

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 257
DEPARTMENT OF STATE POLICE

FILED

04/17/2023 11:47 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Oregon Firearm Permit to Purchase Program [corrected]

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/22/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Jolene Kelley
503-934-0251
OSP114@osp.oregon.gov

3565 Trelstad Ave SE
Salem, OR 97317

Filed By:
Kyla Krehoff
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/18/2023

TIME: 1:00 PM - 3:00 PM

OFFICER: Jolene Kelley

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-773-917-3509

SPECIAL INSTRUCTIONS:

Special Instructions:

Virtual Hearing Via Microsoft Teams Written comments accepted May 1 through May 22, 2023, at 5 p.m.

Written comments may be submitted to: Oregon State Police Attn: Permit to Purchase Rulemaking

3565 Trelstad Ave. SE Salem, OR 97317 OR OSP114@osp.oregon.gov

Meeting ID: 267 262 252 381

Passcode: gLbeP9

Call in (audio Only): 1-773-917-3509, 512734779 #

Conference ID: 512734779#

NEED FOR THE RULE(S)

Ballot Measure 114 was approved by the voters on November 8, 2022. Oregon State Police was given rulemaking authority under this measure to implement the Permit to Purchase requirements of the measure.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Ballot Measure 114 text, available on the Secretary of State and Oregon State Police websites.

Criminal Justice Commission-Estimate of Racial/Ethnic Impact (November 8, General Election, Initiative Petition #17) available on the Secretary of State website.

Secretary of State public hearing on Racial and Ethnic Impact Statement-Measure 114 (IP 17) recording and written comments available on the Secretary of State website.

Financial Estimate Committee – Estimate of Financial Impact and public hearing recording and written comments available on the Secretary of State website.

Oregon State Police Statement of Financial Impact for passed Ballot Measure 114 (Nov. 30, 2022).

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Criminal Justice Commission (CJC) was requested by the Oregon Legislature to complete a racial and ethnic impact statement as part of the initiative petition (IP 17) process. The CJC statement indicates that there is currently insufficient data to make predictions regarding racial and ethnic impact.

The Secretary of State held a public hearing to receive testimony on the racial and ethnic impact statement for Measure 114 (IP 17). Comments received expressed concerns that costs related to the required class and cost of the permit could be prohibitive to low-income residents and cited studies indicating that Black, Latinx, and other multiracial communities have the highest income inadequacy of all racial/ethnic groups.

FISCAL AND ECONOMIC IMPACT:

The Financial Estimate Committee met to consider financial impacts of Measure 114 (IP 17). The Final Statement on Measure 114 (IP 17) concluded the financial impact of Measure 114 for state and local governments is indeterminate.

Upon voter approval of Ballot Measure 114, Oregon State Police completed a Statement of Financial Impact including both personal services and services and supplies costs. Cost estimate summaries are listed below with the full analysis available upon request.

To fulfill the provisions of Ballot Measure 114, OSP estimates the need for 26 Public Service Representative 4 positions and three Fingerprint Technicians to process background investigations for permit applications. Administrative support includes four Operations and Policy Analysts, five supervisory positions, an Information Systems Specialist, and six administrative and accounting positions. Total personal services costs are estimated at \$7.9 million for the 2023-25 biennium.

OSP has estimated the cost of services and supplies to support the new positions, to develop, print and distribute the form to apply for a permit, and to create and maintain the electronic searchable database. This estimate includes printing and distribution of forms, database development, and the FBI background check fee. Services and supplies are estimated at \$7.8 million for the 2023-25 biennium.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

Oregon State Police

Oregon Judicial Department

Cities and Counties: Police Departments and Sheriff's Offices

Members of the public seeking permits

(2) Estimate on the number and type of small businesses subject to the rule(s).

a. Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).

b. Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Potential impacted small businesses include firearms dealers and gun ranges. Measure 114 adds a new requirement of a firearm safety course including both classroom instruction and an in-person demonstration with instructors certified by a law enforcement agency. It is unknown what the costs of implementing the class requirement and the cost recovery businesses providing the class can expect.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Firearms dealers and citizen representatives have been included as members of the Administrative Rule Advisory Committee. The public hearing date, time, and instructions for participation are listed on the agency's Permit to Purchase webpage.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

An Administrative Rule Advisory Committee, comprised of individuals and organizations representing varying viewpoints and business interests, has been scheduled for April 20, 2023, to solicit feedback on the proposed permanent rules.



