

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

House Bill No. 1449

HOUSE BILL NO. 1449 - By: MCMULLEN of the House.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Sections 1290.10, 1290.11, as amended by Section 3, Chapter 62, O.S.L. 2006 and 1290.14, as last amended by Section 1, Chapter 455, O.S.L. 2005 (21 O.S. Supp. 2008, Sections 1290.11 and 1290.14), which relate to the Oklahoma Self-Defense Act; deleting certain condition from the mandatory preclusions of the Oklahoma Self-Defense Act; including convictions for certain misdemeanor crimes to temporary preclusions; authorizing ten-year terms for approval and registration certificates for firearms instructors; stating fee amounts; and providing an effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1290.10, is amended to
2 read as follows:

3 Section 1290.10

4 MANDATORY PRECLUSIONS

5 In addition to the requirements stated in Section 1290.9 of this title, the conditions
6 stated in this section shall preclude a person from eligibility for a handgun license
7 pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of
8 this title. The occurrence of any one of the following conditions shall deny the person the
9 right to have a handgun license pursuant to the provisions of the Oklahoma Self-Defense
10 Act. Prohibited conditions are:

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

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

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

13 4. Any false or misleading statement on the application for a handgun license as
14 provided by paragraph 5 of Section 1290.12 of this title;

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

- 17 a. any assault and battery which caused serious physical injury to the
18 victim, or any second or subsequent assault and battery conviction,
19 b. any aggravated assault and battery,
20 c. any stalking pursuant to Section 1173 of this title, or a similar law of
21 another state,

- 1 d. a violation relating to the Protection from Domestic Abuse Act, Section
2 60 et seq. of Title 22 of the Oklahoma Statutes, or any violation of a
3 victim protection order of another state, or
4 e. ~~any conviction relating to illegal drug use or possession; or~~
5 f. an act of domestic abuse as defined by Section 644 of this title or an act
6 of domestic assault and battery or any comparable acts under the laws
7 of another state;
- 8 6. An attempted suicide or other condition relating to or indicating mental
9 instability or an unsound mind which occurred within the preceding ten-year period from
10 the date of the application for a license to carry a concealed firearm or that occurs during
11 the period of licensure;
- 12 7. Currently undergoing treatment for a mental illness, condition, or disorder. For
13 purposes of this paragraph, "currently undergoing treatment for a mental illness,
14 condition, or disorder" means the person has been diagnosed by a licensed physician as
15 being afflicted with a substantial disorder of thought, mood, perception, psychological
16 orientation, or memory that significantly impairs judgment, behavior, capacity to
17 recognize reality, or ability to meet the ordinary demands of life;
- 18 8. Significant character defects of the applicant as evidenced by a misdemeanor
19 criminal record indicating habitual criminal activity;
- 20 9. Ineligible to possess a pistol due to any provision of law of this state or the
21 United States Code, except as provided in subsection B of Section 1283 of this title;

1 3. Any involuntary commitment for a mental illness, condition, or disorder
2 pursuant to the provisions of Section 5-410 of Title 43A of the Oklahoma Statutes or any
3 involuntary commitment in another state pursuant to any provisions of law of that state.
4 The preclusive period shall be permanent as provided by Title 18 of the United States
5 Code Section 922(g)(4);

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

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

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

20 7. Two or more misdemeanor convictions relating to intoxication or driving under
21 the influence of an intoxicating substance or alcohol. The preclusive period shall be three
22 (3) years from the date of the completion of the last sentence or shall require a certified

1 statement from a licensed physician stating that the person is not in need of substance
2 abuse treatment;

3 8. A court order for a final Victim Protection Order against the applicant, as
4 authorized by Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any court order
5 granting a final victim protection order against the applicant from another state. The
6 preclusive period shall be three (3) years from the date of the entry of the final court
7 order, or sixty (60) days from the date an order was vacated, cancelled or withdrawn;

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

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

- 15 a. any assault and battery which caused serious physical injury to the
16 victim or any second or subsequent assault and battery,
17 b. any aggravated assault and battery,
18 c. any stalking pursuant to Section 1173 of this title, or a similar law of
19 another state,
20 d. any violation of the Protection from Domestic Abuse Act, Section 60 et
21 seq. of Title 22 of the Oklahoma Statutes, or any violation of a victim
22 protection order of another state,

- 1 e. any violation relating to illegal drug use or possession, or
2 f. an act of domestic abuse as defined by Section 644 of this title or an act
3 of domestic assault and battery or any comparable acts under the law
4 of another state.

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

7 11. A misdemeanor conviction relating to illegal drug use or possession in this state
8 or another state or pursuant to the United States Code. The preclusive period shall be
9 ten (10) years from the date of the completion of the sentence.

