

Senate Bill 469

Sponsored by Senator BOQUIST (at the request of Ted Campbell) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires gun dealer to substitute alternative fingerprint for criminal background check if firearm purchaser is unable to provide thumbprint.

A BILL FOR AN ACT

1
2 Relating to criminal background check fingerprints; amending ORS 166.412.

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

4 **SECTION 1.** ORS 166.412 is amended to read:

5 166.412. (1) As used in this section:

6 (a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

7 (b) "Department" means the Department of State Police;

8 (c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include
9 an antique firearm;

10 (d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C.
11 921 to 929;

12 (e) "Firearms transaction thumbprint form" means a form provided by the department under
13 subsection (11) of this section;

14 (f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling,
15 leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or
16 otherwise;

17 (g) "Handgun" has the meaning given that term in ORS 166.210; and

18 (h) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a gun
19 dealer.

20 (2) Except as provided in subsections (3)(c) and (12) of this section, a gun dealer shall comply
21 with the following before a handgun is delivered to a purchaser:

22 (a) The purchaser shall present to the dealer current identification meeting the requirements
23 of subsection (4) of this section.

24 (b) The gun dealer shall complete the firearms transaction record and obtain the signature of
25 the purchaser on the record.

26 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
27 thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to
28 be filed with that copy. **If the purchaser is not able to provide a thumbprint due to a disability
29 or other physical limitation, the gun dealer shall substitute another fingerprint on the form
30 and shall indicate on the form the finger from which the print was taken.**

31 (d) The gun dealer shall request by telephone that the department conduct a criminal history

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 record check on the purchaser and shall provide the following information to the department:

2 (A) The federal firearms license number of the gun dealer;

3 (B) The business name of the gun dealer;

4 (C) The place of transfer;

5 (D) The name of the person making the transfer;

6 (E) The make, model, caliber and manufacturer's number of the handgun being transferred;

7 (F) The name and date of birth of the purchaser;

8 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
9 number to the gun dealer; and

10 (H) The type, issuer and identification number of the identification presented by the purchaser.

11 (e) The gun dealer shall receive a unique approval number for the transfer from the department
12 and record the approval number on the firearms transaction record and on the firearms transaction
13 thumbprint form.

14 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the
15 completion of the firearms transaction thumbprint form.

16 (3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the de-
17 partment shall immediately, during the gun dealer's telephone call or by return call:

18 (A) Determine, from criminal records and other information available to it, whether the pur-
19 chaser is disqualified under ORS 166.470 from completing the purchase; and

20 (B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide
21 the dealer with a unique approval number indicating that the purchaser is qualified to complete the
22 transfer.

23 (b) If the department is unable to determine if the purchaser is qualified or disqualified from
24 completing the transfer within 30 minutes, the department shall notify the dealer and provide the
25 dealer with an estimate of the time when the department will provide the requested information.

26 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the
27 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close
28 of the gun dealer's next business day following the request by the dealer for a criminal history re-
29 cord check, the dealer may deliver the handgun to the purchaser.

30 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include
31 one piece of current identification bearing a photograph and the date of birth of the purchaser that:

32 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
33 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
34 tional governmental organization or an international quasi-governmental organization; and

35 (B) Is intended to be used for identification of an individual or is commonly accepted for the
36 purpose of identification of an individual.

37 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does
38 not include the current address of the purchaser, the purchaser shall present a second piece of
39 current identification that contains the current address of the purchaser. The Superintendent of
40 State Police may specify by rule the type of identification that may be presented under this para-
41 graph.

42 (c) The department may require that the dealer verify the identification of the purchaser if that
43 identity is in question by sending the thumbprints of the purchaser, **or another fingerprint if the**
44 **purchaser is unable to provide a thumbprint as described in subsection (2) of this section,** to
45 the department.

1 (5) The department shall establish a telephone number that shall be operational seven days a
2 week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from
3 dealers for a criminal history record check under this section.

4 (6) No public employee, official or agency shall be held criminally or civilly liable for performing
5 the investigations required by this section provided the employee, official or agency acts in good
6 faith and without malice.

7 (7)(a) The department may retain a record of the information obtained during a request for a
8 criminal history record check for no more than five years.

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

11 (c) If the department determines that a purchaser is prohibited from possessing a firearm under
12 ORS 166.250 (1)(c), as soon as practicable, the department may report the attempted transfer and the
13 purchaser's name to the appropriate law enforcement agency.

14 (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers of
15 handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal
16 investigation or under the authority of a properly authorized subpoena or search warrant.

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

18 (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of State
19 Police may adopt rules necessary for:

20 (a) The design of the firearms transaction thumbprint form;

21 (b) The maintenance of a procedure to correct errors in the criminal records of the department;

22 (c) The provision of a security system to identify dealers who request a criminal history record
23 check under subsection (2) of this section; and

24 (d) The creation and maintenance of a database of the business hours of gun dealers.

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

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

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

32 (b) A gun dealer that requests a criminal background check under this subsection is immune
33 from civil liability for any use of the firearm by the recipient or transferee, provided that the gun
34 dealer requests the criminal background check as described in this section.

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