

A-Engrossed Senate Bill 40

Ordered by the Senate April 22
Including Senate Amendments dated April 22

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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.

Defines "marijuana" and "marijuana product."

Reduces unlawful manufacture of marijuana to Class B felony. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Reduces unlawful possession of **four ounces or more of marijuana** to Class C felony. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both. **Reduces unlawful possession of one ounce or more but less than four ounces of marijuana to Class B misdemeanor. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both. Reduces unlawful possession of less than one ounce of marijuana to Class B violation. Punishes by presumptive fine of \$260.**

Reduces unlawful possession of one-quarter ounce or more of marijuana product to Class C felony. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both. Reduces unlawful possession of less than one-quarter ounce of marijuana product to Class B misdemeanor. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both.

Amends exceptions to classification of Schedule I and Schedule II controlled substances to reflect rescheduling of methamphetamine and marijuana.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to classification of controlled substance offenses; creating new provisions; amending ORS
3 161.570, 161.705, 166.291, 342.143, 419C.239, 419C.420, 419C.443, 475.752, 475.856 and 475.864; and
4 declaring an emergency.

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

6 **SECTION 1.** ORS 475.856 is amended to read:

7 475.856. (1) It is unlawful for any person to manufacture marijuana.

8 (2) Unlawful manufacture of marijuana is a [*Class A*] **Class B** felony.

9 **SECTION 2.** ORS 475.864 is amended to read:

10 475.864. (1) **As used in this section:**

11 (a) **"Marijuana" means the leaves, stems and flowers of the plant Cannabis family**
12 **Moraceae.**

13 (b) **"Marijuana product" has the meaning given the term "marijuana" in ORS 475.005 (16),**
14 **but does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.**

15 [*(1)*] (2) It is unlawful for any person knowingly or intentionally to possess marijuana **or**
16 **marijuana product.**

17 [(2)] (3)(a) Unlawful possession of **four avoirdupois ounces or more of marijuana** is a Class
18 [*B*] **C** felony.

19 (b) **Unlawful possession of one avoirdupois ounce of marijuana or more, but less than**

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 **four avoirdupois ounces, is a Class B misdemeanor.**

2 (c) **Unlawful possession of less than one avoirdupois ounce of marijuana is a Class B vi-**
3 **olation.**

4 [(3) *Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation*
5 *if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers of the*
6 *plant Cannabis family Moraceae. A violation under this subsection is a specific fine violation. The*
7 *presumptive fine for a violation under this subsection is \$650.]*

8 [(4) *Notwithstanding subsections (2) and (3) of this section, unlawful possession of marijuana is a*
9 *Class C misdemeanor if the amount possessed is less than one avoirdupois ounce of the dried leaves,*
10 *stems and flowers of the plant Cannabis family Moraceae and the possession takes place in a public*
11 *place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising a public or*
12 *private elementary, secondary or career school attended primarily by minors.]*

13 **(4)(a) Unlawful possession of one-quarter avoirdupois ounce or more of marijuana prod-**
14 **uct is a Class C felony.**

15 **(b) Unlawful possession of less than one-quarter avoirdupois ounce of marijuana product**
16 **is a Class B misdemeanor.**

17 **SECTION 3.** ORS 475.752 is amended to read:

18 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
19 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-
20 section with respect to:

21 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-
22 vided in ORS [~~475.860~~] **475.886 and 475.890.**

23 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise
24 provided in ORS **475.858, 475.860, 475.862,** 475.878, 475.880, 475.882, [~~475.888, 475.890, 475.892,~~]
25 475.904 and 475.906.

26 (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise
27 provided in ORS 475.904 and 475.906.

28 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

29 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

30 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any
31 person to create or deliver a counterfeit substance. Any person who violates this subsection with
32 respect to:

33 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

34 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

35 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

36 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

37 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

38 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance
39 unless the substance was obtained directly from, or pursuant to[,] a valid prescription or order of,
40 a practitioner while acting in the course of professional practice, or except as otherwise authorized
41 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-
42 spect to:

43 (a) A controlled substance in Schedule I, is guilty of a Class B felony, except as otherwise pro-
44 vided in ORS [~~475.864~~] **475.894.**

45 (b) A controlled substance in Schedule II, is guilty of a Class C felony, **except as otherwise**

1 **provided in ORS 475.864.**

2 (c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.

