

A-Engrossed
House Bill 4068

Ordered by the House February 14
Including House Amendments dated February 14

Sponsored by Representatives GOMBERG, THATCHER; Representatives BARKER, ESQUIVEL, KRIEGER, WEIDNER, Senator PROZANSKI (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.

Modifies requirements for concealed handgun license applicants. Provides that either single conviction or **single** completed **drug** diversion program for marijuana possession does not disqualify applicant if offense was violation or misdemeanor.

Defines "drug diversion program" for purposes of statute.

A BILL FOR AN ACT

1
2 Relating to concealed handgun license applicants previously charged with marijuana offenses; cre-
3 ating new provisions; and amending ORS 166.291.

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

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

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

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

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

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

15 (c) Is a resident of the county;

16 (d) Has no outstanding warrants for arrest;

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

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

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

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

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

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 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) **Except as provided in paragraph (L) of this subsection**, has never been convicted of a
13 felony or found guilty, except for insanity under ORS 161.295, of a felony;

14 (h) **Except as provided in paragraph (L) of this subsection**, has not been convicted of a
15 misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the
16 four years prior to the application;

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

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

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

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

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

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

32 **(A) The person can demonstrate that the person has been convicted only once of a**
33 **marijuana possession offense that constituted a misdemeanor or violation under the law of**
34 **the jurisdiction of the offense, and has not completed a drug diversion program for a**
35 **marijuana possession offense that constituted a misdemeanor or violation under the law of**
36 **the jurisdiction of the offense; or**

37 **(B) The person can demonstrate that the person has only once completed a drug diver-**
38 **sion program for a marijuana possession offense that constituted a misdemeanor or violation**
39 **under the law of the jurisdiction of the offense, and has not been convicted of a marijuana**
40 **possession offense that constituted a misdemeanor or violation under the law of the juris-**
41 **isdiction of the offense;**

42 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
43 107.700 to 107.735 or 163.738;

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

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

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

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

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

12 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
13 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
14 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
15 records check is necessary, the sheriff shall request the Department of State Police to conduct the
16 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
17 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
18 check and may not keep any record of the fingerprints. The Department of State Police shall report
19 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
20 Police shall also furnish the sheriff with any information about the applicant that the Department
21 of State Police may have in its possession including, but not limited to, manual or computerized
22 criminal offender information.

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

25 _____
26
27 APPLICATION FOR LICENSE TO CARRY
28 CONCEALED HANDGUN

29 Date_____

30 I hereby declare as follows:

31 I am a citizen of the United States or a legal resident alien who can document continuous res-
32 idency in the county for at least six months and have declared in writing to the United States Cit-
33 izenship and Immigration Services my intention to become a citizen and can present proof of the
34 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
35 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
36 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
37 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
38 in ORS 166.470. **Except as provided in ORS 166.291 (1)(L)**, I have never been convicted of a felony
39 or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or else-
40 where. **Except as provided in ORS 166.291 (1)(L)**, I have not, within the last four years, been
41 convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
42 misdemeanor. **Except as provided in ORS 166.291 (1)(L)**, I have not been convicted of an offense in-
43 volving controlled substances or completed a court-supervised drug diversion program. There are
44 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
45 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a

1 person with mental illness and presently subject to an order prohibiting me from purchasing or
2 possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I
3 have been granted relief or wish to petition for relief from the disability under ORS 166.274 or
4 166.293 or section 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the records
5 expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS
6 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed
7 Forces of the United States. I am not required to register as a sex offender in any state. I under-
8 stand I will be fingerprinted and photographed.

9
10 Legal name _____
11 Age _____ Date of birth _____
12 Place of birth _____
13 Social Security number _____

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

16
17 Proof of identification (Two pieces of current identification are required, one of which must bear a
18 photograph of the applicant. The type of identification and the number on the identification are to
19 be filled in by the sheriff.):

- 20 1. _____
- 21 2. _____

22
23 Height _____ Weight _____
24 Hair color _____ Eye color _____

25
26 Current address _____

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

27
28
29
30 City _____ County _____ Zip _____
31 Phone _____

32
33 I have read the entire text of this application, and the statements therein are correct and true.
34 (Making false statements on this application is a misdemeanor.)

35 _____
36 (Signature of Applicant)

37
38 Character references.

