STATE OF OREGON

FIREARMS INSTANT CHECK SYSTEM

INSTRUCTION AND INFORMATIONAL GUIDE FOR FIREARM DEALERS

Revised 3/21/2012

Visit our website at http://www.oregon.gov/OSP/ID/fics.shtml

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INTRODUCTION

The 1995 Legislative Assembly repealed and replaced the handgun sales law with an instant check system. The new law did not address the sales of rifles, shotguns or other firearms that are not handguns. The change in the law concerning the sale and transfer of handguns impacted Federal Firearms Licensed (FFL) dealers effective July 1, 1996.

On November 7, 2000 Measure 5 was passed into law and later assigned under ORS 166.432, 166.433, and 166.445. The change for the FFL dealer resulting from this enactment was to establish the Oregon State Police Firearms Unit (FICS), as the Point of Contact (POC) for all firearms transactions. All procedures and laws that previously applied to handgun sales now apply to all firearms sales. All firearms transfers conducted by an FFL dealer must be called into the FICS Unit.

This instruction and informational guide provides reference information regarding Oregon law and the process using the FICS Unit as a POC for conducting background checks.

IMPORTANT CONTACT NUMBERS	
FICS Instant Check (And Stolen Gun Checks)	1-800-432-5059
Local Alternate FICS Instant Check Number (For use when cell phone does not allow an 800 number)	503-585-6245
Challenge Line (for denied or pended call inquiries)	503-373-1808
FICS Unit Manager	503-934-2363
FICS Unit Supervisor	503-934-2379
Alcohol Tobacco & Firearms, Portland	503-331-7830
OSP Firearms Instant Check Fax	503-370-8584
OSP, Identification Services Section (For general information Mon-Fri 8:00am-5:00pm)	503-378-3070
OSP, Identification Services Section Web page	www.oregon.gov/OSP/ID
FICS On Line Web page	https://xn.osp.state.or.us/FICS/

INSTRUCTION GUIDE FOR DEALERS

The following instructions must be read carefully and followed precisely to ensure that firearm sales can be properly conducted as required by law. Complete these steps before you call the FICS Unit to conduct the background check on the purchaser.

1. ACCOUNT INFORMATION
   All FFL dealers must establish an account with the FICS Unit in order to comply with ORS 166.412. The account is necessary for quick access to your store name and location for processing the transaction. Accounts must be established in advance.

   The following steps are required for: 1) New account, 2) FFL renewal, 3) Store/Business name or address change

   a. Complete account application form (Appendix A)
   b. Attach a signed copy of your current FFL license (new number required for name/address changes)
   c. Mail to: OSP – Firearms Unit,
      3772 Portland Road NE, Salem OR 97301

      Or fax: 503 370-8584

2. OREGON LAW REQUIREMENTS
   Obtain the required identification from the purchaser which meets all requirements of ORS 166.412 (4).

3. FEDERAL LAW REQUIREMENTS
   Complete the ATF form 4473. Have the purchaser sign the form.

4. THUMBPRINTS
   Obtain the thumbprints of the purchaser on the firearm transaction Thumbprint form. Fill in the required information at the top of the form. Attach this form to the dealer's copy of the ATF form 4473. (See Appendix C for instructions to obtain thumbprints)

5. CONTACT FICS TO INITIATE BACKGROUND CHECK
   NOTE: The purchaser must be present during the firearm instant check transaction.

   Call the FICS Unit at 1-800-432-5059. The established 800 number is an intra-state number. If your phone provider uses a system outside of Oregon, you may receive a message that this number is not available for your use. In those instances, the alternate number to call is 1-503-585-6245, which pools into the same phone line as the 800 number.

   Identify your business with the last five digits of your FFL number and your password. To assist us in completing the transaction please provide, when prompted, the required information in the exact order as follows:

PURCHASER INFORMATION

Name:	Last, First, Middle provide any suffix used i.e., JR. SR. II etc.
Race:	Black/American Indian or Alaskan Native/Asian or Pacific Islander/White (includes Latin American and Hispanic/Unknown.
Sex:	Male/Female
Date of Birth:	Month/Day/Year
Place of birth:	Month/Day/Year
Social Security:	Not required, provide only if given voluntarily. Solicitation of this number is authorized by ORS 166.420. It will be used only as a means of identification.
Address:	City/State/Zip Code
Identification:	Identify the type of identification given and provide the number. Example: ID Type = Oregon Drivers License ID Number = #1234567

FIREARM INFORMATION

Make/Description:	Example: Beretta, Browning, Colt, Ruger, etc.
Model:	Example: Single Six, 66-2, etc.
Gun type/Description:	Example: Pistol, Shotgun, Rifle, Revolver, Derringer, etc.
Action type:	Example: Bolt, Pump, Semi-automatic, etc.
Caliber:	Example: 38; 357; 9; 12; etc.
Serial Number:	Described as Manufacture's number in statute
Owner applied number:	If applicable

TRANSACTION RESPONSE TYPES

The dealer will receive one of the following responses during the call or when necessary by return call:

1. **APPROVED** – If qualified, a unique approval number will be provided. The FFL dealer will enter this number on the Thumbprint form and ATF form 4473. The Thumbprint form will be attached to the ATF form 4473 and retained for five years.

