

EHB 1449

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THE STATE SENATE
Monday, April 6, 2009

ENGROSSED
House Bill No. 1449
As Amended

ENGROSSED HOUSE BILL NO. 1449 - By: McMullen, Faught and Ritze of the House and Ellis, Paddack and Sykes of the Senate.

[crimes and punishments - amending 21 O.S., Sections 1290.5, 1290.10, 1290.11, 1290.14 and 1290.15 - Oklahoma Self-Defense Act - misdemeanor crimes - firearms instructors - effective date]

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1290.5, as last amended by Section 16, Chapter 3, O.S.L. 2008 (21 O.S. Supp. 2008, 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, and any future modifications thereto. The license shall be valid in this state for a period of five (5) 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

1 a license is expired or when a license has been voluntarily
2 surrendered or suspended or revoked for any reason.

3 B. A license may be renewed any time within ninety (90) days
4 prior to the expiration date as provided in this subsection. The
5 Bureau shall send a renewal application to each eligible licensee
6 with a return address requested. There shall be a thirty-day grace
7 period on license renewals beginning on the date of expiration,
8 thereafter the license is considered expired. However, any
9 applicant shall have three (3) years from the expiration of the
10 license to comply with the renewal requirements of this section.

11 1. To renew a handgun license, the licensee must first obtain a
12 renewal form from the Oklahoma State Bureau of Investigation.

13 2. The applicant must complete the renewal form, attach two
14 current passport size photographs of the applicant, and submit a
15 renewal fee in the amount of Eighty-five Dollars (\$85.00) to the
16 Bureau. The renewal fee may be paid with a nationally recognized
17 credit card as provided in subparagraph b of paragraph 4 of
18 subsection A of Section 1290.12 of this title, or by a cashier's
19 check or money order made payable to the Oklahoma State Bureau of
20 Investigation.

21 3. Upon receipt of the renewal application, photographs and
22 fee, the Bureau will conduct a criminal history records name search,
23 an investigation of medical records or other records or information

1 deemed by the Bureau to be relevant to the renewal application. If
2 the applicant appears not to have any prohibition to renewing the
3 handgun license, the Bureau shall issue the renewed license for a
4 period of five (5) years.

5 C. Upon the effective date of this act, any person making
6 application for a concealed handgun license or any licensee seeking
7 to renew a concealed handgun license shall have the option to
8 request that said license be valid for a period of ten (10) years.
9 The fee for any concealed handgun license issued for a period of ten
10 (10) years shall be double the amount of the fee provided for in
11 paragraph 4 of subsection A of Section 1290.12 of this title. The
12 renewal fee for a concealed handgun license issued for a period of
13 ten (10) years shall be double the amount of the fee provided for in
14 paragraph 2 of subsection B of this section.

15 D. Beginning November 1, 2009, any person who is honorably
16 discharged from active military duty, National Guard duty or
17 military reserves and who makes application for a concealed handgun
18 license or seeks to renew a concealed handgun license shall have the
19 option to request that said license be valid for the life of the
20 person receiving the license. The fee for the concealed handgun
21 license issued pursuant to this subsection shall be One Hundred
22 Dollars (\$100.00).

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

3 Section 1290.10

4 MANDATORY PRECLUSIONS

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

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

17 2. Any felony conviction pursuant to any law of another state,
18 a felony conviction pursuant to any provision of the United States
19 Code, or any conviction pursuant to the laws of any foreign country,
20 provided such foreign conviction would constitute a felony offense
21 in this state if the offense had been committed in this state,
22 except as provided in subsection B of Section 1283 of this title;

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

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

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

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

14 b. any aggravated assault and battery,

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

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

21 e. ~~any conviction relating to illegal drug use or~~
22 ~~possession; or~~

1 ~~£-~~ an act of domestic abuse as defined by Section 644 of
2 this title or an act of domestic assault and battery
3 or any comparable acts under the laws of another
4 state;

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

10 7. Currently undergoing treatment for a mental illness,
11 condition, or disorder. For purposes of this paragraph, "currently
12 undergoing treatment for a mental illness, condition, or disorder"
13 means the person has been diagnosed by a licensed physician as being
14 afflicted with a substantial disorder of thought, mood, perception,
15 psychological orientation, or memory that significantly impairs
16 judgment, behavior, capacity to recognize reality, or ability to
17 meet the ordinary demands of life;

18 8. Significant character defects of the applicant as evidenced
19 by a misdemeanor criminal record indicating habitual criminal
20 activity;

