

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1374

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and Widener of the House

and

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COMMITTEE SUBSTITUTE

(firearms - Oklahoma Handgun Licensing Act - concealed
handguns - codification -

effective date)

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
Handgun Licensing 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. 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 section; provided, however, the provisions of this act shall not be construed to authorize the carrying or possession of any firearm in any manner or place otherwise prohibited by law. A person may apply to the Oklahoma State Bureau of Investigation for a license to carry a concealed handgun if 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 handgun to be carried by the applicant through successful completion of a firearms training and safety course conducted by a state certified or National Rifle Association certified firearms instructor. An original or a photocopy of a signed certificate of completion of the firearms training and safety course including the make and model of 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 records as deemed necessary for the purposes of issuing a handgun license pursuant to the provisions of this section.

B. The Oklahoma State Bureau of Investigation may issue a handgun license to eligible persons as provided in this section. 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, social security number, race and occupation of the applicant;

2. A full frontal view color photograph of the applicant taken within the preceding thirty (30) days, 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 make and model 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;

4. 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;

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

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

For the purposes of this section, 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 those handguns for which the licensee demonstrated competency and qualification in a firearms training and safety course as required by the provisions of this section 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 the license may carry a concealed handgun at any

time and in any place not otherwise prohibited by municipal ordinance, state or federal law, except the following:

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 of the judge;
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 a medical facility including any hospital, convalescent center, clinic, pharmacy, medical office or other place where medication is dispensed or medical care or treatment is practiced;
9. Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises;
10. Any elementary, secondary, or vocational-technical school, college or university facility;
11. Any bank or other financial institution; or
12. Any individual, corporation or business entity which posts a notice which states: "No concealed handguns allowed." Further, any business shall have the right to establish its own policy regarding the right of its employees, visitors or business invitees to carry concealed handguns on its premises. Any employer who chooses not to allow employees to carry concealed handguns on his or her premises shall so notify the employees. For purposes of this subsection, "premises" may include all property owned, rented or leased by a business or employer.

D. Each handgun license shall contain the following information:

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

2. A full frontal view color photograph of the licensee taken within the preceding thirty (30) days, 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 make and model of every pistol or revolver the licensee is qualified to carry as a concealed handgun as specified in a signed certificate of completion for firearms training and safety.

E. The licensee shall be required to carry the valid handgun license, together with a valid driver license or other photo identification at all times when the licensee is in actual possession of an authorized concealed handgun and must display both the valid handgun license and valid driver license or other photo identification 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 make or model other than the type of handgun authorized by the license shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. In addition to the criminal penalty which may be imposed for the violation, the licensee shall be subject to an administrative violation and shall be fined no more than Five Hundred Dollars (\$500.00). The administrative fine shall be payable to the Oklahoma State Bureau of Investigation. 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 or any person required to pay an administrative fine for any

violation of the provisions of this section shall have any 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 section. 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 section. 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 criminal charges against any licensee for any felony offense or any offense constituting assault, battery, assault and battery or stalking. The Bureau may deny or suspend a license for anyone who presently has a protective order against them. The Bureau shall conduct a criminal history background check on each applicant prior to issuing an original handgun license and upon renewal of every license.

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

1. A completed application on a form provided by the Bureau;
2. A nonrefundable license fee which shall not exceed One Hundred Twenty-five Dollars (\$125.00) for the 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;

4. A photocopy of the certificate of completion for a firearms training and safety course including the make and model of the handgun or handguns for which the applicant demonstrated competency and qualification as required in paragraph 11 of subsection A 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 seven-eighths (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 information 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 regarding information that is pertinent to the approval or disapproval of a handgun license for any applicant residing in the county. Any report made to the Bureau by the sheriff shall be submitted within forty-five (45) days after the date the sheriff receives the copy of the application.

3. The Oklahoma State Bureau of Investigation, within ninety (90) days after the date of receipt of the completed application for an original or renewal license and the required documentation and fees, shall:

- a. issue a handgun license, or
- b. deny the application based solely on the grounds that the applicant fails to qualify under the provisions of this section. 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. 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.

J. The licensee shall be required to notify the Oklahoma State Bureau of Investigation in writing of any change in address or any change in other information relating to the issuance of a handgun license, 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 may subject the licensee to a civil infraction and the licensee shall be fined Twenty-five Dollars (\$25.00). The 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 make and model of the handgun or handguns. The certificate shall be submitted to the Bureau within thirty (30) days of issuance of the certificate. The licensee shall be prohibited from carrying the additional handgun until the Bureau has mailed a new authorization for the handgun. The applicant shall pay a processing fee of Five Dollars (\$5.00) for each change in authorized handguns during any period of a valid handgun license.

K. If a concealed handgun license is lost or destroyed, the license shall be automatically invalid, and the person to whom the license was issued, upon payment of Fifteen Dollars (\$15.00) to the Bureau, may obtain a substitute thereof, upon furnishing a notarized statement to the Bureau that the license has been lost or destroyed. Any person carrying a handgun based upon the possession of a valid handgun license which has not been issued to the person shall be subject to criminal prosecution as provided in Title 21 of the Oklahoma Statutes. 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 fined Five Hundred Dollars (\$500.00). The administrative fine shall be payable to the Bureau.

L. 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 the license may renew the license after the expiration date by paying a late fee of Fifteen Dollars (\$15.00) in addition to the license fee and submitting the required information and documentation as specified in this section.

M. 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 such employment when specifically authorized by law to carry a concealed firearm, shall be permitted to carry a concealed firearm as

otherwise provided by law notwithstanding the provisions of this section.

N. All monies and fees collected pursuant to this section shall be deposited in the Oklahoma State Bureau of Investigation Revolving Fund. The Bureau shall be authorized to expend revenues collected from this section for costs required to 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 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 section is subjectively or arbitrarily denied the person'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 section. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those requirements detailed in this section or which create restrictions beyond those specified in this section are deemed to be 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 and self-protection. This section is cumulative to existing rights to bear arms and nothing in this section shall impair or diminish those rights.

Q. 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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PWA