

See: Minutes of Commission  
5/15/70, p. 39, Vol. IX  
Tapes #60 & 61

CRIMINAL LAW REVISION COMMISSION  
311 Capitol Building  
Salem, Oregon

ARTICLE ~~26~~. OFFENSES INVOLVING FIREARMS AND DEADLY WEAPONS

Preliminary Draft No. 3; May 1970

Reporter: Roger D. Wallingford

Subcommittee No. 3

INDEX

	<u>Page</u>
Section 1. Offenses involving firearms and deadly weapons; definitions . . . . .	6
Section 2. Firearm permits and handgun registration certificates; exempted persons. . . . .	10
Section 3. Firearm permits and handgun registration; in general. . . . .	12
Section 4. Firearm permit applications; authority; form; contents; fee . . . . .	13
Section 5. Firearm permits; when issuable; term; number of firearms authorized . . . . .	14
Section 6. Persons ineligible to obtain a firearm permit. . . . .	15
Section 7. Persons eligible for restricted firearm permit. . . . .	16
Section 8. Firearm permits; denial; suspension; revocation. . . . .	17
Section 9. Handgun registration certificates; requirements; fee . . . . .	19
Section 10. Loss or theft of handgun, firearm permit or handgun registration certificate; reporting requirements. . . . .	23
Section 11. Dealers' firearms transfer register; form and content of register and by whom maintained. . . . .	25
Section 12. Licensing provisions to sell firearms at retail; limitations and conditions. . . . .	27
Section 13. Issuance of license to carry a concealed handgun . . . . .	28

	<u>Page</u>
Section 14. Possession of a deadly weapon in the third degree. . . . .	29
Section 15. Possession of a deadly weapon in the second degree . . . . .	29
Section 16. Possession of a deadly weapon in the first degree. . . . .	30
Section 17. Carrying a concealed weapon in the second degree . . . . .	31
Section 18. Carrying a concealed weapon in the first degree. . . . .	31
Section 19. Illegal traffic in deadly weapons . . . . .	32
Section 20. Illegal use of firearms . . . . .	33
Section 21. Failing to comply with firearm permit or handgun registration requirements . . . . .	34
Section 22. Illegal traffic in destructive devices. . . . .	36
Section 23. Defacing a firearm. . . . .	37
Section 24. Furnishing explosives to a minor. . . . .	38
Section 25. Defenses. . . . .	39
Section 26. Forfeiture of deadly weapons and firearms . . . . .	41
Section 27. Purchase of firearms in certain other states. . . . .	42
Section 28. Firearm permits and handgun registration certificate records; requirements; availability. . . . .	43
Section 29. State Police Firearms Account . . . . .	44
Section 30. Appropriation . . . . .	45

ARTICLE X. OFFENSES INVOLVING FIREARMS AND DEADLY WEAPONS

Preliminary Draft No. 3; May 1970

INTRODUCTORY COMMENTARY:

Article 28 proposes a statutory scheme for permissive gun control combined with a number of substantive offenses involving misuse of firearms and deadly weapons. The gun control provisions are designed to achieve two primary aims: (1) to limit the possession of firearms to the more reliable segments of the population, and (2) to keep track of handguns owned by legitimate gun users by means of registration and transfer notice provisions. The statutory device used to implement these aims includes a requirement that each gun owner obtain a firearm permit and register his handguns with the State Police. Certain classes of persons, whose background evidences a lack of restraint or maturity, will be prohibited from possessing firearms. The theory behind this approach is to keep guns away from irresponsible people rather than to try to influence behavior of persons who already have guns.

Some new substantive offenses are proposed, including sections designed to encourage compliance with the gun control requirements and a section outlawing "destructive devices," a term used to describe certain military-type weapons.

The many derivative sources consulted in drafting the gun control sections are acknowledged on page 5. The directive from the Commission was unique in requiring both licensing of individual gun owners and registration of all handguns; no model bill or act was found in the United States that combined these two features. A significant portion of the gun control material is therefore the creation of the subcommittee and staff. Where the style or substance of a section was wholly or in part taken from a derivative source, credit is given.

Section 1 contains 25 definitions essential to a clear understanding of the 30 sections in the Article. A significant feature of the section is the term "Department," defined to mean the Department of State Police. The "Department" is granted substantial statutory authority to administer and enforce the gun control provisions of Article 28. Section 1 is derived, in part, from the following sources: Michigan Revised Criminal Code ss. 5701 and 5715; New York Revised Penal Law s. 265.00; Michigan Laws Ann., Title 28, s. 28.91; Gun Control Act of 1968, Ch. 44, s. 921; Illinois Stat. Ann., s. 83-1.1; ORS 166.210 (2).

Section 2 exempts a number of persons and entities from the firearm permit and handgun registration requirements, e.g., law enforcement and military personnel. Section 2 is derived, in part, from Illinois Stat. Ann., s. 83-2; Mass. Law Ann., s. 129C; and ORS 166.460 and 166.260.

Section 3 contains a general statement of the key prohibitory effect of the gun control provisions. It further provides for a 180 day grace period before persons possessing firearms on the effective date of the Article are required to obtain firearm permits. Section 3 is derived from House Bill 1546, ss. 3 and 4, 1969 Legislative Assembly.

Section 4 contains the procedural requirements for firearm permit applications. It is derived from House Bill 1546, s. 9.

Section 5 determines when a firearm permit is issuable. Two important provisions should be noted: a firearm permit once issued is valid permanently unless suspended, revoked or rendered void by the occurrence of a statutory disability, and the number of firearms a permit holder may possess is not restricted. Section 5 is derived, in part, from House Bill 1546, ss. 6 and 13.

