STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3 By: Shurden

COMMITTEE SUBSTITUTE

(Firearms - creating the "Oklahoma Self-Defense Act" - authorizing the Oklahoma State Bureau of Investigation to approve or deny applications to carry concealed handguns - codification -

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:

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. Notwithstanding any other provision of law, a person may carry a concealed pistol or revolver when the person has been issued a handgun license in accordance with the provisions of this act. A person may apply to the Oklahoma State Bureau of Investigation for a license to carry a concealed handgun provided the applicant:

1. Has been a resident of the State of Oklahoma for six (6) consecutive 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 constituting assault, battery, assault and battery or stalking in this state or any other state or the United States;

5. Has no mental, emotional or physical illness, condition or disability which might prevent the safe handling of a handgun or otherwise might impair the judgment, perception or reasoning abilities of the person;

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 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 Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, or under any ordinance of a municipality or the laws of any other state or the United States relating to any controlled dangerous substance 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;

10. Desires to carry a concealed handgun solely for lawful self-defense and self-protection;

11. Demonstrates competence and qualification with the type of handgun to be carried by the applicant through successful completion of a firearms training and safety course conducted by a state or nationally certified firearms instructor. An original or a photocopy of a signed certificate of completion of the firearms training and safety course including the type of handgun with which

the person successfully demonstrated competency shall constitute evidence of competency and qualification under this paragraph;

12. Has not been adjudicated incompetent under the provisions of Section 1175.1 et seq. of Title 22 of the Oklahoma Statutes or any other provision of law or under the laws of any other state;

13. Has not been involuntarily 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 or under the laws of any other state, unless the person possesses a certificate from a psychiatrist licensed in this state that the person has not suffered from the disability within a three-year period immediately preceding the date application is submitted; and

14. Submits a signed waiver authorizing the Oklahoma State Bureau of Investigation to investigate the applicant's medical and mental health records as deemed necessary for the purposes of issuing a handgun license pursuant to the provisions of this act.

B. The Oklahoma State Bureau of Investigation is authorized to approve or deny a handgun license to persons as provided in this act. The application shall be completed, under oath, on a form provided by the Oklahoma State Bureau of Investigation and shall contain the following information:

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

2. The type of every pistol or revolver the applicant is qualified to carry as a concealed handgun as specified in a signed certificate of completion for firearms training and safety;

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

4. A statement that the applicant desires a concealed handgun license as a means of lawful self-defense and self-protection. For purposes of this act, "lawful self-defense and self-protection" means that amount of physical force necessary, including the use of deadly force, to prevent death, serious physical injury or robbery of oneself or another person in the immediate vicinity when the licensee has a reasonable belief that death, serious physical injury or robbery is imminent; and

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

For the purposes of this act, a "concealed handgun" means a loaded or unloaded pistol or revolver, carried upon or about the person or in a portfolio or purse carried by the person, or in a vehicle when such handgun is not visible to other persons but is in the immediate reach of the licensee.

C. When issued, a handgun license shall apply to the types of handguns for which the licensee demonstrated competency and qualification in a firearms training and safety course as required by the provisions of this act and listed on the license. An original or renewal handgun license 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 a license may carry a concealed handgun at any time and in any place not otherwise prohibited by state or federal law, except the following places:

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 the 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 state or federal building;

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

9. Any bar, club or establishment licensed to dispense beer or alcoholic beverages, where the beer and alcoholic beverage sales constitute the primary purpose of the business, and where the beverages are consumed on the premises; or

10. Any elementary, secondary, or vocational technical school, college or university facility.

D. Each handgun license issued shall be on a form prescribed by the Bureau and shall contain the following information:

1. The name, address, county of residence, place and date of birth, weight, height, sex, color of eyes, social security number, race and occupation of the licensee;

2. A full frontal view color photograph of the licensee taken at the time of issuance of the license, in which the head, including the hair, measures seven-eighths (7/8) of an inch wide and one and one-eighth (1 1/8) inches high;

