

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2327

By: Smithson

4  
5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Sections 1290.10, 1290.11, as amended  
9 by Section 3, Chapter 62, O.S.L. 2006 and 1290.14, as  
10 last amended by Section 1, Chapter 455, O.S.L. 2005  
11 (21 O.S. Supp. 2009, Sections 1290.11 and 1290.14),  
12 which relate to the Oklahoma Self-Defense Act;  
13 deleting certain condition from mandatory preclusions  
14 of the Oklahoma Self-Defense Act; including  
15 convictions for certain misdemeanor crimes to  
16 temporary preclusions category; authorizing ten-year  
17 terms for approval and registration certificates for  
18 firearms instructors; stating fee amounts; and  
19 providing an effective date.

20  
21  
22  
23  
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

Section 1290.10

MANDATORY PRECLUSIONS

In addition to the requirements stated in Section 1290.9 of this  
title, the conditions stated in this section shall preclude a person  
from eligibility for a handgun license pursuant to the provisions of  
the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title.

1 The occurrence of any one of the following conditions shall deny the  
2 person the right to have a handgun license pursuant to the  
3 provisions of the Oklahoma Self-Defense Act. Prohibited conditions  
4 are:

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

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

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

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

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

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

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

22 7. Currently undergoing treatment for a mental illness,  
23 condition, or disorder. For purposes of this paragraph, "currently  
24 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 2. AMENDATORY 21 O.S. 2001, Section 1290.11, as  
21 amended by Section 3, Chapter 62, O.S.L. 2006 (21 O.S. Supp. 2009,  
22 Section 1290.11), is amended to read as follows:

23 Section 1290.11

24 OTHER PRECLUSIONS

1       A. The following conditions shall preclude a person from being  
2 eligible for a concealed handgun license pursuant to the provisions  
3 of the Oklahoma Self-Defense Act for a period of time as prescribed  
4 in each of the following paragraphs:

5       1. An arrest for an alleged commission of a felony offense or a  
6 felony charge pending in this state, another state or pursuant to  
7 the United States Code. The preclusive period shall be until the  
8 final determination of the matter;

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

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

20       4. The person has previously undergone treatment for a mental  
21 illness, condition, or disorder which required medication or  
22 supervision as defined by paragraph 7 of Section 1290.10 of this  
23 title. The preclusive period shall be three (3) years from the last  
24 date of treatment or upon presentation of a certified statement from

1 a licensed physician stating that the person is either no longer  
2 disabled by any mental or psychiatric illness, condition, or  
3 disorder or that the person has been stabilized on medication for  
4 ten (10) years or more;

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

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

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

21 8. A court order for a final Victim Protection Order against  
22 the applicant, as authorized by Section 60 et seq. of Title 22 of  
23 the Oklahoma Statutes, or any court order granting a final victim  
24 protection order against the applicant from another state. The

1 preclusive period shall be three (3) years from the date of the  
2 entry of the final court order, or sixty (60) days from the date an  
3 order was vacated, cancelled or withdrawn;

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

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

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

1 f. 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 law of another state.

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

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

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

13 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1290.14, as  
14 last amended by Section 1, Chapter 455, O.S.L. 2005 (21 O.S. Supp.  
15 2009, Section 1290.14), is amended to read as follows:

16 Section 1290.14

17 SAFETY AND TRAINING COURSE

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

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

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

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

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

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

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

22 4. Receive a course completion certificate.

23 All firearms instructors shall be required to meet the eligibility  
24 requirements for a concealed handgun license as provided in Sections

1 1290.9, 1290.10, and 1290.11 of this title, and the application  
2 shall be processed as provided for applicants in Section 1290.12 of  
3 this title, including the state and national criminal history  
4 records search and fingerprint search. A firearms instructor shall  
5 be required to pay a fee of One Hundred Dollars (\$100.00) to the  
6 Council on Law Enforcement Education and Training (CLEET) each time  
7 the person makes application for CLEET approval as a firearms  
8 instructor pursuant to the provisions of the Oklahoma Self-Defense  
9 Act. The fee shall be retained by CLEET and shall be deposited into  
10 the Firearms Instructors Revolving Fund. CLEET shall promulgate the  
11 rules, forms and procedures necessary to implement the approval of  
12 firearms instructors as authorized by the provisions of this  
13 subsection. CLEET shall periodically review each approved  
14 instructor during a training and qualification course to assure  
15 compliance with the rules and course contents. Any violation of the  
16 rules may result in the revocation or suspension of CLEET and  
17 Oklahoma State Bureau of Investigation approval. Unless the  
18 approval has been revoked or suspended, a firearms instructor's  
19 CLEET approval shall be for a term of five (5) or ten (10) years.  
20 Beginning on the effective date of this act, any firearms instructor  
21 who has been issued a four-year CLEET approval shall not be eligible  
22 for the five-year approval until the expiration of the approval  
23 previously issued. CLEET shall be responsible for notifying all