Section 6, a central element of permissive gun control legislation, determines what classes of persons are ineligible to obtain a firearm permit; ineligibility, in effect, prohibits persons subject to the disability from possessing any kind of firearm within the state. Section 6 is derived, in part, from the following sources: HB 1546, s. 7; Toledo, Ohio Municipal Code, s. 17-19-4; N. J. Stats. Ann. 2A:151-33.

Section 7 modifies section 6 to the extent of authorizing issuance of restricted firearm permits to certain persons otherwise prohibited from possessing firearms by section 6; a restricted firearm permit authorizes the holder to possess rifles or shotguns only. Section 7 is derived, in part, from Mass. Laws Ann., s. 129B; Toledo, Ohio Municipal Code s. 17-19-4; and ORS 168.015 (4) (c).

Section 8 provides an appeal procedure for persons aggrieved by the denial of a permit application or the suspension or revocation of an existing permit. The section is derived from HB 1546, s. 12.

Section 9 sets forth the requirements for registration of all handguns presently possessed within the state, as well as requirements for the reregistration of handguns upon transfer after the effective date of the Article. Section 9 is the heart of the handgun registration law, designed to regulate traffic in pistols and revolvers within Oregon. Section 9 is derived, in part, from the following sources: Mich. Laws Ann., Title 28, s. 28.92; HB 1546, s. 14; New York City Municipal Code s. 436-6.6.

Section 10 requires compliance with specified reporting procedures in the event a handgun, permit or handgun registration certificate is lost or stolen. The section is derived from Toledo, Ohio Municipal Code section 17-19-13 and Section V (1) of a model Firearms Registration and Permit Ordinance promulgated by the National League of Cities and U. S. Conference of Mayors (1968).

Section 11 is a restatement of existing law on required maintenance by dealers of a firearms transfer register. Requirements have been broadened to include long guns as well as handguns, with daily reports to be sent to the State Police. Section 11 is a restatement of ORS 166.420.

Section 12 is a grant of authority to local municipalities for conditional licensing of retail firearm dealers. The section restates ORS 166.430 and 166.470.

Section 13 restates present law governing licenses to carry a concealed weapon, except that licensing authority is vested solely in the State Police. Section 13 is taken from ORS 166.290.

Section 14, third degree illegal possession of a deadly weapon, the Article's first substantive offense, punishes failure to comply with the permit and handgun registration provisions of the preceding sections.

Section 15, second degree illegal possession of a deadly weapon, involves two separate violations. The first involves possession of certain outlawed deadly weapons, e.g., blackjacks. The second penalizes possession of a firearm by persons ineligible to obtain a firearm permit. Subsection (a) of section 15 is derived from Michigan Revised Criminal Code s. 5705.

Section 16, first degree illegal possession of a deadly weapon, prohibits possession of a machine gun or sawed-off shotgun, and the possession of a handgun by a person ineligible to obtain a firearm permit. Subsection (a) of section 16 is derived from Michigan Revised Criminal Code s. 5705.

Section 17 prohibits carrying a concealed knife and is derived from Michigan Revised Criminal Code s. 5715.

Section 18 prohibits carrying a concealed handgun and is derived from Michigan Revised Criminal Code s. 5715.

Section 19 prohibits the transfer of firearms in violation of the gun control provisions, and the transfer of certain deadly weapons to persons who may not lawfully possess them.

Section 20 penalizes the reckless or criminally negligent use of firearms and deadly weapons and includes a provision for suspension of hunting privileges upon conviction. Section 20 is derived from Michigan Revised Criminal Code s. 5740 and ORS 163.320, 166.630 and 166.320.

Section 21, which is intended to deter noncompliance with the gun control provisions, lists seven offenses premised upon a failure to comply with firearm permit and handgun registration requirements.

Section 22 creates a new offense by prohibiting possession of or trafficking in "destructive devices," military-type weapons with no legitimate sport utility. Persons presently in lawful possession of such devices would have 60 days to dispose of them before becoming subject to criminal sanction. Section 22 is derived from California Penal Code, Ch. 2.5, ss. 12301 to 12307.

Section 23 prohibits defacing the identification or serial number on a handgun or machine gun. The section is derived from Michigan Revised Criminal Code ss. 5710 and 5735, and ORS 166.450.

Section 24 prohibits furnishing explosives to a person less than 18 years old without the consent of his parent or guardian. The section is taken from Michigan Laws Ann., Title 28, s. 28.559 (1) and ORS 166.480.

Section 25 categorizes a number of defenses to the sections on illegal possession of deadly weapons, dealing in destructive devices and carrying a concealed weapon, e.g., law enforcement and military personnel. Section 25 is derived from Michigan Revised Criminal Code s. 5715 (2) and ORS 166.260 (2), 166.240 (2) and 166.460.

Section 26 provides for judicial forfeiture of firearms, deadly weapons and destructive devices upon conviction of a crime involving their unlawful use, transfer or possession. Section 26 is taken from Toledo, Ohio Municipal Code s. 17-19-3 and ORS 166.280.

Section 27 restates ORS 166.490 which authorizes the purchase of firearms by Oregon residents in contiguous states. The IRS has construed the Gun Control Act of 1968 as requiring affirmative legislation by the individual states before such sales may lawfully be made. Section 27 fulfills that requirement.

Section 28 requires the State Police to maintain a central filing system for all records related to the administration of this Article. It also limits the disclosure of information to state and federal law enforcement officers engaged in official duty.

Section 29 establishes a State Police Firearms Account in the General Fund of the State Treasury. The section is derived from HB 1546, s. 17.

