

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 941**

1 On page 1 of the printed A-engrossed bill, line 2, after “firearms;” delete
2 the rest of the line and delete lines 3 and 4 and insert “amending ORS
3 166.412 and 166.436.”.

4 Delete lines 6 through 20 and delete pages 2 through 23 and insert:

5 **“SECTION 1. ORS 166.412 is amended to read:**

6 “166.412. (1) As used in this section:

7 “(a) ‘Antique firearm’ has the meaning given that term in 18 U.S.C. 921;

8 “(b) ‘Department’ means the Department of State Police;

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

11 “(d) ‘Firearms transaction record’ means the firearms transaction record
12 required by 18 U.S.C. 921 to 929;

13 “(e) ‘Firearms transaction thumbprint form’ means a form provided by the
14 department under subsection (11) of this section;

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

18 “(g) ‘Handgun’ has the meaning given that term in ORS 166.210; and

19 “(h) ‘Purchaser’ means a person who buys, leases or otherwise receives a
20 firearm from a gun dealer.

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

1 purchaser:

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

4 “(b) The gun dealer shall complete the firearms transaction record and
5 obtain the signature of the purchaser on the record.

6 “(c) The gun dealer shall obtain the thumbprints of the purchaser on the
7 firearms transaction thumbprint form and attach the form to the gun dealer’s
8 copy of the firearms transaction record to be filed with that copy.

9 “(d) The gun dealer shall request by telephone that the department con-
10 duct a criminal history record check on the purchaser and shall provide the
11 following information to the department:

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

13 “(B) The business name of the gun dealer;

14 “(C) The place of transfer;

15 “(D) The name of the person making the transfer;

16 “(E) The make, model, caliber and manufacturer’s number of the handgun
17 being transferred;

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

19 “(G) The Social Security number of the purchaser if the purchaser vol-
20 untarily provides this number to the gun dealer; and

21 “(H) The type, issuer and identification number of the identification pre-
22 sented by the purchaser.

23 “(e) The gun dealer shall receive a unique approval number for the
24 transfer from the department and record the approval number on the firearms
25 transaction record and on the firearms transaction thumbprint form.

26 “(f) The gun dealer may destroy the firearms transaction thumbprint form
27 five years after the completion of the firearms transaction thumbprint form.

28 “(3)(a) Upon receipt of a request of the gun dealer for a criminal history
29 record check, the department shall immediately, during the gun dealer’s
30 telephone call or by return call:

1 “(A) Determine, from criminal records and other information available to
2 it, whether the purchaser is disqualified under ORS 166.470 from completing
3 the purchase; and

4 “(B) Notify the dealer when a purchaser is disqualified from completing
5 the transfer or provide the dealer with a unique approval number indicating
6 that the purchaser is qualified to complete the transfer.

7 “(b) If the department is unable to determine if the purchaser is qualified
8 or disqualified from completing the transfer within 30 minutes, the depart-
9 ment shall notify the dealer and provide the dealer with an estimate of the
10 time when the department will provide the requested information.

11 “(c) If the department fails to provide a unique approval number to a gun
12 dealer or to notify the gun dealer that the purchaser is disqualified under
13 paragraph (a) of this subsection before the close of the gun dealer’s next
14 business day following the request by the dealer for a criminal history record
15 check, the dealer may deliver the handgun to the purchaser.

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

19 “(A) Is issued under the authority of the United States Government, a
20 state, a political subdivision of a state, a foreign government, a political
21 subdivision of a foreign government, an international governmental organ-
22 ization or an international quasi-governmental organization; and

23 “(B) Is intended to be used for identification of an individual or is com-
24 monly accepted for the purpose of identification of an individual.

25 “(b) If the identification presented by the purchaser under paragraph (a)
26 of this subsection does not include the current address of the purchaser, the
27 purchaser shall present a second piece of current identification that contains
28 the current address of the purchaser. The Superintendent of State Police may
29 specify by rule the type of identification that may be presented under this
30 paragraph.

1 “(c) The department may require that the dealer verify the identification
2 of the purchaser if that identity is in question by sending the thumbprints
3 of the purchaser to the department.

4 “(5) The department shall establish a telephone number that shall be op-
5 erational seven days a week between the hours of 8 a.m. and 10 p.m. for the
6 purpose of responding to inquiries from dealers for a criminal history record
7 check under this section.

8 “(6) No public employee, official or agency shall be held criminally or
9 civilly liable for performing the investigations required by this section pro-
10 vided the employee, official or agency acts in good faith and without malice.

11 “(7)(a) **Except as provided in paragraph (c) of this subsection,** the
12 department may retain a record of the information obtained during a request
13 for a criminal records check for no more than five years.

