

1 **SENATE FLOOR VERSION**

2 February 25, 2016

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 735

By: David of the Senate

and

Derby of the House

6
7
8
9 [firearms - possession of license required -
10 procedure for application - exemptions from training
11 courses - reciprocal agreement authority - effective
12 date]

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.8, as
15 last amended by Section 4, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
16 2015, Section 1290.8), is amended to read as follows:

17 Section 1290.8.

18 POSSESSION OF LICENSE REQUIRED

19 NOTIFICATION TO POLICE OF GUN

20 A. Except as otherwise prohibited by law, an eligible person
21 shall have authority to carry a concealed or unconcealed handgun in
22 this state when ~~the~~ the:

23 1. The person has been issued a handgun license from the
24 Oklahoma State Bureau of Investigation pursuant to the provisions of

1 the Oklahoma Self-Defense Act, provided the person is in compliance
2 with the provisions of the Oklahoma Self-Defense Act, and the
3 license has not expired or been subsequently suspended or revoked;
4 or

5 2. The person is twenty-one (21) years of age or older, is on
6 active military or National Guard duty, regular military or National
7 Guard reserve duty or has retired or been honorably discharged from
8 military service and presents a valid military identification card
9 in lieu of a handgun license. A person in possession of a valid
10 handgun license or a valid military identification card and in
11 compliance with the provisions of the Oklahoma Self-Defense Act
12 shall be authorized to carry such concealed or unconcealed handgun
13 while bow hunting or fishing.

14 B. The person shall be required to have possession of his or
15 her valid handgun license or valid military identification card and
16 a valid Oklahoma driver license or an Oklahoma State photo
17 identification at all times when in possession of an authorized
18 pistol. The person shall display the handgun license or a valid
19 military identification card on demand of a law enforcement officer;
20 provided, however, that in the absence of reasonable and articulable
21 suspicion of other criminal activity, an individual carrying an
22 unconcealed or concealed handgun shall not be disarmed or physically
23 restrained unless the individual fails to display a valid handgun
24 license or valid military identification card in response to that

1 demand. Any violation of the provisions of this subsection may be
2 punishable as a criminal offense as authorized by Section 1272 of
3 this title or pursuant to any other applicable provision of law.
4 Any second or subsequent violation of the provisions of this
5 subsection shall be grounds for the Bureau to suspend the handgun
6 license for a period of six (6) months, in addition to any other
7 penalty imposed.

8 Upon the arrest of any person for a violation of the provisions
9 of this subsection, the person may show proof to the court that a
10 valid handgun license and the other required identification has been
11 issued to such person and the person may state any reason why the
12 handgun license or the other required identification was not carried
13 by the person as required by the Oklahoma Self-Defense Act. The
14 court shall dismiss an alleged violation of Section 1272 of this
15 title upon payment of court costs, if proof of a valid handgun
16 license, a valid military identification card and other required
17 identification is shown to the court within ten (10) days of the
18 arrest of the person. The court shall report a dismissal of a
19 charge to the Bureau for consideration of administrative proceedings
20 against the licensee.

21 C. It shall be unlawful for any person to fail or refuse to
22 identify the fact that the person is in actual possession of a
23 concealed or unconcealed handgun pursuant to the authority of the
24 Oklahoma Self-Defense Act when the person comes into contact with

1 any law enforcement officer of this state or its political
2 subdivisions or a federal law enforcement officer during the course
3 of any arrest, detainment, or routine traffic stop. Said
4 identification to the law enforcement officer shall be made at the
5 first opportunity. No person shall be required to identify himself
6 or herself as a handgun licensee when no handgun is in the
7 possession of the person or in any vehicle in which the person is
8 driving or is a passenger. Any violation of the provisions of this
9 subsection shall, upon conviction, be a misdemeanor punishable by a
10 fine not exceeding One Hundred Dollars (\$100.00).

11 D. Any law enforcement officer coming in contact with a person
12 whose handgun license is suspended, revoked, or expired, or who is
13 in possession of a handgun license which has not been lawfully
14 issued to that person, shall confiscate the license and return it to
15 the Oklahoma State Bureau of Investigation for appropriate
16 administrative proceedings against the licensee when the license is
17 no longer needed as evidence in any criminal proceeding.

18 E. Nothing in this section shall be construed to authorize a
19 law enforcement officer to inspect any weapon properly concealed or
20 unconcealed without probable cause that a crime has been committed.

