ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 601

By: Shurden and Martin of the Senate

and

Stanley of the House

(Oklahoma Self-Defense Act - handgun license and renewal - requiring a firearm-related offense for arrest preclusion - allowing payment for a gun license by credit card - requiring records check - effective date -

emergency)

AUTHORS: Add the following House Coauthors: Adair, Beutler, Braddock, Kinnamon, Langmacher, Mitchell, Seikel and Adkins

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(Oklahoma Self-Defense Act - amending 21 O.S., Sections 1290.5, 1290.11, 1290.12, 1290.17 and 1290.24 - license renewal - suspension and revocation of license - immunity - effective date -

emergency)

SECTION 1. AMENDATORY Section 5, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1998, Section 1290.5), is amended to read as follows:

Section 1290.5

TERM OF LICENSE AND RENEWAL

A. A concealed handgun license when issued shall authorize the person to whom the license is issued to carry a loaded or unloaded concealed handgun as authorized by the provisions of the Oklahoma Self-Defense Act, ~~Sections 1 through 25 of this act,~~ and any future modifications thereto. The license shall be valid in this state for a period of four (4) years, unless subsequently surrendered, suspended or revoked as provided by law. The person shall have no authority to continue to carry a concealed handgun in this state pursuant to the Oklahoma Self-Defense Act when a license is expired or when a license has been voluntarily surrendered, suspended or revoked for any reason.

B. A license may be renewed ~~in the same manner provided for issuing an original license, except the training requirements of Section 14 of this act shall not apply to a renewal. The person shall have no authority to continue to carry a concealed handgun in this state pursuant to the Oklahoma Self-Defense Act when a license is allowed to expire or when a license has been suspended or revoked for any reason~~ any time within ninety (90) days of the expiration date as provided in this subsection.

1. To renew a handgun license, the licensee must first obtain a renewal form from the Oklahoma State Bureau of Investigation before the license has expired. The Bureau shall not send a renewal form to any person who does not have a valid handgun license or who has any prohibition pursuant to any provision of the Oklahoma Self-Defense Act.

2. The applicant must complete the renewal form, attach two current passport-size photographs of the applicant, and submit a renewal fee in the amount of Seventy-five Dollars ($75.00) in the form of check or money order made payable to the Oklahoma State Bureau of Investigation or by credit card pursuant to subparagraph b of paragraph 4 of subsection A of Section 1290.12 of this title.

3. Upon receipt of the renewal application, photographs and fee, the Bureau will conduct a criminal history records name search. If the applicant appears to not have any prohibition to renewing the handgun license, the Bureau shall issue the renewed license for a period of four (4) years.

SECTION 2. AMENDATORY Section 11, Chapter 272, O.S.L. 1995, as last amended by Section 3, Chapter 358, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1290.11), is amended to read as follows:

Section 1290.11

OTHER PRECLUSIONS

A. The following conditions shall preclude a person from being eligible for a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, for a period of time as prescribed in each of the following paragraphs:

1. An arrest for an alleged commission of a felony offense relating to a firearm or a felony charge pending in this state, another state or pursuant to the United States Code relating to a firearm. The preclusive period shall be three (3) years ~~and shall begin upon~~ or until the final determination of the matter;

2. The person is subject to the provisions of a deferred sentence or deferred prosecution in this state or another state or pursuant to federal authority for the commission of a felony offense. The preclusive period shall be three (3) years and shall begin upon the final determination of the matter;

3. Any involuntary commitment for a mental illness, condition, or disorder pursuant to the provisions of Section 5-401 of Title 43A of the Oklahoma Statutes or any involuntary commitment in another state pursuant to any provisions of law of that state. The preclusive period shall be three (3) years from the last date of treatment or discharge from commitment, whichever is longer, or upon presentation of a certified statement from a licensed physician

stating that the person is no longer disabled by any mental or psychiatric illness, condition, or disorder;

4. The person has previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision as defined by paragraph 7 of Section 1290.10 of this title. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician stating that the person is either no longer disabled by any mental or psychiatric illness, condition, or disorder or that the person has been stabilized on medication for ten (10) years or more;

5. Inpatient treatment for substance abuse. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician stating that the person has been free from substance use for twelve (12) months or more preceding the filing of an application for a handgun license;

6. Two or more convictions of public intoxication pursuant to Section 8 of Title 37 of the Oklahoma Statutes, or a similar law of another state. The preclusive period shall be three (3) years from the date of the completion of the last sentence;

7. Two or more misdemeanor convictions relating to intoxication or driving under the influence of an intoxicating substance or alcohol. The preclusive period shall be three (3) years from the date of the completion of the last sentence and shall require a certified statement from a licensed physician stating that the person is not in need of substance abuse treatment;

8. A court order for a final Victim Protection Order against the applicant, as authorized by Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any court order granting a final victim protection order against the applicant from another state. The preclusive period shall be three (3) years from the date of the

entry of the final court order, if the order does not have an expiration date, or one (1) year from the expiration date of the order, or one (1) year from the date an order was dropped, dismissed or withdrawn;

9. An adjudicated delinquent or convicted felon residing in the residence of the applicant which may be a violation of Section 1283 of this title. The preclusive period shall be thirty (30) days from the date the person no longer resides in the same residence as the applicant; or

10. An arrest for an alleged commission of, a charge pending for, or the person is subject to the provisions of a deferred sentence or a deferred prosecution for any one or more of the following misdemeanor offenses in this state or another state:

a. any assault and battery which caused serious physical injury to the victim or any second or subsequent assault and battery,

b. any aggravated assault and battery,

c. any stalking pursuant to Section 1173 of this title, or a similar law of another state,

d. any violation of the Protection from Domestic Abuse Act, Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any violation of a victim protection order of another state, or

e. any violation relating to illegal drug use or possession.