3 (d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor.

4 (e) A controlled substance in Schedule V, is guilty of a violation.

5 (4) In any prosecution under this section for manufacture, possession or delivery of that plant
6 of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is
7 being used or is intended for use:

8 (a) In connection with the good faith practice of a religious belief;

9 (b) As directly associated with a religious practice; and

10 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-
11 imity of the user.

12 (5) The affirmative defense created in subsection (4) of this section is not available to any person
13 who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

14 (6)(a) Notwithstanding subsection (1) of this section, a person who **unlawfully** manufactures or
15 delivers a controlled substance in Schedule IV and who thereby causes death to *[any]* **another**
16 person is guilty of a Class C felony.

17 (b) For purposes of this subsection, causation is established when the controlled substance plays
18 a substantial role in the death of *[any]* **the other** person.

19 **SECTION 4.** ORS 161.570 is amended to read:

20 161.570. (1) As used in this section, “nonperson felony” has the meaning given that term in the
21 rules of the Oregon Criminal Justice Commission.

22 (2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS
23 475.752 (3)(a), 475.854[, 475.864 (2)] or 475.874 as a Class A misdemeanor. The election must be made
24 by the district attorney orally or in writing at the time of the first appearance of the defendant. If
25 a district attorney elects to treat a Class C felony or a violation of ORS 475.752 (3)(a), 475.854[,
26 475.864 (2)] or 475.874 as a Class A misdemeanor under this subsection, the court shall amend the
27 accusatory instrument to reflect the charged offense as a Class A misdemeanor.

28 (3) If, at some time after the first appearance of a defendant charged with a Class C nonperson
29 felony or a violation of ORS 475.752 (3)(a), 475.854[, 475.864 (2)] or 475.874, the district attorney and
30 the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the
31 offense to be treated as a Class A misdemeanor by stipulation of the parties.

32 (4) If a Class C felony or a violation of ORS 475.752 (3)(a), 475.854[, 475.864 (2)] or 475.874 is
33 treated as a Class A misdemeanor under this section, the court shall clearly denominate the offense
34 as a Class A misdemeanor in any judgment entered in the matter.

35 (5) If no election or stipulation is made under this section, the case proceeds as a felony.

36 (6) Before a district attorney may make an election under subsection (2) of this section, the
37 district attorney shall adopt written guidelines for determining when and under what circumstances
38 the election may be made. The district attorney shall apply the guidelines uniformly.

39 (7) Notwithstanding ORS 161.635, the fine that a court may impose upon conviction of a
40 misdemeanor under this section may not:

41 (a) Be less than the minimum fine established by ORS 137.286 for a felony; or

42 (b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A
43 misdemeanor treatment.

44 **SECTION 5.** ORS 161.705 is amended to read:

45 161.705. Notwithstanding ORS 161.525, the court may enter judgment of conviction for a Class

1 A misdemeanor and make disposition accordingly when:

2 (1)(a) A person is convicted of any Class C felony;

3 (b) A person is convicted of a Class B felony pursuant to ORS 475.860 (2)(a); **or**

4 [(c) A person is convicted of the Class B felony of possession of marijuana pursuant to ORS
5 475.864 (2); or]

6 [(d)] (c) A person convicted of [any of the felonies described in paragraphs (a) to (c)] **a felony**
7 **described in paragraph (a) or (b)** of this subsection, or of a Class A felony pursuant to ORS
8 166.720, has successfully completed a sentence of probation; and

9 (2) The court, considering the nature and circumstances of the crime and the history and char-
10 acter of the defendant, believes that it would be unduly harsh to sentence the defendant for a felony.