21 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as
22 last amended by Section 1, Chapter 72, O.S.L. 2015 (21 O.S. Supp.
23 2015, Section 1290.12), is amended to read as follows:

24 Section 1290.12.

1 training shall be acceptable as proof of training as required by the
2 provisions of the Oklahoma Self-Defense Act. ~~A person exempt from~~
3 ~~the training requirements as provided in Section 1290.15 of this~~
4 ~~title must show the required proof of such exemption to the firearms~~
5 ~~instructor to receive an exemption certificate. The original~~
6 ~~exemption certificate must be submitted with the application for a~~
7 ~~handgun license when the person claims an exemption from training~~
8 ~~and qualification;~~

9 3. The application form shall be completed and delivered by the
10 applicant, in person, to the sheriff of the county wherein the
11 applicant resides;

12 4. The person shall deliver to the sheriff at the time of
13 delivery of the completed application form a fee of One Hundred
14 Dollars (\$100.00) for processing the application through the
15 Oklahoma State Bureau of Investigation and processing the required
16 fingerprints through the Federal Bureau of Investigation. The
17 processing fee shall be in the form of:

- 18 a. a money order or a cashier's check made payable to the
19 Oklahoma State Bureau of Investigation,
- 20 b. by a nationally recognized credit card issued to the
21 applicant. For purposes of this paragraph,
22 "nationally recognized credit card" means any
23 instrument or device, whether known as a credit card,
24 credit plate, charge plate, or by any other name,

1 issued with or without fee by the issuer for the use
2 of the cardholder in obtaining goods, services, or
3 anything else of value on credit which is accepted by
4 over one thousand merchants in the state. The
5 Oklahoma State Bureau of Investigation shall determine
6 which nationally recognized credit cards will be
7 accepted by the Bureau, or

8 c. by electronic funds transfer.

9 Any person paying application fees to the Oklahoma State Bureau of
10 Investigation by means of a nationally recognized credit card or by
11 means of an electronic funds transfer shall be required to complete
12 and submit his or her application through the online application
13 process of the Bureau.

14 The processing fee shall not be refundable in the event of a
15 denial of a handgun license or any suspension or revocation
16 subsequent to the issuance of a license. Persons making application
17 for a firearms instructor shall not be required to pay the
18 application fee as provided in this section, but shall be required
19 to pay the costs provided in paragraphs 6 and 8 of this subsection;

20 5. The completed application form shall be signed by the
21 applicant in person before the sheriff. The signature shall be
22 given voluntarily upon a sworn oath that the person knows the
23 contents of the application and that the information contained in
24 the application is true and correct. Any person making any false or

1 misleading statement on an application for a handgun license shall,
2 upon conviction, be guilty of perjury as defined by Section 491 of
3 this title. Any conviction shall be punished as provided in Section
4 500 of this title. In addition to a criminal conviction, the person
5 shall be denied the right to have a handgun license pursuant to the
6 provisions of Section 1290.10 of this title and the Oklahoma State
7 Bureau of Investigation shall revoke the handgun license, if issued;

8 6. Two passport size photographs of the applicant shall be
9 submitted with the completed application. The cost of the
10 photographs shall be the responsibility of the applicant. The
11 sheriff is authorized to take the photograph of the applicant for
12 purposes of the Oklahoma Self-Defense Act and, if such photographs
13 are taken by the sheriff the cost of the photographs shall not
14 exceed Ten Dollars (\$10.00) for the two photos. All money received
15 by the sheriff from photographing applicants pursuant to the
16 provisions of this paragraph shall be retained by the sheriff and
17 deposited into the Sheriff's Service Fee Account;

18 7. The sheriff shall witness the signature of the applicant and
19 review or take the photographs of the applicant and shall verify
20 that the person making application for a handgun license is the same
21 person in the photographs submitted and the same person who signed
22 the application form. Proof of a valid Oklahoma driver license with
23 a photograph of the applicant or an Oklahoma State photo
24 identification for the applicant shall be required to be presented

1 by the applicant to the sheriff for verification of the person's
2 identity;

3 8. Upon verification of the identity of the applicant, the
4 sheriff shall take two complete sets of fingerprints of the
5 applicant. Both sets of fingerprints shall be submitted by the
6 sheriff with the completed application, certificate of training or
7 an exemption certificate, photographs and processing fee to the
8 Oklahoma State Bureau of Investigation within fourteen (14) days of
9 taking the fingerprints. The cost of the fingerprints shall be paid
10 by the applicant and shall not exceed Twenty-five Dollars (\$25.00)
11 for the two sets. All fees collected by the sheriff from taking
12 fingerprints pursuant to the provisions of this paragraph shall be
13 retained by the sheriff and deposited into the Sheriff's Service Fee
14 Account;

15 9. The sheriff shall submit to the Oklahoma State Bureau of
16 Investigation within the fourteen-day period, together with the
17 completed application, including the certificate of training ~~or~~
18 ~~exemption certificate~~, photographs, processing fee and legible
19 fingerprints meeting the Oklahoma State Bureau of Investigation's
20 Automated Fingerprint Identification System (AFIS) submission
21 standards, and a report of information deemed pertinent to an
22 investigation of the applicant for a handgun license. The sheriff
23 shall make a preliminary investigation of pertinent information
24 about the applicant and the court clerk shall assist the sheriff in

1 locating pertinent information in court records for this purpose.