2. **DENIED** – If disqualified, the FFL dealer will be notified that the request has been denied. The FFL dealer will terminate the sale of the firearm at this time indicating, "denied" on the Thumbprint form and ATF form 4473. The Thumbprint form will be attached to the ATF form 4473 and retained for five years. The FICS Unit does not issue a transaction number when a transfer is denied.

   The purchaser has a right to challenge the decision and may call the challenge line to request the reason for the denial. The FFL dealer should provide the customer with the informational handout regarding appealing the decision. (See Appendix E) The FFL dealer may be asked to fax the ATF form 4473 and Thumbprint form to the FICS Unit to assist in the challenge process.

3. **PENDED –** A pended status is neither approved nor denied.

If the FICS Unit is unable to determine whether the purchaser is qualified or disqualified from completing the transfer within 30 minutes, as required by law the FICS Unit will provide the FFL dealer with an estimate of time when the request will be completed.

FFL dealers must follow **both** state and federal law. The following is a summary of the requirements regarding release of a firearm prior to or when no approval number has been provided by the FICS Unit.

- *ORS 166.412 (3) (c) If the department fails to provide a unique approval number to a gun dealer or to notify the gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close of the gun dealer's next business day following the request by the dealer for a criminal history record check, the dealer may deliver the handgun to the purchaser.*
- *Federal law prohibits release of a firearm until after the expiration of three business days, not counting the day on which the dealer asks OSP to conduct a criminal history record check, unless the OSP provides an approval number first.*

Please refer to your copy of the Oregon Firearms Instant Check System – Instruction and Informational Guide for Firearm Dealers (yellow book) and the Federal Firearms Regulations Reference Guide (white book) for further detail on this issue or contact the Alcohol Tobacco and Firearms (ATF) at 503-331-7830.

Regardless of a FFL dealer's decision concerning the release requirements, the FICS Unit must continue to research the issue until a final determination can be reached. During this process, the FICS Unit may request that the FFL dealer provide the thumbprints to the FICS Unit for positive identification, as stated in ORS 166.412 (4)(c). If an FFL dealer is unable to send the thumbprints by fax, they will be required to mail the thumbprints to the FICS Unit. In some instances if the transaction cannot be completed within the initially estimated time provided, as a courtesy, the FICS Unit will provide a new estimated date for completion.

A transaction may be 'pended' for a variety of reasons that could disqualify the purchaser. The amount of time needed to complete the transaction can vary greatly and is dependant on the availability of the data that typically must be collected manually from the agency or entity that maintains the data.

Due to privacy issues, the reasons for a pended transaction can only be discussed with the potential purchaser, and not with the FFL dealer. The FFL dealer should provide the customer with the informational handout regarding pended transactions so they can be aware of the process. (See Appendix F)

FEES AND BILLING

A fee not to exceed $10.00 will be charged for each background inquiry regardless of the approval/denial status, or the number of firearms in one transaction. A reduced fee of $5.00 is charged if a person has purchased a firearm in the same calendar day.

The fee is applied to the FFL dealer's account and is billed on a monthly basis. For your convenience a credit card system is available should you wish to use this method of payment. A credit card may be used during each call or at the end of the month.

All invoices are due and payable 30 days after the date on the invoice. Any account with an unpaid balance, 15 days past due will be closed until payment has been received.

THE FFL NUMBER MUST ACCOMPANY REMITTANCE. The FFL number is used to identify your unique account number and ensure proper billing. All payments must be mailed to:

Oregon State Police
Unit 08
P.O. Box 4395
Portland, OR 97208

OREGON FICS - FREQUENTLY ASKED QUESTIONS

What are the hours of operation?

The FICS Unit is open seven days a week from 8:00 a.m. to 10:00 p.m. with the exception of Thanksgiving and Christmas, when the office is closed.

Does Oregon law provide an exemption from the Firearms Instant Check transaction for a person with an Oregon Concealed Handgun License issued prior to November 30, 1998?