24

1 approved firearms instructors of statutory and policy changes  
2 related to the Oklahoma Self-Defense Act.

3 Beginning November 1, 2010, any person making application for  
4 approval as a firearms instructor shall have the option to request  
5 that said approval be for a term of ten (10) years. The application  
6 fee for the ten-year firearms instructor approval shall be double  
7 the amount of the fee provided for in this subsection.

8 C. 1. All firearms instructors approved by CLEET to train and  
9 qualify individuals for a concealed handgun license shall be  
10 required to apply for registration with the Oklahoma State Bureau of  
11 Investigation after receiving CLEET approval. All firearms  
12 instructors teaching the approved course for a concealed handgun  
13 license must display their registration certificate during each  
14 training and qualification course. Each approved firearms  
15 instructor shall complete a registration form provided by the Bureau  
16 and shall pay a registration fee of One Hundred Dollars (\$100.00) to  
17 the Bureau at the time of each application for registration, except  
18 as provided in paragraph 2 of this subsection. Registration  
19 certificates issued by the Bureau shall be valid for five (5) or ten  
20 (10) years from the date of issuance. The Bureau shall issue a  
21 five-year or ten-year handgun license to an approved firearms  
22 instructor at the time of issuance of a registration certificate and  
23 no additional fee shall be required or charged. The Bureau shall  
24 maintain a current listing of all registered firearms instructors in

1 this state. Nothing in this paragraph shall be construed to  
2 eliminate the requirement for registration and training with CLEET  
3 as provided in subsection B of this section. Failure to register or  
4 be trained as required shall result in a revocation or suspension of  
5 the instructor certificate by the Bureau.

6 2. Beginning November 1, 2010, each approved firearms  
7 instructor shall have the option to request that said registration  
8 certificate issued by the Bureau be valid for a term of ten (10)  
9 years. The registration fee for the ten-year registration  
10 certificate shall be double the amount of the fee provided for in  
11 paragraph 1 of this subsection.

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

23 a. an active duty law enforcement officer of this state  
24 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  
24 promulgate rules, procedures and forms necessary to implement the

1 provisions of this subsection. For the training and qualification  
2 course, an applicant may be charged a fee not to exceed Sixty  
3 Dollars (\$60.00). The instructor to student ratio shall not exceed  
4 ten students to any one instructor. CLEET may establish criteria  
5 for assistant instructors, maximum class size and any other  
6 requirements deemed necessary to conduct a safe and effective  
7 training and qualification course. The course content shall include  
8 a safety inspection of the firearm to be used by the applicant in  
9 the training course; instruction on pistol handling, safety and  
10 storage; dynamics of ammunition and firing; methods or positions for  
11 firing a pistol; information about the criminal provisions of the  
12 Oklahoma law relating to firearms; the requirements of the Oklahoma  
13 Self-Defense Act as it relates to the applicant; self-defense and  
14 the use of appropriate force; a practice shooting session; and a  
15 familiarization course. The firearms instructor shall refuse to  
16 train or qualify any person when the pistol to be used or carried by  
17 the person is either deemed unsafe or unfit for firing or is a  
18 weapon not authorized by the Oklahoma Self-Defense Act. The course  
19 shall provide an opportunity for the applicant to qualify himself or  
20 herself on either a derringer, a revolver, a semiautomatic pistol or  
21 any combination of a derringer, a revolver and a semiautomatic  
22 pistol, provided no pistol shall be capable of firing larger than  
23 .45 caliber ammunition. Any applicant who successfully trains and  
24 qualifies himself or herself with a semiautomatic pistol may be

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

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

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

5 SECTION 4. This act shall become effective November 1, 2010.

6

7 52-2-8693 GRS 01/04/10

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24