

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4 HOUSE BILL 1647

By: Bennett and Reynolds

5  
6                                   AS INTRODUCED

7                   An Act relating to crimes and punishments; amending  
8                   21 O.S. 2001, Section 1289.6, which relates to the  
9                   Oklahoma Firearms Act of 1971; adding condition for  
10                  which firearms may be carried; amending 21 O.S. 2001,  
11                  Sections 1290.5, as last amended by Section 1,  
12                  Chapter 225, O.S.L. 2009 and 1290.12, as last amended  
13                  by Section 1, Chapter 162, O.S.L. 2010 (21 O.S. Supp.  
14                  2010, Sections 1290.5 and 1290.12), which relate to  
15                  the Oklahoma Self-Defense Act; authorizing issuance  
16                  of lifetime concealed handgun licenses for military  
17                  personnel; authorizing promulgation of rules;  
18                  defining term; modifying certain application  
19                  procedure; updating language; and providing an  
20                  effective date.

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

22                  SECTION 1.            AMENDATORY            21 O.S. 2001, Section 1289.6, is  
23 amended to read as follows:

24                  Section 1289.6

                                  CONDITIONS UNDER WHICH FIREARMS MAY BE CARRIED

                  A. A person shall be permitted to carry loaded and unloaded  
shotguns, rifles and pistols, open and not concealed and without a  
handgun license as authorized by the Oklahoma Self-Defense Act,

1 ~~Sections 1 through 25 of this act,~~ pursuant to the following  
2 conditions:

3 1. When hunting animals or fowl;

4 2. During competition in or practicing in a safety or hunter  
5 safety class, target shooting, skeet, trap or other recognized  
6 sporting events;

7 3. During participation in or in preparation for a military  
8 function of the state military forces to be defined as the Oklahoma  
9 Army or Air National Guard, Federal Military Reserve and active  
10 military forces;

11 4. During participation in or in preparation for a recognized  
12 police function of either a municipal, county or state government as  
13 functioning police officials;

14 5. During a practice for or a performance for entertainment  
15 purposes; ~~or~~

16 6. When the person has a reasonable fear of bodily harm; or

17 7. For any legitimate purpose not in violation of the Oklahoma  
18 Firearms Act of 1971, ~~Sections 1289.1 through 1289.17 of this title~~  
19 or any legislative enactment regarding the use, ownership and  
20 control of firearms.

21 B. A person shall be permitted to carry unloaded shotguns,  
22 rifles and pistols, open and not concealed and without a handgun  
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1 license as authorized by the Oklahoma Self-Defense Act pursuant to  
2 the following conditions:

3 1. When going to or from the person's private residence or  
4 vehicle or a vehicle in which the person is riding as a passenger to  
5 a place designated or authorized for firearms repairs or  
6 reconditioning, or for firearms trade, sale, or barter, or gunsmith,  
7 or hunting animals or fowl, or hunter safety course, or target  
8 shooting, or skeet or trap shooting or any recognized firearms  
9 activity or event and while in such places; or

10 2. For any legitimate purpose not in violation of the Oklahoma  
11 Firearms Act of 1971, ~~Sections 1289.1 through 1289.17 of this title.~~

12 C. The provisions of this section shall not be construed to  
13 prohibit educational or recreational activities, exhibitions,  
14 displays or shows involving the use or display of rifles, shotguns  
15 or pistols or other weapons if the activity is approved by the  
16 property owner and sponsor of the activity.

17 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1290.5, as  
18 last amended by Section 1, Chapter 225, O.S.L. 2009 (21 O.S. Supp.  
19 2010, Section 1290.5), is amended to read as follows:

20 Section 1290.5

21 TERM OF LICENSE AND RENEWAL

22 A. A concealed handgun license when issued shall authorize the  
23 person to whom the license is issued to carry a loaded or unloaded

1 concealed handgun as authorized by the provisions of the Oklahoma  
2 Self-Defense Act, and any future modifications thereto. The Except  
3 as provided for in subsections D and E of this section, the license  
4 shall be valid in this state for a period of five (5) or ten (10)  
5 years, unless subsequently surrendered, suspended or revoked as  
6 provided by law. The person shall have no authority to continue to  
7 carry a concealed handgun in this state pursuant to the Oklahoma  
8 Self-Defense Act when a license is expired or when a license has  
9 been voluntarily surrendered or suspended or revoked for any reason.

