STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1181 By: Shurden

COMMITTEE SUBSTITUTE

[Oklahoma Self-Defense Act - verification of certain retirement - hearing examiner and appeal - modifying term of instructor permit - effective date -

emergency]

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1289.8, as last amended by Section 6, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1997, Section 1289.8), is amended to read as follows:

Section 1289.8

CARRYING CONCEALED WEAPON

A. Any state, county, or municipal peace officer of this state who is retired, or any federal law enforcement officer who is retired may retain their status as a peace officer, retired, in the State of Oklahoma, and as such may carry a concealed pistol pursuant to the provisions of subsection B of this section. A retired state, county, or municipal peace officer may in times of great emergency

or danger serve to enforce the law, keep the peace, or to protect the public in keeping with their availability and ability at the request of the Governor, the sheriff, or the mayor of their retirement jurisdiction.

B. The Council on Law Enforcement Education and Training (CLEET) shall issue an identification card to eligible retired federal, state, county and municipal peace officers which authorizes the retired peace officer to carry a concealed pistol in this state. The identification card shall bear the full name of the retired officer, the signature of the retired officer, the date of issuance, and such other information as may be deemed appropriate by CLEET. The card shall not expire, but may be denied, suspended, or revoked as provided by the rules promulgated by CLEET or upon the discovery of any preclusion prescribed in Section 1290.10 or 1290.11 of this title. CLEET shall request the Oklahoma State Bureau of Investigation to conduct a state and national criminal history records search on each retired peace officer authorized to carry a concealed firearm pursuant to the provisions of this section every four (4) years, and unless a preclusion prescribed in Section 1290.10 or 1290.11 of this title is found to exist, no action shall be necessary. When a preclusion is discovered, the Council shall notify the retired peace officer and shall hold a hearing before taking any action to suspend or revoke the authority to carry a concealed pistol.

C. The retired peace officer shall be required to submit the following information to the Council on Law Enforcement Education and Training (CLEET) and any other information requested by CLEET:

1. A statement from the appropriate retirement system verifying the status of the person as a retired peace officer of the jurisdiction <u>or, if the retired peace officer does not participate in a retirement system, a statement from the appropriate law enforcement agency verifying the status of the person as a retired</u>

peace officer of that jurisdiction, and the reason why the retired officer does not participate in a retirement system;

2. A notarized statement, signed by the retired peace officer, stating that the officer:

a. has not been convicted of and is currently not subject to any pending criminal prosecution for any felony offense, any drug-related offense, aggravated assault and battery, or any offense involving impairment by drugs or alcohol,

b. has not been forced into retirement due to any mental disorder, and

c. has not suffered any injury or any physical or mental impairment which would render the person unsafe to carry a concealed pistol.

D. The Council on Law Enforcement Education and Training shall promulgate rules and procedures necessary to implement the provisions of this section ~~within thirty (30) days of the effective date of this act~~.

E. Any peace officer, retired, who carries any pistol in violation of the provisions of this section shall be deemed to be in violation of Section 1272 of this title and may be prosecuted as provided by law for a violation of that section.

SECTION 2. AMENDATORY Section 12, Chapter 272, O.S.L. 1995, as amended by Section 14, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1997, Section 1290.12), is amended to read as follows:

Section 1290.12

PROCEDURE FOR APPLICATION

A. The procedure for applying for or renewing a concealed handgun license and processing the application shall be as follows:

1. An eligible person may request an application packet for a concealed handgun license from the Oklahoma State Bureau of Investigation either in person or by mail on and after January 1,

1996. The Bureau shall provide the following information in the application packet:

a. an application form,

b. procedures to follow to process the application form, and

c. a copy of the Oklahoma Self-Defense Act with any modifications thereto;

2. The person shall be required to successfully complete a firearms safety and training course from a firearms instructor who is approved and registered in this state as provided in Section 1290.14 of this title, and the person shall be required to demonstrate competency and qualification with a pistol authorized for concealed carry by the Oklahoma Self-Defense Act. The original certificate of training shall be submitted with the application for a handgun license. No duplicate, copy, facsimile or other reproduction of the certificate of training or exemption from training shall be acceptable as proof of training as required by the provisions of the Oklahoma Self-Defense Act. A person exempt from the training requirements as provided in Section 1290.15 of this title must show the required proof of such exemption to the firearms instructor to receive an exemption certificate. The original exemption certificate must be submitted with the application for a handgun license when the person claims an exemption from training and qualification;

