

Enrolled Senate Bill 40

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CHAPTER

AN ACT

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

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

SECTION 1. ORS 475.856 is amended to read:

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

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

SECTION 2. ORS 475.864 is amended to read:

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

(a) **“Marijuana” means the leaves, stems and flowers of the plant Cannabis family Moraceae.**

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

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

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

(b) **Unlawful possession of one avoirdupois ounce of marijuana or more, but less than four avoirdupois ounces, is a Class B misdemeanor.**

(c) **Unlawful possession of less than one avoirdupois ounce of marijuana is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.**

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

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

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

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

SECTION 3. ORS 475.752 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A controlled substance in Schedule II, is guilty of a Class C felony, **except as otherwise provided in ORS 475.864.**

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

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

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

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

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

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

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

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

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

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

SECTION 4. ORS 161.570 is amended to read:

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

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

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

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

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

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

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

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

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

SECTION 5. ORS 161.705 is amended to read:

161.705. Notwithstanding ORS 161.525, the court may enter judgment of conviction for a Class A misdemeanor and make disposition accordingly when:

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

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

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

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

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

SECTION 6. ORS 166.291 is amended to read:

166.291. (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 United States Citizenship and Immigration Services the intent to acquire citizenship status and can present 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) Is a resident of the county;

(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 Oregon Health Authority 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;

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

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

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

(m) Is 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;

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

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

(2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826, Oregon Laws 2009, 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)(g) to (L) 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) 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. If a nationwide criminal

records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession including, but not limited to, manual or computerized criminal offender information.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout this 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 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.)

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. _____

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- (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 ORS 247.181 showing a residence address in the county;
(c) Has documentation showing that the person currently leases or owns real property in the county; or

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

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

166.291. (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 United States Citizenship and Immigration Services the intent to acquire citizenship status and can present 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) Is a resident of the county;

(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 Oregon Health Authority 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;

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

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

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

(m) Is 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;

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

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

(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)(g) to (L) 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) 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. If a nationwide criminal records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession including, but not limited to, manual or computerized criminal offender information.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout this 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 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 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.)

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.

(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 ORS 247.181 showing a residence address in the county;

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

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

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

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

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

(b) Be voluntarily entered into by all parties;

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

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

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

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

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

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

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

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

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

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

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

(b) The act alleged; and

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

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

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

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

419C.443. (1) Except when otherwise provided in subsection (3) of this section, when a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 for a first violation of the provisions under ORS 475.860 (3)(b) or 475.864 [(3)] **(3)(c)**, the court shall order an evaluation and designate agencies or organizations to perform diagnostic assessment and provide programs of information and treatment. The designated agencies or organizations must meet the standards set by the Director of the Oregon Health Authority. Whenever possible, the court shall designate agencies or organizations to perform the diagnostic assessment that are separate from those that may be designated to carry out a program of information or treatment. The parent of the youth offender shall pay the cost of the youth offender's participation in the program based upon the ability of the parent to pay. The petition shall be dismissed by the court upon written certification of the youth offender's successful completion of the program from the designated agency or organization providing the information and treatment.

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

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

SECTION 11. ORS 342.143 is amended to read:

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

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

(3) Without limiting the powers of the Teacher Standards and Practices Commission under subsection (2) of this section:

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

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

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

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

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

(b) The Teacher Standards and Practices Commission may refuse to issue a license or registration to any person who has been convicted of a crime involving the illegal use, sale or possession of controlled substances.

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

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

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

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

Passed by Senate April 24, 2013

Received by Governor:

Repassed by Senate June 25, 2013

.....M.,....., 2013

Approved:

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Robert Taylor, Secretary of Senate

.....M.,....., 2013

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House June 21, 2013

Filed in Office of Secretary of State:

.....M.,....., 2013

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Tina Kotek, Speaker of House

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Kate Brown, Secretary of State