

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2538

6 By: Smithson

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2001, Section 1289.7, which relates to
10 firearms in vehicles; clarifying circumstances in
11 which firearms may be transported in vehicles;
12 authorizing certain persons to transport certain
13 firearms open and loaded; providing penalty; defining
14 term; amending 21 O.S. 2001, Sections 1290.10 and
15 1290.26, as amended by Section 9, Chapter 465, O.S.L.
16 2003 (21 O.S. Supp. 2009, Section 1290.26), which
17 relate to the Oklahoma Self-Defense Act; providing
18 exception to the list of mandatory preclusions;
19 modifying scope of reciprocal agreement authority;
20 repealing 21 O.S. 2001, Section 1289.13, as last
21 amended by Section 1, Chapter 549, O.S.L. 2004 (21
22 O.S. Supp. 2009, Section 1289.13), which relates to
23 transporting a loaded firearm; and providing an
24 effective date.

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

20 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1289.7, is
21 amended to read as follows:

22 Section 1289.7

23 FIREARMS IN VEHICLES

1 A. Any person, except a convicted felon, may transport in a
2 motor vehicle a rifle, shotgun or pistol, ~~open and unloaded,~~ at any
3 time. ~~For purposes of this section "open" means the~~ if the firearm
4 is unloaded and is:

5 1. ~~firearm is transported~~ Transported in plain view, ~~in;~~

6 2. In a case designed for carrying firearms, which case is
7 wholly or partially visible, ~~in;~~

8 3. In a gun rack mounted in the vehicle, ~~in;~~

9 4. In an exterior locked compartment or a trunk of a vehicle

10 ~~Any person, except a convicted felon, may transport in a motor~~
11 ~~vehicle a rifle or shotgun concealed behind a seat of the vehicle~~
12 ~~or; or~~

13 5. Concealed within the interior of the vehicle ~~provided the~~
14 ~~rifle or shotgun is not clip, magazine or chamber loaded. The~~
15 ~~authority to transport a clip or magazine loaded~~

16 B. A rifle ~~or,~~ shotgun ~~shall,~~ or pistol may be ~~pursuant to~~
17 ~~Section 1289.13 of this title~~ transported clip or magazine loaded
18 and not chamber loaded when transported in an exterior locked
19 compartment of the vehicle or trunk of the vehicle.

20 C. Any person who is the operator of a vehicle or is a
21 passenger in any vehicle wherein another person who is licensed
22 pursuant to the Oklahoma Self-Defense Act, ~~Sections 1290.1 through~~
23 ~~1290.25 of Title 21 of the Oklahoma Statutes,~~ to carry a concealed
24 handgun and is carrying a concealed handgun or has concealed the

1 handgun in such vehicle, shall not be deemed in violation of the
2 provisions of this section provided the licensee is in or near the
3 vehicle.

4 D. Any person who is licensed pursuant to the Oklahoma Self-
5 Defense Act to carry a concealed handgun may transport in the
6 interior of a motor vehicle a rifle, shotgun or pistol, open and
7 loaded, at any time.

8 E. Any person convicted of a violation of this section shall be
9 punished as provided in Section 1289.15 of this title.

10 F. As used in this section, "unloaded" shall mean that the
11 firearm is not clip, magazine or chamber loaded.

12 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1290.10, is
13 amended to read as follows:

14 Section 1290.10

15 MANDATORY PRECLUSIONS

16 In addition to the requirements stated in Section 1290.9 of this
17 title, the conditions stated in this section shall preclude a person
18 from eligibility for a handgun license pursuant to the provisions of
19 the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title.
20 The occurrence of any one of the following conditions shall deny the
21 person the right to have a handgun license pursuant to the
22 provisions of the Oklahoma Self-Defense Act. Prohibited conditions
23 are:
24

1 1. Ineligible to possess a pistol due to any felony conviction
2 or adjudication as a delinquent as provided by Section 1283 of this
3 title, except as provided in subsection B of Section 1283 of this
4 title;

5 2. Any felony conviction pursuant to any law of another state,
6 a felony conviction pursuant to any provision of the United States
7 Code, or any conviction pursuant to the laws of any foreign country,
8 provided such foreign conviction would constitute a felony offense
9 in this state if the offense had been committed in this state,
10 except as provided in subsection B of Section 1283 of this title;

