

SHORT TITLE: Firearms; creating the "Handgun Licensing Act"; authorizing the Oklahoma State Bureau of Investigation to issue concealed handgun licenses; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 52

By: Shurden

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 1991, Section 1272, which relates to carrying weapons; creating the "Handgun Licensing Act"; providing short title; authorizing the Oklahoma State Bureau of Investigation to issue licenses to carry concealed firearms; defining term; providing term of license; specifying qualifications for applicants; stating grounds for denial and revocation; specifying contents of application form; requiring certain items be submitted to Department; providing for fingerprinting of applicants; authorizing certain fees; specifying duties of applicant, sheriff and OSBI; providing certain listing of licenses; providing procedures for renewal; prohibiting carrying of concealed firearm in certain places; exempting certain officers from license requirements; providing for certain officers to carry concealed firearms for limited term after retirement; directing deposit of monies and fees; stating legislative intent; requiring certain report; providing for codification; repealing 21 O.S. 1991, Section 1289.8, which relates to carrying concealed weapons; and providing an effective date.

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

SECTION 1. 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 2. 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 2 and 3 of this act shall be known and may be cited as the "Handgun Licensing Act".

SECTION 3. 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 Oklahoma State Bureau of Investigation is authorized to issue a concealed handgun license to persons qualified as provided in this section. Each concealed handgun license shall bear a color photograph of the licensee. For the purposes of this section, a "concealed firearm" shall mean a pistol or revolver, carried upon or about the person or in a portfolio or purse carried by the person, or placed in a glove compartment, door slot, under a seat, above a windshield visor or other interior compartment of a vehicle within reach of the operator of such vehicle.

B. A person may apply to the Oklahoma State Bureau of Investigation for a license to carry a concealed firearm on or about his person provided the applicant:

1. Has been a resident of the State of Oklahoma for six (6) months or longer immediately preceding the date the application is submitted;

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

3. Has not been convicted of any felony in this state or any other state or the United States;

4. Has not been convicted of any crime against a person in this state or any other state;

5. Does not suffer from any mental, emotional or physical condition which prevents the safe handling of the firearm;

6. Is not ineligible to possess a firearm pursuant to any provision of state or federal law;

7. Has not been in residential or outpatient treatment for addiction to or abuse of any drug, controlled substance or intoxicating substance within a three-year period immediately preceding the date the application is submitted;

8. Has not been convicted of any crime under the provisions of the Uniform Controlled Substances Act, Sections 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 the application is submitted;

9. Does not chronically or habitually use alcohol or any other intoxicating substance as evidenced by two or more convictions of any offense pursuant to the provisions of Section 761, 11-902 or 11-904 of Title 47 of the Oklahoma Statutes or similar laws of any other state within a three-year period immediately preceding the date the application is submitted;

10. Desires to carry a concealed firearm for lawful self-defense;

11. 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;

12. Has not been adjudicated incompetent under the provisions of Section 1175.1 et seq. of Title 25 of the Oklahoma Statutes; and

13. 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. When issued, a concealed handgun license shall apply to any concealed firearm carried by the licensee and shall be valid throughout the state for a period of two (2) years from the date of issuance. Any person in compliance with the terms of such license may carry a concealed firearm at any time and in any place not otherwise prohibited by law. The Department may require a demonstration of the ability to properly handle a firearm.

D. The licensee shall carry the original license, together with a valid driver's license at all times when the licensee is in actual possession of a concealed firearm and must display both the license and driver's license upon demand by any law enforcement officer. Any person having been issued a concealed handgun license and failing to carry such license while in actual possession of a concealed firearm shall be in violation of the provisions of Section 1272 of Title 21 of the Oklahoma Statutes.

E. The Oklahoma State Bureau of Investigation shall deny a concealed handgun license when the applicant fails to properly complete the application or is otherwise not eligible for a concealed handgun license as specified in this act. The OSBI shall immediately revoke a license if the licensee is found to have given false information on the application. The OSBI shall have a criminal background check conducted on each applicant prior to issuing a license and upon renewal of any license.

