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Background Brief on ...

# Firearms

This brief focuses on state, not federal, gun control laws and will analyze Oregon legislation governing the areas of prohibitions against the possession of firearms by some persons or in some places, concealed handgun permits, and the transfer or sale of firearms. It will also highlight the 2012 changes to the public records laws as it relates to disclosure of information on an application for a concealed handgun permit.

## 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 following conditions are met:

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

*Disqualified Persons* - the following individuals are prohibited from possessing a firearm in Oregon:

- Felons;
- People found guilty, except by reason of insanity, of a felony;
- People who have been committed to the Department of Human Services (**DHS**) because they have been found to be mentally ill;
- People who have been found to be mentally ill and who have not been committed, but are ordered by a judge not to possess firearms;

- People who have been found mentally unfit to proceed in a criminal trial proceeding; and
- People under a court order not to purchase or possess a firearm.

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

*Within Portland International Airport* - Applies to those areas in the airport designated, and clearly marked, as restricted areas. Exempts only those authorized to carry a firearm in a restricted area by federal law.

*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.

### **Concealed Handgun Permits**

A person may obtain a concealed handgun permit from the sheriff of his or her county of residence if the person is:

- At least 21 years of age;
- Either a US Citizen or a legal resident alien for at least six months who can prove intent to become a citizen;
- Has no felony convictions;
- Has no misdemeanor convictions in the last four years;
- Has no juvenile adjudication for a felony or misdemeanor involving violence in the last four years;
- Is not on pretrial release for an offense or subject to an arrest warrant for any offense;
- Is able to demonstrate completion of a handgun safety course;
- Has not been found to be mentally ill;
- Is not the subject of a stalking order or restraining order;

- Is not required to register as a sex offender in any state;
- Has not received a dishonorable discharge from the US Armed Forces; and
- Has not been convicted of an offense involving controlled substances or participated in a drug diversion program.

The final provision includes possession of less than an ounce of marijuana where the person has two convictions. Active members of the US Armed Forces, the US National Guard, or the Oregon National Guard may renew applications by mail.

The sheriff may deny a 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 (OSP) data system.

### **Public Records – Application for Concealed Handgun Permit.**

House Bill 4045 (2012), 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) The 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) The 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) the disclosure is made by the State Police data base to another data base maintained by a public body. House Bill 4045 does not apply to court records. The bill requires the Attorney General to adopt rules to carry out the provisions of this bill.

## **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 that is filed with a record of the transaction. The dealer then calls the OSP, identifying himself, and gives the name and date of birth of the buyer, and the type of handgun being sold. The OSP then checks the buyer's criminal history 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. The OSP is authorized to charge \$10 for completing the background check.

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

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