11 **SECTION 6.** ORS 166.291 is amended to read:

12 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
13 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
14 out in this section, shall issue the person a concealed handgun license if the person:

15 (a)(A) Is a citizen of the United States; or

16 (B) Is a legal resident alien who can document continuous residency in the county for at least
17 six months and has declared in writing to the United States Citizenship and Immigration Services
18 the intent to acquire citizenship status and can present proof of the written declaration to the
19 sheriff at the time of application for the license;

20 (b) Is at least 21 years of age;

21 (c) Is a resident of the county;

22 (d) Has no outstanding warrants for arrest;

23 (e) Is not free on any form of pretrial release;

24 (f) Demonstrates competence with a handgun by any one of the following:

25 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
26 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
27 of the course;

28 (B) Completion of any National Rifle Association firearms safety or training course if handgun
29 safety was a component of the course;

30 (C) Completion of any firearms safety or training course or class available to the general public
31 offered by law enforcement, community college, or private or public institution or organization or
32 firearms training school utilizing instructors certified by the National Rifle Association or a law
33 enforcement agency if handgun safety was a component of the course;

34 (D) Completion of any law enforcement firearms safety or training course or class offered for
35 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
36 cers if handgun safety was a component of the course;

37 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
38 ized shooting competition or military service;

39 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
40 revoked; or

41 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
42 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
43 was a component of the course;

44 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
45 of a felony;

1 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
2 161.295, of a misdemeanor within the four years prior to the application;

3 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

4 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
5 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

6 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
7 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
8 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
9 volving violence, as defined in ORS 166.470;

10 (L) Has not been convicted of an offense involving controlled substances or participated in a
11 court-supervised drug diversion program, except this disability does not operate to exclude a person
12 if:

13 (A) The person has been convicted only once of violating ORS 475.864 [(3)] **(3)(c)** and has not
14 completed a court-supervised drug diversion program under ORS 135.907; or

15 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
16 has not been convicted of violating ORS 475.864 [(3)] **(3)(c)**;

17 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
18 107.700 to 107.735 or 163.738;

19 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

20 (o) Is not required to register as a sex offender in any state.

21 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
22 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of
23 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
24 (1)(g) to (L) of this section.

25 (3) Before the sheriff may issue a license:

26 (a) The application must state the applicant's legal name, current address and telephone number,
27 date and place of birth, hair and eye color and height and weight. The application must also list the
28 applicant's residence address or addresses for the previous three years. The application must contain
29 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
30 section. The application may include the Social Security number of the applicant if the applicant
31 voluntarily provides this number. The application must be signed by the applicant.

32 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
33 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
34 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
35 records check is necessary, the sheriff shall request the Department of State Police to conduct the
36 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
37 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
38 check and may not keep any record of the fingerprints. The Department of State Police shall report
39 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
40 Police shall also furnish the sheriff with any information about the applicant that the Department
41 of State Police may have in its possession including, but not limited to, manual or computerized
42 criminal offender information.

43 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
44 quest. The forms shall be uniform throughout this state in substantially the following form:
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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 United States Citizenship and Immigration Services 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. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. 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 Oregon Health Authority 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 section 5, chapter 826, Oregon Laws 2009, 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 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

Legal name _____
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. The type of identification and the number on the identification are to be filled in by the sheriff.):

- 1. _____
- 2. _____

Height _____ Weight _____
Hair color _____ Eye color _____
Current address _____

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

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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

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.
- (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:
 - (a) Has a current Oregon driver license issued to the person showing a residence address in the county;
 - (b) Is registered to vote in the county and has a memorandum card issued to the person under

1 ORS 247.181 showing a residence address in the county;

2 (c) Has documentation showing that the person currently leases or owns real property in the
3 county; or

4 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
5 tax year showing a residence address in the county.