39 _____

Name	Address
_____	_____
_____	_____

41 _____

Name	Address
_____	_____
_____	_____

42
43
44 Approved _____ Disapproved _____ by _____

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

2 Date _____ Fee Paid _____

3 License No. _____

4
5

6 (5)(a) Fees for concealed handgun licenses are:

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

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

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

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

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

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

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

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

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

26 (b) Is registered to vote in the county and has a voter notification card issued to the person
27 under ORS 247.181 showing a residence address in the county;

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

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

32 **(10) As used in this section, "drug diversion program" means a program in which a de-**
33 **fendant charged with a marijuana possession offense completes a program of treatment as**
34 **indicated by a court-ordered diagnostic assessment under court supervision and in which the**
35 **marijuana possession offense is dismissed upon successful completion of the diversion pro-**
36 **gram.**

37 **SECTION 2.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, section
38 34, chapter 547, Oregon Laws 2011, section 5, chapter 243, Oregon Laws 2013, section 9, chapter 360,
39 Oregon Laws 2013, and section 7, chapter 591, Oregon Laws 2013, is amended to read:

40 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
41 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
42 out in this section, shall issue the person a concealed handgun license if the person:

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

44 (B) Is a legal resident alien who can document continuous residency in the county for at least
45 six months and has declared in writing to the United States Citizenship and Immigration Services

1 the intent to acquire citizenship status and can present proof of the written declaration to the
2 sheriff at the time of application for the license;

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

4 (c) Is a resident of the county;

5 (d) Has no outstanding warrants for arrest;

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

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

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

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

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

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

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

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

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

27 (g) **Except as provided in paragraph (L) of this subsection**, has never been convicted of a
28 felony or found guilty, except for insanity under ORS 161.295, of a felony;

29 (h) **Except as provided in paragraph (L) of this subsection**, has not been convicted of a
30 misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the
31 four years prior to the application;

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

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

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

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

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

45 [(B) *The person has completed a court-supervised drug diversion program under ORS 135.907 and*

1 *has not been convicted of violating ORS 475.864 (3)(c);]*

2 **(A) The person can demonstrate that the person has been convicted only once of a**
3 **marijuana possession offense that constituted a misdemeanor or violation under the law of**
4 **the jurisdiction of the offense, and has not completed a drug diversion program for a**
5 **marijuana possession offense that constituted a misdemeanor or violation under the law of**
6 **the jurisdiction of the offense; or**

7 **(B) The person can demonstrate that the person has only once completed a drug diver-**
8 **sion program for a marijuana possession offense that constituted a misdemeanor or violation**
9 **under the law of the jurisdiction of the offense, and has not been convicted of a marijuana**
10 **possession offense that constituted a misdemeanor or violation under the law of the juris-**
11 **diction of the offense;**

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

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

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

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

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

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

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

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

39 _____

40 _____

41 APPLICATION FOR LICENSE TO CARRY
42 CONCEALED HANDGUN

43 Date_____

44 I hereby declare as follows:

45 I am a citizen of the United States or a legal resident alien who can document continuous res-

1 idency in the county for at least six months and have declared in writing to the United States Cit-
 2 izenship and Immigration Services my intention to become a citizen and can present proof of the
 3 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 4 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 5 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 6 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 7 in ORS 166.470. **Except as provided in ORS 166.291 (1)(L)**, I have never been convicted of a felony
 8 or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or else-
 9 where. **Except as provided in ORS 166.291 (1)(L)**, I have not, within the last four years, been
 10 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 to be a
 15 person with mental illness and presently subject to an order prohibiting me from purchasing or
 16 possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I
 17 have been granted relief or wish to petition for relief from the disability under ORS 166.274 or
 18 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued
 19 under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never
 20 received a dishonorable discharge from the Armed Forces of the United States. I am not required
 21 to register as a sex offender in any 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 voter notification card issued to the person
40 under 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 (10) As used in this section, "drug diversion program" means a program in which a de-

1 **fendant charged with a marijuana possession offense completes a program of treatment as**
2 **indicated by a court-ordered diagnostic assessment under court supervision and in which the**
3 **marijuana possession offense is dismissed upon successful completion of the diversion pro-**
4 **gram.**

5 **SECTION 3. The amendments to ORS 166.291 by sections 1 and 2 of this 2014 Act apply**
6 **to applications for concealed handgun licenses submitted on or after the effective date of this**
7 **2014 Act.**

8
