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Background Brief on...

# Firearms

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## Background

This brief focuses on state, not federal, gun control laws, and will analyze Oregon legislation governing three areas:

- 1) Prohibitions against possession of firearms by some persons or in some places;
- 2) Concealed handgun permits; and
- 3) Transfer or sale of firearms.

## Possession

### *Concealment*

Oregon law regulates the manner in which a firearm or handgun may be possessed. It is a crime to carry a *concealed* firearm upon one's person or possess a handgun that is *concealed* and readily accessible in a vehicle in Oregon without a concealed handgun permit. This prohibition does not apply to a person who is in their own residence or their own place of business.

### *Juveniles*

A person under the age of 18 may possess a firearm if:

- The firearm is not a handgun; and
- The juvenile has not been under supervision of a juvenile court for committing a felony or misdemeanor involving violence for at least 4 years; and
- The juvenile's parent or guardian consents to the juvenile's possession; or
- The gun is possessed temporarily for hunting, target practice, or other lawful purpose such as defense of self or others.

### *Disqualified Persons*

The following individuals are prohibited from possessing a firearm in Oregon:

- Felons;
- Persons found guilty, except for insanity, of a felony;
- Persons who have either been committed to the Department of Human Services because they have been found to be mentally ill, or persons who have been found to be mentally ill, who have not been committed, but are ordered by a judge not to possess firearms.

***Within Court Facilities***

Only on-duty local, state, or federal peace officers may possess a firearm in a court facility. There is no concealed handgun permit exception to this prohibition.

***Machine Guns, Short-barreled Firearms, and Silencers***

It is unlawful for a person to possess 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.

**Concealed Handgun Permits**

In Oregon, 92,071 people have been issued a concealed handgun permit. Seventy-eight percent of the permits are issued to males, and 27 percent are issued to persons between 46-55 years of age. A person may obtain a concealed handgun permit from the sheriff of his or her county of residence if the person meets the following requirements:

- 21 years of age;
- Either a US Citizen or legal resident alien for at least 6 months who can prove intent to become a citizen;
- No felony convictions and no misdemeanor convictions in last 4 years;
- No juvenile adjudication for a felony or misdemeanor involving violence in last 4 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;
- Has not been found to be mentally ill; and
- Not the subject of a stalking order or restraining order.

In addition, the sheriff may deny the permit if the sheriff has 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.

The applicant is fingerprinted and photographed by the sheriff. If a handgun permit is issued, that fact is recorded in the Oregon State Police data system.

**Sale or Transfer of Firearms*****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, to be filed with a record of the transaction. The dealer then calls the Oregon State Police (**OSP**), identifying himself, the name and date of birth of the buyer, and the type of handgun being sold. The Oregon State Police then check the buyer's criminal history to see if the buyer is disqualified from possessing a handgun as mentioned above. The dealer must keep records of all firearms transactions for five years. OSP is authorized to charge \$10 for completing the background check.

***Measure 5***

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. The seller may either ask the Oregon State Police, by telephone, to complete a criminal background check of the buyer, or complete the sale through a gun dealer who initiates the background check.

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