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

1 pursuant to federal authority for the commission of a felony
2 offense. The preclusive period shall be three (3) years and shall
3 begin upon the final determination of the matter;

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

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

19 5. Inpatient treatment for substance abuse. The preclusive
20 period shall be three (3) years from the last date of treatment or
21 upon presentation of a certified statement from a licensed physician
22 stating that the person has been free from substance use for twelve

1 (12) months or more preceding the filing of an application for a
2 handgun license;

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

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

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

20 9. An adjudicated delinquent or convicted felon residing in the
21 residence of the applicant which may be a violation of Section 1283
22 of this title. The preclusive period shall be thirty (30) days from

1 the date the person no longer resides in the same residence as the
2 applicant; ~~or~~

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

- 7 a. any assault and battery which caused serious physical
8 injury to the victim or any second or subsequent
9 assault and battery,
- 10 b. any aggravated assault and battery,
- 11 c. any stalking pursuant to Section 1173 of this title,
12 or a similar law of another state,
- 13 d. any violation of the Protection from Domestic Abuse
14 Act, Section 60 et seq. of Title 22 of the Oklahoma
15 Statutes, or any violation of a victim protection
16 order of another state,
- 17 e. any violation relating to illegal drug use or
18 possession, or
- 19 f. an act of domestic abuse as defined by Section 644 of
20 this title or an act of domestic assault and battery
21 or any comparable acts under the law of another state.

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

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

8 1. Firearms instructor training conducted by one of the
9 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
17 qualified to provide instruction on revolvers, semiautomatic
18 pistols, or both; and

19 4. Receive a course completion certificate.

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

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

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

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

1 eliminate the requirement for registration and training with CLEET
2 as provided in subsection B of this section. Failure to register or
3 be trained as required shall result in a revocation or suspension of
4 the instructor certificate by the Bureau.

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

11 3. On the effective date of this act, the registered
12 instructors listed in subparagraphs a and b of this paragraph shall
13 not be required to renew the firearms instructor registration
14 certificate with the Oklahoma State Bureau of Investigation at the
15 expiration of the registration term, provided the instructor is not
16 subject to any suspension or revocation of the firearm instructor
17 certificate. The firearms instructor registration with the Oklahoma
18 State Bureau of Investigation shall automatically renew together
19 with the handgun license authorized in paragraph 1 of this
20 subsection for an additional five-year term and no additional cost
21 or fee may be charged for the following individuals:

22 a. an active duty law enforcement officer of this state
23 or any of its political subdivisions or of the federal

1 government who has a valid CLEET approval as a
2 firearms instructor pursuant to the Oklahoma Self-
3 Defense Act, and

4 b. a retired law enforcement officer authorized to carry
5 a firearm pursuant to Section 1289.8 of this title who
6 has a valid CLEET approval as a firearms instructor
7 pursuant to the Oklahoma Self-Defense Act.

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

19 E. The required firearms safety and training course and the
20 actual demonstration of competency and qualification required of the
21 applicant shall be designed and conducted in such a manner that the
22 course can be reasonably completed by the applicant within an eight-
23 hour period. CLEET shall establish the course content and

1 promulgate rules, procedures and forms necessary to implement the
2 provisions of this subsection. For the training and qualification
3 course, an applicant may be charged a fee not to exceed Sixty
4 Dollars (\$60.00). The instructor to student ratio shall not exceed
5 ten students to any one instructor. CLEET may establish criteria
6 for assistant instructors, maximum class size and any other
7 requirements deemed necessary to conduct a safe and effective
8 training and qualification course. The course content shall include
9 a safety inspection of the firearm to be used by the applicant in
10 the training course; instruction on pistol handling, safety and
11 storage; dynamics of ammunition and firing; methods or positions for
12 firing a pistol; information about the criminal provisions of the
13 Oklahoma law relating to firearms; the requirements of the Oklahoma
14 Self-Defense Act as it relates to the applicant; self-defense and
15 the use of appropriate force; a practice shooting session; and a
16 familiarization course. The firearms instructor shall refuse to
17 train or qualify any person when the pistol to be used or carried by
18 the person is either deemed unsafe or unfit for firing or is a
19 weapon not authorized by the Oklahoma Self-Defense Act. The course
20 shall provide an opportunity for the applicant to qualify himself or
21 herself on either a derringer, a revolver, a semiautomatic pistol or
22 any combination of a derringer, a revolver and a semiautomatic
23 pistol, provided no pistol shall be capable of firing larger than