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

12 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1290.14, as last amended
13 by Section 1, Chapter 455, O.S.L. 2005 (21 O.S. Supp. 2008, Section 1290.14), is amended
14 to read as follows:

15 Section 1290.14

16 SAFETY AND TRAINING COURSE

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

1 Oklahoma Self-Defense Act, except certain persons may be exempt from such training
2 requirement as provided by the provisions of Section 1290.15 of this title.

3 B. The Council on Law Enforcement Education and Training (CLEET) shall
4 establish criteria for approving firearms instructors for purposes of training and
5 qualifying individuals for a concealed handgun license pursuant to the provisions of the
6 Oklahoma Self-Defense Act. Prior to submitting an application for CLEET approval as a
7 firearms instructor, applicants shall attend a firearms instructor school, meeting the
8 following minimum requirements:

9 1. Firearms instructor training conducted by one of the following entities:

- 10 a. Council on Law Enforcement Education and Training,
- 11 b. National Rifle Association,
- 12 c. Oklahoma Rifle Association,
- 13 d. federal law enforcement agencies, or
- 14 e. other professionally recognized organizations;

15 2. The course shall be at least sixteen (16) hours in length;

16 3. Upon completion of the course, the applicant shall be qualified to provide
17 instruction on revolvers, semiautomatic pistols, or both; and

18 4. Receive a course completion certificate.

19 All firearms instructors shall be required to meet the eligibility requirements for a
20 concealed handgun license as provided in Sections 1290.9, 1290.10, and 1290.11 of this
21 title, and the application shall be processed as provided for applicants in Section 1290.12
22 of this title, including the state and national criminal history records search and

1 fingerprint search. A firearms instructor shall be required to pay a fee of One Hundred
2 Dollars (\$100.00) to the Council on Law Enforcement Education and Training (CLEET)
3 each time the person makes application for CLEET approval as a firearms instructor
4 pursuant to the provisions of the Oklahoma Self-Defense Act. The fee shall be retained
5 by CLEET and shall be deposited into the Firearms Instructors Revolving Fund. CLEET
6 shall promulgate the rules, forms and procedures necessary to implement the approval of
7 firearms instructors as authorized by the provisions of this subsection. CLEET shall
8 periodically review each approved instructor during a training and qualification course to
9 assure compliance with the rules and course contents. Any violation of the rules may
10 result in the revocation or suspension of CLEET and Oklahoma State Bureau of
11 Investigation approval. Unless the approval has been revoked or suspended, a firearms
12 instructor's CLEET approval shall be for a term of five (5) or ten (10) years. Beginning
13 on the effective date of this act, any firearms instructor who has been issued a four-year
14 CLEET approval shall not be eligible for the five-year approval until the expiration of the
15 approval previously issued. CLEET shall be responsible for notifying all approved
16 firearms instructors of statutory and policy changes related to the Oklahoma Self-
17 Defense Act.

18 Beginning November 1, 2009, any person making application for approval as a
19 firearms instructor shall have the option to request that said approval be for a term of
20 ten (10) years. The application fee for the ten-year firearms instructor approval shall be
21 double the amount of the fee provided for in this subsection.

1 C. 1. All firearms instructors approved by CLEET to train and qualify individuals
2 for a concealed handgun license shall be required to apply for registration with the
3 Oklahoma State Bureau of Investigation after receiving CLEET approval. All firearms
4 instructors teaching the approved course for a concealed handgun license must display
5 their registration certificate during each training and qualification course. Each
6 approved firearms instructor shall complete a registration form provided by the Bureau
7 and shall pay a registration fee of One Hundred Dollars (\$100.00) to the Bureau at the
8 time of each application for registration, except as provided in paragraph 2 of this
9 subsection. Registration certificates issued by the Bureau shall be valid for five (5) or ten
10 (10) years from the date of issuance. The Bureau shall issue a five-year or ten-year
11 handgun license to an approved firearms instructor at the time of issuance of a
12 registration certificate and no additional fee shall be required or charged. The Bureau
13 shall maintain a current listing of all registered firearms instructors in this state.
14 Nothing in this paragraph shall be construed to eliminate the requirement for
15 registration and training with CLEET as provided in subsection B of this section.
16 Failure to register or be trained as required shall result in a revocation or suspension of
17 the instructor certificate by the Bureau.

18 2. Beginning November 1, 2009, each approved firearms instructor shall have the
19 option to request that said registration certificate issued by the Bureau be valid for a
20 term of ten (10) years. The registration fee for the ten-year registration certificate shall
21 be double the amount of the fee provided for in paragraph 1 of this subsection.

