

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2134

By: Steele

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5
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2001,
8 Sections 1272, as last amended by Section 1, Chapter
9 128, O.S.L. 2007 and 1277, as amended by Section 2,
10 Chapter 128, O.S.L. 2007 (21 O.S. Supp. 2010,
11 Sections 1272 and 1277), which relate to unlawful
12 carry of firearms; making certain acts unlawful;
13 providing exception; clarifying certain exception;
14 clarifying elements of certain prohibited act;
15 amending 21 O.S. 2001, Sections 1290.2, 1290.8, as
16 amended by Section 6, Chapter 465, O.S.L. 2003,
17 1290.11, as amended by Section 3, Chapter 62, O.S.L.
18 2006, 1290.22, as amended by Section 2, Chapter 39,
19 O.S.L. 2004 and 1290.26, as amended by Section 9,
20 Chapter 465, O.S.L. 2003 (21 O.S. Supp. 2010,
21 Sections 1290.8, 1290.11, 1290.22 and 1290.26), which
22 relate to the Oklahoma Self-Defense Act; modifying
23 definition of concealed handgun; modifying punishment
24 for certain prohibited act; modifying temporary
preclusion conditions for handgun licenses;
authorizing private property owners to prohibit
certain conduct; requiring private property owners to
post certain signs; making certain conduct subject to
removal from property; providing for the issuance of
citations; modifying manner in which a firearm may be
carried; 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 1272, as
2 last amended by Section 1, Chapter 128, O.S.L. 2007 (21 O.S. Supp.
3 2010, Section 1272), is amended to read as follows:

4 Section 1272.

5 UNLAWFUL CARRY

6 A. It shall be unlawful ~~for~~:

7 1. For any person to carry upon or about his or her person, or
8 in a purse or other container belonging to the person, any pistol,
9 revolver, shotgun or rifle whether loaded or unloaded or any dagger,
10 bowie knife, dirk knife, switchblade knife, spring-type knife, sword
11 cane, knife having a blade which opens automatically by hand
12 pressure applied to a button, spring, or other device in the handle
13 of the knife, blackjack, loaded cane, billy, hand chain, metal
14 knuckles, or any other offensive weapon, whether such weapon be
15 concealed or unconcealed, ~~except~~; or

16 2. For any person with a valid concealed handgun license issued
17 pursuant to the provisions of the Oklahoma Self-Defense Act to
18 intentionally fail to conceal the handgun; provided, however, a
19 concealed handgun licensee shall not be in violation of this section
20 if the licensee exposes the handgun in a reasonable manner when
21 attempting to store the handgun in the trunk of a motor vehicle or
22 other storage compartment of the motor vehicle.

23 B. The provisions of this section shall not prohibit:
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1 1. The proper use of guns and knives for hunting, fishing,
2 educational or recreational purposes;

3 2. The carrying or use of weapons in a manner otherwise
4 permitted by statute or ~~authorized by~~ the carrying, possession and
5 use of a concealed handgun by any person who has a valid concealed
6 handgun license issued pursuant to the provisions of the Oklahoma
7 Self-Defense Act;

8 3. The carrying, possession and use of any weapon by a peace
9 officer or other person authorized by law to carry a weapon in the
10 performance of official duties and in compliance with the rules of
11 the employing agency;

12 4. The carrying or use of weapons in a courthouse by a district
13 judge, associate district judge or special district judge within
14 this state, who is in possession of a valid concealed handgun
15 license issued pursuant to the provisions of the Oklahoma Self-
16 Defense Act and whose name appears on a list maintained by the
17 Administrative Director of the Courts; or

18 5. The carrying and use of firearms and other weapons provided
19 in this subsection when used for the purpose of living history
20 reenactment. For purposes of this paragraph, "living history
21 reenactment" means depiction of historical characters, scenes,
22 historical life or events for entertainment, education, or
23 historical documentation through the wearing or use of period,
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1 historical, antique or vintage clothing, accessories, firearms,
2 weapons, and other implements of the historical period.

3 ~~B.~~ C. Any person convicted of violating the foregoing provision
4 shall be guilty of a misdemeanor punishable as provided in Section
5 1276 of this title.