No. The Concealed Handgun License exemption was only covered when the call was made to the National Instant Check System. There is no provision for exemptions in the Oregon Revised Statutes on backgrounds conducted for the purchase of firearms. Please refer all questions regarding the Concealed Handgun License process to the local county sheriff,

Who is prohibited from buying a firearm?

Persons prohibited by all state and federal laws. Specifically, this applies to the following conditions: conviction for a felony; under indictment or information for a felony or any crime for which the judge can sentence you for more than one year, conviction of a domestic violence misdemeanor; outstanding warrants; limited by conditions of probation; on pre-trial release for a felony; committed to mental health division as a result of a mental commitment hearing; found mentally ill and have been specifically prohibited from purchasing or possessing a firearm by court order as a result of a commitment hearing after January 1, 1990; convicted or found not guilty by reason of insanity during the previous four years for Assault 4th degree, Menacing, Recklessly Endangering, Strangulation, or Intimidation 2nd Degree; have a restraining order against you for harassment, stalking, or threatening an intimate partner or child of an intimate partner; a fugitive from justice; a user of or addicted to any controlled substance; have received a dishonorable discharge from the armed forces; have renounced your U.S. citizenship or are an illegal alien. (Refer to Appendix G)

Who is able to purchase a handgun in Oregon?

You must be a resident of Oregon to purchase a handgun.

What information may be given to an FFL dealer on a person that is denied?

If the FICS Unit determines the buyer is disqualified from purchasing a firearm, the FFL dealer will be told that the request is denied. **No further explanation will be given to the FFL dealer.** The FFL dealer will terminate the sale.

Is there any other reason a gun sale could be terminated?

Yes. If the FICS Unit determines that the firearm is stolen, the sale cannot proceed.

Can anyone call to determine if a firearm is stolen?

Yes. The FICS Unit may respond to a telephone request from any person requesting that the department determine if the records show a firearm is stolen. The person calling needs to have the firearm in their possession or know where it is located. There is no charge for this service.

What happens to the Thumbprint form after the firearm sale?

The Thumbprint form is attached to the ATF form 4473 and retained by the FFL dealer as part of the sale records.

Where do you buy fingerprint ink pads?

There are several companies that sell fingerprint ink pads. Many are listed on the internet. Use search key word: *fingerprint ink*

Is there a process for persons that have been denied to appeal that decision?

Yes. The person that attempted to purchase a firearm and was denied may call the Oregon State Police Firearms Unit at 503-373-1808. An informational handout is available to dealers for providing to customers. (See Appendix E) The caller will need to leave their name and phone number and a brief message regarding the reason for their call. Their call will be returned as soon as possible.

Can the dealer call on behalf of their customer?

No. The denied person has a right to privacy. The employees in the FICS Unit are prohibited from speaking to anyone other than the purchaser about that person's background.

What are the telephone numbers to reach the Firearms Unit?

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Alcohol Tobacco & Firearms, Portland	503-331-7830
OSP Firearms Instant Check Fax	503-370-8584
OSP, Identification Services Section (For general information Mon-Fri 8:00am-5:00pm)	503-378-3070
OSP, Identification Services Section Web page	www.oregon.gov/OSP/ID
FICS On Line Web page	https://xn.osp.state.or.us/FICS/

166.410 Manufacture, importation or sale of firearms. Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or offers, exposes for sale, or sells or transfers a handgun, short-barreled rifle, short-barreled shotgun, firearms silencer or machine gun, otherwise than in accordance with ORS 166.250, 166.260, 166.270, 166.291, 166.292, 166.425, 166.450, 166.460 and 166.470, is guilty of a Class B felony.

[Amended by 1979 c.779 §5; 1987 c.320 §89; 1989 c.839 §23; 1995 c.729 §7; 2001 c.666 §§34,46; 2003 c.14 §§66,67; 2003 c.614 §9]

166.412 Definitions; firearms transaction record; criminal record check; rules. (1) As used in this section:

(a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

(b) "Department" means the Department of State Police;

(c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include an antique firearm;

(d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C. 921 to 929;

(e) "Firearms transaction thumbprint form" means a form provided by the department under subsection (12) of this section;

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

(g) "Handgun" has the meaning given that term in ORS 166.210; and

(h) "Purchaser" means a person who buys leases or otherwise receives a firearm from a gun dealer.

(2) Except as provided in subsections (3) (c) and (13) of this section, a gun dealer shall comply with the following before a handgun is delivered to a purchaser:

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

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

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

(d) The gun dealer shall request by telephone that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:

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

(B) The business name of the gun dealer;

(C) The place of transfer;

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

(E) The make, model, caliber, and manufacturer's number of the handgun being transferred;

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

(G) The Social Security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and

(H) The type, issuer and identification number of the identification presented by the purchaser.