Section 30 appropriates money to fund the State Police Firearms Account. It is derived from HB 1546, s. 18.

The following derivative sources were reviewed, digested and used extensively in drafting the 30 sections in Article 28:

Gun Control Act of 1968, 18 U.S.C., Ch. 44, ss. 921 to 928

New York City Municipal Penal Code, ss. 436-5.0 to 436-6.13

Chicago, Illinois, Municipal Criminal Code, ss. 11.1-4 to 11.1-16

House Bill 1546, Oregon Legislative Assembly (1969)

Illinois Firearms Owners Identification Law, ss. 83-1 to 83-15

Toledo, Ohio Municipal Code, Article XIX, Ch. 17, ss. 17-19-1 to  
17-19-15

Michigan Comp. Laws Ann., Title 28, ss. 28.91 to 28.559 (1)

(Sample) Firearms Registration and Permit Ordinance, Prepared by  
National League of Cities and U. S. Conference of Mayors (7/10/68)

Senate Bill 977, 91st Congress, 1st Session

New Jersey Stats. Ann., Title 2A, ss. 2A:151-32 to 2A:151-47

Massachusetts Gen. Laws Ann., Ch. 140, ss. 121 to 131H

California Penal Code, Ch. 2.5, ss. 12301 to 12307

Second and Fifth Amendment problems raised by gun control legislation were extensively discussed and analyzed by subcommittee members. In their judgment the Second Amendment raises no legal barrier to state firearms legislation. The Fifth Amendment, however, could be invoked against enforcement of such laws. (See *Marchetti v. U.S.*, 390 US 39 (1968); *Grosso v. U.S.*, 390 US 62 (1968); *Haynes v. U.S.*, 390 US 85 (1968) ). For the present the most realistic approach is to assume that Fifth Amendment objections to gun control statutes will be sustained when raised by those persons whom the statutes require to furnish information that might incriminate them under state or federal law. One response to this apparent paradox is found in Firearms and Violence in American Life, A Staff Report to the National Commission on the Causes and Prevention of Violence (1969):

"Registration, however, is only one aspect of a total system of firearms control. Provisions making it illegal for ineligible persons to possess a firearm are all that is needed to send the illegal possessor to jail when he is discovered. Registration contributes to firearms control not by pointing the finger at illegal possessors but by reducing the flow of guns from legitimate to illegitimate users. Given this limited function, making registration applicable only to all legitimate gun owners is not paradoxical but is a consistent part of a larger system of firearms control."  
At 116, 117.



ARTICLE 28. OFFENSES INVOLVING FIREARMS AND DEADLY WEAPONS  
Preliminary Draft No. 3; May 1970

Section 1. Offenses involving firearms and deadly weapons; definitions.

As used in this Article, unless the context requires otherwise:

- (1) The definition of "narcotic drug" in ORS chapter 474 and "dangerous drug" in section 1, Article 32, apply to this Article.
- (2) "Antique firearm" means a firearm manufactured prior to 1898 and which is incapable of use as a firearm.
- (3) "Blackjack" means a blackjack, slung shot, billy, sandclub, sand-bag or bludgeon.
- (4) "Deface" means to remove, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
- (5) "Dealer" or "firearm dealer" means a person required to maintain a firearms transfer register under section 11 of this Article, and federally licensed firearm manufacturers and wholesale dealers.
- (6) "Department" means the Department of State Police.
- (7) "Detention facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined pursuant to a court order.
- (8) "Firearm" means a weapon, by whatever name known, which is designed or may be readily converted to expel a projectile by the action of an explosive, expansion of gas or escape of air, excluding, however:

(a) Any pneumatic gun, spring gun or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter;

(b) Any device designed or redesigned for use solely as a signalling, line throwing, safety or industrial device;

(c) Any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition.

(9) "Firearm ammunition" means ammunition or cartridge cases, primers, bullets or propellant powder designed for use in any firearm.

(10) "Firearm permit" or "permit" means a permit issued by the Department authorizing the holder to acquire, possess or transfer firearms within this state, and includes a restricted firearm permit.

(11) "Gravity knife" means any knife with a blade which is released from the handle by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.

(12) "Handgun" means a firearm having a barrel less than 12 inches in length.

(13) "Handgun registration certificate" means a certificate issued by a firearm dealer or the Department as evidence that a specifically designated handgun has been registered as required by this Article.

(14) "Knife" means any dagger, dirk, knife or stiletto with a blade over three and one-half inches in length, or any other dangerous instrument over three and one-half inches in length capable of inflicting cutting, stabbing or tearing wounds.

(15) "Machine gun" means a weapon of any size or designation, loaded or unloaded, from which two or more shots may be fired by a single pressure on the trigger device.

(16) "Peace officer" means a sheriff, constable, marshal, municipal policeman or a member of the Oregon State Police.

(17) "Public servant" means a public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state.

(18) "Purchaser" means any person who receives a handgun from another by purchase, gift or loan.

(19) "Sawed-off shotgun" means a shotgun with its barrel reduced to less than 18 inches in length.

(20) "Seller" means any person who sells, furnishes, loans or gives a handgun to another.

(21) "Shotgun" means a weapon designed or redesigned to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(22) "Switchblade knife" means a knife the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

(23) "Transfer" means to give, lease, loan, sell or otherwise transfer to another.

(24) "Unlawfully" means in violation of this Article, or except as authorized by any other Oregon statute.

(25) "Unrelieved disability" means a disability making a person ineligible to obtain a firearm permit under section 6, which is not relieved by making the applicant eligible for a restricted firearm permit in section 7.