6 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1277, as
7 amended by Section 2, Chapter 128, O.S.L. 2007 (21 O.S. Supp. 2010,
8 Section 1277), is amended to read as follows:

9 Section 1277.

10 UNLAWFUL CARRY IN CERTAIN PLACES

11 A. It shall be unlawful for any person in possession of a valid
12 concealed handgun license issued pursuant to the provisions of the
13 Oklahoma Self-Defense Act to intentionally, knowingly or recklessly
14 carry any concealed handgun into any of the following places:

15 1. Any structure, building, or office space which is owned or
16 leased by a city, town, county, state, or federal governmental
17 authority for the purpose of conducting business with the public;

18 2. Any meeting of any city, town, county, state or federal
19 officials, school board members, legislative members, or any other
20 elected or appointed officials;

21 3. Any prison, jail, detention facility or any facility used to
22 process, hold, or house arrested persons, prisoners or persons
23 alleged delinquent or adjudicated delinquent;

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1 4. Any elementary or secondary school, or technology center
2 school property;

3 5. Any sports arena during a professional sporting event;

4 6. Any place where pari-mutuel wagering is authorized by law;
5 and

6 7. Any other place specifically prohibited by law.

7 B. For purposes of paragraphs 1, 2, 3, 5 and 6 of subsection A
8 of this section, the prohibited place does not include and
9 specifically excludes the following property:

10 1. Any property set aside for the use of any vehicle, whether
11 attended or unattended, by a city, town, county, state, or federal
12 governmental authority;

13 2. Any property set aside for the use of any vehicle, whether
14 attended or unattended, by any entity offering any professional
15 sporting event which is open to the public for admission, or by any
16 entity engaged in pari-mutuel wagering authorized by law;

17 3. Any property adjacent to a structure, building, or office
18 space in which concealed weapons are prohibited by the provisions of
19 this section; and

20 4. Any property designated by a city, town, county, or state,
21 governmental authority as a park, recreational area, or fairgrounds;
22 provided, nothing in this paragraph shall be construed to authorize
23 any entry by a person in possession of a concealed handgun into any
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1 structure, building, or office space which is specifically
2 prohibited by the provisions of subsection A of this section.
3 Nothing contained in any provision of this subsection shall be
4 construed to authorize or allow any person in control of any place
5 described in paragraph 1, 2, 3, 5 or 6 of subsection A of this
6 section to establish any policy or rule that has the effect of
7 prohibiting any person in lawful possession of a concealed handgun
8 license from possession of a handgun allowable under such license in
9 places described in paragraph 1, 2, 3 or 4 of this subsection.

10 C. Any person violating the provisions of subsection A of this
11 section shall, upon conviction, be guilty of a misdemeanor
12 punishable by a fine not to exceed Two Hundred Fifty Dollars
13 (\$250.00). Any person convicted of violating the provisions of this
14 section may be liable for an administrative fine of Two Hundred
15 Fifty Dollars (\$250.00) upon a hearing and determination by the
16 Oklahoma State Bureau of Investigation that the person is in
17 violation of the provisions of this section.

18 D. No person in possession of any concealed handgun pursuant to
19 the Oklahoma Self-Defense Act shall be authorized to carry the
20 handgun into or upon any college or university property, except as
21 provided in this subsection. For purposes of this subsection, the
22 following property shall not be construed as prohibited for persons
23 having a valid concealed handgun license:

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1 1. Any property set aside for the use of any vehicle, whether
2 attended or unattended, provided the handgun is carried or stored as
3 required by law and the handgun is not removed from the vehicle
4 without the prior consent of the college or university president
5 while the vehicle is on any college or university property;

6 2. Any property authorized for possession or use of handguns by
7 college or university policy; and

8 3. Any property authorized by the written consent of the
9 college or university president, provided the written consent is
10 carried with the handgun and the valid concealed handgun license
11 while on college or university property.

12 The college or university may notify the Oklahoma State Bureau
13 of Investigation within ten (10) days of a violation of any
14 provision of this subsection by a licensee. Upon receipt of a
15 written notification of violation, the Bureau shall give a
16 reasonable notice to the licensee and hold a hearing. At the
17 hearing upon a determination that the licensee has violated any
18 provision of this subsection, the licensee may be subject to an
19 administrative fine of Two Hundred Fifty Dollars (\$250.00) and may
20 have the concealed handgun license suspended for three (3) months.

21 Nothing contained in any provision of this subsection shall be
22 construed to authorize or allow any college or university to
23 establish any policy or rule that has the effect of prohibiting any
24 person in lawful possession of a concealed handgun license from

1 possession of a handgun allowable under such license in places
2 described in paragraphs 1, 2 and 3 of this subsection. Nothing
3 contained in any provision of this subsection shall be construed to
4 limit the authority of any college or university in this state from
5 taking administrative action against any student for any violation
6 of any provision of this subsection.

7 E. The provisions of this section shall not apply to any peace
8 officer or to any person authorized by law to carry a pistol in the
9 course of employment. District judges, associate district judges
10 and special district judges, who are in possession of a valid
11 concealed handgun license issued pursuant to the provisions of the
12 Oklahoma Self-Defense Act and whose names appear on a list
13 maintained by the Administrative Director of the Courts, shall be
14 exempt from this section when acting in the course and scope of
15 employment within the courthouses of this state. Private
16 investigators with a firearms authorization shall be exempt from
17 this section when acting in the course and scope of employment.