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

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

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

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

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

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

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

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

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

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

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

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

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

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

(7)(a) The department may retain a record of the information obtained during a request for a criminal records check for no more than five years.

(b) The record of the information obtained during a request for a criminal records check by a gun dealer is exempt from disclosure under public records law.

(8) The Department of Human Services shall provide the Department of State Police with direct electronic access to information from the Department of Human Services' database of information identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The Department of State Police and the Department of Human Services shall enter into an agreement describing the access to information under this subsection.

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

(10) When a handgun is delivered, it shall be unloaded.

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

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

(b) The maintenance of a procedure to correct errors in the criminal records of the department;

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

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

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

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

[1995 c.729 §1; 2001 c.900 §25]

166.414 Fees for conducting criminal history record checks. (1) The Department of State Police may adopt a fee schedule for criminal history record checks required under ORS 166.412 and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to recover the cost of performing criminal history record checks required under ORS 166.412, but may not exceed $10 per record check.

(2) Fees collected under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the State Police Account.

[1995 c.729 §2]

166.416 Providing false information in connection with a transfer of a firearm. (1) A person commits the crime of providing false information in connection with a transfer of a firearm if the person knowingly provides a false name or false information or presents false identification in connection with a purchase or transfer of a firearm.

(2) Providing false information in connection with a transfer of a firearm is a Class A misdemeanor.

[1995 c.729 §3; 2001 c.1 §9]

166.418 Improperly transferring a firearm. (1) A person commits the crime of improperly transferring a firearm if the person is a gun dealer as defined in ORS

166.412 and sells, leases or otherwise transfers a firearm and intentionally violates ORS 166.412 or 166.434.

(2) Improperly transferring a firearm is a Class A misdemeanor.

[1995 c.729 §4; 2001 c.1 §10]

166.421 Stolen firearms; determination; telephone requests. The Department of State Police may respond to a telephone request from any person requesting that the department determine if department records show that a firearm is stolen. No public employee, official or agency shall be held criminally or civilly liable for performing the investigation allowed by this section provided that the employee, official or agency acts in good faith and without malice.

[1995 c.729 §5]

166.422 Enforcement of ORS 166.412. Where appropriate, a person may enforce the legal duties imposed by ORS 166.412 (7), by the provisions of ORS 30.260 to 30.300 and ORS chapter 183.

[1989 c.839 §12; 1995 c.729 §8]

166.425 Unlawful purchase of firearm. (1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state or federal law from owning or possessing the firearm or having the firearm under the person's custody or control, purchases or attempts to purchase the firearm.

(2) Unlawfully purchasing a firearm is a Class A misdemeanor.

[1989 c.839 §15]

166.427 Register of transfers of used firearms. (1) Whenever a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise, buys or accepts in trade, a used firearm, the person shall enter in a register the time, date and place of purchase or trade, the name of the person selling or trading the firearm, the number of the identification documentation presented by the person and the make, model and manufacturer's number of the firearm. The register shall be obtained from and furnished by the Department of State Police to the dealer on application at cost.

(2) The duplicate sheet of the register shall, on the day of purchase or trade, be hand delivered or mailed to the local law enforcement authority.

(3) Violation of this section by any person engaged in the business of selling, leasing or otherwise transferring a firearm is a Class C misdemeanor.

[1989 c.839 §16; 1993 c.4 §3; 2001 c.539 §12]

166.429 Firearms used in felony. Any person who, with intent to commit a felony or who knows or reasonably should know that a felony will be committed with the firearm, ships, transports, receives, sells or otherwise furnishes any firearm in the furtherance of the felony is guilty of a Class B felony.

[1989 c.839 §17]

166.432 Definitions for ORS 166.412 and 166.433 to 166.441. (1) As used in ORS 166.412, 166.433, 166.434, 166.436 and 166.438, “criminal background check” or “criminal history record check” means determining the eligibility of a person to purchase or possess a firearm by reviewing state and federal databases including, but not limited to, the:

(a) Oregon computerized criminal history system;

(b) Oregon mental health data system;

(c) Law Enforcement Data System;

(d) National Instant Criminal Background Check System; and

(e) Stolen guns system.

(2) As used in ORS 166.433, 166.434, 166.436, 166.438 and 166.441:

(a) “Gun dealer” has the meaning given that term in ORS 166.412.

(b) “Gun show” means an event at which more than 25 firearms are on site and available for transfer.