Section 2. Firearm permits and handgun registration certificates; exempted persons. The provisions of sections 3, 4, 5, 6, 7, 8, 9, 10, 14, paragraph (b) of subsection (1) of section 15 and paragraph (b) of subsection (1) of section 16 of this Article shall not apply to:

(1) Members of the Armed Forces of the United States or the National Guard while engaged in their official duties;

(2) Federal officials required to carry firearms while engaged in their official duties;

(3) Peace officers of this or any other jurisdiction while engaged in their official duties;

(4) Firearm dealers engaged in the regular course of their business;

(5) Antique firearms;

(6) Public servants entrusted with maintaining the order and security of detention facilities, or otherwise engaged in law enforcement related duties such as a district attorney's or attorney general's investigator, a district attorney or his deputies, or the attorney general or his assistants, while engaged in their official duties;

(7) The passing or transfer of a firearm or firearm ammunition upon the death of the owner thereof to his heir or legatee, or the passing or transfer of any firearm incident to a legal proceeding, until 90 days after such passing or transfer;

(8) Unemancipated minors while in the custody and immediate control of their parent, lawful guardian or other person in loco parentis to the minor, provided however, that the parent, lawful guardian or other person in loco parentis to the minor shall have a valid firearm permit and, in the case of a handgun, shall also have a handgun registration certificate;

(9) Any new resident moving into the state with respect to a firearm then in possession, for 30 days from date the move into the state is completed;

(10) The following nonresidents:

(a) Nonresident hunters during hunting season, with valid nonresident hunting licenses and while in an area where hunting is permitted; however, at all other times and in all other places such persons must have their firearms unloaded and enclosed in a case;

(b) Nonresidents while on a lawfully established firing or shooting range; however, such persons must at all other times and in all other places have their firearms unloaded and enclosed in a case;

(c) Nonresidents while participating in a lawful firearm show or display; however, at all other times and in all other places such persons must have their firearms unloaded and enclosed in a case;

(d) Nonresidents whose firearms are unloaded and enclosed in a case;

(e) Nonresidents who are currently licensed or registered to possess a firearm in their resident state.

Section 3. Firearm permits and handgun registration; in general.

(1) No person shall, after the effective date of this Article:

(a) Acquire or transfer a firearm or firearm ammunition within this state unless he is the holder of a valid firearm permit;

(b) Acquire or transfer a handgun within this state unless both purchaser and seller comply with the handgun registration requirements of section 9 of this Article.

(2) A person owning or possessing a firearm or firearm ammunition within this state on the effective date of this Article shall, within 180 days thereafter, sell or otherwise transfer the firearm or firearm ammunition, or make application for a firearm permit in his own name. In the event the firearm possessed is a handgun, the application for a firearm permit shall be accompanied by an application for a handgun registration certificate under section 9 of this Article.

Section 4. Firearm permit applications; authority; form; contents; fee. (1) The Department shall issue, upon application, a firearm permit to any person not ineligible because of an unrelieved disability under section 6 of this Article.

(2) The application for a firearm permit shall be in form prescribed by the Department and shall contain:

(a) The name, residence, citizenship, place of business, age, date of birth, occupation, social security number, sex and physical description of the applicant;

(b) A statement by the applicant that he is not ineligible to obtain a firearm permit because of an unrelieved disability under section 6 of this Article including, if applicable, facts in support of eligibility for a restricted firearm permit;

(c) The applicant's signature.

(3) The application shall be accompanied by a firearm permit fee of \$\_\_\_\_\_.



Section 5. Firearm permits; when issuable; term; number of firearms authorized. (1) Upon application for a firearm permit, the Department shall proceed to investigate the applicant to determine if he is subject to one of the unrelieved disabilities set forth in section 6 of this Article. If the Department is unable to determine the eligibility of the applicant on the basis of information furnished under section 4 of this Article, it may require the applicant to furnish his fingerprints.

(2) If the application conforms to section 4 and the applicant is not subject to an unrelieved disability under section 6 of this Article, the Department shall issue a firearm permit before the 11th day after the day the application is received from a resident of this state, or before the 16th day after the application is received from a nonresident.

(3) A firearm permit shall be in form prescribed by the Department and shall contain a serially assigned permit number, date of issuance, the name, residence, date of birth, sex, height and weight of the permit holder.

(4) The number of firearms owned or possessed by a person holding a valid firearm permit shall not be restricted, provided however, that each handgun owned or possessed shall be properly registered.

Section 6. Persons ineligible to obtain a firearm permit.

Except as provided in section 7 of this Article, the Department shall not issue a firearm permit to a person who:

- (1) Has been convicted of a felony in any state or federal jurisdiction;
- (2) Has been convicted of a crime involving the use or threatened use of force, violence or a dangerous or deadly weapon, or the negligent or reckless use of a firearm, in any state or federal jurisdiction;
- (3) Suffers from a physical defect or illness that would make it unsafe for him to handle firearms, unless the applicant produces a certificate executed by a physician attesting that the physical defect or illness would not interfere with or handicap the applicant in the handling of firearms;
- (4) Has been confined in a hospital or mental institution for the treatment of drug use or addiction, alcoholism or mental illness, unless the applicant produces a certificate executed by a physician attesting that he no longer suffers from the disability to a degree that would interfere with or handicap him in the handling of firearms;
- (5) Is less than 18 years of age;
- (6) Uses a fictitious name or makes a material misrepresentation in his application for a firearm permit. A person whose firearm permit is denied, revoked or suspended under authority of this subsection shall not be eligible to reapply for a firearm permit for three years from date of the denial, revocation or suspension.