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

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

20 2. The applicant must complete the renewal form, attach two  
21 current passport size photographs of the applicant, and submit a  
22 renewal fee in the amount of Eighty-five Dollars (\$85.00) to the  
23 Bureau. The renewal fee may be paid with a nationally recognized

1 credit card as provided in subparagraph b of paragraph 4 of  
2 subsection A of Section 1290.12 of this title, or by a cashier's  
3 check or money order made payable to the Oklahoma State Bureau of  
4 Investigation.

5 3. Upon receipt of the renewal application, photographs and  
6 fee, the Bureau will conduct a criminal history records name search,  
7 an investigation of medical records or other records or information  
8 deemed by the Bureau to be relevant to the renewal application. If  
9 the applicant appears not to have any prohibition to renewing the  
10 handgun license, the Bureau shall issue the renewed license for a  
11 period of five (5) or ten (10) years or for the life of the military  
12 veteran or active military duty personnel, as provided for in  
13 subsection F of this section.

14 C. Beginning November 1, 2007, any person making application  
15 for a concealed handgun license or any licensee seeking to renew a  
16 concealed handgun license shall have the option to request that said  
17 license be valid for a period of ten (10) years. The fee for any  
18 concealed handgun license issued for a period of ten (10) years  
19 shall be double the amount of the fee provided for in paragraph 4 of  
20 subsection A of Section 1290.12 of this title. The renewal fee for  
21 a concealed handgun license issued for a period of ten (10) years  
22 shall be double the amount of the fee provided for in paragraph 2 of  
23 subsection B of this section.

1        D. Any person who is a military veteran and is making  
2 application for a concealed handgun license shall have the option to  
3 request that said license be valid for the life of the military  
4 veteran. The fee for a concealed handgun license issued for the  
5 life of the military veteran shall be One Hundred Twenty-five  
6 Dollars (\$125.00).

7        E. Any person who is on active military duty, National Guard  
8 duty or regular military reserve duty and is making application for  
9 a concealed handgun license shall have the option to request that  
10 said license be valid for the life of the person. There shall be no  
11 fee assessed when issuing a concealed handgun license to a person  
12 who is deemed active-duty military personnel.

13        F. Upon completing a renewal application and submitting a  
14 renewal fee of Twenty-five Dollars (\$25.00), a military veteran with  
15 a concealed handgun license issued prior to November 1, 2011, shall  
16 have the license renewed for the life of the person. Upon  
17 completing a renewal application, a person on active military duty,  
18 National Guard duty or regular military reserve duty with a  
19 concealed handgun license issued prior to November 1, 2011, shall  
20 have the license renewed for the life of the person. There shall be  
21 no renewal fee assessed when issuing the renewal license to a person  
22 who is deemed active-duty military personnel. The Bureau may

1 promulgate rules necessary to implement the provisions of  
2 subsections D, E and F of this section.

3 G. As used in this section, "military veteran" shall mean any  
4 person who has been honorably discharged from active military duty,  
5 National Guard duty or the military reserves.

6 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1290.12, as  
7 last amended by Section 1, Chapter 162, O.S.L. 2010 (21 O.S. Supp.  
8 2010, Section 1290.12), is amended to read as follows:

9 Section 1290.12 A. The procedure for applying for a concealed  
10 handgun license and processing the application shall be as follows:

11 1. An eligible person may request an application packet for a  
12 concealed handgun license from the Oklahoma State Bureau of  
13 Investigation or the county sheriff's office either in person or by  
14 mail. The Bureau may provide application packets to each sheriff  
15 not exceeding two hundred packets per request. The Bureau shall  
16 provide the following information in the application packet:

- 17 a. an application form,  
18 b. procedures to follow to process the application form,  
19 and  
20 c. a copy of the Oklahoma Self-Defense Act with any  
21 modifications thereto;

22 2. The person shall be required to successfully complete a  
23 firearms safety and training course from a firearms instructor who

1 is approved and registered in this state as provided in Section  
2 1290.14 of this title, and the person shall be required to  
3 demonstrate competency and qualification with a pistol authorized  
4 for concealed carry by the Oklahoma Self-Defense Act. The original  
5 certificate of training shall be submitted with the application for  
6 a handgun license. No duplicate, copy, facsimile or other  
7 reproduction of the certificate of training or exemption from  
8 training shall be acceptable as proof of training as required by the  
9 provisions of the Oklahoma Self-Defense Act. A person exempt from  
10 the training requirements as provided in Section 1290.15 of this  
11 title must show the required proof of such exemption to the firearms  
12 instructor to receive an exemption certificate. The original  
13 exemption certificate must be submitted with the application for a  
14 handgun license when the person claims an exemption from training  
15 and qualification;

16 3. The application form shall be completed and delivered by the  
17 applicant, in person, to the sheriff of ~~the~~ any county ~~wherein the~~  
18 ~~applicant resides~~ within the State of Oklahoma;

19 4. The person shall deliver to the sheriff at the time of  
20 delivery of the completed application form a fee of One Hundred  
21 Dollars (\$100.00) for processing the application through the  
22 Oklahoma State Bureau of Investigation and processing the required  
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1 fingerprints through the Federal Bureau of Investigation. The  
2 processing fee shall be in the form of:

- 3 a. a money order or a cashier's check made payable to the  
4 Oklahoma State Bureau of Investigation, or
- 5 b. by a nationally recognized credit card issued to the  
6 applicant. For purposes of this paragraph,  
7 "nationally recognized credit card" means any  
8 instrument or device, whether known as a credit card,  
9 credit plate, charge plate, or by any other name,  
10 issued with or without fee by the issuer for the use  
11 of the cardholder in obtaining goods, services, or  
12 anything else of value on credit which is accepted by  
13 over one thousand merchants in the state. The  
14 Oklahoma State Bureau of Investigation shall determine  
15 which nationally recognized credit cards will be  
16 accepted by the Bureau.

17 The processing fee shall not be refundable in the event of a  
18 denial of a handgun license or any suspension or revocation  
19 subsequent to the issuance of a license. Persons making application  
20 for a firearms instructor shall not be required to pay the  
21 application fee as provided in this section, but shall be required  
22 to pay the costs provided in paragraphs 6 and 8 of this subsection;

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1           5. The completed application form shall be signed by the  
2 applicant in person before the sheriff. The signature shall be  
3 given voluntarily upon a sworn oath that the person knows the  
4 contents of the application and that the information contained in  
5 the application is true and correct. Any person making any false or  
6 misleading statement on an application for a handgun license shall,  
7 upon conviction, be guilty of perjury as defined by Section 491 of  
8 this title. Any conviction shall be punished as provided in Section  
9 500 of this title. In addition to a criminal conviction, the person  
10 shall be denied the right to have a concealed handgun license  
11 pursuant to the provisions of Section 1290.10 of this title and the  
12 Oklahoma State Bureau of Investigation shall revoke the handgun  
13 license, if issued;

14           6. Two passport size photographs of the applicant shall be  
15 submitted with the completed application. The cost of the  
16 photographs shall be the responsibility of the applicant. The  
17 sheriff is authorized to take ~~the applicant's~~ a photograph of the  
18 applicant for purposes of the Oklahoma Self-Defense Act and, if such  
19 photographs are taken by the sheriff the cost of the photographs  
20 shall not exceed Ten Dollars (\$10.00) for the two photos. All money  
21 received by the sheriff from photographing applicants pursuant to  
22 the provisions of this paragraph shall be retained by the sheriff  
23 and deposited into the Sheriff's Service Fee Account;