[2001 c.1 §3]

166.433 Findings regarding transfers of firearms. The people of this state find that:

(1) The laws of Oregon regulating the sale of firearms contain a loophole that allows people other than gun dealers to sell firearms at gun shows without first conducting criminal background checks;

(2) It is necessary for the safety of the people of Oregon that any person who transfers a firearm at a gun show be required to request a criminal background check before completing the transfer of the firearm; and

(3) It is in the best interests of the people of Oregon that any person who transfers a firearm at any location other than a gun show be allowed to voluntarily request a criminal background check before completing the transfer of the firearm.

[2001 c.1 §1]

166.434 Application of ORS 166.412 to all firearm transfers by gun dealers; fees for criminal background checks. (1) Notwithstanding the fact that ORS 166.412 requires a gun dealer to request a criminal history record check only when transferring a handgun, a gun dealer shall comply with the requirements of ORS 166.412 before transferring any firearm to a purchaser. The provisions of ORS 166.412 apply to the transfer of firearms other than handguns to the same extent that they apply to the transfer of handguns.

(2) In addition to the determination required by ORS 166.412 (3)(a)(A), in conducting a criminal background check or criminal history record check, the Department of State Police shall also determine whether the recipient is otherwise prohibited by state or federal law from possessing a firearm.

(3) Notwithstanding ORS 166.412 (5), the department is not required to operate the telephone number established under ORS 166.412 (5) on Thanksgiving Day or Christmas Day.

(4)(a) The department may charge a fee, not to exceed the amount authorized under ORS 166.414, for criminal background checks required under this section or ORS 166.436.

(b) The department shall establish a reduced fee for subsequent criminal background checks on the same recipient that are performed during the same day between the hours of 8 a.m. and 10 p.m.

[2001 c.1 §5]

166.436 Firearm transfers by persons other than gun dealers; criminal background checks authorized; liability. (1) The Department of State Police shall make the telephone number established under ORS 166.412 (5) available for requests from persons other than gun dealers for criminal background checks under this section.

(2) Prior to transferring a firearm, a transferor other than a gun dealer may request by telephone that the department conduct a criminal background check on the recipient and shall provide the following information to the department:

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

(b) The make, model, caliber, and manufacturer's number of the firearm being transferred;

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

(d) The Social Security number of the recipient if the recipient voluntarily provides that number;

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

(f) The type, issuer and identification number of a current piece of identification bearing a recent photograph of the recipient presented by the recipient. The identification presented by the recipient must meet the requirements of ORS 166.412 (4)(a).

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

(A) Determine from criminal records and other information available to it whether the recipient is disqualified under ORS 166.470 from completing the transfer or is otherwise prohibited by state or federal law from possessing a firearm; and

(B) Notify the transferor when a recipient is disqualified from completing the transfer or provide the transferor with a unique approval number indicating that the recipient is qualified to complete the transfer. The unique approval number is a permit valid for 24 hours for the requested transfer. If the firearm is not transferred from the transferor to the recipient within 24 hours after receipt of the unique approval number, a new request must be made by the transferor.

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

(4) A public employee or public agency incurs no criminal or civil liability for performing the criminal background checks required by this section provided the employee or agency acts in good faith and without malice.

(5)(a) The department may retain a record of the information obtained during a request for a criminal background check under this section for the period of time provided in ORS 166.412 (7).

(b) The record of the information obtained during a request for a criminal background check under this section is exempt from disclosure under public records law.

(6) The recipient of the firearm must be present when the transferor requests a criminal background check under this section.

(7)(a) Except as otherwise provided in paragraphs (b) and (c) of this subsection, a transferor who receives notification under this section that the recipient is qualified to

complete the transfer of a firearm is immune from civil liability for any use of the firearm from the time of the transfer unless the transferor knows, or reasonably should know, that the recipient is likely to commit an unlawful act involving the firearm.

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

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

(A) If the transferor knows, or reasonably should know, that the recipient of the firearm intends to deliver the firearm to a third person who the transferor knows, or reasonably should know, may not lawfully possess the firearm; or

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

[2001 c.1 §6]

166.438 Transfer of firearms at gun shows. (1) A transferor other than a gun dealer may not transfer a firearm at a gun show unless the transferor:

(a)(A) Requests a criminal background check under ORS 166.436 prior to completing the transfer;

(B) Receives notification that the recipient is qualified to complete the transfer; and

(C) Has the recipient complete the form described in ORS 166.441; or

(b) Completes the transfer through a gun dealer.

(2) The transferor shall retain the completed form referred to in subsection (1) of this section for at least five years and shall make the completed form available to law enforcement agencies for the purpose of criminal investigations.

(3) A person who organizes a gun show shall post in a prominent place at the gun show a notice explaining the requirements of subsections (1) and (2) of this section. The person shall provide the form required by subsection (1) of this section to any person transferring a firearm at the gun show.