1 .45 caliber ammunition. Any applicant who successfully trains and
2 qualifies himself or herself with a semiautomatic pistol may be
3 approved by the firearms instructor on the training certificate for
4 a semiautomatic pistol, a revolver and a derringer upon request of
5 the applicant. Any person who qualifies on a derringer or revolver
6 shall not be eligible for a semiautomatic rating until the person
7 has demonstrated competence and qualifications on a semiautomatic
8 pistol. Upon successful completion of the training and
9 qualification course, a certificate shall be issued to each
10 applicant who successfully completes the course. The certificate of
11 training shall comply with the form established by CLEET and shall
12 be submitted with an application for a concealed handgun license
13 pursuant to the provisions of paragraph 2 of Section 1290.12 of this
14 title.

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

1 for implementation of the training and qualification course
2 contents, approval of firearms instructors and any other CLEET
3 requirement pursuant to the provisions of the Oklahoma Self-Defense
4 Act or as may otherwise be deemed appropriate by CLEET.

5 Expenditures from said fund shall be made upon warrants issued by
6 the State Treasurer against claims filed as prescribed by law with
7 the Director of State Finance for approval and payment.

8 SECTION 5. AMENDATORY 21 O.S. 2001, Section 1290.15, is
9 amended to read as follows:

10 Section 1290.15

11 PERSONS EXEMPT FROM TRAINING COURSE

12 A. The following individuals may be exempt from all or part of
13 the required training and qualification course established pursuant
14 to the provisions of Section 1290.14 of this title:

- 15 1. A firearms instructor registered with the Oklahoma State
16 Bureau of Investigation for purposes of the Oklahoma Self-Defense
17 Act;
- 18 2. An active duty law enforcement officer of this state or any
19 of its political subdivisions or of the federal government;
- 20 3. A retired law enforcement officer authorized by this state
21 pursuant to Section 1289.8 of this title to carry a firearm;

1 4. A CLEET-certified armed security officer, armed guard,
2 correctional officer, or any other person having a CLEET
3 certification to carry a firearm in the course of their employment;

4 5. A person on active military duty, National Guard duty or
5 regular military reserve duty who is a legal resident of this state
6 and who is trained and qualified in the use of handguns;

7 6. A person honorably discharged from active military duty,
8 National Guard duty or military reserves ~~within twenty (20) years~~
9 ~~preceding the date of the application for a concealed handgun~~
10 ~~license pursuant to the provisions of the Oklahoma Self Defense Act,~~
11 who is a legal resident of this state, and who has been trained and
12 qualified in the use of handguns;

13 7. A person retired as a peace officer in good standing from a
14 law enforcement agency located in another state, who is a legal
15 resident of this state, and who has received training equivalent to
16 the training required for CLEET certification in this state; and

17 8. Any person who is otherwise deemed qualified for a training
18 exemption by CLEET.

19 Provided, however, persons applying for an exemption pursuant to
20 paragraph 3, 4, 5, 6 or 7 of this subsection may be required to
21 successfully complete the classroom portion of the training course.
22 The classroom portion of the training course shall not exceed a fee
23 of Thirty Dollars (\$30.00).

1 B. The Council on Law Enforcement Education and Training
2 (CLEET) shall establish criteria for providing proof of an
3 exemption. Before any person shall be considered exempt from all or
4 part of the required training and qualification pursuant to the
5 provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq.
6 of this title, the person shall present the required proof of
7 exemption to a registered firearms instructor. Each person
8 determined to be exempt from training or qualification as provided
9 in this subsection shall receive an exemption certificate from the
10 registered firearms instructor. The rules promulgated by CLEET to
11 implement the provisions of this section and Section 1290.14 of this
12 title may require that a fee not to exceed Five Dollars (\$5.00) be
13 charged for processing an exemption certificate. The original
14 exemption certificate must be submitted with an application for a
15 handgun license as provided in paragraph 2 of Section 1290.12 of
16 this title. No person who is determined to be exempt from training
17 or qualification may carry a concealed firearm pursuant to the
18 authority of the Oklahoma Self-Defense Act until issued a valid
19 handgun license.

20 C. Nothing contained in any provision of the Oklahoma Self-
21 Defense Act shall be construed to alter, amend, or modify the
22 authority of any active duty law enforcement officer, or any person
23 certified by the Council on Law Enforcement Education and Training

1 to carry a pistol during the course of their employment, from
2 carrying any pistol in any manner authorized by law or authorized by
3 the employing agency.

4 SECTION 6. This act shall become effective November 1, 2009.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-31-09 - DO
6 PASS, As Amended and Coauthored.