

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 870

BY: SHURDEN

AS INTRODUCED

AN ACT RELATING TO CRIMES AND PUNISHMENTS; AMENDING
21 O.S. 1991, SECTION 1272, WHICH RELATES TO
CARRYING WEAPONS; CREATING THE OKLAHOMA
SELF-DEFENSE ACT; PROVIDING SHORT TITLE;
AUTHORIZING DEPARTMENT OF PUBLIC SAFETY TO ISSUE
LICENSES TO CARRY CONCEALED WEAPONS OR FIREARMS;
DEFINING TERM; PROVIDING FOR TERM OF LICENSE;
SPECIFYING QUALIFICATIONS OF APPLICANTS; STATING
GROUNDS FOR DENIAL; SPECIFYING CONTENTS OF
APPLICATION FORM; REQUIRING CERTAIN ITEMS BE
SUBMITTED TO DEPARTMENT; PROVIDING FOR
FINGERPRINTING OF APPLICANTS; AUTHORIZING CERTAIN
FEES; AUTHORIZING SHERIFF NOT TO PARTICIPATE IN
CERTAIN MANNER; SPECIFYING DUTIES OF APPLICANT,
SHERIFF AND DEPARTMENT OF PUBLIC SAFETY; REQUIRING
ACTION ON APPLICATION WITHIN CERTAIN PERIOD;
REQUIRING LISTING OF LICENSEES; PROVIDING FOR
LICENSE CHANGES AND LOSS OF LICENSE; STATING
GROUNDS FOR SUSPENSION OR REVOCATION; PROVIDING
PROCEDURES FOR RENEWAL; PROHIBITING CARRYING OF
CONCEALED WEAPON OR FIREARM IN CERTAIN PLACES;
PROVIDING FOR DISTRIBUTION OF MONIES; STATING
LEGISLATIVE FINDINGS AND INTENT; PROVIDING CERTAIN
CONSTRUCTION; REQUIRING CERTAIN REPORT; PROVIDING

FOR CODIFICATION; REPEALING 21 O.S. 1991, SECTION
1289.8, WHICH RELATES TO CARRYING CONCEALED
WEAPONS; PROVIDING SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1290.1 of Title 21, unless there
is created a duplication in numbering, reads as follows:

Sections 1 and 2 of this act shall be known and may be cited as
the "Oklahoma Self-Defense Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1290.2 of Title 21, unless there
is created a duplication in numbering, reads as follows:

A. The Department of Public Safety is authorized to issue
licenses to carry concealed weapons or concealed firearms to persons
qualified as provided in this section. For the purposes of this
section, a "concealed weapon or concealed firearm" shall mean a
handgun, electronic weapon or device, tear gas gun, knife or billie.
Such licenses shall be valid throughout the state for a period of
three (3) years from the date of issuance. Any person in compliance
with the terms of such license may carry a concealed weapon or
concealed firearm. The licensee must carry the license or an actual
copy thereof, together with valid identification, at all times
during which the licensee is in actual possession of a concealed
weapon or firearm and must display both the license and proper
identification upon demand by a law enforcement officer. Any person
having been issued a license and failing to carry such license while

in actual possession of a concealed weapon or firearm shall be in violation of the provisions of this subsection. Such action shall constitute a civil violation with a penalty of Twenty-five Dollars (\$25.00), payable to the clerk of the district court of the district where the violation occurred.

B. The Department of Public Safety shall issue a license if the applicant:

1. Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the submission of the application;

2. Is twenty-one (21) years of age or older;

3. Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

4. Is not ineligible to possess a firearm pursuant to Section 1283 of Title 21 of the Oklahoma Statutes or pursuant to any provision of federal law;

5. Has not been committed for the abuse of a controlled substance or has not been found guilty of a crime under the provisions of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, or similar laws of any other state or the United States relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;

6. Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been under treatment as an alcoholic or habitual drug abuser under the provisions of the Oklahoma Alcohol and Drug Abuse Services Act, Section 3-401 et seq. of Title 43A of the Oklahoma Statutes, or has had two or more felony convictions under the provisions of the Oklahoma Alcoholic Beverage Control Act,

Section 501 et seq. of Title 37 of the Oklahoma Statutes or the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, or similar laws of any other state, within the three-year period immediately preceding the date on which the application is submitted;

7. Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

8. Demonstrates competence with a firearm by any one of the following:

- a. actual completion of any hunter education or hunter safety course approved by the Wildlife Conservation Commission or a similar agency of another state,
- b. actual completion of any National Rifle Association firearms safety or training course,
- c. actual completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission or the Department of Public Safety,
- d. actual completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies or any division or subdivision of law enforcement or security enforcement,
- e. presentation of evidence of equivalent experience with a firearm through participation in organized shooting competition or military service,
- f. presentation of evidence of being or having been licensed to carry a firearm in this state or a county

or municipality of this state, unless such license has been revoked for cause, or

- g. actual completion of any firearms training or safety course or class conducted by a state certified or National Rifle Association certified firearms instructor.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant or a copy of any document which shows completion of the course or class or evidences participation in firearms competition, shall constitute evidence of qualification under this paragraph;

9. Has not been adjudicated an incompetent under the provisions of Section 1175.1 et seq. of Title 25 of the Oklahoma Statutes, or three (3) years has elapsed from the date his competency was restored by court order; and

10. Has not been committed to a mental institution under the provisions of Section 5-301 et seq. or Section 5-401 et seq. of Title 43A of the Oklahoma Statutes, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years or longer.

C. The Department of Public Safety may deny a license if the applicant has been found guilty of one or more violent felony offenses within a three-year period beginning three (3) years prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years.

D. The application shall be completed, under oath, on a form provided by the Department of Public Safety and shall include:

1. The name, address, place and date of birth, race and occupation of the applicant;

2. A statement that the applicant is in compliance with criteria contained within subsections B and C of this section;

3. A statement that the applicant has been furnished a copy of this act and is knowledgeable about its provisions;

4. A conspicuous warning that the application is executed under oath and that a false answer to any question or the submission of any false document by the applicant subjects the applicant to criminal prosecution for perjury; and

5. A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense.

E. The applicant shall submit to the Department of Public Safety:

1. A completed application as described in subsection D of this section;

2. A nonrefundable license fee not to exceed One Hundred Twenty-five Dollars (\$125.00), if he has not previously been issued a statewide license, or a nonrefundable license fee not to exceed One Hundred Dollars (\$100.00) for renewal of a statewide license;

3. Two full sets of fingerprints of the applicant administered by a law enforcement agency of this state. Costs for processing the set of fingerprints shall be borne by the applicant; and

4. A photocopy of a certificate or an affidavit or document as described in paragraph 8 of subsection B of this section.

F. 1. The Department of Public Safety, upon receipt of the items listed in subsection E of this section, shall forward the full set of fingerprints of the applicant to the Federal Bureau of Investigation and the Oklahoma State Bureau of Investigation to be processed for any criminal justice information, and forward a copy of the application and Twenty Dollars (\$20.00) of the original license fee or Ten Dollars (\$10.00) of the renewal license fee to

the sheriff of the applicant's county of residence. The cost of processing such fingerprints shall be payable to the Department of Public Safety.

2. The sheriff of the applicant's county of residence may, at his discretion, participate in the process by submitting a voluntary report to the Department of Public Safety containing any readily discoverable prior information that he feels may be pertinent to the licensing of any applicant. Any such voluntary reporting shall be made within forty-five (45) days after the date the sheriff receives the copy of the application. If the sheriff chooses, he may notify the Department in writing that he does not wish to receive copies of the application and the fee described in paragraph 1 of this subsection.

3. The sheriff's office shall provide fingerprinting service at no charge to the applicant if requested by the applicant to do so.

4. The Department shall, within ninety (90) days after the date of receipt of the items listed in subsection E of this section:

- a. issue the license, or
- b. deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsection B or C of this section. If the Department denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of any right to a hearing pursuant to the Administrative Procedures Act, Section 250.1 et seq. and Section 301 et seq. of Title 75 of the Oklahoma Statutes.

G. The Department shall maintain an automated listing of licenses and pertinent information, and such information shall be available, upon request, at all times to all law enforcement agencies.

H. Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of such change or loss. Failure to notify the Department pursuant to the provisions of this subsection shall constitute a civil violation with a penalty of Twenty-five Dollars (\$25.00).

I. In the event that a concealed weapon or firearm license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of Fifteen Dollars (\$15.00) to the Department, obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the Department that such license has been lost or destroyed.