(4) Subsection (1) of this section does not apply if the transferee is licensed as a dealer under 18 U.S.C. 923.

(5)(a) Failure to comply with the requirements of subsection (1), (2) or (3) of this section is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, failure to comply with the requirements of subsection (1), (2) or (3) of this section is a Class C felony if the person has two or more previous convictions under this section.

(6) It is an affirmative defense to a charge of violating subsection (1) or (3) of this section that the person did not know, or reasonably could not know, that more than 25 firearms were at the site and available for transfer.

[2001 c.1 §7]

166.441 Form for transfer of firearm at gun show. (1) The Department of State Police shall develop a form to be completed by a person seeking to obtain a firearm at a gun show from a transferor other than a gun dealer. The department shall consider including in the form all of the requirements for disclosure of information that are required by federal law for over-the-counter firearms transactions.

(2) The department shall make the form available to the public at no cost.

[2001 c.1 §8]

166.445 Short title. ORS 166.432 to 166.445 and the amendments to ORS 166.416, 166.418 and 166.460 by sections 9, 10 and 11, chapter 1, Oregon Laws 2001, shall be known as the Gun Violence Prevention Act.

[2001 c.1 §2]

166.450 Obliteration or change of identification number on firearms. Any person, who intentionally alters, removes or obliterates the identification number of any firearm for an unlawful purpose, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. Possession of any such firearm is presumptive evidence that the possessor has altered, removed or obliterated the identification number.

[Amended by 1987 c.320 §90; 1989 c.839 §24]

166.460 Antique firearms excepted. (1) ORS 166.250, 166.260, 166.291 to 166.295, 166.410, 166.412, 166.425, 166.434, 166.438 and 166.450 do not apply to antique firearms.

(2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique firearm by a person described in ORS 166.250 (1)(c)(B), (C) or (D) constitutes a violation of ORS 166.250.

[Amended by 1979 c.779 §6; 1989 c.839 §25; 1993 c.735 §8; 1995 c.729 §9; 2001 c.1 §11; 2001 c.666 §§35,47; 2003 c.614 §10]

166.470 Limitations and conditions for sales of firearms. (1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

(a) Is under 18 years of age;

(b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(c) Has any outstanding felony warrants for arrest;

(d) Is free on any form of pretrial release for a felony;

(e) Was committed to the Department of Human Services under ORS 426.130;

(f) After January 1, 1990, was found to be mentally ill and 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; or

(g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in this paragraph, “misdemeanor involving violence” means a misdemeanor described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b).

(2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or reasonably should know is stolen.

(3) Subsection (1)(a) of this section does not prohibit:

(a) The parent or guardian, or another person with the consent of the parent or guardian, of a minor from transferring to the minor a firearm, other than a handgun; or

(b) The temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.

(4) Violation of this section is a Class A misdemeanor.

[Amended by 1989 c.839 §3; 1991 c.67 §40; 1993 c.735 §11; 2001 c.828 §2; 2003 c.577 §7]

166.480 Sale or gift of explosives to children. Any person who sells, exchanges, barters or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing not more than 10 grains of gunpowder or who sells, exchanges, barters or gives to any such child, any instrument or apparatus, the chief utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor.

[Amended by 1989 c.839 §26]

166.490 Purchase of firearms in certain other states. (1) As used in this section, unless the context requires otherwise:

(a) "Contiguous state" means California, Idaho, Nevada or Washington.

(b) "Resident" includes an individual or a corporation or other business entity that maintains a place of business in this state.

(2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.

(3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

(4) This section expires and stands repealed upon the date that section 922(b) (3) of the Gun Control Act of 1968 (18 U.S.C. 922(b) (3)) and regulations pursuant thereto are repealed or rescinded.

[1969 c.289 §§1,2,3,4]

137.540 Conditions of probation; evaluation and treatment; effect of failure to abide by conditions; modification. (1) The court may sentence the defendant to probation subject to the following general conditions unless specifically deleted by the court. The probationer shall:

. . .(L) Not possess weapons, firearms or dangerous animals.