Section 7. Persons eligible for restricted firearm permit. (1)

Notwithstanding the provisions of section 6 of this Article, a restricted firearm permit may be issued to:

(a) A person convicted of a felony who, at least seven years before his application, was finally and unconditionally discharged from all imprisonment, probation or parole resulting from such conviction, and who has suffered no other disability since that discharge that would render him ineligible;

(b) A person whose felony conviction did not involve the use of force or violence, the use or attempted use of a dangerous or deadly weapon or the negligent or reckless use of a firearm;

(c) A person who has been convicted of a misdemeanor of the type defined in subsection (2) of section 6, and whose conviction occurred more than two years before the date of the application;

(d) A person who is 15 years of age or older, but less than 18, if his application is accompanied by a certification from his parent or lawful guardian granting him permission to apply for a restricted firearm permit.

(2) A restricted firearm permit shall not allow the holder to own or possess a handgun. A notice of such restriction shall be prominently displayed on each restricted firearm permit issued under authority of this section.

Section 8. Firearm permits; denial; suspension; revocation.

(1) The Department may deny an application for a permit or suspend or revoke an existing permit upon any of the grounds set forth in section 6 of this Article.

(2) When a permit application is denied or an existing permit suspended or revoked, the Department shall prepare a written order and written findings of fact and law. A copy of the order and findings shall be delivered or mailed to the aggrieved party before the 11th day after the day the order is issued. The aggrieved party may appeal the Department's order in the manner set forth in ORS 183.480 for appeal from the final decision of an agency in a contested case. Except as provided in this section, ORS 183.310 to 183.510 does not apply to a refusal to issue, suspension or revocation of a permit.

(3) When a permit application is denied or an existing permit suspended or revoked, the aggrieved party shall, within 10 days of receipt of the order from the Department, transfer all firearms then in his possession, provided however, that if the order of the Department is appealed pursuant to subsection (2) of this section, the aggrieved party shall not be required to transfer firearms in his possession until 10 days after a final decision is rendered against him.

(4) When a permit is suspended or revoked upon grounds that would otherwise entitle the holder to a restricted permit, he may, after such suspension or revocation, apply for a restricted permit. If the application for a restricted permit is submitted to the Department within 10 days of receipt of the suspension or revocation order, the applicant

shall be required to transfer his handguns only; he may, unless his application for a restricted permit is denied, retain possession of his other firearms.

(5) A permit holder who suffers any of the disabilities set forth in section 6 of this Article shall, within 10 days of its occurrence, report such disability to the Department.

(6) "Aggrieved party", as used in this section, means a permit applicant or permit holder whose application is denied, or whose permit is suspended or revoked.

Section 9. Handgun registration certificates; requirements; fee.

(1) A handgun registration certificate shall be obtained for each handgun owned or possessed by an applicant at the time of his application for a permit. An application for a handgun registration certificate filed in conjunction with the firearm permit application shall be in form prescribed by the Department and shall include the applicant's firearm permit application number, date of application, the handgun manufacturer's name and address, serial and identification number, caliber or gauge, type of action, model and barrel length, and the signature of the applicant. The handgun registration certificate application shall be in duplicate, the original to be retained by the Department, the copy, by the applicant. The copy retained by the applicant shall serve as proof of application for handgun registration until the original handgun registration certificate is issued by the Department. If a firearm permit is issued to the applicant, the Department shall simultaneously issue handgun registration certificates for each handgun claimed. Only a single application for handgun registration certificates shall be required for all handguns owned or possessed by a person on the effective date of this Article, provided that each handgun is separately identified in the application.

(2) An application for the transfer of the handgun registration certificate shall be completed by the seller and purchaser each time a handgun is transferred after the effective date of this Article. An application to transfer a handgun registration certificate shall be in triplicate and shall be signed by both seller and purchaser. The

application shall be in form prescribed by the Department and shall contain a description of the handgun to be transferred, including the handgun information set forth in subsection (1) of this section, the purchaser's name, firearm permit number, home address, residence phone, occupation, business phone, social security number, business address, sex, age, date of birth, place of birth, height, weight, color of eyes, color of hair, a certification by the seller that he holds a firearm permit, that he has examined the firearm permit of the purchaser and believes it to be valid, that the description on the application correctly describes the handgun to be transferred and that the handgun to be transferred is currently registered in the seller's name. The application shall also include the seller's firearm permit number, the handgun registration certificate number, the seller's name, address, age, residence phone, social security number and his signature. The original shall be forwarded to the Department by the seller within five days of the handgun's transfer; one copy shall be retained by the seller, another by the purchaser. The seller shall attach to the original the handgun registration certificate for the handgun transferred. Pending receipt of the registration certificate, but in no event for any longer than 14 days from date of transfer, the copy of the application to transfer handgun registration certificate shall serve in lieu of the purchaser's certificate of registration.

(3) The applications to transfer handgun registration certificates shall be prepared by the Department and made available to each firearm

dealer, the head of the police department of each city in this state, each county sheriff's office, and upon request, to any other person.

(4) If the seller is a licensed dealer, he shall, at the time of the sale, issue a certificate of registration to the purchaser provided to the dealer for that purpose by the Department. The certificate of registration shall include the same information set forth in subsection (5) of this section. The dealer shall forward to the Department a duplicate thereto, together with the report of the handgun transfer.

