a felony;
- Persons determined by a court to have a mental illness and have been ordered not to possess firearms¹;
- Persons under a court order not to purchase or possess a firearm, including those prohibited under [ORS 166.255](#)²; and
- Persons who have been committed to the Oregon Health Authority because they have been found to be mentally ill.

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¹ See ORS 426.130 for criteria on determination.

² Statutory list of persons for whom it is unlawful to knowingly possess firearm or ammunition.



POSSESSION WITHIN PUBLIC BUILDINGS AND COURT FACILITIES

Oregon law prohibits possessing a loaded or unloaded firearm within public buildings in Oregon. Public buildings include hospitals, the Oregon Capitol Building and associated buildings, public schools, colleges and city halls. There are exceptions to this prohibition, chiefly for law enforcement officers and those licensed to carry a concealed handgun. Intentionally possessing a firearm in a court facility is prohibited by all people but those designated by the presiding judge of a judicial district, including municipal and justice of the peace courts.

POSSESSION OF MACHINE GUNS, SHORT-BARRELED FIREARMS AND SILENCERS

It is unlawful for a person to have a machine gun, a short-barreled shotgun or rifle, or a silencer unless those items have been registered as required by federal law. A machine gun is a gun that allows two or more shots to be fired by a single pressure on the trigger. A short-barreled rifle has a barrel that is less than 16 inches and a short-barreled shotgun has a barrel of less than 18 inches.

OREGON CONCEALED HANDGUN LICENSE

APPLICATION FOR CONCEALED HANDGUN LICENSE

Oregon law allows qualifying individuals to obtain a license to carry handguns concealed upon their person. Individuals apply through their local sheriff and must meet the following requirements (ORS 166.291):

- U.S. citizenship or a legal resident alien for at least six months who can prove intent to become a citizen;
- 21 years of age;
- No outstanding warrants for arrest;
- Not subject to present orders prohibiting possession or purchase of a firearm;
- No felony convictions or guilty except for insanity adjudications;
- No misdemeanor convictions in the last four years;
- No juvenile adjudication for a felony or misdemeanor involving violence in the last four years;
- Not on pretrial release for an offense or subject to an arrest warrant for any offense;
- Able to demonstrate completion of a handgun safety course;
- No commitments to Oregon Health Authority or findings of mental illness under ORS 426.130;
- Not subject of a stalking order or restraining order;
- Not required to register as a sex offender in any state;
- Not received a dishonorable discharged from the U.S. Armed Forces; and
- No convictions of an offense involving controlled substances or participating in a drug diversion program, except for participation in marijuana possession diversion.



Applicants must submit to fingerprinting and photographing by the sheriff, who may request the Department of State Police conduct a background check on the applicant. If a handgun permit is issued, that fact is recorded in the Oregon State Police (OSP) data system.

The Sheriffs may deny a permit if they have reasonable grounds to believe the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large. A person denied a concealed handgun license, whose license is revoked or not renewed, may petition the circuit court in their county of residence to review the denial, nonrenewal or revocation.

PUBLIC RECORDS

ORS 192.448 prohibits a public body from disclosing information that identifies a person as a current or former applicant of a concealed firearm permit unless: (1) disclosure is made to another public body and is necessary for criminal justice purposes; (2) a court enters an order in a criminal or civil case directing the public body to disclose; (3) applicant, in writing, consents to disclosure; (4) the public body determines that a compelling public interest requires disclosure and disclosure is limited to the name, age and county of residence and is made to a victim of a person crime or a person under the protection of a protective order; (5) disclosure is limited to confirming or denying that a person convicted of a crime involving the use of a firearm is a current holder of a concealed handgun permit; or (6) disclosure is made by the OSP database to another database maintained by a public body.

SALE OR TRANSFER OF FIREARMS

PRIVATE SALES OR TRANSFERS

In the 2015 session, the Oregon Legislative Assmibly enacted Senate Bill 941, requiring background checks on many private firearms sales and transfers. Under the law, individuals must appear before a gun dealer, who conducts a criminal background check on the transferee prior to the transfer. If the individuals in the transaction live more than 40 miles from each other, the transferor may ship the firearm to the gun dealer for the completion of the transaction and is not required to appear in person. The gun dealer requests a background check through OSP and receives either a unique approval number for the transfer or a notification that the transaction is prohibited. If the transaction is prohibited, the dealer must notify the parties and return the firearm to the seller.

The background check requirement does not apply to temporary transfers, such as use at a shooting range or for target practice, for hunting or trapping, repair of the firearm, or in cases in which the transfer is for the purpose of preventing imminent death or serious physical injury. Additionally, transfers between family members or as part of the division of an estate are not subject to the background check requirement.

GUN DEALERS

A gun dealer must complete a background check before selling a handgun; failure to do so is a Class A misdemeanor. The gun dealer must obtain the purchaser's thumbprint that is filed with a record of the transaction. The dealer then calls OSP, identifying him or herself, the name and date of birth of the buyer and the type of handgun being sold. OSP then checks the buyer's criminal history



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to see if the buyer is disqualified from possessing a handgun for any of the reasons noted above. The dealer must keep records of all firearms transactions for five years. OSP is authorized to charge a fee for completing the background check.

GUN SHOWS

In November of 2000, Ballot Measure 5 was passed by Oregon voters. It requires private citizens who sell firearms at a gun show at which more than 25 firearms are for sale to complete a background check.

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