[Amended by 1965 c.346 §1; 1969 c.597 §125; 1977 c.371 §3; 1977 c.380 §2; 1981 c.671 §1; 1983 c.588 §2; 1985 c.818 §2; 1987 c.780 §3; 1989 c.790 §16; 1991 c.196 §1; 1991 c.630 §5; 1991 c.731 §1; 1993 c.14 §11; 1993 c.680 §16; 1997 c.313 §24; 1999 c.626 §11; amendments by 1999 c.626 §34 repealed by 2001 c.884 §1; 2001 c.726 §§1,2; 2001 c.884 §5; 2005 c.264 §3; 2005 c.558 §1; 2005 c.567 §8; 2005 c.576 §1a; 2005 c.642 §1]

APPENDIX A

FIREARMS INSTANT CHECK ACCOUNT FORM
OREGON STATE POLICE
3772 PORTLAND RD. NE
SALEM, OR 97301
TELEPHONE 1-800-432-5059 / FAX (503) 370-8584

New Acct ☐ FFL Renewal ☐ Business Information Change ☐

1. FFL# _____
2. PASSWORD_____
   (You assign with a minimum of 4 and maximum of 8 alpha or numeric character – no spaces permitted)
3. NAME OF PERSON ON LICENSE _____
4. NAME OF BUSINESS ON LICENSE _____
5. BUSINESS TELEPHONE _____
6. BUSINESS FAX _____
7. STREET ADDRESS _____
8. CITY/STATE/ZIP _____
9. BUSINESS HOURS _____
10. DAYS CLOSED _____
11. HOLIDAYS CLOSED _____
12. BILLING ADDDRESS _____
    (If different from street address)
13. E-MAIL ADDRESS _____

NOTE: ATTACH A COPY OF YOUR SIGNED FEDERAL FIREARMS LICENSE TO THIS FORM. RETURN BY MAIL OR FAX.

SIGNATURE_____ DATE _____

Official use: Date packet sent _____

APPENDIX B

STATE OF OREGON
REGISTER OF TRANSFER OF USED FIREARM

INSTRUCTIONS FOR COMPLETING THIS PROCESS:

1. Please print, using ink.
2. Fill out in duplicate for each transfer.
3. Keep an original copy for your files.
4. A duplicate copy must be mailed or hand delivered on the day of transfer to the local law enforcement authority where the sale is made.
5. If an error is made while filling out this form, do not destroy. Keep the copy in your book.

Violation of ORS 166.427 is a Class C misdemeanor

Business Name and Address		Salesman (person buying or taking trade-in)	
Date of Purchase or Trade-In (Month, Day, Year)		Time of Purchase or Trade-in ☐ A.M. ☐ P.M.	
City, Town or Township of Purchase or Trade-in		Description of Used Firearm (Handgun, Shotgun, or Rifle)	
Make or Brand of Firearm		Serial Number	Caliber
Name and Address of Seller/Trader		Identification presented by Seller/Trader (include ID number)	
Signature of Seller/Trader	Phone Number	Signature of Dealer (Purchaser)	Phone Number

125-5180 (12/08)

APPENDIX C

Oregon State Thumbprint Form

Thumbprints are recorded on the form by following the above procedures. **ONLY ROLL THE THUMBPRINT IN THE BOX ONE TIME. IF YOU ROLL THE THUMB BACK AND FORTH, YOU WILL SMUDGE THE THUMBPRINT**.

If the thumbprints are smudged, they can not be searched through the fingerprint file. Taking care to roll the thumbprints properly and in the correct area on the form will avoid lengthy time delays in the final sale and delivery of a firearm.

If the right or left thumb is missing due to amputation, record the next finger in the following order: index finger, middle finger, ring finger. Mark the box with the name of the finger used. As an example, if the left thumb has been amputated, record the left index finger and then cross out "Left Thumb" and mark the box "Left Index Finger-Thumb Amputated." Do not write on the fingerprint.

If errors are made at this point, you must complete a new form. The descriptive data should not be entered until acceptable inked thumbprints are obtained to avoid entering the information again if the form is voided due to an error in recording the thumbprints.

If we request that you fax the prints to us, please enlarge them by 300% and set your fax to superfine print. We have found that this gets the best results and aids in identifying the prints quicker.

For additional information on taking fingerprints, go to: www.fbi.gov/hq/cjisd/takingfps.html

GUIDELINES FOR OBTAINING CLASSIFIABLE THUMBPRINTS

1. Thumbprints are recorded on the form by first applying printer's ink to the thumbs. This is accomplished by rolling the thumb on a fingerprint ink pad from one side of the thumb to the other side.
2. Roll the thumb from edge to edge and below the first crease line, use moderate pressure, roll it one time only and in one direction only – not back and forth, with the tip pointing towards the top of the form.
3. Be sure the correct print is recorded in the proper block.
4. The ridges of the thumbprint must be distinct and clear. If the print is smudged or blurred, reprint.
5. The best prints are obtained if the paper is at the edge of a hard surface.

Dealer Name FFL Number

Purchaser Name Date of Birth

Left Thumb Form 88 **Right Thumb**

.