F. The application shall be completed, under oath, on a form provided by the Oklahoma State Bureau of Investigation and shall include:

1. The name, address, county of residence, place and date of birth, age, weight, height, social security number, race and occupation of the applicant;

2. A statement that the applicant is in compliance with criteria contained within subsections B and E 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 information or document by the applicant subjects the applicant to criminal prosecution for perjury;

5. A statement that the applicant desires a concealed handgun license as a means of lawful self-defense; and

6. The serial number and description of every concealed firearm to be carried by the applicant.

G. The applicant shall submit to the Oklahoma State Bureau of Investigation:

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

2. A nonrefundable license fee which shall not exceed One Hundred Dollars (\$100.00) for the original two-year period or a

nonrefundable renewal license fee not to exceed Seventy-five Dollars (\$75.00) for a two-year renewal period. No license fee shall be refundable if a license is revoked or denied;

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

4. A photocopy of a certificate or an affidavit or document as described in paragraph 11 of subsection B of this section; and

5. A full frontal view color photograph of the applicant taken within the preceding thirty (30) days, in which the head, including hair, measures seventh-eighth (7/8) of an inch wide and one and one-eighth (1 1/8) inches high.

H. 1. The Oklahoma State Bureau of Investigation, upon receipt of the items listed in subsection G of this section, shall forward one full set of fingerprints of the applicant to the Federal Bureau of Investigation and one full set shall be kept by the Oklahoma State Bureau of Investigation to be processed for any criminal justice information, and OSBI shall 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 by the applicant to the OSBI.

2. The sheriff of the applicant's county of residence may, at his discretion, participate in the licensing process by submitting a voluntary report to the Oklahoma State Bureau of Investigation 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 OSBI 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 OSBI shall, within ninety (90) days after the date of receipt of the items listed in subsection G of this section:

- a. issue the license, or
- b. deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection B or E of this section. If the OSBI 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.

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

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

K. In the event that a concealed handgun 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 OSBI, obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the OSBI that such license has been lost or destroyed.

L. A license issued under this section shall be revoked if the licensee:

1. Becomes ineligible under the criteria set forth in subsection B or E of this section;
2. Develops or sustains a physical, mental or emotional infirmity which prevents the safe handling of a firearm;
3. Is convicted of any felony in this state or any other state or the United States;
4. Is convicted of any crime pursuant to 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;
5. Is committed as an alcoholic or habitual drug abuser pursuant to the Oklahoma Alcohol and Drug Abuse Services Act, Section 3-401 et seq. of Title 43A of the Oklahoma Statutes;
6. Is convicted of any crime against a person in this state or another state or the United States;
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.

M. No less than ninety (90) days prior to the expiration date of the license, the OSBI shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the OSBI. The licensee may renew his license on or before the expiration date by filing with the OSBI the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections B and E of this section, two completed sets of fingerprint cards, a full frontal view color photograph of the applicant taken within the preceding thirty (30) days, in which the head, including hair, measures seventh-eighth (7/8) of an inch wide

and one and one-eighth (1 1/8) inches high, and the required renewal fee and fingerprint processing fee. Within fourteen (14) days after receipt of the completed renewal application, affidavit, fingerprint cards, photograph, and appropriate payment of fees the OSBI shall obtain the appropriate background criminal check and the license shall be renewed or denied. Additionally, a licensee who fails to file a renewal application on or before the expiration date may renew the license by paying a late fee of Fifteen Dollars (\$15.00) to the OSBI and submitting the required information. 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 G of this section shall be submitted and a background investigation shall 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.

N. No concealed handgun license issued pursuant to this section shall authorize any person to carry a concealed firearm into any place in which firearms are prohibited by state 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 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, secondary, or vocational technical school, college or university facility; or

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

O. 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 concealed 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.

P. All monies and fees collected pursuant to this section shall be deposited in the Oklahoma State Bureau of Investigation Revolving Fund. The OSBI shall be authorized to expend revenues collected from this section for costs required to implement and administer the provisions of this section.

Q. 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.

R. 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 firearms for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed 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 Oklahoma State Bureau of Investigation 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.

S. By March 1 of each year, the OSBI 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 and denied in the preceding calendar year.

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

SECTION 5. This act shall become effective September 1, 1993.

44-1-0019 NP