State of Oregon Permit to Purchase Application (2022 Ballot Measure 114)

*****This gray area to be filled in by Permit Agent Personnel only. Do not complete this shaded area*****

Proof of Identification: (Must be a government issued identification that contains Name, Date of Birth, Photo and Signature.)

Type/ No.:	Type/ No.:
<input type="checkbox"/> Firearms Safety Course proof provided	<input type="checkbox"/> In-Person Demonstration proof provided
Fee Amt:	
<input type="checkbox"/> Denied ____ (Int.) <small>(*during initial review)</small>	Reason for denial:

*****This gray area to be filled in by Oregon State Police Personnel only. Do not complete this shaded area*****

<input type="checkbox"/> Qualified ____ (Int.)	Determination Date:	SID #:	Applicant/Permit #: - -
<input type="checkbox"/> Disqualified ____ (Int.)	Reason for disqualification:		

*****This gray area to be filled in by Permit Agent Personnel only. Do not complete this shaded area*****

<input type="checkbox"/> Denied ____ (Int.)	Reason for denial:	
<input type="checkbox"/> Approved ____ (Int.)	Date Permit Issued:	Expiration Date:

Applicant Information

New Applicant Renewal Replacement

<i>Last Name</i>	<i>First Name</i>	<i>Middle Name (Full)</i>	<i>Suffix (Jr. Sr. II)</i>
Name must be as it appears on Government Issued Identification			

<i>Last Name</i>	<i>First Name</i>	<i>Middle Name (Full)</i>	<i>Suffix (Jr. Sr. II)</i>
Legal Name (if different)			

All Other Names Used: (Maiden, Married, Aliases)	
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Current Residence:	<i>Street Address</i>	<i>Apartment/Unit #</i>	<i>Phone #</i>
	<i>City</i>	<i>State</i>	<i>ZIP Code</i>

Mailing Address: (If different)	<i>Mailing Address</i>
	<i>City</i> <i>State</i> <i>ZIP Code</i>

My Proof of Residence is: (Government Issued Proof)	<input type="checkbox"/> Driver's License	<input type="checkbox"/> Voter Registration Card	<input type="checkbox"/> Oregon Tax Return
	<input type="checkbox"/> Real Property Ownership	<input type="checkbox"/> Other:	



State of Oregon Permit to Purchase Application (2022 Ballot Measure 114)

DECLARATIONS

***Initial* each box below indicating you have read each statement and you declare the state is true.**

<p>I am now at least 18 years of age.</p>	
<p>I have NEVER been convicted in any court, including a military court, of a felony, or any other crime for which the judge could have imprisoned me for more than one year, even if you received a shorter sentence including probation.</p>	
<p>I have NOT been convicted of a misdemeanor Domestic Violence crime.</p>	
<p>I have NOT 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. Misdemeanor involving violence means Assault IV, Strangulation, Menacing, Reckless Endangerment of another, Bias Crime II</p>	
<p>I have NEVER been adjudicated as a mental defective or have never been committed to a mental institution.</p>	
<p>I have NOT been subject to a court order, including a Military Protection Order issued by a military judge or magistrate, restraining me from harassing, stalking, or threatening a family member or household member. ORS 166.255 (1) (a), ORS 163.732, ORS 166.255 (1)(c), OR136.230</p>	
<p>I am NOT on probation with conditions limiting possession of a firearm- ORS 137.540 (L)</p>	
<p>I am NOT an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance. Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.</p>	
<p>There are no outstanding felony warrants for my arrest.</p>	
<p>I am NOT subject to a court order restraining me from contacting or stalking another or under indictment or information in any court for a felony, or any other crime for which the judge could imprison me for more than one year nor am I a current member of the military who has been charged with violations (s) of the Uniform Code of Military Justice and whose charge (s) have been referred to a general court-martial.</p>	
<p>I have never received a dishonorable discharge (enlisted members) or received a dismissal (commissioned officers) from the Armed Forces of the United States.</p>	
<p>If I am unable to initial any of the above statements, I have been granted relief under either ORS 166.273, 166.274, or 18 USC 925(c). (Initial if true) Date relief was granted: _____ Type of conviction: _____ (Felony, Misdemeanor, or both)</p> <p><small>Note: Proof of relief may be required with this application. Even if relief has been granted under either ORS 166.273, 166.274, or 18 USC 925(c) firearm rights are not restored until all core civil rights have been substantially restored. To be substantially restored, your following core rights must be restored: 1. The right to vote, 2. The right to hold public office, and 3. The right to sit on a jury. Article 1 Section 45 of the Oregon Constitution limits the rights of persons convicted of misdemeanors or felonies. Therefore, granted relief will only be valid for firearm transfers after 15 years has passed from the completion of a sentence for felony convictions and 5 years for misdemeanor convictions. Unless firearm rights have been substantially restored for any of the above un-initialed questions and the appropriate time has passed for the relief you were granted you will be disqualified for a Permit to Purchase by Oregon State Police, as those are disqualifiers for the transfer of a firearm per State and/or Federal laws.</small></p>	
<p>I understand that I will be fingerprinted and photographed.</p>	
<p>I certify I have read and understand the entire text of this application. The information and declarations I provided are correct and true to the best of my knowledge. I understand making false statements on this application is a misdemeanor crime and that I may be prosecuted or have my application denied, or my Permit to Purchase revoked.</p>	
<p>I certify that I have completed an approved Firearms Safety Course. Date of Completion: _____ <small>(Certificate of Completion must accompany this application)</small></p>	