18 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1290.2, is
19 amended to read as follows:

20 Section 1290.2

21 DEFINITIONS

22 As used in ~~Sections 1 through 25 of this act~~ the Oklahoma Self-
23 Defense Act:

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1 1. "Concealed handgun" means a loaded or unloaded pistol
2 ~~carried hidden from the detection and view of another person either~~
3 ~~upon or about the person, in a purse or other container belonging to~~
4 ~~the person, or in a vehicle which is operated by the person or in~~
5 ~~which the person is riding as a passenger, the presence of which is~~
6 not openly discernible to the ordinary observation of a reasonable
7 person; and

8 2. "Pistol" means any derringer, revolver or semiautomatic
9 firearm which:

- 10 a. has an overall length of less than sixteen (16) inches
11 and is able to be ~~fully~~ concealed from detection and
12 view,
13 b. is capable of discharging a projectile composed of any
14 material which may reasonably be expected to be able
15 to cause lethal injury,
16 c. is designed to be held and fired by the use of a
17 single hand, and
18 d. uses either gunpowder, gas or any means of rocket
19 propulsion to discharge the projectile.

20 The definition of pistol for purposes of the Oklahoma Self-Defense
21 Act shall not apply to homemade or imitation pistols, flare guns,
22 underwater fishing guns or blank pistols.

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1 SECTION 4. AMENDATORY 21 O.S. 2001, Section 1290.8, as
2 amended by Section 6, Chapter 465, O.S.L. 2003 (21 O.S. Supp. 2010,
3 Section 1290.8), is amended to read as follows:

4 Section 1290.8

5 POSSESSION OF LICENSE REQUIRED

6 NOTIFICATION TO POLICE OF GUN

7 A. Except as otherwise prohibited by law, an eligible person
8 shall have authority to carry a concealed handgun in this state when
9 the person has been issued a handgun license from the Oklahoma State
10 Bureau of Investigation pursuant to the provisions of the Oklahoma
11 Self-Defense Act, provided the person is in compliance with the
12 provisions of the Oklahoma Self-Defense Act, and the license has not
13 expired or been subsequently suspended or revoked. A person in
14 possession of a valid handgun license and in compliance with the
15 provisions of the Oklahoma Self-Defense Act shall be authorized to
16 carry such concealed handgun while bow hunting or fishing.

17 B. The person shall be required to have possession of his or
18 her valid handgun license and a valid Oklahoma driver license or an
19 Oklahoma State photo identification at all times when in possession
20 of an authorized pistol. Any violation of the provisions of this
21 subsection may be punishable as a criminal offense as authorized by
22 Section 1272 of this title or pursuant to any other applicable
23 provision of law. In addition to any criminal prosecution which may
24 result from not carrying the handgun license and the required

1 identification with the authorized pistol as required by the
2 provisions of this subsection, the person may be subject to an
3 administrative fine for violation of the provisions of this
4 subsection. The administrative fine shall be Fifty Dollars (\$50.00)
5 and shall be assessed by the Oklahoma State Bureau of Investigation
6 after a hearing and determination that the licensee is in violation
7 of the provisions of this subsection. Any second or subsequent
8 violation of the provisions of this subsection shall be grounds for
9 the Bureau to suspend the handgun license for a period of six (6)
10 months, in addition to any other penalty imposed.

11 Upon the arrest of any person for a violation of the provisions
12 of this subsection, the person may show proof to the court that a
13 valid handgun license and the other required identification has been
14 issued to such person and the person may state any reason why the
15 handgun license or the other required identification was not carried
16 by the person as required by the Oklahoma Self-Defense Act. The
17 court shall dismiss an alleged violation of Section 1272 of this
18 title upon payment of court costs, if proof of a valid handgun
19 license and other required identification is shown to the court
20 within ten (10) days of the arrest of the person. The court shall
21 report a dismissal of a charge to the Bureau for consideration of
22 administrative proceedings against the licensee.

23 C. It shall be unlawful for any person to fail or refuse to
24 identify the fact that the person is in actual possession of a

1 concealed handgun pursuant to the authority of the Oklahoma Self-
2 Defense Act when the person first comes into contact with any law
3 enforcement officer of this state or its political subdivisions or a
4 federal law enforcement officer during the course of any arrest,
5 detainment, or routine traffic stop. No person shall be required to
6 identify himself or herself as a concealed handgun licensee when no
7 handgun is in the ~~person's~~ possession of the person or in any
8 vehicle in which the person is driving or is a passenger. Any
9 violation of the provisions of this subsection shall, upon
10 conviction, be a misdemeanor punishable by a fine not exceeding ~~Five~~
11 ~~Hundred Dollars (\$500.00), by imprisonment in the county jail for a~~
12 ~~period not to exceed ninety (90) days, or by both such fine and~~
13 ~~imprisonment~~ One Hundred Dollars (\$100.00). In addition to any
14 criminal prosecution for a violation of the provisions of this
15 subsection, the licensee ~~shall~~ may be subject to a six-month
16 suspension of the license and an administrative fine of Fifty
17 Dollars (\$50.00), upon a hearing and determination by the Bureau
18 that the person is in violation of the provisions of this
19 subsection.