11 3. Adjudication as an incompetent person pursuant to the
12 provisions of the Oklahoma Mental Health Law, Section 1-101 et seq.
13 of Title 43A of the Oklahoma Statutes or an adjudication of
14 incompetency entered in another state pursuant to any provision of
15 law of that state;

16 4. Any false or misleading statement on the application for a
17 handgun license as provided by paragraph 5 of Section 1290.12 of
18 this title; provided, failure to disclose a previous arrest for a
19 crime on the application for a handgun license shall not
20 automatically preclude the issuance of a handgun license unless such
21 arrest would have been grounds for denial pursuant to the provisions
22 of this section or Section 1290.11 of this title;

23 5. Conviction of any one of the following misdemeanor offenses
24 in this state or in any other state:

- a. any assault and battery which caused serious physical injury to the victim, or any second or subsequent assault and battery conviction,
- b. any aggravated assault and battery,
- c. any stalking pursuant to Section 1173 of this title, or a similar law of another state,
- d. a violation relating to 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,
- e. any conviction relating to illegal drug use or possession; or
- f. an act of domestic abuse as defined by Section 644 of this title or an act of domestic assault and battery or any comparable acts under the laws of another state;

6. An attempted suicide or other condition relating to or indicating mental instability or an unsound mind which occurred within the preceding ten-year period from the date of the application for a license to carry a concealed firearm or that occurs during the period of licensure;

7. Currently undergoing treatment for a mental illness, condition, or disorder. For purposes of this paragraph, "currently undergoing treatment for a mental illness, condition, or disorder"

1 means the person has been diagnosed by a licensed physician as being
2 afflicted with a substantial disorder of thought, mood, perception,
3 psychological orientation, or memory that significantly impairs
4 judgment, behavior, capacity to recognize reality, or ability to
5 meet the ordinary demands of life;

6 8. Significant character defects of the applicant as evidenced
7 by a misdemeanor criminal record indicating habitual criminal
8 activity;

9 9. Ineligible to possess a pistol due to any provision of law
10 of this state or the United States Code, except as provided in
11 subsection B of Section 1283 of this title;

12 10. Failure to pay an assessed fine or surrender the handgun
13 license as required by a decision by the administrative hearing
14 examiner pursuant to authority of the Oklahoma Self-Defense Act;

15 11. Being subject to an outstanding felony warrant issued in
16 this state or another state or the United States; or

17 12. Adjudication as a delinquent as provided by Section 1283 of
18 this title, except as provided in subsection B of Section 1283 of
19 this title.

20 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1290.26, as
21 amended by Section 9, Chapter 465, O.S.L. 2003 (21 O.S. Supp. 2009,
22 Section 1290.26), is amended to read as follows:

23 Section 1290.26

24 RECIPROCAL AGREEMENT AUTHORITY

1 The State of Oklahoma hereby recognizes any valid concealed
2 carry weapons permit or license issued by another state. Any person
3 entering this state in possession of a firearm authorized for
4 concealed carry upon the authority and license of another state is
5 authorized to continue to carry a concealed firearm and license in
6 this state; provided the license from the other state remains valid.
7 The firearm must be carried fully concealed from detection and view,
8 and upon coming in contact with any peace officer of this state, the
9 person must disclose the fact that ~~he or she~~ the person is in
10 possession of a concealed firearm pursuant to a valid concealed
11 carry weapons permit or license issued in another state. Any person
12 who is twenty-one (21) years of age or older having a valid firearm
13 license from another state ~~may~~ shall apply for a concealed handgun
14 license in this state ~~immediately~~ within one (1) year upon
15 establishing a residence in this state. The firearm license issued
16 from another state shall cease to be valid in Oklahoma once the
17 person has established residency in this state and has been issued a
18 concealed handgun license pursuant to the provisions of the Oklahoma
19 Self-Defense Act.

20 SECTION 4. REPEALER 21 O.S. 2001, Section 1289.13, as
21 last amended by Section 1, Chapter 549, O.S.L. 2004 (21 O.S. Supp.
22 2009, Section 1289.13), is hereby repealed.

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1 SECTION 5. This act shall become effective November 1, 2010.

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