ORDER FORM

Date_____

Dealer's Name_____

Dealer's Business Name_____

Mailing Address_____

City, State, Zip_____

Oregon State Register of Transfer of Used Firearms (form 125-5180)	Price - Package of 50 $3.00	Quantity Requested	Total
Oregon State Thumbprint forms (form 88)	Price - Package of 50 $1.15	Quantity Requested	Total

Total Amount Enclosed _____

Exact payment must accompany each order. Business check, personal check or money order accepted. Make your check payable to the Oregon State Police.

Mailing Address for orders: Oregon State Police
Attention: Firearms
Unit 11
P.O. Box 4395
Portland, OR 97208

NOTE: The dealer may copy these forms for distribution or use. These forms are also available on our website at http://www.oregon.gov/OSP/ID/firearm_forms.shtml to download at no charge.

For information regarding fingerprinting supplies, please check the internet. Suggest using key word: *fingerprint ink*

APPENDIX E

OREGON STATE POLICE
DENIED FIREARM SALE INFORMATIONAL HANDOUT

To protect your right to privacy, no details or results of the background check have been or will be discussed with the dealer or salesperson. The determination to deny an individual's purchase of a firearm is based on state and federal laws.

To inquire with the Oregon State Police about this denied sale or to challenge the decision, please contact us at: 503-373-1808.

This number is a message line that is monitored throughout each day. Please clearly state and spell your name and telephone number, along with a message explaining what information you are requesting. We will return your call as soon as possible. We will attempt to have the complete information prior to returning your call.

Our business hours are 8:00am to 10:00pm daily, except Thanksgiving and Christmas.

APPENDIX F

OREGON STATE POLICE
PENDED FIREARM SALE INFORMATIONAL HANDOUT

Your firearm sale transaction has been **pended** because some information that may be related to you is incomplete or not available. Because of this a final determination cannot be made within the 30 minutes provided by Oregon Statute. (ORS 166.412 (3) (b))

A purchase that is 'pended' has not been denied or approved; it means a final determination cannot be made within 30 minutes. If the Firearms Unit is unable to determine whether the purchaser is qualified or disqualified from completing the transfer of the firearm within 30 minutes, OSP is required by law to provide the dealer with an estimate of time when the transfer can be approved or denied.

A transaction may be 'pended' for a variety of reasons that could disqualify a purchaser. The amount of time needed to complete the necessary research into the problem can vary greatly and usually depends on the availability of the needed information from the agency or court that maintains those records. If the needed information is more than a few years old, it may be necessary for the agency or court to manually search for the information and send it to the Firearms Unit. In each case, the Firearms Unit must research the issue until a final approval or denial can be made.

We appreciate your patience as we obtain sufficient record information to complete the purchase transaction as quickly as we possibly can. However, we do understand any concern you may have or the desire to make contact to obtain further information.

To reach the Oregon State Police concerning this matter, please contact us at:

503-373-1808

This number is a message line that is monitored throughout each day. Please clearly state and spell your name and telephone number, along with a message explaining what information you are requesting. We will return your call as soon as possible. We will attempt to have the complete information prior to returning your call.

Our business hours are 8:00am to 10:00pm daily, except Thanksgiving and Christmas.

APPENDIX G

Eligibility For Purchasing A Firearm

1/1/06

All State and Federal Laws Will Apply Regarding the Sale of Firearms

- You Must Be a Resident of Oregon for Handgun Purchases
- You Must Not Have Been Convicted of a Felony nor Be Under Indictment or Information for a Crime for Which the Judge Could Imprison You for More than One Year
- You Must Not Have Been Convicted of a Domestic Violence Misdemeanor
- You Must Not Have Any Outstanding Warrants for Arrest
- You Must Not Be Limited by Conditions of Probation for Possession of Firearms
- You Must Not Be a Person Who Is Free on Any Form of Pre-Trial Release While Awaiting Trial for a Felony
- You Must Not Have Been Committed to the Mental Health Division as a Result of a Mental Commitment Hearing
- You Must Not Have Been a Person Found Mentally Ill and Have Been Specifically Prohibited from Purchasing or Possessing a Firearm by Court Order as a Result of a Commitment Hearing After January 1, 1990
- You Must Not Have Been Convicted or Found Not Guilty by Reason of Insanity During the Previous Four Years for the Following Misdemeanors:

  Assault 4th Degree
  Menacing
  Recklessly Endangering
  Strangulation
  Intimidation 2nd Degree

- You Must Not Have a Restraining Order Against You for Harassment, Stalking, or Threatening an Intimate Partner or Child of an Intimate Partner
- You Must Not Be a Fugitive from Justice
- You Must Not Be a User of or Addicted to any Controlled Substance
- You Must Not Have Received a Dishonorable Discharge from the Armed Forces
- You Must Not Have Renounced Your U.S. Citizenship or Be an Illegal Alien