

The “Oregon Firearms Safety Act” – Highlights

Updated 7/6/15

Senate Bill 941, signed into law by Governor Brown on May 11, 2015, as the Oregon Firearms Safety Act, adds the requirement of a background check for firearm transfers between private-parties to existing law. Included in this law are exemptions for some individuals and circumstances. This document serves to highlight only changes to the Oregon firearm transfer process as a result of this legislation. Please refer to the SB 941 Enrolled bill for the complete text. Highlights are as follows:

Definition: “Transfer” means the delivery of a firearm from a transferor to a transferee, including, but not limited to: the sale, gift, loan or lease of the firearm.

Exceptions, Exemptions, Non-Applicable Circumstances

1. **“Transfer” does not include:** The temporary provision of a firearm to a transferee if the transferor has no reason to believe the transferee is prohibited from possessing a firearm or intends to use the firearm in the commission of a crime, and the provision occurs:
 - a. At a shooting range, shooting gallery or other area designed for the purpose of target shooting, for use during target practice, a firearms safety or training course or class or a similar lawful activity;
 - b. For the purpose of hunting, trapping or target shooting, during the time in which the transferee is engaged in activities related to hunting, trapping or target shooting;
 - c. Under circumstances in which the transferee and the firearm are in the presence of the transferor;
 - d. To a transferee who is in the business of repairing firearms, for the time during which the firearm is being repaired;
 - e. To a transferee who is in the business of making or repairing custom accessories for firearms, for the time during which the accessories are being made or repaired; or
 - f. For the purpose of preventing imminent death or serious physical injury, and the provision lasts only as long as is necessary to prevent the death or serious physical injury.

2. **Background Check Requirements do not apply to:**
 - a. Firearm transfers by or to a law enforcement agency;
 - b. Firearm transfers by or to a law enforcement officer, private security professional or member of the US Armed Forces, while that person is acting in the scope of their official duties;

- c. A transfer as part of a firearm turn-in or buyback event, where a law enforcement agency receives or purchases firearms from members of the public;
- d. A transferor's: spouse or domestic partner; parent or stepparent; a transferor's child or stepchild; a transferor's sibling, grandparent, grandchild, aunt or uncle, first cousin, niece or nephew, or the spouse or domestic partner of any of the above relatives;
- e. Spouse or domestic partner to any of the relatives noted in 2(d) above;
- f. Transfer that occurs because of the death of the firearm owner, provided that:
 - 1. The transfer is conducted or facilitated by a personal representative, as defined in ORS 111.005, or a trustee of a trust created in a will; and
 - 2. The transferee is related to the deceased firearm owner in a manner specified in numbers 2(d) and 2(e) above.
- g. Transfer of service weapons under ORS 181.150. (Note: This is existing statute)

General Process Changes under Oregon Firearms Safety Act:

- 1. Private-party firearm transfers must be conducted through a licensed firearm dealer while both parties (owner of the firearm and proposed recipient or purchaser) are present.
 - a. If the transferor and the transferee reside over 40 miles from each other, the transferor may ship or deliver the firearm to a firearm dealer located near the transferee or a firearm dealer designated by the transferee, and the transferor need not appear before the firearm dealer in person.
- 2. A firearm dealer who agrees to complete the transfer shall request a background check on the transferee and shall comply with all requirements of federal law.
- 3. A firearm dealer may charge a reasonable fee for facilitating a firearms transfer.
- 4. A firearm dealer that requests a background check for a private party under this law is immune from civil liability for any use of the firearm by the recipient.
- 5. A private party transferring a firearm at a gun show must complete a background check through OSP or a firearm dealer prior to the transfer. (NOTE: This is existing statute, however is highlighted to show the private party has options, in these instances.)

New Mental Health Disqualification

- 1. Under ORS 426.133, a court that orders outpatient treatment may prohibit a person from purchasing or possessing a firearm during the period of assisted outpatient treatment if in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to self or others or to the community as a result of the person's mental or psychological state demonstrated by either past behavior or involvement in unlawful

violence or threats of violence, or by reason of a single incident of extreme, violent, unlawful conduct.

2. The court that orders outpatient treatment and prohibits a person from purchasing or possessing a firearm during the period of assisted outpatient treatment shall deliver a copy of the order to the county sheriff, who shall enter the information into LEDS.
3. Individuals subject to these orders will be included in the FBI NICS Index under ORS 181.740.
4. Important note: Relief from prohibition for mental health reasons must be obtained through the Psychiatric Security Review Board (PSRB) under ORS 166.274 in order to regain rights at both the state and federal levels.

Enforcement action:

1. Failure to comply with the requirements is a Class A misdemeanor.
2. Failure to comply with the requirements, if the person has a previous conviction under the law at the time of the current offense, is a Class B Felony.
3. Failure to comply with the requirements for a private party at a gun show, if the transferor has two or more previous convictions under 166.438, is a Class C Felony. (Note: this is existing law)
4. If the Department (OSP) determines that a recipient is prohibited from possessing a firearm under ORS 166.250 (1) (c), as soon as practicable, the department may report the attempted transfer and the recipient's name to the appropriate law enforcement agency.

Effective Dates

1. Effective upon passage due to declared emergency. (5/11/15)
2. Orders regarding assisted outpatient treatment apply only when entered on or after the effective date.
3. Section 2 and statutory amendments become operative 90 days after the effective date. (8/9/15)

For a copy of SB 941 please click on the following link

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB941/Enrolled>

For additional questions about this process, please contact the CJIS Division Firearms Instant Check Unit at 503-934-2330.