1           7. The sheriff shall witness the signature of the applicant and  
2 review or take the photographs of the applicant and shall verify  
3 that the person making application for a handgun license is the same  
4 person in the photographs submitted and the same person who signed  
5 the application form. Proof of a valid Oklahoma driver license with  
6 a photograph of the applicant or an Oklahoma State photo  
7 identification for the applicant shall be required to be presented  
8 by the applicant to the sheriff for verification of the ~~person's~~  
9 identity of the person;

10           8. Upon verification of the identity of the applicant, the  
11 sheriff shall take two complete sets of fingerprints of the  
12 applicant. Both sets of fingerprints shall be submitted by the  
13 sheriff with the completed application, certificate of training or  
14 an exemption certificate, photographs and processing fee to the  
15 Oklahoma State Bureau of Investigation within fourteen (14) days of  
16 taking the fingerprints. The cost of the fingerprints shall be paid  
17 by the applicant and shall not exceed Twenty-five Dollars (\$25.00)  
18 for the two sets. All fees collected by the sheriff from taking  
19 fingerprints pursuant to the provisions of this paragraph shall be  
20 retained by the sheriff and deposited into the Sheriff's Service Fee  
21 Account;

22           9. The sheriff shall submit to the Oklahoma State Bureau of  
23 Investigation within the fourteen-day period, together with the  
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1 completed application, including the certificate of training or  
2 exemption certificate, photographs, processing fee and legible  
3 fingerprints meeting the Oklahoma State Bureau of Investigation's  
4 Automated Fingerprint Identification System (AFIS) submission  
5 standards, and a report of information deemed pertinent to an  
6 investigation of the applicant for a handgun license. The sheriff  
7 shall make a preliminary investigation of pertinent information  
8 about the applicant and the court clerk shall assist the sheriff in  
9 locating pertinent information in court records for this purpose.  
10 If no pertinent information is found to exist either for or against  
11 the applicant, the sheriff shall so indicate in the report;

12 10. The Oklahoma State Bureau of Investigation, upon receipt of  
13 the application and required information from the sheriff, shall  
14 forward one full set of fingerprints of the applicant to the Federal  
15 Bureau of Investigation for a national criminal history records  
16 search. The cost of processing the fingerprints nationally shall be  
17 paid from the processing fee collected by the Oklahoma State Bureau  
18 of Investigation;

19 11. The Oklahoma State Bureau of Investigation shall make a  
20 reasonable effort to investigate the information submitted by the  
21 applicant and the sheriff, to ascertain whether or not the issuance  
22 of a handgun license would be in violation of the provisions of the  
23 Oklahoma Self-Defense Act. The ~~Bureau's~~ investigation of an

1 applicant by the Bureau shall include, but shall not be limited to:  
2 a statewide criminal history records search, a national criminal  
3 history records search, a Federal Bureau of Investigation  
4 fingerprint search, and if applicable, an investigation of medical  
5 records or other records or information deemed by the Bureau to be  
6 relevant to the application.

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

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

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

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1 (3) with an "Inconclusive" answer if the ~~Department's~~  
2 records of the Department suggest the applicant  
3 may be a formerly committed person. In the case  
4 of an inconclusive answer, the Bureau shall ask  
5 the applicant whether he or she was involuntarily  
6 committed. If the applicant states under penalty  
7 of perjury that he or she has not been  
8 involuntarily committed, the Bureau shall  
9 continue processing the application for a  
10 license.

11 b. In the course of the ~~Bureau's~~ investigation by the  
12 Bureau, it shall check the name of any applicant who  
13 is twenty-eight (28) years of age or younger along  
14 with any known aliases, the address of the applicant  
15 and the social security number of the applicant  
16 against the records in the Juvenile Online Tracking  
17 System (JOLTS) of the Office of Juvenile Affairs. The  
18 Office of Juvenile Affairs shall provide the Bureau  
19 direct access to check the applicant against the  
20 records available on JOLTS.