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

4. The person shall deliver to the sheriff at the time of delivery of the completed application form a fee of One Hundred Dollars ($100.00) for processing the application through the Oklahoma State Bureau of Investigation and processing the required fingerprints through the Federal Bureau of Investigation. The

processing fee shall be in the form of a money order or a cashier's check made payable to the Oklahoma State Bureau of Investigation. The processing fee shall not be refundable in the event of a denial of a handgun license or any suspension or revocation subsequent to the issuance of a license. Persons making application for a firearms instructor shall not be required to pay the application fee as provided in this section, but shall be required to pay the costs provided in paragraphs 6 and 8 of this subsection;

5. The completed application form shall be signed by the applicant in person before the sheriff. The signature shall be given voluntarily upon a sworn oath that the person knows the contents of the application and that the information contained in the application is true and correct. Any person making any false or misleading statement on an application for a handgun license shall, upon conviction, be guilty of perjury as defined by Section 491 of this title. Any conviction shall be punished as provided in Section 500 of this title. In addition to a criminal conviction, the person shall be denied the right to have a concealed handgun license pursuant to the provisions of Section 1290.10 of this title and the Oklahoma State Bureau of Investigation shall revoke the handgun license, if issued;

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

7. The sheriff shall witness the signature of the applicant and review or take the photographs of the applicant and shall verify that the person making application for a handgun license is the same person in the photographs submitted and the same person who signed the application form. Proof of a valid Oklahoma driver license with a photograph of the applicant or an Oklahoma State photo identification for the applicant shall be required to be presented by the applicant to the sheriff for verification of the person's identity;

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

9. The sheriff shall submit to the Oklahoma State Bureau of Investigation within the fourteen-day period, together with the completed application, certificate of training or exemption certificate, photographs, processing fee and fingerprints, a report of information deemed pertinent to an investigation of the applicant for a handgun license. The sheriff shall make a preliminary investigation of pertinent information about the applicant and the court clerk shall assist the sheriff in locating pertinent information in court records for this purpose. If no pertinent information is found to exist either for or against the applicant, the sheriff shall so indicate in the report;

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

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

12. The Oklahoma State Bureau of Investigation shall either issue a concealed handgun license or deny the application within ninety (90) days of the date of receipt of the required information from the sheriff. The Bureau shall approve an applicant who appears to be in full compliance with the provisions of the Oklahoma Self-Defense Act, if completion of the federal fingerprint search is the only reason for delay of the issuance of the handgun license to that applicant. Upon receipt of the federal fingerprint search information, if the Bureau receives information which precludes the person from having a concealed handgun license, the Bureau shall revoke the concealed handgun license previously issued to the applicant. The Bureau shall deny a license when the applicant fails to properly complete the application form or application process or is determined not to be eligible as specified by the provisions of Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall

approve an application in all other cases. If an application is denied, the Bureau shall notify the applicant in writing of its decision. The notification shall state the grounds for the denial and inform the applicant of the right to an appeal as may be provided by the provisions of the ~~Oklahoma~~ Administrative Procedures Act. Any administrative hearing on a denial which may be provided, shall be conducted by a hearing examiner appointed by the Bureau. The hearing examiner's decision shall be a final decision appealable to a district court in accordance with the Administrative Procedures Act. When an application is approved, the Bureau shall issue the license and mail it to the sheriff of the county wherein the applicant resides. The applicant may pick up the concealed handgun license from the sheriff's office.

B. Nothing contained in any provision of the Oklahoma Self-Defense Act shall be construed to require or authorize the registration, documentation or providing of serial numbers with regard to any firearm. For purposes of the Oklahoma Self-Defense Act, the sheriff may designate a person to receive, fingerprint, photograph or otherwise process applications for concealed handgun licenses.

SECTION 3. AMENDATORY Section 14, Chapter 272, O.S.L. 1995, as last amended by Section 16, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1997, Section 1290.14), is amended to read as follows:

Section 1290.14

SAFETY AND TRAINING COURSE

A. Each applicant for a license to carry a concealed handgun pursuant to the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, must successfully complete a firearms safety and training course in this state conducted by a registered and approved firearms instructor as provided by the provisions of this section. The applicant must further demonstrate competence and qualification with an authorized pistol of the type or types that the applicant

desires to carry as a concealed handgun pursuant to the provisions of the Oklahoma Self-Defense Act, ~~Section 1290.1 et seq. of this title,~~ except certain persons may be exempt from such training requirement as provided by the provisions of Section 1290.15 of this title.