1 3. On the effective date of this act, the registered instructors listed in
2 subparagraphs a and b of this paragraph shall not be required to renew the firearms
3 instructor registration certificate with the Oklahoma State Bureau of Investigation at
4 the expiration of the registration term, provided the instructor is not subject to any
5 suspension or revocation of the firearm instructor certificate. The firearms instructor
6 registration with the Oklahoma State Bureau of Investigation shall automatically renew
7 together with the handgun license authorized in paragraph 1 of this subsection for an
8 additional five-year term and no additional cost or fee may be charged for the following
9 individuals:

- 10 a. an active duty law enforcement officer of this state or any of its
11 political subdivisions or of the federal government who has a valid
12 CLEET approval as a firearms instructor pursuant to the Oklahoma
13 Self-Defense Act, and
- 14 b. a retired law enforcement officer authorized to carry a firearm
15 pursuant to Section 1289.8 of this title who has a valid CLEET
16 approval as a firearms instructor pursuant to the Oklahoma Self-
17 Defense Act.

18 D. The Oklahoma State Bureau of Investigation shall approve registration for a
19 firearms instructor applicant who is in full compliance with CLEET rules regarding
20 firearms instructors and the provisions of subsection B of this section, if completion of
21 the federal fingerprint search is the only reason for delay of registration of that firearms
22 instructor applicant. Upon receipt of the federal fingerprint search information, if the

1 Bureau receives information which precludes the person from having a concealed
2 handgun license, the Bureau shall revoke both the registration and the concealed
3 handgun license previously issued to the firearms instructor.

4 E. The required firearms safety and training course and the actual demonstration
5 of competency and qualification required of the applicant shall be designed and
6 conducted in such a manner that the course can be reasonably completed by the
7 applicant within an eight-hour period. CLEET shall establish the course content and
8 promulgate rules, procedures and forms necessary to implement the provisions of this
9 subsection. For the training and qualification course, an applicant may be charged a fee
10 not to exceed Sixty Dollars (\$60.00). The instructor to student ratio shall not exceed ten
11 students to any one instructor. CLEET may establish criteria for assistant instructors,
12 maximum class size and any other requirements deemed necessary to conduct a safe and
13 effective training and qualification course. The course content shall include a safety
14 inspection of the firearm to be used by the applicant in the training course; instruction on
15 pistol handling, safety and storage; dynamics of ammunition and firing; methods or
16 positions for firing a pistol; information about the criminal provisions of the Oklahoma
17 law relating to firearms; the requirements of the Oklahoma Self-Defense Act as it relates
18 to the applicant; self-defense and the use of appropriate force; a practice shooting session;
19 and a familiarization course. The firearms instructor shall refuse to train or qualify any
20 person when the pistol to be used or carried by the person is either deemed unsafe or
21 unfit for firing or is a weapon not authorized by the Oklahoma Self-Defense Act. The
22 course shall provide an opportunity for the applicant to qualify himself or herself on

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 either a derringer, a revolver, a semiautomatic pistol or any combination of a derringer, a
2 revolver and a semiautomatic pistol, provided no pistol shall be capable of firing larger
3 than .45 caliber ammunition. Any applicant who successfully trains and qualifies
4 himself or herself with a semiautomatic pistol may be approved by the firearms
5 instructor on the training certificate for a semiautomatic pistol, a revolver and a
6 derringer upon request of the applicant. Any person who qualifies on a derringer or
7 revolver shall not be eligible for a semiautomatic rating until the person has
8 demonstrated competence and qualifications on a semiautomatic pistol. Upon successful
9 completion of the training and qualification course, a certificate shall be issued to each
10 applicant who successfully completes the course. The certificate of training shall comply
11 with the form established by CLEET and shall be submitted with an application for a
12 concealed handgun license pursuant to the provisions of paragraph 2 of Section 1290.12
13 of this title.

14 F. There is hereby created a revolving fund for the Council on Law Enforcement
15 Education and Training (CLEET), to be designated the "Firearms Instructors Revolving
16 Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and
17 shall consist of all funds received for approval of firearms instructors for purposes of the
18 Oklahoma Self-Defense Act. All funds received shall be deposited to the fund. All
19 monies accruing to the credit of said fund are hereby appropriated and may be budgeted
20 and expended by the Council on Law Enforcement Education and Training, for
21 implementation of the training and qualification course contents, approval of firearms
22 instructors and any other CLEET requirement pursuant to the provisions of the

1 Oklahoma Self-Defense Act or as may otherwise be deemed appropriate by CLEET.
2 Expenditures from said fund shall be made upon warrants issued by the State Treasurer
3 against claims filed as prescribed by law with the Director of State Finance for approval
4 and payment.

5 SECTION 4. This act shall become effective November 1, 2009.

6 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02-26-09 - DO
7 PASS.