21 (1) If the Bureau finds a record on the JOLTS that  
22 indicates the person was adjudicated a delinquent  
23 for an offense that would constitute a felony

1 offense if committed by an adult within the last  
2 ten (10) years the Bureau shall deny the license,

3 (2) If the Bureau finds no record on the JOLTS  
4 indicating the named person was adjudicated  
5 delinquent for an offense that would constitute a  
6 felony offense if committed by an adult within  
7 the last ten (10) years, or

8 (3) If the records suggest the applicant may have  
9 been adjudicated delinquent for an offense that  
10 would constitute a felony offense if committed by  
11 an adult but such record is inconclusive, the  
12 Bureau shall ask the applicant whether he or she  
13 was adjudicated a delinquent for an offense that  
14 would constitute a felony offense if committed by  
15 an adult within the last ten (10) years. If the  
16 applicant states under penalty of perjury that he  
17 or she was not adjudicated a delinquent within  
18 ten (10) years, the Bureau shall continue  
19 processing the application for a license;

20 12. If the background check set forth in ~~subsection~~ paragraph  
21 11 of this ~~section~~ subsection reveals no records pertaining to the  
22 applicant, the Oklahoma State Bureau of Investigation shall either  
23 issue a concealed handgun license or deny the application within  
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1 sixty (60) days of the date of receipt of the ~~applicant's~~ completed  
2 application by the applicant and the required information from the  
3 sheriff. In all other cases, the Oklahoma State Bureau of  
4 Investigation shall either issue a concealed handgun license or deny  
5 the application within ninety (90) days of the date of the receipt  
6 of the ~~applicant's~~ completed application by the applicant and the  
7 required information from the sheriff. The Bureau shall approve an  
8 applicant who appears to be in full compliance with the provisions  
9 of the Oklahoma Self-Defense Act, if completion of the federal  
10 fingerprint search is the only reason for delay of the issuance of  
11 the handgun license to that applicant. Upon receipt of the federal  
12 fingerprint search information, if the Bureau receives information  
13 which precludes the person from having a concealed handgun license,  
14 the Bureau shall revoke the concealed handgun license previously  
15 issued to the applicant. The Bureau shall deny a license when the  
16 applicant fails to properly complete the application form or  
17 application process or is determined not to be eligible as specified  
18 by the provisions of Section 1290.9, 1290.10 or 1290.11 of this  
19 title. The Bureau shall approve an application in all other cases.  
20 If an application is denied, the Bureau shall notify the applicant  
21 in writing of its decision. The notification shall state the  
22 grounds for the denial and inform the applicant of the right to an  
23 appeal as may be provided by the provisions of the Administrative

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1 Procedures Act. All notices of denial shall be mailed by first  
2 class mail to the ~~applicant's~~ address of the applicant listed in the  
3 application. Within sixty (60) calendar days from the date of  
4 mailing a denial of application to an applicant, the applicant shall  
5 notify the Bureau in writing of the intent to appeal the decision of  
6 denial or the ~~applicant's~~ right to appeal the denial by the  
7 applicant shall be deemed waived. Any administrative hearing on a  
8 denial which may be provided shall be conducted by a hearing  
9 examiner appointed by the Bureau. The ~~hearing examiner's~~ decision  
10 of the hearing examiner shall be a final decision appealable to a  
11 district court in accordance with the Administrative Procedures Act.  
12 When an application is approved, the Bureau shall issue the license  
13 and mail it to the sheriff of the county wherein the applicant  
14 resides. The applicant may pick up the concealed handgun license  
15 from the ~~sheriff's~~ office of the sheriff.

16 B. Nothing contained in any provision of the Oklahoma Self-  
17 Defense Act shall be construed to require or authorize the  
18 registration, documentation or providing of serial numbers with  
19 regard to any firearm. For purposes of the Oklahoma Self-Defense  
20 Act, the sheriff may designate a person to receive, fingerprint,  
21 photograph or otherwise process applications for concealed handgun  
22 licenses.

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1 SECTION 4. This act shall become effective November 1, 2011.

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3 DISCHARGED FROM COMMITTEE ON PUBLIC SAFETY BY PETITION, dated 03-15-  
4 2011 - DO PASS.  
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