14 “(b) The record of the information obtained during a request for a crimi-
15 nal records check by a gun dealer is exempt from disclosure under public
16 records law.

17 **“(c) The department may not retain the manufacturer’s number of**
18 **a firearm obtained during a request for a criminal records check under**
19 **this section if the department provided the transferor with a unique**
20 **approval number indicating that the recipient is qualified to complete**
21 **the transfer.**

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

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

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

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

30 “(b) The maintenance of a procedure to correct errors in the criminal re-

1 cords of the department;

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

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

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

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

10 **“SECTION 2.** ORS 166.436 is amended to read:

11 “166.436. (1) The Department of State Police shall make the telephone
12 number established under ORS 166.412 (5) available for requests from persons
13 other than gun dealers for criminal background checks under this section.

14 “(2) Prior to transferring a firearm, a transferor other than a gun dealer
15 may request by telephone that the department conduct a criminal back-
16 ground check on the recipient and shall provide the following information
17 to the department:

18 “(a) The name, address and telephone number of the transferor;

19 “(b) The make, model, caliber and manufacturer’s number of the firearm
20 being transferred;

21 “(c) The name, date of birth, race, sex and address of the recipient;

22 “(d) The Social Security number of the recipient if the recipient volun-
23 tarily provides that number;

24 “(e) The address of the place where the transfer is occurring; and

25 “(f) The type, issuer and identification number of a current piece of
26 identification bearing a recent photograph of the recipient presented by the
27 recipient. The identification presented by the recipient must meet the re-
28 quirements of ORS 166.412 (4)(a).

29 “(3)(a) Upon receipt of a request for a criminal background check under
30 this section, the department shall immediately, during the telephone call or

1 by return call:

2 “(A) Determine from criminal records and other information available to
3 it whether the recipient is disqualified under ORS 166.470 from completing
4 the transfer or is otherwise prohibited by state or federal law from possess-
5 ing a firearm; and

6 “(B) Notify the transferor when a recipient is disqualified from complet-
7 ing the transfer or provide the transferor with a unique approval number
8 indicating that the recipient is qualified to complete the transfer. The unique
9 approval number is a permit valid for 24 hours for the requested transfer. If
10 the firearm is not transferred from the transferor to the recipient within 24
11 hours after receipt of the unique approval number, a new request must be
12 made by the transferor.

13 “(b) If the department is unable to determine whether the recipient is
14 qualified for or disqualified from completing the transfer within 30 minutes
15 of receiving the request, the department shall notify the transferor and pro-
16 vide the transferor with an estimate of the time when the department will
17 provide the requested information.

18 “(4) A public employee or public agency incurs no criminal or civil li-
19 ability for performing the criminal background checks required by this sec-
20 tion, provided the employee or agency acts in good faith and without malice.

21 “(5)(a) **Except as provided in paragraph (c) of this subsection,** the
22 department may retain a record of the information obtained during a request
23 for a criminal background check under this section for the period of time
24 provided in ORS 166.412 (7).

25 “(b) The record of the information obtained during a request for a crimi-
26 nal background check under this section is exempt from disclosure under
27 public records law.

28 “(c) **The department may not retain the manufacturer’s number of**
29 **a firearm obtained during a request for a criminal background check**
30 **under this section if the department provided the transferor with a**

1 **unique approval number indicating that the recipient is qualified to**
2 **complete the transfer.**

3 “(6) The recipient of the firearm must be present when the transferor re-
4 quests a criminal background check under this section.

5 “(7)(a) Except as otherwise provided in paragraphs (b) and (c) of this
6 subsection, a transferor who receives notification under this section that the
7 recipient is qualified to complete the transfer of a firearm is immune from
8 civil liability for any use of the firearm from the time of the transfer unless
9 the transferor knows, or reasonably should know, that the recipient is likely
10 to commit an unlawful act involving the firearm.

11 “(b) If the transferor is required to request a criminal background check
12 under ORS 166.438, the immunity provided by paragraph (a) of this sub-
13 section applies only if, in addition to receiving the notification required by
14 this section, the transferor has the recipient fill out the form required by
15 ORS 166.438 (1)(a) and retains the form as required by ORS 166.438 (2).

16 “(c) The immunity provided by paragraph (a) of this subsection does not
17 apply:

18 “(A) If the transferor knows, or reasonably should know, that the recipi-
19 ent of the firearm intends to deliver the firearm to a third person who the
20 transferor knows, or reasonably should know, may not lawfully possess the
21 firearm; or

22 “(B) In any product liability civil action under ORS 30.900 to 30.920.”.

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