

OREGON
OR. REV. STAT.

Title 16. Crimes and Punishments

Chapter 166. Offenses Against Public Order; Firearms and Other Weapons; Racketeering

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.

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.

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.

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 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.

Possession and Use of Firearms

166.190 Pointing firearm at another; 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.

166.210. Definitions. As used in ORS 166.250 to 166.270, 166.280, 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) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder and which is readily capable of use as a weapon.

(3) "Firearms silencer" means any device for silencing, muffling or diminishing the report of a firearm.

(4) "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.

(5) "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.

(6) "Minor" means a person under 18 years of age.

(7) "Parole and probation officer" has the meaning given that term in ORS 181.610.

(8) "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.

(9) "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.

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; or

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

(3) Unlawful use of a weapon is a Class C felony.

166.250. Unlawful possession of firearms.

(1) Except as otherwise provided in this section, ORS 166.260, 166.270, 166.274, 166.280, 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 or found guilty, except for insanity under ORS 161.295, of a felony;

(D) Was committed to the Mental Health and Developmental Disability Services Division under ORS 426.130; or

(E) Was found to be mentally ill 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.

(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) Unlawful possession of a firearm is a Class A misdemeanor.

166.260. Persons not affected by ORS 166.250.

(1) ORS 166.250 does not apply to or affect:
(a) Sheriffs, constables, marshals, police officers, whether active or honorably retired, parole and probation officers or other duly appointed peace officers.

(b) Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.

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

(d) Active or reserve members of the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty.

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

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

(g) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.

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

(2) 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.

(3) The exceptions listed in subsection (1)(b) to (h) of this section constitute affirmative defenses to a charge of violating ORS 166.250.

166.270. Certain felons forbidden to possess firearms.

(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 or metal knuckles, 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. Provided, however, that 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 for possession of marijuana and the conviction was prior to January 1, 1972.

(4) Subsection (1) of this section shall 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 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.

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.

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.

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 Immigration and Naturalization Service the intent to acquire citizenship status and can pre-

sent 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) Has a principal residence in the county in which the application is made;
(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;

(i) Has not been committed to the Mental Health and Developmental Disability Services Division under ORS 426.130;

(j) Has not been found to be mentally ill 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; and

(l) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.732, or 163.738.

(2) A person who has been granted relief under ORS 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) 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 previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1)(a) to (k) 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.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout the 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 Immigration and Naturalization Service 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 committed 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. 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 Mental Health and Developmental Disability Services Division under ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. 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 166.274 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 107.732 or 163.738. I understand I will be fingerprinted and photographed.

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. Type of identification and number on identification to be filled in by sheriff):

1. _____
2. _____
Height _____ Weight _____
Current address _____

(List residence addresses for the past three years on back)

City _____ County _____ Zip _____
Phone _____

I have read the entire text of this application, 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 licenses 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 address.

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

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative 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 performance 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 indicating 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.

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.

Possession of Firearm in Public Building or of Destructive Device

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

(3) "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.

(4) "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.

(5) "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 pocket knife, 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.

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. ...

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

(a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while acting within the scope of employment.

(b) A person summoned by a peace officer to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

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

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

(e) 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.

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

(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; or

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

(6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.280.

(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.

166.380. Examination of device or firearm by peace officer; arrest for failure to allow examination.

(1) 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) Refusal by a person to allow the examination authorized by subsection (1) of this section constitutes reason to believe that the person has committed a crime and the peace officer may make an arrest pursuant to ORS 133.310.

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 480.280.

(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 480.275 and 480.280 (2).

(4) Possession of a destructive device is a Class C felony.

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.

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.

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 to 166.270, 166.280, 166.291, 166.292 and 166.425 to 166.470, shall be guilty of a Class B felony.

166.412. Definitions; firearms transaction record; criminal record check.

(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 (12) 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;

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

(h) "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 (13) of this section, a gun dealer shall comply with the following before a handgun is delivered to a purchaser:

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

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

(8) The Mental Health and Developmental Disability Services Division shall provide the department with direct electronic access to information from the division's database of information identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The department and the division shall enter into an agreement describing the access to information under this subsection.

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

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

(11) In accordance with applicable provisions of ORS 183.310 to 183.550, 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 dealers who 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.

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

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

166.416. Providing false information in connection with a transfer of a handgun.

(1) A person commits the crime of providing false information in connection with a transfer of a handgun if the person knowingly provides a false name or false information or presents false identification in connection with a purchase or transfer of a handgun under ORS 166.412.

(2) Providing false information in connection with a transfer of a handgun is a Class A misdemeanor.

166.418. Improperly transferring a handgun.

(1) A person commits the crime of improperly transferring a handgun if the person is a gun dealer as defined in ORS 166.412 and sells, leases or otherwise transfers a handgun and intentionally violates ORS 166.412.

(2) Improperly transferring a handgun is a Class A misdemeanor.

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.

166.422. Enforcement of ORS 166.412. Where appropriate, a person may enforce the legal duties imposed by ORS 166.412 (7), by the provisions of ORS 30.260 to 30.300 and 183.310 to 183.550.

166.425. Unlawful purchase of firearm.

(1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state or federal 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.

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 printed by the State Printer and 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.

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.

166.460. Antique firearms excepted.

(1) ORS 166.250, 166.260, 166.280, 166.291 to 166.295, 166.410, 166.412, 166.425 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), (C) or (D) constitutes a violation of ORS 166.250.