Signature of Applicant

Date

*****Permit Agent, by signing this application you certify that the applicant has presented documentation of their demonstrated in-person proficiency in their ability to lock, load, unload, fire, and store a firearm*****

Signature of Permit Agent Authority

Date

ADOPT: 257-010-0065

RULE SUMMARY: This rule repeals temporary Oregon Administrative Rule (OAR) 257-010-0065 and creates the permanent rules needed to implement a Permit to Purchase Program created by Ballot Measure 114, requiring anyone purchasing a firearm to first complete a safety training course, successfully pass a full background check, and upon meeting these requirements receive a permit to purchase a firearm.

CHANGES TO RULE:

257-010-0065

Permit-to-Purchase

(1) OSP shall determine the format and shall assign the unique application and permit number to each Oregon State Permit to Purchase application and permit that shall be used by all permit agents for Permit to Purchase applications. The Permit to Purchase application is hereby incorporated by reference.¶

(2) When submitting Permit to Purchase application packets to OSP for background checks, permit agents shall use either US Mail, hand delivery by the permit agent, or delivery by courier. The packet must include both the paper fingerprint cards and the Permit to Purchase application form.¶

(3) OSP shall create the Permit to Purchase format that shall be issued by all permit agents. Permit agents shall print the issued State of Oregon Permit to Purchase permit form in quadruplicate (four copies). The State of Oregon Permit to Purchase permit form is hereby incorporated by reference.¶

(4) Permit agents may designate permit agent responsibilities only to other Oregon law enforcement agencies and only as follows:¶

(a) Local police chiefs may designate permit agent responsibilities to other local police chiefs or the Oregon Sheriff having jurisdiction over the residence of a person making an application for a permit to purchase; or¶

(b) An Oregon Sheriff may designate permit agent responsibilities to a local police chief having jurisdiction over the residence of a person making an application for a permit to purchase.¶

(5) Designations conducted under subsection (4) of this rule shall be made using an Intergovernmental Agreement or other similar agreement.¶

(6) Only law enforcement agencies working in the permit agent role may initiate the fingerprint-based background check for Oregon and the FBI. A non-law enforcement agency designee may not initiate the fingerprint-based background check.

Statutory/Other Authority: BM 114

Statutes/Other Implemented: BM 114, ORS 166.210 - ORS 166.490

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.



