

House Bill 2377

Sponsored by Representative THATCHER; Senators BOQUIST, GEORGE (Pre-session filed.)

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.

Authorizes issuance of concealed handgun license to person convicted or diverted for certain marijuana offenses in another jurisdiction, if conviction or diversion is equivalent to conviction or diversion that does not operate as bar to obtaining license under Oregon law.

Expands class of marijuana convictions that do not operate as bar to obtaining concealed handgun license to include misdemeanor conviction for possession of marijuana that was committed before possession of less than one ounce was made punishable solely by fine under Oregon law.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.291.

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

4 **SECTION 1.** ORS 166.291 is amended to read:

5 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
6 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
7 out in this section, shall issue the person a concealed handgun license if the person:

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

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

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

14 (c) Is a resident of the county;

15 (d) Has no outstanding warrants for arrest;

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

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

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

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

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

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

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

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

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

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

10 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 11 161.295, of a misdemeanor within the four years prior to the application;

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

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

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

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

22 (A) The person has been convicted only once of [*violating ORS 475.864 (3)*] **a minor marijuana**
 23 **offense** and has not completed a court-supervised [*drug*] **marijuana** diversion program [*under ORS*
 24 *135.907*]; or

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

28 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 29 107.700 to 107.735 or 163.738;

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

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

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

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

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

43 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
 44 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
 45 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal

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

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

11 _____
12
13 APPLICATION FOR LICENSE TO CARRY
14 CONCEALED HANDGUN

15 Date _____

16 I hereby declare as follows:

17 I am a citizen of the United States or a legal resident alien who can document continuous res-
18 idency in the county for at least six months and have declared in writing to the United States Cit-
19 izenship and Immigration Services my intention to become a citizen and can present proof of the
20 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
21 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
22 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
23 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
24 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
25 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
26 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
27 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
28 volving controlled substances or completed a court-supervised drug diversion program. There are
29 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
30 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally
31 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because
32 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish
33 to petition for relief from the disability under ORS 166.274 or 166.293 or section 5, chapter 826,
34 Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a ci-
35 tation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738.
36 I have never received a dishonorable discharge from the Armed Forces of the United States. I am
37 not required to register as a sex offender in any state. I understand I will be fingerprinted and
38 photographed.

39
40 Legal name _____
41 Age _____ Date of birth _____
42 Place of birth _____
43 Social Security number _____

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

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

- 4 1. _____
- 5 2. _____

6
7 Height _____ Weight _____
8 Hair color _____ Eye color _____

9
10 Current address _____

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

11
12
13
14 City _____ County _____ Zip _____
15 Phone _____

16
17 I have read the entire text of this application, and the statements therein are correct and true.
18 (Making false statements on this application is a misdemeanor.)

19 _____
20 (Signature of Applicant)

21
22 Character references.

23 _____	
24 Name	24 Address
25 _____	25 _____
26 Name	26 Address

27
28 Approved _____ Disapproved _____ by _____

29
30 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

31 Date _____ Fee Paid _____

32 License No. _____
33 _____

- 34
- 35 (5)(a) Fees for concealed handgun licenses are:
- 36 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
- 37 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
- 38 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- 39 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
- 40 the concealed handgun license.
- 41 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
- 42 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
- 43 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
- 44 performance of duties under those sections.
- 45 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff

1 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
 2 is an applicant for a concealed handgun license or is a license holder.

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

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

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

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

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

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

16 (10) **As used in this section:**

17 (a) **“Court-supervised marijuana diversion program” means the marijuana diversion**
 18 **agreement described in ORS 135.907 or its statutory counterpart in any jurisdiction.**

19 (b) **“Minor marijuana offense” means:**

20 (A) **A violation of ORS 475.864 (3) or its statutory counterpart in any jurisdiction; or**

21 (B) **A misdemeanor offense in any jurisdiction that involves the possession of marijuana**
 22 **and was committed before July 22, 1973.**

23 **SECTION 2.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, and sec-
 24 tion 34, chapter 547, Oregon Laws 2011, is amended to read:

25 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
 26 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
 27 out in this section, shall issue the person a concealed handgun license if the person:

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

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

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

34 (c) Is a resident of the county;

35 (d) Has no outstanding warrants for arrest;

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

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

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

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

43 (C) Completion of any firearms safety or training course or class available to the general public
 44 offered by law enforcement, community college, or private or public institution or organization or
 45 firearms training school utilizing instructors certified by the National Rifle Association or a law

1 enforcement agency if handgun safety was a component of the course;

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

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

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

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

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

14 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
15 161.295, of a misdemeanor within the four years prior to the application;

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

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

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

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

26 (A) The person has been convicted only once of *[violating ORS 475.864 (3)]* a **minor marijuana**
27 **offense** and has not completed a court-supervised *[drug]* **marijuana** diversion program *[under ORS*
28 *135.907]*; or

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

32 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
33 107.700 to 107.735 or 163.738;

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

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

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

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

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

1 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
2 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
3 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
4 records check is necessary, the sheriff shall request the Department of State Police to conduct the
5 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
6 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
7 check and may not keep any record of the fingerprints. The Department of State Police shall report
8 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
9 Police shall also furnish the sheriff with any information about the applicant that the Department
10 of State Police may have in its possession including, but not limited to, manual or computerized
11 criminal offender information.

12 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
13 quest. The forms shall be uniform throughout this state in substantially the following form:
14

15
16 APPLICATION FOR LICENSE TO CARRY
17 CONCEALED HANDGUN

18 Date _____

19 I hereby declare as follows:

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

41
42 Legal name _____
43 Age _____ Date of birth _____
44 Place of birth _____
45 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

1 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
2 performance of duties under those sections.

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

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

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

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

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

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

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

19 (10) **As used in this section:**

20 (a) **"Court-supervised marijuana diversion program" means the marijuana diversion**
21 **agreement described in ORS 135.907 or its statutory counterpart in any jurisdiction.**

22 (b) **"Minor marijuana offense" means:**

23 (A) **A violation of ORS 475.864 (3) or its statutory counterpart in any jurisdiction; or**

24 (B) **A misdemeanor offense in any jurisdiction that involves the possession of marijuana**
25 **and was committed before July 22, 1973.**

26 **SECTION 3. The amendments to ORS 166.291 by sections 1 and 2 of this 2013 Act apply**
27 **to applications for a concealed handgun license that are made on or after the effective date**
28 **of this 2013 Act.**