The preclusive period for this paragraph shall be three (3) years and shall begin upon the final determination of the matter.

B. Nothing in this section shall be construed to require a full investigation of the applicant by the Oklahoma State Bureau of Investigation.

SECTION 3. AMENDATORY Section 12, Chapter 272, O.S.L. 1995, as last amended by Section 4, Chapter 286, O.S.L. 1998 (21 O.S. Supp. 1998, 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 or the county sheriff's office either in person or by mail. The Bureau may provide application packets to each sheriff not exceeding two hundred packets per request. 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. a money order or a cashier's check made payable to the Oklahoma State Bureau of Investigation, or

b. by a nationally recognized credit card issued to the applicant. The Oklahoma State Bureau of Investigation may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such credit card. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by the issuer for the use of the cardholder in obtaining goods, services, or anything else of value on credit which is accepted by over one thousand merchants in the state. The Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau.

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.

a. In the course of the Bureau's investigation, it shall present the name of the applicant along with any known aliases, the address of the applicant and the social security number of the applicant to the Department of Mental Health and Substance Abuse Services. The Department of Mental Health and Substance Abuse Services shall respond within ten (10) days of receiving such information to the Bureau as follows:

(1) with a "Yes" answer, if the Department's records indicate that the person was involuntarily committed to a mental institution in Oklahoma, or

(2) with a "No" answer, if there are no records indicating the name of the person as a person involuntarily committed to a mental institution in Oklahoma, or

(3) with an "Inconclusive" answer if the Department's records suggest the applicant may be a formerly committed person. In the case of an inconclusive answer, the Bureau shall ask the applicant whether he or she was involuntarily committed.

The Bureau shall cease processing the license application if the applicant states that he or she has been involuntarily committed. If the applicant states under penalty of perjury that he or she has not been involuntarily committed, the Bureau shall continue processing the application for a license.

b. In the course of the Bureau's investigation, it shall present the name of any applicant who is twenty-eight (28) years of age or younger along with any known aliases, the address of the applicant and the social security number of the applicant to the Office of Juvenile Affairs. The Office of Juvenile Affairs shall respond within ten (10) days of receiving such information to the Bureau as follows:

(1) with a "Yes" answer, if the Department records indicate that the person was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years, or

(2) with a "No" answer, if there are no records indicating the named person was adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years, or

(3) with an "Inconclusive" answer if the Department records suggest the applicant may have been adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult. In the case of an inconclusive answer, the Bureau shall ask the applicant whether he or she was adjudicated a delinquent for an offense

that would constitute a felony offense if committed by an adult within the last ten (10) years. The Bureau shall cease processing the application if the applicant states he or she was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years. If the applicant states under penalty of perjury that he or she was not adjudicated a delinquent within ten (10) years, the Bureau shall continue processing the application for a license;

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 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 4. AMENDATORY Section 17, Chapter 272, O.S.L. 1995, as last amended by Section 6, Chapter 286, O.S.L. 1998 (21 O.S. Supp. 1998, 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 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. A licensee may voluntarily surrender a license to the Oklahoma State Bureau of Investigation at any time. Such surrender of a handgun license will render the license invalid. Nothing in this section may be interpreted to prevent a subsequent new application for a license. The licensee shall be informed and acknowledged in writing as follows:

1. The licensee understands that the voluntary surrender of the license will not be deemed a suspension or revocation by the Bureau;

2. A voluntary surrender of a license will not be reviewable by a hearing examiner or subject to judicial review under the Administrative Procedures Act; and

3. By surrendering the license, the licensee shall forfeit all fees paid to date.

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. AMENDATORY Section 24, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1998, Section 1290.24), is amended to read as follows:

Section 1290.24

IMMUNITY

The state, its officers, agents and employees shall be immune from liability resulting or arising from:

1. Failure to prevent the licensing of an individual for whom the receipt of the license is unlawful pursuant to the provisions of the Oklahoma Self-Defense Act~~, Sections 1 through 25 of this act~~ or any other provision of law of this state; ~~or~~

2. Any action or misconduct with a pistol committed by a person to whom a license to carry a concealed handgun has been issued or by any person who obtains a pistol from a licensee; and

3. Any action or finding pursuant to a hearing conducted in accordance with the Administrative Procedures Act as required in this act.

SECTION 6. This act shall become effective July 1, 1999.

SECTION 7. 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."

Passed the House of Representatives the 12th day of April, 1999.

_____
Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1999.

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President of the Senate