State of Oregon Permit to Purchase Application (2022 Ballot Measure 114)

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Proof of Identification: (Must be a government issued identification that contains Name, Date of Birth, Photo and Signature.)			
Type/ No.:	Type/ No.:		
<input type="checkbox"/> Firearms Safety Course proof provided	<input type="checkbox"/> In-Person Demonstration proof provided	Fee Amt:	
<input type="checkbox"/> Denied _____ (Int.) <small>(*during initial review)</small>	Reason for denial:		

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<input type="checkbox"/> Qualified _____(Int.)	Determination Date:	SID #:	Applicant/Permit #: - -
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Applicant Information

New Applicant Renewal Replacement

<i>Last Name</i>	<i>First Name</i>	<i>Middle Name (Full)</i>	<i>Suffix (Jr. Sr. II)</i>
Name must be as it appears on Government Issued Identification			

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Legal Name (if different)			

All Other Names Used: (Maiden, Married, Aliases)	
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Current Residence:	<i>Street Address</i>	<i>Apartment/Unit #</i>	<i>Phone #</i>
	<i>City</i>	<i>State</i>	<i>ZIP Code</i>

Mailing Address: (If different)	<i>Mailing Address</i>
	<i>City</i> <i>State</i> <i>ZIP Code</i>

My Proof of Residence is: (Government Issued Proof)	<input type="checkbox"/> Driver's License	<input type="checkbox"/> Voter Registration Card	<input type="checkbox"/> Oregon Tax Return
	<input type="checkbox"/> Real Property Ownership	<input type="checkbox"/> Other:	



State of Oregon Permit to Purchase Application (2022 Ballot Measure 114)

Please list any other residences that you have lived at in the past three years:

1) _____

2) _____

3) _____

****You must provide identification that includes your photograph**
(Driver's License, Passport, Government issued ID card or certified birth certificate).**

Government Issued ID Type

Passport *Identification Card* *Driver's License* *Other:*

Government Issued ID # **State:** **Expiration:**
(If applicable)

Date of Birth: Social Security Number (voluntary):

Weight: Height: Eye Color: Hair Color:

Race: Asian/Pacific Islander American Indian/Alaskan Native Black/African American
 White Other

Sex: Male Female Non-binary/Not Specified

Place of Birth: Other States you lived in:

Disclosure of your social security number is voluntary. Solicitation of the number is authorized under ORS 166.291. It will be used only as a means of identification.

Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)

United States of America (U.S.A.) Other Country/Countries:

If you are an alien, record your U.S. issued alien or admission number (AR#, USCIS#, or I94#):

Are you an alien who has been admitted to the United States under a nonimmigrant visa? Yes No

If you are such an alien, do you fall within any of the exceptions stated in the instructions? Yes No
(U.S. citizens/nationals leave 21.1.2. leave blank)

Exception to the Nonimmigrant Alien Prohibition: If the applicant answered "yes" to the above question, record the type of documentation showing the exception to the prohibition and attach a copy.

ATTENTION:

Oregon law allows for the denial or revocation of a permit to purchase if you do not meet the minimum qualifications set out in 2022 Ballot Measure 114 or if the Law Enforcement agency has reasonable grounds to believe you have been or are reasonably likely to be a danger to yourself, or to the community at large, as a result of your mental or psychological state or as demonstrated by your past pattern of behavior involving unlawful violence or threats of unlawful violence.

I HAVE READ AND UNDERSTAND THE ABOVE STATEMENT (INITIAL HERE):



State of Oregon Permit to Purchase Application (2022 Ballot Measure 114)

DECLARATIONS

***Initial* each box below indicating you have read each statement and you declare the state is true.**

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I have NEVER been convicted in any court, including a military court, of a felony, or any other crime for which the judge could have imprisoned me for more than one year, even if you received a shorter sentence including probation.	
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I have NOT 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. Misdemeanor involving violence means Assault IV, Strangulation, Menacing, Reckless Endangerment of another, Bias Crime II	
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I am NOT on probation with conditions limiting possession of a firearm- ORS 137.540 (L)	
I am NOT an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance. Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.	
There are no outstanding felony warrants for my arrest.	
I am NOT subject to a court order restraining me from contacting or stalking another or under indictment or information in any court for a felony , or any other crime for which the judge could imprison me for more than one year nor am I a current member of the military who has been charged with violations (s) of the Uniform Code of Military Justice and whose charge (s) have been referred to a general court-martial.	
I have never received a dishonorable discharge (enlisted members) or received a dismissal (commissioned officers) from the Armed Forces of the United States.	
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Signature of Applicant

Date

*****Permit Agent, by signing this application you certify that the applicant has presented documentation of their demonstrated in-person proficiency in their ability to lock, load, unload, fire, and store a firearm*****

Signature of Permit Agent Authority

Date