(5) If the seller is not a licensed dealer, the Department shall, if the seller and purchaser have valid firearm permits, and if both comply with the provisions of subsection (2) of this section, issue the certificate of registration within 10 days of the receipt by the Department of the report of transfer. The handgun registration certificate shall be in form prescribed by the Department and shall include a certificate number, date registered, description of the handgun registered, including the handgun information set forth in subsection (1) of this section, the registrant's name, firearm permit number, address, sex, age, date of birth, height, weight, a certification that the described handgun has been duly registered in the name of the described registrant, the signature of an authorized Department official and the signature of the certificate holder.



(6) A handgun registration certificate shall expire upon any change of the registrant's name or address unless the registrant shall notify the Department within 30 days of the change.

(7) Each application for a handgun registration certificate, whether original or upon transfer, shall be accompanied by a fee of \$\_\_\_\_\_ for each handgun to be registered.

Section 10. Loss or theft of handgun, firearm permit or handgun registration certificate; reporting requirements. (1) The loss or theft of a handgun registration certificate or firearm permit shall be reported to the Department by the person from whose possession it was lost or stolen within five days after knowledge of such loss.

(2) The loss or theft of a handgun shall be reported to the nearest city police department or county sheriff's office by the person from whose possession it was lost or stolen within five days after knowledge of such loss. The city police department or county sheriff's office shall, within 72 hours of such report, submit a report to the Department containing the name and address of the person losing the handgun, date and time the handgun was lost or stolen, and a complete description of the handgun, including the handgun registration information set forth in subsection (1) of section 9 of this Article.

(3) A firearm permit or handgun registration certificate found or recovered by a person not the owner or holder thereof shall be delivered or mailed to the Department within five days of such finding or recovery.

(4) A handgun found or recovered by a person not the owner thereof shall be delivered to the nearest city police department or county sheriff's department within five days of such finding or recovery. The city police department or county sheriff's office shall, within 72 hours after receipt of the handgun, submit a report to the Department containing the name and address of the person finding the handgun, date and time the handgun was delivered to the

reporting agency, and a complete description of the handgun, including all the handgun registration information set forth in subsection (1) of section 9 of this Article.

Section 11. Dealers' firearms transfer register; form and content of register and by whom maintained. (1) Except as provided in subsection (4) of this section, every person in the business of selling, leasing or otherwise transferring firearms, whether he is a retail dealer, pawnbroker or otherwise, shall maintain a register in which he shall enter the time, date and place of sale, the purchaser's firearm permit number, the make, model, manufacturer's number and caliber or other marks of identification on the firearm. If the firearm sold is a handgun, the dealer shall comply with the handgun registration certificate requirements of subsection (4) of section 9 of this Article. The register shall be prepared by and obtained from the State Printer in the form provided in subsection (5) of this section, and shall be furnished by the State Printer to the dealer on application at a cost of \$5 per 100 leaves, in duplicate.

(2) The purchaser of any firearm shall be required by the dealer to show a valid firearm permit issued in his name, and to sign his name and affix his address to the register in duplicate. The salesman shall affix his signature in duplicate as a witness to the signature of the purchaser.

(3) The duplicate sheet of the register shall, on the evening of the day of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of the State Police, Salem, Oregon.

(4) This section does not apply to wholesale dealers in their business transactions with retail dealers, nor to the regular or ordinary transportation by wholesale or retail dealers of unloaded firearms as merchandise.

(5) The register provided for in this section shall be in the following form:

Series No. \_\_\_\_\_  
Sheet No. \_\_\_\_\_

ORIGINAL  
(DEALERS RECORD OF SALE OF FIREARM)  
State of Oregon

Notice to Dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in triplicate. Carbon duplicate must be mailed on the evening of day of sale to the Oregon State Police. Failure to comply is punishable as a misdemeanor or by forfeiture of dealer's retail fire-arms license, or both. Use indelible pencil.

Sold by \_\_\_\_\_ Salesman \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_  
Description of firearm \_\_\_\_\_  
Manufacturer \_\_\_\_\_ ID No. \_\_\_\_\_ Caliber \_\_\_\_\_  
Name of purchaser \_\_\_\_\_ Age \_\_\_\_\_  
Firearm permit No. \_\_\_\_\_ If handgun, Registration No. \_\_\_\_\_  
Permanent address \_\_\_\_\_  
Height \_\_\_\_\_ Occupation \_\_\_\_\_  
If traveling, or in locality temporarily, give local address \_\_\_\_\_

Signature of purchaser \_\_\_\_\_  
(Signing a fictitious name or address is a misdemeanor.  
To be signed in duplicate.)

Witness \_\_\_\_\_ (salesman)  
(To be signed in duplicate)

-----  
DUPLICATE  
(DEALERS RECORD OF SALE OF FIREARM)  
State of Oregon

Notice to Dealers: This carbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page. Violation of this law is a misdemeanor.

(SAME FORM AS ORIGINAL)

Section 12. Licensing provisions to sell firearms at retail; limitations and conditions. (1) Licensing authorities of any municipality within this state may grant licenses in form prescribed by the Department, effective for not more than one year from date of issue, permitting the licensee to sell firearms at retail within the municipality, subject to the following conditions:

(a) The business shall be carried on only in the building designated in the license.

(b) The license or a certified copy of the original shall be prominently displayed on the premises.

(c) No handgun shall be delivered to a purchaser until 72 hours after the sale is completed and the registration certificate notice mailed to the Department.

(d) When delivered to a buyer, a handgun shall be unloaded and securely wrapped.

(e) No firearm or imitation thereof, or placard advertising the sale or transfer of a firearm, shall be prominently displayed on the premises.

(f) A register of sales and transfers shall be maintained in compliance with the provisions of section 11 of this Article.

(2) Breach of any of the conditions set forth in subsection (1) shall subject the license to forfeiture.