2 If no pertinent information is found to exist either for or against
3 the applicant, the sheriff shall so indicate in the report;

4 10. The Oklahoma State Bureau of Investigation, upon receipt of
5 the application and required information from the sheriff, shall
6 forward one full set of fingerprints of the applicant to the Federal
7 Bureau of Investigation for a national criminal history records
8 search. The cost of processing the fingerprints nationally shall be
9 paid from the processing fee collected by the Oklahoma State Bureau
10 of Investigation;

11 11. Notwithstanding the provisions of the Oklahoma Self-Defense
12 Act, or any other provisions of law, any person who has been granted
13 a permanent victim's protective order by the court, as provided for
14 in the Protection from Domestic Abuse Act, may be issued a temporary
15 handgun license for a period not to exceed six (6) months. A
16 temporary handgun license may be issued if the person has
17 successfully passed the required weapons course, completed the
18 application process for the handgun license, passed the preliminary
19 investigation of the person by the sheriff and court clerk, and
20 provided the sheriff proof of a certified permanent victim
21 protection order and a valid Oklahoma state photo identification
22 card or driver license. The sheriff shall issue a temporary handgun
23 license on a form approved by the Oklahoma State Bureau of
24 Investigation, at no cost. Any person who has been issued a

1 temporary license shall carry the temporary handgun license and a
2 valid Oklahoma state photo identification on his or her person at
3 all times, and shall be subject to all the requirements of the
4 Oklahoma Self-Defense Act when carrying a handgun. The person may
5 proceed with the handgun licensing process. In the event the
6 victim's protection order is no longer enforceable, the temporary
7 handgun license shall cease to be valid;

8 12. The Oklahoma State Bureau of Investigation shall make a
9 reasonable effort to investigate the information submitted by the
10 applicant and the sheriff, to ascertain whether or not the issuance
11 of a handgun license would be in violation of the provisions of the
12 Oklahoma Self-Defense Act. The investigation by the Bureau of an
13 applicant shall include, but shall not be limited to: a statewide
14 criminal history records search, a national criminal history records
15 search, a Federal Bureau of Investigation fingerprint search, and if
16 applicable, an investigation of medical records or other records or
17 information deemed by the Bureau to be relevant to the application.

18 a. In the course of the investigation by the Bureau, it
19 shall present the name of the applicant along with any
20 known aliases, the address of the applicant and the
21 social security number of the applicant to the
22 Department of Mental Health and Substance Abuse
23 Services. The Department of Mental Health and
24 Substance Abuse Services shall respond within ten (10)

1 days of receiving such information to the Bureau as
2 follows:

3 (1) with a "Yes" answer, if the records of the
4 Department indicate that the person was
5 involuntarily committed to a mental institution
6 in Oklahoma,

7 (2) with a "No" answer, if there are no records
8 indicating the name of the person as a person
9 involuntarily committed to a mental institution
10 in Oklahoma, or

11 (3) with an "Inconclusive" answer if the records of
12 the Department suggest the applicant may be a
13 formerly committed person. In the case of an
14 inconclusive answer, the Bureau shall ask the
15 applicant whether he or she was involuntarily
16 committed. If the applicant states under penalty
17 of perjury that he or she has not been
18 involuntarily committed, the Bureau shall
19 continue processing the application for a
20 license.

21 b. In the course of the investigation by the Bureau, it
22 shall check the name of any applicant who is twenty-
23 eight (28) years of age or younger along with any
24 known aliases, the address of the applicant and the

1 social security number of the applicant against the
2 records in the Juvenile Online Tracking System (JOLTS)
3 of the Office of Juvenile Affairs. The Office of
4 Juvenile Affairs shall provide the Bureau direct
5 access to check the applicant against the records
6 available on JOLTS.