6 **SECTION 7.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, and sec-
7 tion 34, chapter 547, Oregon Laws 2011, is amended to read:

8 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
9 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
10 out in this section, shall issue the person a concealed handgun license if the person:

11 (a)(A) Is a citizen of the United States; or

12 (B) Is a legal resident alien who can document continuous residency in the county for at least
13 six months and has declared in writing to the United States Citizenship and Immigration Services
14 the intent to acquire citizenship status and can present proof of the written declaration to the
15 sheriff at the time of application for the license;

16 (b) Is at least 21 years of age;

17 (c) Is a resident of the county;

18 (d) Has no outstanding warrants for arrest;

19 (e) Is not free on any form of pretrial release;

20 (f) Demonstrates competence with a handgun by any one of the following:

21 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
22 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
23 of the course;

24 (B) Completion of any National Rifle Association firearms safety or training course if handgun
25 safety was a component of the course;

26 (C) Completion of any firearms safety or training course or class available to the general public
27 offered by law enforcement, community college, or private or public institution or organization or
28 firearms training school utilizing instructors certified by the National Rifle Association or a law
29 enforcement agency if handgun safety was a component of the course;

30 (D) Completion of any law enforcement firearms safety or training course or class offered for
31 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
32 cers if handgun safety was a component of the course;

33 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
34 ized shooting competition or military service;

35 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
36 revoked; or

37 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
38 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
39 was a component of the course;

40 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
41 of a felony;

42 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
43 161.295, of a misdemeanor within the four years prior to the application;

44 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

45 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that

1 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

2 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
3 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
4 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
5 volving violence, as defined in ORS 166.470;

6 (L) Has not been convicted of an offense involving controlled substances or participated in a
7 court-supervised drug diversion program, except this disability does not operate to exclude a person
8 if:

9 (A) The person has been convicted only once of violating ORS 475.864 [(3)] **(3)(c)** and has not
10 completed a court-supervised drug diversion program under ORS 135.907; or

11 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
12 has not been convicted of violating ORS 475.864 [(3)] **(3)(c)**;

13 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
14 107.700 to 107.735 or 163.738;

15 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

16 (o) Is not required to register as a sex offender in any state.

17 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
18 has had the person's record expunged under the laws of this state or equivalent laws of other ju-
19 risdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

20 (3) Before the sheriff may issue a license:

21 (a) The application must state the applicant's legal name, current address and telephone number,
22 date and place of birth, hair and eye color and height and weight. The application must also list the
23 applicant's residence address or addresses for the previous three years. The application must contain
24 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
25 section. The application may include the Social Security number of the applicant if the applicant
26 voluntarily provides this number. The application must be signed by the applicant.

27 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
28 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
29 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
30 records check is necessary, the sheriff shall request the Department of State Police to conduct the
31 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
32 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
33 check and may not keep any record of the fingerprints. The Department of State Police shall report
34 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
35 Police shall also furnish the sheriff with any information about the applicant that the Department
36 of State Police may have in its possession including, but not limited to, manual or computerized
37 criminal offender information.

38 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
39 quest. The forms shall be uniform throughout this state in substantially the following form:

41
42 APPLICATION FOR LICENSE TO CARRY
43 CONCEALED HANDGUN

44 Date _____

45 I hereby declare as follows:

1 I am a citizen of the United States or a legal resident alien who can document continuous res-
 2 idency in the county for at least six months and have declared in writing to the United States Cit-
 3 izenship and Immigration Services my intention to become a citizen and can present proof of the
 4 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 5 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 6 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 7 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 8 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
 9 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
 10 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
 11 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
 12 volving controlled substances or completed a court-supervised drug diversion program. There are
 13 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
 14 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally
 15 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because
 16 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish
 17 to petition for relief from the disability under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have
 18 had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order is-
 19 sued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge
 20 from the Armed Forces of the United States. I am not required to register as a sex offender in any
 21 state. I understand I will be fingerprinted and photographed.

22

23 Legal name _____
 24 Age _____ Date of birth _____
 25 Place of birth _____
 26 Social Security number _____

27 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
 28 thorized under ORS 166.291. It will be used only as a means of identification.)