Section 13. Issuance of license to carry a concealed handgun.

(1) Upon satisfactory proof that the applicant is of good moral character and that good cause exists for its issuance, the Department may issue a license to carry a concealed handgun for a period not to exceed one year from date of issue. Payment of a \$3 fee must accompany the application and any subsequent renewal, to be credited to the State Police Firearms Account.

(2) An application for a license shall be filed in writing, signed by the applicant, and shall include the name, firearm permit number, handgun registration certificate number, occupation, residence and business address of the applicant, his fingerprints, age, height, weight, color of eyes and hair, and reason for desiring the license.

(3) A license issued shall include the information required by subsection (2) of this section, and a description of the handgun authorized to be carried, including the information set forth in subsection (1) of section 9 of this Article. Only one license shall be required under this section regardless of the number of handguns owned or possessed by the applicant, provided that each handgun shall be separately identified in the application.

(4) When a license is issued a record of the application and a duplicate of the license shall be maintained by the Department. The applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the Department.

Section 14. Possession of a deadly weapon in the third degree.

(1) A person eligible to obtain a firearm permit under this Article commits the crime of possession of a deadly weapon in the third degree if:

- (a) He knowingly possesses a firearm within this state after \_\_\_\_\_ without having obtained a valid firearm permit;
- (b) He knowingly possesses a handgun within this state after \_\_\_\_\_ without having obtained a registration certificate for the handgun possessed;
- (c) Having been issued a restricted firearm permit, he knowingly possesses a handgun within this state.

(2) Possession of a deadly weapon in the third degree is a \_\_\_\_\_.

Section 15. Possession of a deadly weapon in the second degree.

(1) A person commits the crime of possession of a deadly weapon in the second degree if:

- (a) He knowingly possesses a blackjack, switchblade knife, gravity knife or metallic knuckles;
- (b) Being a convicted felon or misdemeanant ineligible under section 6 of this Article to obtain a firearm permit, he knowingly possesses a firearm other than a handgun within this state.

(2) Possession of a deadly weapon in the second degree is a \_\_\_\_\_.



Section 16. Possession of a deadly weapon in the first degree.

(1) A person commits the crime of possession of a deadly weapon in the first degree if:

(a) He knowingly possesses a machine gun or sawed-off shotgun;

(b) Being a convicted felon or misdemeanant ineligible under section 6 of this Article to obtain a firearm permit, he knowingly possesses a handgun within this state.

(2) Possession of a deadly weapon in the first degree is a

---

Section 17. Carrying a concealed weapon in the second degree.

(1) A person commits the crime of carrying a concealed weapon in the second degree if he knowingly carries a knife concealed on or about his person.

(2) Carrying a concealed weapon in the second degree is a

---

Section 18. Carrying a concealed weapon in the first degree.

(1) A person commits the crime of carrying a concealed weapon in the first degree if he knowingly and unlawfully carries a handgun concealed on or about his person or concealed in a vehicle that he is driving or occupying.

(2) Carrying a concealed weapon in the first degree is a

---

Section 19. Illegal traffic in deadly weapons. (1) A person commits the crime of illegal traffic in deadly weapons if he knowingly:

(a) Transfers a handgun that is not registered in his own name;

(b) Transfers a firearm or firearm ammunition to a person who does not have a valid firearm permit;

(c) Transfers a blackjack, switchblade knife, gravity knife, metallic knuckles, machine gun or sawed-off shotgun to a person who cannot lawfully own or possess the same.

(2) Illegal traffic in deadly weapons is a \_\_\_\_\_.

Section 20. Illegal use of firearms. (1) A person commits the crime of illegal use of firearms if:

(a) He intentionally aims or points a loaded or unloaded firearm at another person who is within the range of the weapon;

(b) He recklessly or with criminal negligence discharges a firearm or bow and arrow;

(c) He knowingly uses or attempts to use a firearm while under the influence of intoxicating liquor or a narcotic or dangerous drug;

(d) He knowingly sets a loaded spring-gun or other trap or device that sets off an explosion in a place where it may be discharged by contact with a person or animal, except that this paragraph does not apply to spring-guns or other traps or devices placed to destroy burrowing rodents, or to predatory animal control work engaged in by employes of county, state or federal governments;

(2) In addition to imposing a criminal penalty, the court may suspend hunting privileges of any person convicted under this section for a period not to exceed five years from date of conviction.

(3) Illegal use of firearms is a \_\_\_\_\_.

Section 21. Failing to comply with firearm permit or handgun registration requirements. (1) A person commits the crime of failing to comply with firearm permit or handgun registration requirements if:

(a) He intentionally fails or refuses to return his firearm permit to the Department within five days after receiving notice of its suspension or revocation;

(b) He intentionally fails or refuses to transfer all firearms in his possession within 10 days after receiving notice that his application for a firearm permit has been denied, or that his existing permit has been suspended or revoked, subject however, to the exceptions set forth in subsections (3) and (4) of section 8 of this Article;

(c) Having been issued a firearm permit he intentionally fails or refuses within 10 days of its occurrence to report to the Department that he has suffered one of the disabilities set forth in section 6 of this Article;

(d) He intentionally fails or refuses within five days after knowledge of its loss to report the loss or theft of a firearm permit, handgun or handgun registration certificate, as required by section 10 of this Article;

(e) Having found or recovered a handgun, firearm permit or handgun registration certificate belonging to another, he intentionally fails or refuses to comply with the reporting requirements of section 10 of this Article;

(f) He knowingly loans or gives his firearm permit or handgun registration certificate to another;

(g) He knowingly borrows or uses the firearm permit or handgun registration certificate of another.