7 (1) If the Bureau finds a record on the JOLTS that
8 indicates the person was adjudicated a delinquent
9 for an offense that would constitute a felony
10 offense if committed by an adult within the last
11 ten (10) years the Bureau shall deny the license,

12 (2) If the Bureau finds no record on the JOLTS
13 indicating the named person was adjudicated
14 delinquent for an offense that would constitute a
15 felony offense if committed by an adult within
16 the last ten (10) years, or

17 (3) If the records suggest the applicant may have
18 been adjudicated delinquent for an offense that
19 would constitute a felony offense if committed by
20 an adult but such record is inconclusive, the
21 Bureau shall ask the applicant whether he or she
22 was adjudicated a delinquent for an offense that
23 would constitute a felony offense if committed by
24 an adult within the last ten (10) years. If the

1 applicant states under penalty of perjury that he
2 or she was not adjudicated a delinquent within
3 ten (10) years, the Bureau shall continue
4 processing the application for a license; and

5 13. If the background check set forth in paragraph 12 of this
6 subsection reveals no records pertaining to the applicant, the
7 Oklahoma State Bureau of Investigation shall either issue a handgun
8 license or deny the application within sixty (60) days of the date
9 of receipt of the applicant's completed application and the required
10 information from the sheriff. In all other cases, the Oklahoma
11 State Bureau of Investigation shall either issue a handgun license
12 or deny the application within ninety (90) days of the date of the
13 receipt of the applicant's completed application and the required
14 information from the sheriff. The Bureau shall approve an applicant
15 who appears to be in full compliance with the provisions of the
16 Oklahoma Self-Defense Act, if completion of the federal fingerprint
17 search is the only reason for delay of the issuance of the handgun
18 license to that applicant. Upon receipt of the federal fingerprint
19 search information, if the Bureau receives information which
20 precludes the person from having a handgun license, the Bureau shall
21 revoke the handgun license previously issued to the applicant. The
22 Bureau shall deny a license when the applicant fails to properly
23 complete the application form or application process or is
24 determined not to be eligible as specified by the provisions of

1 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
2 approve an application in all other cases. If an application is
3 denied, the Bureau shall notify the applicant in writing of its
4 decision. The notification shall state the grounds for the denial
5 and inform the applicant of the right to an appeal as may be
6 provided by the provisions of the Administrative Procedures Act.
7 All notices of denial shall be mailed by first-class mail to the
8 address of the applicant listed in the application. Within sixty
9 (60) calendar days from the date of mailing a denial of application
10 to an applicant, the applicant shall notify the Bureau in writing of
11 the intent to appeal the decision of denial or the right of the
12 applicant to appeal shall be deemed waived. Any administrative
13 hearing on a denial which may be provided shall be conducted by a
14 hearing examiner appointed by the Bureau. The decision of the
15 hearing examiner shall be a final decision appealable to a district
16 court in accordance with the Administrative Procedures Act. When an
17 application is approved, the Bureau shall issue the license and
18 shall mail the license by first-class mail to the address of the
19 applicant listed in the application.

20 B. Nothing contained in any provision of the Oklahoma Self-
21 Defense Act shall be construed to require or authorize the
22 registration, documentation or providing of serial numbers with
23 regard to any firearm. For purposes of the Oklahoma Self-Defense
24

1 Act, the sheriff may designate a person to receive, fingerprint,
2 photograph or otherwise process applications for handgun licenses.

3 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1290.15, as
4 last amended by Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp.
5 2015, Section 1290.15), is amended to read as follows:

6 Section 1290.15.

7 PERSONS EXEMPT FROM TRAINING COURSE

8 A. The following individuals may be exempt from all or part of
9 the required training and qualification course established pursuant
10 to the provisions of Section 1290.14 of this title:

11 1. A firearms instructor registered with the Oklahoma State
12 Bureau of Investigation for purposes of the Oklahoma Self-Defense
13 Act;

14 2. An active duty law enforcement officer of this state or any
15 of its political subdivisions or of the federal government;

16 3. A retired law enforcement officer authorized by this state
17 pursuant to Section 1289.8 of this title to carry a firearm;

18 4. A CLEET-certified armed security officer, armed guard,
19 correctional officer, or any other person having a CLEET
20 certification to carry a firearm in the course of their employment;

21 5. A person on active military duty, National Guard duty or
22 regular military reserve duty who is a legal resident of this state
23 and who is trained and qualified in the use of handguns;

24

1 6. A person honorably discharged from active military duty,
2 National Guard duty or military reserves within twenty (20) years
3 preceding the date of the application for a handgun license pursuant
4 to the provisions of the Oklahoma Self-Defense Act, who is a legal
5 resident of this state, and who has been trained and qualified in
6 the use of handguns;

7 7. A person retired as a peace officer in good standing from a
8 law enforcement agency located in another state, who is a legal
9 resident of this state, and who has received training equivalent to
10 the training required for CLEET certification in this state; and

11 8. Any person who is otherwise deemed qualified for a training
12 exemption by ~~CLEET~~ the Council on Law Enforcement Education and
13 Training.