J. A license issued under this section shall be suspended or revoked if the licensee:

1. Becomes ineligible under the criteria set forth in subsection B or C of this section;

2. Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;

3. Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to Section 1283 of Title 21 of the Oklahoma Statutes;

4. Is found guilty of a crime pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, or similar laws of any other state or the United States;

5. Is committed as an alcoholic or habitual drug abuser pursuant to the Oklahoma Alcohol and Drug Abuse Services Act;

6. Is convicted of a second violent felony offense in this state or another state or the United States, even though the first violation may have occurred prior to the date on which the application was submitted;

7. Is adjudicated an incompetent pursuant to Section 1175.1 et seq. of Title 22 of the Oklahoma Statutes; or

8. Is committed to a mental institution pursuant to the provisions of Section 5-301 et seq. or Section 5-401 et seq. of Title 43A of the Oklahoma Statutes.

K. No less than ninety (90) days prior to the expiration date of the license, the Department shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department. The licensee must renew his license on or before the expiration date by filing with the Department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections B and C of this section, a completed fingerprint card and the required renewal fee and fingerprint processing fee. The license shall be renewed upon receipt of the completed renewal application, fingerprint card and appropriate payment of fees. Additionally, a licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars (\$15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person may reapply for licensure whose license had been permanently expired; provided, application for licensure and fees pursuant to subsection E of this section must be submitted and a background investigation must be conducted pursuant to the provisions of this section. Persons who knowingly file false information pursuant to this section shall be subject to criminal prosecution for perjury.

L. No license issued pursuant to this section shall authorize any person to carry a concealed weapon or firearm into any place in which firearms are prohibited by law, including, but not limited to:

1. Any police, sheriff or highway patrol station;
2. Any detention facility, prison or jail;

3. Any courthouse or courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who may carry a concealed weapon in his courtroom;

4. Any polling place;

5. Any meeting of the governing body of a county, municipality or special district;

6. Any meeting of the Legislature or a committee thereof;

7. Any school, college or professional athletic event not related to firearms;

8. Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;

9. Any elementary or secondary school facility;

10. Any college or university facility unless the licensee is a registered student, employee or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile; or

11. Any place where the carrying of firearms is prohibited by federal law.

M. A police or peace officer certified by the Council on Law Enforcement Education and Training or a correctional officer authorized by law to carry a firearm shall be permitted to carry a concealed firearm notwithstanding the provisions of this section. Such officers shall also be exempt from the fees and background investigation required by this section for a period of one (1) year after retirement as such an officer.

N. All monies collected pursuant to this section shall be deposited in the Department of Public Safety Revolving Fund. The Department shall be authorized to expend revenues collected from this section for costs required to implement and administer the provisions of this section.

O. All funds received by the sheriff pursuant to the provisions of this section shall be deposited into the general fund of the county and shall be apportioned to the sheriff.

P. The Legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed weapons and firearms for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed weapons or firearms for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this section is subjectively or arbitrarily denied his rights. The Legislature does not delegate to the Department the authority to regulate or restrict the issuing of licenses provided for in this section, beyond those provisions contained in this section. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this section or which create restrictions beyond those specified in this section are in conflict with the intent of this section and are prohibited. This section shall be liberally construed to carry out the Constitutional right to bear arms for self-defense. This section is cumulative to existing rights to bear arms and nothing in this section shall impair or diminish such rights.

Q. By March 1 of each year, the Department shall submit a statistical report to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives indicating the number of licenses issued, revoked, suspended and denied.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1272, is amended to read as follows:

Section 1272. It shall be unlawful for any person to carry upon or about his person, or in his portfolio or purse, any pistol, revolver, dagger, bowie knife, dirk knife, switchblade knife,

spring-type knife, sword cane, knife having a blade which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, blackjack, loaded cane, billy, hand chain, metal knuckles, or any other offensive weapon, except as ~~in this article~~ otherwise provided by law. Provided further, that this section shall not prohibit the proper use of guns and knives for hunting, fishing or recreational purposes, nor shall this section be construed to prohibit any use of weapons in a manner otherwise permitted by statute. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor.

SECTION 4. REPEALER 21 O.S. 1991, Section 1289.8, is hereby repealed.

SECTION 5. The provisions of this act are severable and if any part or provision shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

SECTION 6. This act shall become effective September 1, 1992.

43-2-1565 NP