3. The expiration date of the license; and

4. The types of handguns the licensee is authorized to carry concealed.

E. The licensee shall be required to carry a valid handgun license, together with a valid driver's license at all times when the licensee is in actual possession of the authorized concealed handgun and must display both the valid handgun license and valid driver's license upon demand by any law enforcement officer. Any person having been issued a concealed handgun license and failing to carry the license while in actual possession of a concealed handgun or any person carrying a concealed handgun of a type other than the type of handgun authorized by the license may be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, and,

in addition to the criminal penalty which may be imposed for the violation, the licensee may be subject to an administrative violation and may be subject to a penalty not exceeding Fifty Dollars ($50.00). The administrative penalty shall be payable to the Oklahoma State Bureau of Investigation upon a determination of the violation. A licensee shall be allowed ten (10) days to show proof of the possession of a valid license to carry a handgun of the type carried at the time of an alleged violation of this provision. The court or administrative hearing officer is authorized to dismiss a charge in violation of this provision upon proof of a valid license. Any person convicted of a violation under the provisions of Section 1272 of Title 21 of the Oklahoma Statutes after having been issued a concealed handgun license shall have the handgun license permanently revoked.

F. 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 by the provisions of this act. The Oklahoma State Bureau of Investigation shall immediately revoke a handgun license if the licensee is found to have given false information on the application or submitted false documentation with an application or if the licensee becomes ineligible under any provision specified in this act. The Oklahoma State Bureau of Investigation shall immediately suspend a handgun license until final disposition of a case when there is an arrest of, issuance of an indictment or filing of a criminal information against any licensee for any felony offense or any offense constituting assault, battery, assault and battery, stalking or any offense relating to eligibility for a license. The Bureau shall conduct a criminal history background check on each applicant prior to authorizing the issuance or denial of an original handgun license and upon every application for renewal of a license.

G. The applicant shall submit to the Oklahoma State Bureau of Investigation the following when applying for an original concealed handgun license or any renewal of a license:

1. A completed application form;

2. A nonrefundable application fee of Seventy-five Dollars ($75.00) for an original three-year license or a renewal license. Handgun license fees shall not be refundable in part or full if a license is suspended or revoked;

3. Two full sets of fingerprints of the applicant administered by a law enforcement agency of this state. The costs for the Bureau to process the sets of fingerprints shall be borne by the applicant; and

4. A photocopy of the certificate of completion for a firearms training and safety course including the type of handgun or handguns for which the applicant demonstrated competency and qualification as required in paragraph 11 of subsection A of this section.

H. 1. The Oklahoma State Bureau of Investigation, upon receipt of an application, fee and documentation required 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.

2. The Bureau shall forward a copy of the application and Twenty Dollars ($20.00) of the license fee to the sheriff of the applicant's county of residence. The sheriff of the applicant's county of residence shall submit a report to the Oklahoma State Bureau of Investigation whenever there is information that is pertinent to the approval or denial of a handgun license for any applicant residing in the county. Any report made to the Bureau by the sheriff shall be submitted within fourteen (14) days after the date the sheriff receives the copy of the application. If no report is received by the Bureau as provided in this paragraph, it shall be

deemed an approval by the sheriff that no pertinent information was found against the applicant.

3. The Oklahoma State Bureau of Investigation shall, within thirty (30) days after the date of receipt of the completed application for an original or renewal license and the required documentation and fees, investigate the applicant and information submitted as required in this act and:

a. authorize the issuance of a handgun license, or

b. deny the application based solely on the grounds that the applicant fails to qualify under the provisions of this act. If the Bureau denies an 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. of Title 75 of the Oklahoma Statutes.

I. When an application for an original or renewal handgun license has been approved by the Bureau, the Bureau shall mail an approval form to the applicant at the address stated upon the application form and this approval form shall entitle the applicant to obtain the handgun license from a tag agent. The applicant, within thirty (30) days of receiving an approval form, may take the form to any tag agent authorized to issue driver's licenses in this state to have the handgun license issued as provided in this subsection. The tag agent, before a license may be processed, shall require the applicant to:

1. Submit the original approval form from the Bureau;

2. Pay a six-dollar processing fee;

3. Have a photo taken; and

4. Display proof of a valid driver's license.

After a license has been issued, the tag agent shall mail the approval form to the Bureau with the official number of the issued

license and the date of issuance. No applicant shall be authorized to carry a concealed handgun until a photo license has been issued by the tag agent as provided in this subsection.

J. The Oklahoma State Bureau of Investigation shall maintain an automated listing of all valid concealed handgun licenses together with pertinent information on each licensee. The information shall be available, upon request, at all times to all law enforcement agencies and officers.