B. The Council on Law Enforcement Education and Training (CLEET) shall establish criteria for approving firearms instructors for purposes of training and qualifying individuals for a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act. All firearms instructors shall be required to meet the eligibility requirements for a concealed handgun license as provided in Sections 1290.9, 1290.10, and 1290.11 of this title, and each instructor shall have their application processed as provided for applicants in Section 1290.12 of this title, including the state and national criminal history records search and fingerprint search. A firearms instructor shall be required to pay a fee of One Hundred Dollars ($100.00) to the Council on Law Enforcement Education and Training (CLEET) each time the person makes application for CLEET approval as a firearms instructor pursuant to the provisions of the Oklahoma Self-Defense Act. The fee shall be retained by CLEET and shall be deposited into the Firearms Instructors Revolving Fund. CLEET shall promulgate the rules, forms and procedures necessary to implement the approval of firearms instructors as authorized by the provisions of this subsection. CLEET shall periodically review each approved instructor during a training and qualification course to assure compliance with the rules and course contents. Any violation of the rules may result in the revocation or suspension of the CLEET and ~~OSBI~~ Oklahoma Bureau of Investigation approval. Unless the approval has been revoked or suspended, a firearm instructor's CLEET approval shall be for a term ~~which exactly coincides with the registration issued by the Oklahoma State Bureau of Investigation~~ of one (1) year.

C. All firearms instructors approved by CLEET to train and qualify individuals for a concealed handgun license shall be required to apply for registration with the Oklahoma State Bureau of Investigation within thirty (30) days after receiving CLEET approval. All firearms instructors teaching the approved course for a concealed handgun license must display their registration certificate during each training and qualification course. Each approved firearms instructor shall complete a registration form provided by the Bureau and shall pay a registration fee of One Hundred Dollars ($100.00) to the Bureau at the time of each application for registration. Registration certificates issued by the Bureau shall be valid for ~~one (1) year~~ four (4) years from the date of issuance. The Bureau shall issue a four-year handgun license to an approved firearms instructor at the time of issuance of a registration certificate and no additional fee shall be required or charged. The Bureau shall maintain a current listing of all registered firearms instructors in this state. Nothing in this subsection shall be construed to eliminate the requirement for registration and training with the CLEET as provided in subsection B of this section. Failure to register or be trained as required shall result in a revocation or suspension of the instructor certificate by the Bureau.

D. The Oklahoma State Bureau of Investigation shall approve registration for a firearms instructor applicant who is in full compliance with CLEET rules regarding firearms instructors and the provisions of subsection B of this section, if completion of the federal fingerprint search is the only reason for delay of registration of that firearms instructor applicant. Upon receipt of the federal fingerprint search information, if the Bureau receives information which precludes the person from having a concealed handgun license, the Bureau shall revoke both the registration and the concealed handgun license previously issued to the firearms

instructor. ~~On the effective date of this act~~ Beginning May 16, 1996, any firearms instructor who has been issued a one-year concealed handgun license shall not be eligible for the four-year license until the expiration of the license previously issued.

E. The required firearms safety and training course and the actual demonstration of competency and qualification required of the applicant shall be designed and conducted in such a manner that the course can be reasonably completed by the applicant within an eight-hour period. CLEET shall establish the course content and promulgate rules, procedures and forms necessary to implement the provisions of this subsection. For the training and qualification course, an applicant may be charged a fee not to exceed Sixty Dollars ($60.00). The instructor to student ratio shall not exceed ten students to any one instructor. CLEET may establish criteria for assistant instructors, maximum class size and any other requirements deemed necessary to conduct a safe and effective training and qualification course. The course content shall include a safety inspection of the firearm to be used by the applicant in the training course; instruction on pistol handling, safety and storage; dynamics of ammunition and firing; methods or positions for firing a pistol; information about the criminal provisions of the Oklahoma law relating to firearms; the requirements of the Oklahoma Self-Defense Act as it relates to the applicant; self-defense and the use of appropriate force; a practice shooting session; and a familiarization course. The firearms instructor shall refuse to train or qualify any person when the pistol to be used or carried by the person is either deemed unsafe or unfit for firing or is a weapon not authorized by the Oklahoma Self-Defense Act. The course shall provide an opportunity for the applicant to qualify himself or herself on either a derringer, a revolver, a semiautomatic pistol or any combination of a derringer, a revolver and a semiautomatic pistol, provided no pistol shall be capable of firing larger than

.45 caliber ammunition. Any applicant who successfully trains and qualifies himself or herself with a semiautomatic pistol may be approved by the firearms instructor on the training certificate for a semiautomatic pistol, a revolver and a derringer upon request of the applicant. Any person who qualifies on a derringer or revolver shall not be eligible for a semiautomatic rating until the person has demonstrated competence and qualifications on a semiautomatic pistol. Upon successful completion of the training and qualification course, a certificate shall be issued to each applicant who successfully completes the course. The certificate of training shall comply with the form established by CLEET and shall be submitted with an application for a concealed handgun license pursuant to the provisions of paragraph 2 of Section 1290.12 of this title.