29

30 Proof of identification (Two pieces of current identification are required, one of which must bear a
 31 photograph of the applicant. The type of identification and the number on the identification are to
 32 be filled in by the sheriff.):

- 33 1. _____
- 34 2. _____

35

36 Height _____ Weight _____
 37 Hair color _____ Eye color _____

38

39 Current address _____

40

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

41

42

43 City _____ County _____ Zip _____

44

44 Phone _____

45

1 I have read the entire text of this application, and the statements therein are correct and true.
2 (Making false statements on this application is a misdemeanor.)

3 _____
4 (Signature of Applicant)

5
6 Character references.

7 _____
8 Name: Address

9 _____
10 Name: Address

11
12 Approved _____ Disapproved _____ by _____

13
14 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

15 Date _____ Fee Paid _____

16 License No. _____
17 _____

18
19 (5)(a) Fees for concealed handgun licenses are:

20 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

21 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

22 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

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

25 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
26 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
27 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
28 performance of duties under those sections.

29 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
30 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
31 is an applicant for a concealed handgun license or is a license holder.

32 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
33 for a resident of a contiguous state who has a compelling business interest or other legitimate
34 demonstrated need.

35 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
36 person:

37 (a) Has a current Oregon driver license issued to the person showing a residence address in the
38 county;

39 (b) Is registered to vote in the county and has a memorandum card issued to the person under
40 ORS 247.181 showing a residence address in the county;

41 (c) Has documentation showing that the person currently leases or owns real property in the
42 county; or

43 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
44 tax year showing a residence address in the county.

45 **SECTION 8.** ORS 419C.239 is amended to read:

1 419C.239. (1) A formal accountability agreement shall:

2 (a) Be completed within a period of time not to exceed one year;

3 (b) Be voluntarily entered into by all parties;

4 (c) Be revocable by the youth at any time by a written revocation;

5 (d) Be revocable by the juvenile department in the event the department has reasonable cause
6 to believe the youth has failed to carry out the terms of the formal accountability agreement or has
7 committed a subsequent offense;

8 (e) Not be used as evidence against the youth at any adjudicatory hearing;

9 (f) Be executed in writing and expressed in language understandable to the persons involved;

10 (g) Be signed by the juvenile department, the youth, the youth's parent or parents or legal
11 guardian, and the youth's counsel, if any;

12 (h) Become part of the youth's juvenile department record; and

13 (i) When the youth has been charged with having committed the youth's first violation of a
14 provision under ORS 475.860 (3)(b) or 475.864 [(3)] (3)(c) and unless the juvenile department deter-
15 mines that it would be inappropriate in the particular case:

16 (A) Require the youth to participate in a diagnostic assessment and an information or treatment
17 program as recommended by the assessment. The agencies or organizations providing assessment or
18 programs of information or treatment must be the same as those designated by the court under ORS
19 419C.443 (1) and must meet the standards set by the Director of the Oregon Health Authority. The
20 parent of the youth shall pay the cost of the youth's participation in the program based upon the
21 ability of the parent to pay.

22 (B) Monitor the youth's progress in the program which shall be the responsibility of the diag-
23 nostic assessment agency or organization. It shall make a report to the juvenile department stating
24 the youth's successful completion or failure to complete all or any part of the program specified by
25 the diagnostic assessment. The form of the report shall be determined by agreement between the
26 juvenile department and the diagnostic assessment agency or organization. The juvenile department
27 shall make the report a part of the record of the case.

28 (2) Notwithstanding any other provision of law, the following information contained in a formal
29 accountability agreement under ORS 419C.230 is not confidential and is not exempt from disclosure:

30 (a) The name and date of birth of the youth;

31 (b) The act alleged; and

32 (c) The portion of the agreement providing for the disposition of the youth.

33 **SECTION 9.** ORS 419C.420 is amended to read:

34 419C.420. If a youth is cited or summoned for a violation under ORS 471.430, 475.860 (3) or
35 475.864 [(3)] (3)(c) and fails to appear, the court may adjudicate the citation or petition and enter
36 a disposition without a hearing.

