

Senate Bill 804

Sponsored by Senator ROBLAN, Representative MCKEOWN

SUMMARY

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

Modifies definition of "transfer" for purposes of private firearm transfer criminal background check requirement. Excludes from definition temporary provision of firearm for purposes of hunting, trapping or target shooting while transferee is preparing to engage in, or in process of completing, activities related to hunting, trapping or target shooting.

A BILL FOR AN ACT

1
2 Relating to private firearm transfer criminal background checks; amending ORS 166.435.

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

4 **SECTION 1.** ORS 166.435 is amended to read:

5 166.435. (1) As used in this section:

6 (a) "Transfer" means the delivery of a firearm from a transferor to a transferee, including, but
7 not limited to, the sale, gift, loan or lease of the firearm. "Transfer" does not include the temporary
8 provision of a firearm to a transferee if the transferor has no reason to believe the transferee is
9 prohibited from possessing a firearm or intends to use the firearm in the commission of a crime, and
10 the provision occurs:

11 (A) At a shooting range, shooting gallery or other area designed for the purpose of target
12 shooting, for use during target practice, a firearms safety or training course or class or a similar
13 lawful activity;

14 (B) For the purpose of hunting, trapping or target shooting, during the time in which the
15 transferee is **preparing to engage in, is engaged in or is in the process of completing** activities
16 related to hunting, trapping or target shooting;

17 (C) Under circumstances in which the transferee and the firearm are in the presence of the
18 transferor;

19 (D) To a transferee who is in the business of repairing firearms, for the time during which the
20 firearm is being repaired;

21 (E) To a transferee who is in the business of making or repairing custom accessories for
22 firearms, for the time during which the accessories are being made or repaired; or

23 (F) For the purpose of preventing imminent death or serious physical injury, and the provision
24 lasts only as long as is necessary to prevent the death or serious physical injury.

25 (b) "Transferee" means a person who is not a gun dealer or licensed as a manufacturer or
26 importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

27 (c) "Transferor" means a person who is not a gun dealer or licensed as a manufacturer or
28 importer under 18 U.S.C. 923 and who intends to deliver a firearm to a transferee.

29 (2) Except as provided in ORS 166.436 and 166.438 and subsection (4) of this section, a transferor
30 may not transfer a firearm to a transferee unless the transfer is completed through a gun dealer as

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 described in subsection (3) of this section.

2 (3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except
3 as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the
4 transferee must appear in person before a gun dealer, with the firearm, and request that the gun
5 dealer perform a criminal background check on the transferee.

6 (b) If the transferor and the transferee reside over 40 miles from each other, the transferor may
7 ship or deliver the firearm to a gun dealer located near the transferee or a gun dealer designated
8 by the transferee, and the transferor need not appear before the gun dealer in person.

9 (c) A gun dealer who agrees to complete a transfer of a firearm under this section shall request
10 a criminal history record check on the transferee as described in ORS 166.412 and shall comply with
11 all requirements of federal law.

12 (d) If, upon completion of a criminal background check, the gun dealer:

13 (A) Receives a unique approval number from the Department of State Police indicating that the
14 transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the
15 firearm into the gun dealer's inventory and transfer the firearm to the transferee.

16 (B) Receives notification that the transferee is prohibited by state or federal law from possessing
17 or receiving the firearm, the gun dealer shall notify the transferor and neither the transferor nor
18 the gun dealer shall transfer the firearm to the transferee. If the transferor shipped or delivered the
19 firearm to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer shall comply
20 with federal law when returning the firearm to the transferor.

21 (e) A gun dealer may charge a reasonable fee for facilitating a firearm transfer pursuant to this
22 section.

23 (4) The requirements of subsections (2) and (3) of this section do not apply to:

24 (a) The transfer of a firearm by or to a law enforcement agency, or by or to a law enforcement
25 officer, private security professional or member of the Armed Forces of the United States, while that
26 person is acting within the scope of official duties.

27 (b) The transfer of a firearm as part of a firearm turn-in or buyback event, in which a law
28 enforcement agency receives or purchases firearms from members of the public.

29 (c) The transfer of a firearm to:

30 (A) A transferor's spouse or domestic partner;

31 (B) A transferor's parent or stepparent;

32 (C) A transferor's child or stepchild;

33 (D) A transferor's sibling;

34 (E) A transferor's grandparent;

35 (F) A transferor's grandchild;

36 (G) A transferor's aunt or uncle;

37 (H) A transferor's first cousin;

38 (I) A transferor's niece or nephew; or

39 (J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this par-
40 agraph.

41 (d) The transfer of a firearm that occurs because of the death of the firearm owner, provided
42 that:

43 (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS
44 111.005, or a trustee of a trust created in a will; and

45 (B) The transferee is related to the deceased firearm owner in a manner specified in paragraph

1 (c) of this subsection.

2 (5)(a) A transferor who fails to comply with the requirements of this section commits a Class
3 A misdemeanor.

4 (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the
5 requirements of this section commits a Class B felony if the transferor has a previous conviction
6 under this section at the time of the offense.

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