14 ~~Provided, however, persons applying for an exemption pursuant to~~
15 ~~paragraph 3, 4, 5, 6 or 7 of this subsection may be required to~~
16 ~~successfully complete the classroom portion of the training course.~~
17 ~~The fee for the classroom portion of the training course shall be~~
18 ~~determined by the instructor or entity that is conducting the~~
19 ~~course.~~

20 ~~B. The Council on Law Enforcement Education and Training~~
21 ~~(CLEET) shall establish criteria for providing proof of an~~
22 ~~exemption. Before any person shall be considered exempt from all or~~
23 ~~part of the required training and qualification pursuant to the~~
24 ~~provisions of the Oklahoma Self-Defense Act, the person shall~~

1 ~~present the required proof of exemption to a registered firearms~~
2 ~~instructor. Each person determined to be exempt from training or~~
3 ~~qualification as provided in this subsection shall receive an~~
4 ~~exemption certificate from the registered firearms instructor. The~~
5 ~~rules promulgated by CLEET to implement the provisions of this~~
6 ~~section and Section 1290.14 of this title may require that a fee not~~
7 ~~to exceed Five Dollars (\$5.00) be charged for processing an~~
8 ~~exemption certificate.~~

9 ~~The original exemption certificate must be submitted with an~~
10 ~~application for a handgun license as provided in paragraph 2 of~~
11 ~~Section 1290.12 of this title. No person who is determined to be~~
12 ~~exempt from training or qualification may carry a concealed or~~
13 ~~unconcealed firearm pursuant to the authority of the Oklahoma Self-~~
14 ~~Defense Act until issued a valid handgun license or possesses a~~
15 ~~valid military identification card as provided for in Section 1290.8~~
16 ~~of this title.~~

17 C. Nothing contained in any provision of the Oklahoma Self-
18 Defense Act shall be construed to alter, amend, or modify the
19 authority of any active duty law enforcement officer, or any person
20 certified by the Council on Law Enforcement Education and Training
21 to carry a pistol during the course of their employment, to carry
22 any pistol in any manner authorized by law or authorized by the
23 employing agency.

24

1 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.26, as
2 last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp.
3 2015, Section 1290.26), is amended to read as follows:

4 Section 1290.26.

5 RECIPROCAL AGREEMENT AUTHORITY

6 The State of Oklahoma hereby recognizes any valid concealed or
7 unconcealed carry weapons permit, valid military identification card
8 or license issued by another state, or if the state is a
9 nonpermitting carry state, this state shall reciprocate under the
10 permitting law of that state.

11 A. Any person entering this state in possession of a firearm
12 authorized for concealed or unconcealed carry upon the authority and
13 license of another state or a valid military identification card is
14 authorized to continue to carry a concealed or unconcealed firearm
15 and license in this state; provided the license from the other state
16 or military identification card remains valid. The firearm must
17 either be carried unconcealed or concealed from detection and view,
18 and upon coming in contact with any peace officer of this state, the
19 person must disclose the fact that he or she is in possession of a
20 concealed or unconcealed firearm pursuant to a valid concealed or
21 unconcealed carry weapons permit ~~or~~, license or a valid military
22 identification card issued in another state.

23 B. Any person entering this state in possession of a firearm
24 authorized for concealed carry upon the authority of a state that is

1 a nonpermitted carry state and the person is in compliance with the
2 Oklahoma Self-Defense Act, the person is authorized to carry a
3 concealed firearm in this state. The firearm must be carried fully
4 concealed from detection and view, and upon coming in contact with
5 any peace officer of this state, the person must disclose the fact
6 that he or she is in possession of a concealed firearm pursuant to
7 the nonpermitting laws of the state in which he or she is a legal
8 resident. The person shall present proper identification by a valid
9 photo ID as proof that he or she is a legal resident in such a non-
10 permitting state. The Department of Public Safety shall keep a
11 current list of non-permitting states for law enforcement officers
12 to confirm that a state is nonpermitting.

13 C. Any person who is twenty-one (21) years of age or older
14 having a valid firearm license from another state may apply for a
15 handgun license in this state immediately upon establishing a
16 residence in this state.

17 SECTION 5. This act shall become effective November 1, 2016.

18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
19 February 25, 2016 - DO PASS AS AMENDED
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