37 **SECTION 10.** ORS 419C.443 is amended to read:

38 419C.443. (1) Except when otherwise provided in subsection (3) of this section, when a youth
39 offender has been found to be within the jurisdiction of the court under ORS 419C.005 for a first
40 violation of the provisions under ORS 475.860 (3)(b) or 475.864 [(3)] (3)(c), the court shall order an
41 evaluation and designate agencies or organizations to perform diagnostic assessment and provide
42 programs of information and treatment. The designated agencies or organizations must meet the
43 standards set by the Director of the Oregon Health Authority. Whenever possible, the court shall
44 designate agencies or organizations to perform the diagnostic assessment that are separate from
45 those that may be designated to carry out a program of information or treatment. The parent of the

1 youth offender shall pay the cost of the youth offender's participation in the program based upon
 2 the ability of the parent to pay. The petition shall be dismissed by the court upon written certif-
 3 ication of the youth offender's successful completion of the program from the designated agency or
 4 organization providing the information and treatment.

5 (2) Monitoring the youth offender's progress in the program shall be the responsibility of the
 6 diagnostic assessment agency or organization. The agency or organization shall make a report to the
 7 court stating the youth offender's successful completion or failure to complete all or any part of the
 8 program specified by the diagnostic assessment. The form of the report shall be determined by
 9 agreement between the court and the diagnostic assessment agency or organization. The court shall
 10 make the report a part of the record of the case.

11 (3) The court is not required to make the disposition required by subsection (1) of this section
 12 if the court determines that the disposition is inappropriate in the case or if the court finds that the
 13 youth offender has previously entered into a formal accountability agreement under ORS 419C.239
 14 (1)(i).

15 **SECTION 11.** ORS 342.143 is amended to read:

16 342.143. (1) No teaching, personnel service or administrative license may be issued to any person
 17 until the person has attained the age of 18 years and has furnished satisfactory evidence of proper
 18 educational training.

19 (2) The Teacher Standards and Practices Commission may require an applicant for a teaching,
 20 personnel service or administrative license or for registration as a public charter school teacher or
 21 administrator to furnish evidence satisfactory to the commission of good moral character, mental
 22 and physical health, and such other evidence as it may deem necessary to establish the applicant's
 23 fitness to serve as a teacher or administrator.

24 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
 25 section (2) of this section:

26 (a) No teaching, personnel service or administrative license or registration as a public charter
 27 school teacher or administrator may be issued to any person who:

28 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
 29 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,
 30 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),
 31 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087,
 32 167.007, 167.008, 167.012, 167.017, 167.057, 167.062, 167.075, 167.080, 167.090, 475.808, 475.810, 475.812,
 33 475.818, 475.820, 475.822, 475.828, 475.830, 475.832, 475.848, 475.852, 475.858, 475.860, 475.862, [475.864
 34 (4),] 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or 475.906.

35 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
 36 subparagraph (A) of this paragraph.

37 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as
 38 defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

39 (D) Has had a teaching, personnel service or administrative license or registration revoked in
 40 another jurisdiction for a reason that is substantially equivalent, as defined by rule, to a reason
 41 described in ORS 342.175 and the revocation is not subject to further appeal. A person whose priv-
 42 ilege to apply for a license or registration is denied under this subparagraph may apply for rein-
 43 statement of the privilege as provided in ORS 342.175 (4).

44 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-
 45 tion to any person who has been convicted of a crime involving the illegal use, sale or possession

1 of controlled substances.

2 (4) In denying the issuance of a license or registration under this section, the commission shall
3 follow the procedure set forth in ORS 342.176 and 342.177.

4 (5) The Department of Education shall provide school districts and public charter schools a copy
5 of the list contained in subsection (3) of this section.

6 **SECTION 12. The amendments to ORS 475.752, 475.856 and 475.864 by sections 1 to 3 of**
7 **this 2013 Act apply to conduct occurring on or after the effective date of this 2013 Act.**

8 **SECTION 13. This 2013 Act being necessary for the immediate preservation of the public**
9 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
10 **on its passage.**

11