F. There is hereby created a revolving fund for the Council on Law Enforcement Education and Training (CLEET), to be designated the "Firearms Instructors Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds received for approval of firearms instructors for purposes of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title. All funds received shall be deposited to the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Council on Law Enforcement Education and Training, for implementation of the training and qualification course contents, approval of firearms instructors and any other CLEET requirement pursuant to the provisions of the Oklahoma Self-Defense Act or as may otherwise be deemed appropriate by CLEET. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 4. AMENDATORY Section 17, Chapter 272, O.S.L. 1995, as last amended by Section 4, Chapter 358, O.S.L. 1997 (21 O.S. Supp. 1997, Section 1290.17), is amended to read as follows:

Section 1290.17

SUSPENSION AND REVOCATION OF LICENSE

A. The Oklahoma State Bureau of Investigation shall have authority pursuant to the provisions of the Oklahoma Self-Defense Act~~, Section 1290.1 et seq. of this title,~~ and any other provision of law to suspend or revoke any concealed handgun license issued pursuant to the provisions of the Oklahoma Self-Defense Act. A person whose license has been suspended or revoked or against whom a fine has been assessed shall be entitled to an appeal through a hearing in accordance with the Administrative Procedures Act. Any administrative hearing on suspensions, revocations or fines shall be conducted by a hearing examiner appointed by the Bureau. The hearing examiner's decision shall be a final decision appealable to a district court in accordance with the Administrative Procedures Act. After a concealed handgun license has been issued, the discovery of or the occurrence of any condition which directly affects a person's eligibility for a handgun license as provided by the provisions of Section 1290.9 or 1290.10 of this title shall require a revocation of the license by the Bureau. The discovery of or the occurrence of any condition pursuant to Section 1290.11 of this title, after a license has been issued, shall cause a suspension of the handgun license for a period of time as prescribed for the condition. Any provision of law that requires a revocation of a concealed handgun license upon a conviction shall cause the Bureau to suspend the concealed handgun license upon the discovery of the arrest of the person for such offense until a determination of the criminal case at which time the Bureau shall proceed with the appropriate administrative action.

B. Any concealed handgun license which is subsequently suspended or revoked shall be immediately returned to the Oklahoma State Bureau of Investigation upon notification. Any person refusing or failing to return a license after notification of its suspension or revocation shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not exceeding Five Hundred Dollars ($500.00), by imprisonment in the county jail for not exceeding six (6) months, or by both such fine and imprisonment. In addition, the person shall be subject to an administrative fine of Five Hundred Dollars ($500.00), upon a hearing and determination by the Bureau that the person is in violation of the provisions of this subsection.

C. Any law enforcement officer of this state shall confiscate a concealed handgun license in the possession of any person and return it to the Oklahoma State Bureau of Investigation for appropriate administrative proceedings against the licensee when the license is no longer needed as evidence in any criminal proceeding, as follows:

1. Upon the arrest of the person for any felony offense;

2. Upon the arrest of the person for any misdemeanor offense enumerated as a preclusion to a handgun license;

3. For any violation of the provisions of the Oklahoma Self-Defense Act;

4. When the officer has been called to assist or is investigating any situation which would be a preclusion to having a handgun license; or

5. As provided in subsection D of Section 1290.8 of this title.

D. Any administrative fine assessed in accordance with the provisions of the Oklahoma Self-Defense Act shall be paid in full within thirty (30) days of assessment. The Oklahoma State Bureau of Investigation shall, without a hearing, suspend the concealed carry license of any person who fails to pay in full any administrative fine assessed against the person in accordance with the provisions

of this subsection. The suspension of any concealed carry license shall be automatic and shall begin thirty (30) days from the date of the assessment of the administrative fine. The suspension shall be removed and the concealed carry license returned to its prior standing upon payment of the administrative fine being paid in full to the Bureau.

E. Whenever a concealed carry license has been suspended in accordance with the provisions of this act or the administrative rules of the Bureau promulgated for purposes of this act, the license shall remain under suspension and shall not be reinstated until:

1. The person whose license has been suspended applies for reinstatement in accordance with the administrative rules of the Bureau. The Bureau shall not charge any fee in conjunction with an application for a license reinstatement. The person whose license has been suspended must demonstrate that the condition or preclusion which was the basis for the suspension has lapsed and is no longer in effect; and

2. Any and all administrative fines assessed against the person have been paid in full.

In the event a concealed carry license expires during the term of the suspension, the person shall be required to apply for renewal of the license in accordance with Section 1290.5 of this title.

SECTION 5. This act shall become effective July 1, 1998.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-2709 NP (<time=system>)