166.470. Limitations and conditions for sales of firearms.

(1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, no person shall 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 or found guilty, except for insanity under ORS 161.295, 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 Mental Health and Developmental Disability Services Division under ORS 426.130;

(f) After January 1, 1990, was found to be mentally ill 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; or

(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, 163.190, 163.195, 163.208 or 166.155 (1)(b).

(2) No person shall 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.

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.

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.

Title 38. Protection from Fire

Chapter 480. Explosives; Flammable Materials; Pressure Vessels

480.070. Fire bombs prohibited; exceptions.

(1) No person shall possess a fire bomb. For the purpose of this section a "fire bomb" is a

breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having an integral wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illuminating shall be deemed to be a fire bomb for the purpose of this section.

(2) This section shall not prohibit the authorized use or possession of such fire bomb by a member of the Armed Forces of the United States or by any member of a regularly organized public fire or police department.

[Current through 1999 Regular Session]

**PENNSYLVANIA
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Title 18. Crimes and Offenses

Chapter 61. Firearms and Other Dangerous Articles

Subchapter A. Uniform Firearms Act

6101. Short title of subchapter. This subchapter shall be known and may be cited as the Pennsylvania Uniform Firearms Act of 1995.

6102. Definitions. Subject to additional definitions contained in subsequent provisions of this subchapter which are applicable to specific provisions of this subchapter, the following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Commissioner." The Commissioner of the Pennsylvania State Police.

"Conviction." A conviction, a finding of guilty or the entering of a plea of guilty or nolo contendere, whether or not judgment of sentence has been imposed, as determined by the law of the jurisdiction in which the prosecution was held. The term does not include a conviction which has been expunged or overturned or for which an individual has been pardoned unless the pardon expressly provides that the individual may not possess or transport firearms.

"County treasurer." The county treasurer or, in home rule or optional plan counties, the person whose duties encompass those of a county treasurer.

"Crime punishable by imprisonment exceeding one year." The term does not include any of the following:

1. Federal or State offenses pertaining to anti-trust, unfair trade practices, restraints on trade or regulation of business.

2. State offenses classified as misdemeanors and punishable by a term of imprisonment not to exceed two years.

"Firearm." Any pistol or revolver with a barrel length less than 15 inches, any shotgun with a barrel length less than 18 inches or any rifle with a barrel length less than 16 inches, or any pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a firearm shall be determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder, whichever is applicable.

"Fund." The Firearm Ownership Fund established in section 6111.3 (relating to Firearm Ownership Fund).

"Law enforcement officer." Any person employed by any police department or organization of the Commonwealth or political subdivision thereof who is empowered to effect an arrest with or without warrant and who is authorized to carry a firearm in the performance of that person's duties.

"Loaded." A firearm is loaded if the firing chamber, the nondetachable magazine or, in the case of a revolver, any of the chambers of the cylinder contain ammunition capable of being fired. In the case of a firearm which utilizes a detachable magazine, the term shall mean a magazine suitable for use in said firearm which magazine contains such ammunition and has been inserted in the firearm or is in the same container or, where the container has multiple compartments, the same compartment thereof as the firearm.

"Sheriff."

1. Except as provided in paragraph (2), the sheriff of the county.

2. In a city of the first class, the chief or head of the police department.

[**Publisher's Note:** The Firearm Ownership Fund, referred to in the definition of "fund," is now the Firearm Instant Records Check Fund.]

6103. Crimes committed with firearms. If any person commits or attempts to commit a crime enumerated in section 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) when armed with a firearm contrary to the provisions of this subchapter, that person may, in addition to the punishment provided for the crime, also be punished as provided by this subchapter.

6104. Evidence of intent. In the trial of a person for committing or attempting to commit a crime enumerated in section 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), the fact that that person was armed with a firearm, used or attempted to be used, and had no license to carry the same, shall be evidence of that person's intention to commit the offense.

6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

(a) **Offense defined.**

1. A person who has been convicted of an offense enumerated in subsection (b), within or

without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth.

2. A person who is prohibited from possessing, using, controlling, selling, transferring or manufacturing a firearm under paragraph (1) or subsection (b) or (c) shall have a reasonable period of time, not to exceed 60 days from the date of the imposition of the disability under this subsection, in which to sell or transfer that person's firearms to another eligible person who is not a member of the prohibited person's household.

(a.1) **Penalty.** Any person convicted of a felony enumerated under subsection (b) or a felony under the act of April 14, 1972, known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, who violates subsection (a) commits a felony of the second degree.

(b) **Enumerated offenses.** The following offenses shall apply to subsection (a):

Section 908 (relating to prohibited offensive weapons).

Section 911 (relating to corrupt organizations).

Section 912 (relating to possession of weapon on school property).

Section 2502 (relating to murder).

Section 2503 (relating to voluntary manslaughter).

Section 2504 (relating to involuntary manslaughter) if the offense is based on the reckless use of a firearm.

Section 2702 (relating to aggravated assault).

Section 2703 (relating to assault by prisoner).

Section 2704 (relating to assault by life prisoner).

Section 2709 (relating to harassment and stalking) if the offense relates to stalking.

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 2910 (relating to luring a child into a motor vehicle).

Section 3121 (relating to rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3125 (relating to aggravated indecent assault).

Section 3301 (relating to arson and related offenses).