(2) Failing to comply with firearm permit or handgun registration requirements is a \_\_\_\_\_.

Section 22. Illegal traffic in destructive devices. (1) A person commits the crime of illegal traffic in destructive devices if he knowingly acquires, possesses, transfers or transports a destructive device within this state.

(2) Except as provided in subsection (3) of this section, "destructive device" includes:

(a) Any projectile containing explosive, incendiary or poison gas material, including, but not limited to tracer or incendiary ammunition;

(b) Any explosive, incendiary or poison gas bomb, grenade, missile, mine or any launching device therefor ;

(c) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition other than a shotgun or shotgun ammunition;

(d) Any explosive, incendiary or poison gas rocket, rocket-propelled projectile, or similar device of a diameter greater than .60 inch or any launching device therefor.

(3) The term "destructive device" does not include tracer ammunition manufactured for use in shotguns, devices designed primarily for emergency or distress signalling purposes, or projectiles designed exclusively for firework displays.

(4) This section shall not be effective until 60 days after the effective date of this Article.

(5) Illegal traffic in destructive devices is a \_\_\_\_\_

\_\_\_\_\_.

Section 23. Defacing a firearm. (1) A person commits the crime of defacing a firearm if he intentionally defaces a handgun or machine gun.

(2) Possession of a defaced handgun or machine gun is prima facie evidence that it was defaced by the possessor.

(3) Defacing a firearm is a \_\_\_\_\_.



Section 24. Furnishing explosives to a minor. (1) A person commits the crime of furnishing explosives to a minor if he knowingly sells or furnishes bulk gunpowder, dynamite, blasting caps or nitro-glycerine to a person less than 18 years of age, without the written consent of the minor's parent or lawful guardian.

(2) Furnishing explosives to a minor is a \_\_\_\_\_

\_\_\_\_\_.

Section 25. Defenses. (1) In any prosecution under paragraph (a) of subsection (1) of section 15 or paragraph (a) of subsection (1) of section 16 of this Article, it is a defense that at the time of the alleged offense the actor was a person defined in subsection (1), (2), (3), (4) or (6) of section 2 of this Article.

(2) In any prosecution under section 17 of this Article, it is a defense that at the time of the alleged offense the actor was:

(a) A person defined in subsection (1), (2), (3), (4) or (6) of section 2 of this Article;

(b) A person concealing a deadly weapon in his home or place of business.

(3) In any prosecution under section 18 of this Article, it is a defense that at the time of the alleged offense the actor was:

(a) A person defined in subsection (1), (2), (3), (4) or (6) of section 2 of this Article;

(b) Carrying an antique firearm only;

(c) A member of a duly authorized military or veteran's organization engaged in an authorized function;

(d) A member of a club or organization formed for the purpose of practicing shooting at targets upon a public or private target range, while the members thereof are using firearms upon such target range;

(e) A person concealing a handgun in his home or place of business.

(4) In any prosecution under paragraph (a) of subsection (1) of section 20 of this Article, it is a defense that at the time of the alleged offense the actor was a person defined in subsection (1), (2), (3) or (6) of section 2 of this Article.

(5) In any prosecution under section 22 of this Article, it is a defense that at the time of the alleged offense the actor was:

(a) A person defined in subsection (1), (2), (3), (4) or (6) of section 2 of this Article;

(b) Possessing, transferring or transporting an antique firearm only;

(c) A motion picture or television studio using destructive devices in the conduct of its business;

(d) A fireman, as defined in section 1, Article 24, while on duty and acting within the scope and course of his employment.

Section 26. Forfeiture of deadly weapons and firearms.

(1) If a person who is charged with committing an offense under any of the provisions of this Article is convicted, the court shall order the forfeiture of any firearm, deadly weapon or destructive device that may have been seized by a peace officer at the time of the arrest of the defendant. The order of forfeiture shall direct that the firearm, deadly weapon or destructive device be turned over to the Department for disposal.

(2) A firearm that has been reported stolen shall be returned to its lawful owner when it is no longer needed as evidence.

(3) The Department may dispose of forfeited firearms or destructive devices in any lawful manner; provided, however, that any moneys received from the sale thereof shall be credited to the State Police Firearms Account.

Section 27. 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.

Section 28. Firearm permits and handgun registration certificate records; requirements; availability. (1) A central filing system shall be maintained by the Department for all records required by this Article.

(2) The records required to be maintained by this section shall not be disclosed except to state or federal law enforcement officers requiring such information in performance of their official duties.

Section 29. State Police Firearms Account. (1) The State Police Firearms Account is established in the General Fund of the State Treasury.

(2) Not later than the 10th day of each month, the Department shall pay into the State Police Firearms Account all moneys received by it during the preceding calendar month pursuant to this Article. The moneys in the State Police Firearms Account are appropriated continuously to the Department to pay its expenses in administering and enforcing this Article.

Section 30. Appropriation. (1) There is appropriated to the Department of State Police, for the biennium beginning \_\_\_\_\_, out of the General Fund the sum of \$\_\_\_\_\_ for the purpose of carrying out the provisions of this Article.

(2) When the Executive Department determines that moneys in sufficient amount are available in the State Police Firearms Account created by section 13 of this Article, but in no event later than June 30, 19\_\_\_\_, the Executive Department shall reimburse the General Fund without interest, in an amount equal to the amount from the General Fund appropriated and expended as provided by subsection (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not be considered as a budget item on which a limitation is otherwise fixed by law, but shall be in addition to any specific biennial appropriations or amounts authorized to be expended from continuously appropriated moneys for any biennial period.