20 D. Any law enforcement officer coming in contact with a person
21 whose handgun license is suspended, revoked, or expired, or who is
22 in possession of a handgun license which has not been lawfully
23 issued to that person, shall confiscate the license and return it to
24 the Oklahoma State Bureau of Investigation for appropriate

1 administrative proceedings against the licensee when the license is
2 no longer needed as evidence in any criminal proceeding.

3 E. Nothing in this section shall be construed to authorize a
4 law enforcement officer to inspect any weapon properly concealed
5 without probable cause that a crime has been committed.

6 SECTION 5. AMENDATORY 21 O.S. 2001, Section 1290.11, as
7 amended by Section 3, Chapter 62, O.S.L. 2006 (21 O.S. Supp. 2010,
8 Section 1290.11), is amended to read as follows:

9 Section 1290.11

10 OTHER PRECLUSIONS

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

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

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

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

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

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

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

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

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

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

21 10. An arrest for an alleged commission of, a misdemeanor
22 offense or a misdemeanor charge pending for, or the in this state or
23 another state. The preclusive period shall be until the final
24 determination of the matter; or

1 11. The person is subject to the provisions of a deferred
2 sentence or a deferred prosecution for any one or more of the
3 following misdemeanor offenses in this state or another state:

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

19 The preclusive period for this paragraph shall be three (3) years
20 and shall begin upon the final determination of the matter.

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

1 SECTION 6. AMENDATORY 21 O.S. 2001, Section 1290.22, as
2 amended by Section 2, Chapter 39, O.S.L. 2004 (21 O.S. Supp. 2010,
3 Section 1290.22), is amended to read as follows:

4 Section 1290.22

5 BUSINESS OWNER'S RIGHTS

6 A. Except as provided in subsection B of this section, nothing
7 contained in any provision of the Oklahoma Self-Defense Act, ~~Section~~
8 ~~1290.1 et seq. of this title,~~ shall be construed to limit, restrict
9 or prohibit in any manner the existing rights of any person,
10 property owner, tenant, employer, or business entity to control the
11 possession of weapons on any property owned or controlled by the
12 person or business entity.

13 B. No person, property owner, tenant, employer, or business
14 entity shall be permitted to establish any policy or rule that has
15 the effect of prohibiting any person, except a convicted felon, from
16 transporting and storing firearms in a locked vehicle on any
17 property set aside for any vehicle.

18 C. A property owner, tenant, employer, or business entity may
19 prohibit any person from carrying a concealed firearm on the
20 property. If the building or property is open to the public, the
21 property owner, tenant, employer, or business entity shall post
22 signs on or about the property stating such prohibition.

23 D. The carrying of a concealed firearm by a person who has been
24 issued a concealed handgun license on property that has signs

1 prohibiting the carrying of firearms shall not be a criminal act but
2 may subject the person to denial to the property or removal from the
3 property. If the person refuses to leave the property and a peace
4 officer is summoned, the person may be issued a citation for an
5 amount not to exceed One Hundred Dollars (\$100.00).

6 SECTION 7. AMENDATORY 21 O.S. 2001, Section 1290.26, as
7 amended by Section 9, Chapter 465, O.S.L. 2003 (21 O.S. Supp. 2010,
8 Section 1290.26), is amended to read as follows:

9 Section 1290.26

10 RECIPROCAL AGREEMENT AUTHORITY

11 The State of Oklahoma hereby recognizes any valid concealed
12 carry weapons permit or license issued by another state. Any person
13 entering this state in possession of a firearm authorized for
14 concealed carry upon the authority and license of another state is
15 authorized to continue to carry a concealed firearm and license in
16 this state; provided the license from the other state remains valid.
17 The firearm must be carried ~~fully~~ concealed from detection and view,
18 and upon coming in contact with any peace officer of this state, the
19 person must disclose the fact that he or she is in possession of a
20 concealed firearm pursuant to a valid concealed carry weapons permit
21 or license issued in another state. Any person who is twenty-one
22 (21) years of age or older having a valid firearm license from
23 another state may apply for a concealed handgun license in this
24 state immediately upon establishing a residence in this state.

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SECTION 8. This act shall become effective November 1, 2011.

53-1-5512 GRS 01/17/11