K. The licensee shall be required to notify the Oklahoma State Bureau of Investigation in writing of a change of address or any change in other information relating to the issuance of a handgun license, including but not limited to, a subsequent change in the type of handgun for which the licensee has demonstrated competency and qualification, and whenever there is a loss or destruction of a license. The notification shall be made within thirty (30) days after a change of address, or after a concealed handgun license is lost or destroyed. Failure to notify the Oklahoma State Bureau of Investigation pursuant to the provisions of this subsection shall subject the licensee to a civil infraction and, upon a determination of a violation, the licensee shall be fined Twenty-five Dollars ($25.00). The civil fine shall be payable to the sheriff of the county of residence of the licensee. Any subsequent change in the type of handgun for which a licensee has demonstrated competency and qualification shall require a new certificate of completion for firearms training and safety specifying the additional type of handgun or handguns. The certificate shall be submitted to the Bureau with a letter requesting a license update if the licensee desires to carry the new type of handgun prior to a renewal of the license. The licensee shall be prohibited from carrying the additional type of handgun until the license has been updated to include the additional handgun. The Bureau shall issue an approval form authorizing an update of the license, and the applicant may

process the approval form by the same procedure required to process an original license in subsection I of this section.

L. 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 obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the Bureau that the license has been lost or destroyed. The Bureau shall issue an approval form authorizing a duplicate license which may be processed as provided for an original license in subsection I of this section. Any person carrying a handgun based upon the possession of a valid handgun license which has been issued to another person shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes, and in addition to the criminal penalty which may be imposed for the violation, the person shall be subject to an administrative violation and shall be subject to a penalty of Fifty Dollars ($50.00) upon a determination of the violation. The administrative penalty shall be payable to the Bureau, and the person shall be permanently prohibited from having a handgun license in this state.

M. A licensee may make application for a renewal of a handgun license not more than ninety (90) days prior to the expiration date of the license. The information and documentation required for an original license and the procedures for issuance of an original license shall be the same for a renewal of a handgun license. Upon receipt of the completed application for a handgun license renewal with the required documentation and fees, the Bureau shall either renew or deny the license according to the provisions of paragraph 3 of subsection H of this section. Any licensee who fails to make application for a renewal of a handgun license on or before the expiration date of a license may renew the license after the expiration date by paying a late fee of Fifteen Dollars ($15.00) in

addition to the application fee, and submitting the required information and documentation as specified in this act.

N. Any police or peace officer certified by the Council on Law Enforcement Education and Training or any correctional officer or other person authorized by law to carry a concealed firearm during the course of their employment or upon retirement from the employment, shall be permitted to carry a concealed firearm as otherwise provided by law notwithstanding the provisions of this act.

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

P. All funds received by the sheriff pursuant to the provisions of this act shall be deposited into the Sheriff's Fee Account.

Q. The Bureau shall promulgate rules and forms necessary to carry out the provisions of this act. The Department of Public Safety shall promulgate rules and procedures for tag agents to process handgun license approval forms as provided in this act.

R. Any person having been issued a handgun license which is valid in another state shall be authorized to carry the handgun in this state; provided the licensee is in possession of both a valid driver's license and a valid handgun license from the other state at all times while in possession of the firearm.

S. The state, its officers and employees shall be immune from liability resulting or arising from the action or misconduct with a firearm committed by a person to whom a license to carry a firearm has been issued.

T. 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 handguns for lawful self-defense

and self-protection, and further finds it necessary to occupy the field of regulation of the bearing of concealed firearms to ensure that no honest, law-abiding person who qualifies under the provisions of this act is subjectively or arbitrarily denied one's rights. The Legislature does not delegate to the Oklahoma State Bureau of Investigation any authority to regulate or restrict the issuing of licenses except as provided for in this act. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those requirements detailed in this act or which create restrictions beyond those specified in this act are deemed to be in conflict with the intent of this act and are hereby prohibited. This act shall be liberally construed to carry out the Constitutional right to bear arms for self-defense and self-protection. This act is cumulative to existing rights to bear arms and nothing in this act shall impair or diminish such rights.

U. By March 1 of 1996 and by March 1 of each year thereafter, the Bureau 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, suspended, revoked and denied in the preceding calendar year.

SECTION 3. This act shall become effective September 1, 1995.

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