

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1723

6 By: Osborn

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2011, Sections 1272 and 1277, as amended by
10 Sections 1 and 6, Chapter 259, O.S.L. 2012 (21 O.S.
11 Supp. 2012, Sections 1272 and 1277), which relate to
12 the unlawful carry of firearms; allowing municipal
13 judges to carry firearms in courtrooms; amending 21
14 O.S. 2011, Section 1289.23, as amended by Section 21,
15 Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012, Section
16 1289.23), which relates to the carrying of firearms
17 by off-duty peace officers; clarifying manner in
18 which off-duty peace officers may carry firearms; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1272, as
22 amended by Section 1, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
23 Section 1272), is amended to read as follows:

24 Section 1272.

UNLAWFUL CARRY

A. It shall be unlawful for any person to carry upon or about
his or her person, or in a purse or other container belonging to the
person, any pistol, revolver, shotgun or rifle whether loaded or

1 unloaded or any dagger, bowie knife, dirk knife, switchblade knife,
2 spring-type knife, sword cane, knife having a blade which opens
3 automatically by hand pressure applied to a button, spring, or other
4 device in the handle of the knife, blackjack, loaded cane, billy,
5 hand chain, metal knuckles, or any other offensive weapon, whether
6 such weapon be concealed or unconcealed, except this section shall
7 not prohibit:

8 1. The proper use of guns and knives for hunting, fishing,
9 educational or recreational purposes;

10 2. The carrying or use of weapons in a manner otherwise
11 permitted by statute or authorized by the Oklahoma Self-Defense Act;

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

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

22 5. The carrying and use of firearms and other weapons provided
23 in this subsection when used for the purpose of living history
24 reenactment. For purposes of this paragraph, "living history

1 reenactment" means depiction of historical characters, scenes,
2 historical life or events for entertainment, education, or
3 historical documentation through the wearing or use of period,
4 historical, antique or vintage clothing, accessories, firearms,
5 weapons, and other implements of the historical period.

6 B. Any person convicted of violating the foregoing provision
7 shall be guilty of a misdemeanor punishable as provided in Section
8 1276 of this title.

9 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1277, as
10 amended by Section 6, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
11 Section 1277), is amended to read as follows:

12 Section 1277.

13 UNLAWFUL CARRY IN CERTAIN PLACES

14 A. It shall be unlawful for any person in possession of a valid
15 handgun license issued pursuant to the provisions of the Oklahoma
16 Self-Defense Act to carry any concealed or unconcealed handgun into
17 any of the following places:

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

21 2. Any meeting of any city, town, county, state or federal
22 officials, school board members, legislative members, or any other
23 elected or appointed officials;

24

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

4 4. Any elementary or secondary school;

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

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

7 and

8 7. Any other place specifically prohibited by law.

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

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

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

20 3. Any property adjacent to a structure, building, or office
21 space in which concealed or unconcealed weapons are prohibited by
22 the provisions of this section; and

23 4. Any property designated by a city, town, county, or state,
24 governmental authority as a park, recreational area, or fairgrounds;

1 provided, nothing in this paragraph shall be construed to authorize
2 any entry by a person in possession of a concealed or unconcealed
3 handgun into any structure, building, or office space which is
4 specifically prohibited by the provisions of subsection A of this
5 section.

6 Nothing contained in any provision of this subsection shall be
7 construed to authorize or allow any person in control of any place
8 described in paragraph 1, 2, 3, 5 or 6 of subsection A of this
9 section to establish any policy or rule that has the effect of
10 prohibiting any person in lawful possession of a handgun license
11 from possession of a handgun allowable under such license in places
12 described in paragraph 1, 2, 3 or 4 of this subsection.

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

22 D. No person in possession of a valid handgun license issued
23 pursuant to the provisions of the Oklahoma Self-Defense Act shall be
24 authorized to carry the handgun into or upon any college,

1 university, or technology center school property, except as provided
2 in this subsection. For purposes of this subsection, the following
3 property shall not be construed as prohibited for persons having a
4 valid handgun license:

5 1. Any property set aside for the use or parking of any
6 vehicle, whether attended or unattended, provided the handgun is
7 carried or stored as required by law and the handgun is not removed
8 from the vehicle without the prior consent of the college or
9 university president or technology center school administrator while
10 the vehicle is on any college, university, or technology center
11 school property;

12 2. Any property authorized for possession or use of handguns by
13 college, university, or technology center school policy; and

14 3. Any property authorized by the written consent of the
15 college or university president or technology center school
16 administrator, provided the written consent is carried with the
17 handgun and the valid handgun license while on college, university,
18 or technology center school property.

19 The college, university, or technology center school may notify
20 the Oklahoma State Bureau of Investigation within ten (10) days of a
21 violation of any provision of this subsection by a licensee. Upon
22 receipt of a written notification of violation, the Bureau shall
23 give a reasonable notice to the licensee and hold a hearing. At the
24 hearing upon a determination that the licensee has violated any

1 provision of this subsection, the licensee may be subject to an
2 administrative fine of Two Hundred Fifty Dollars (\$250.00) and may
3 have the handgun license suspended for three (3) months.

4 Nothing contained in any provision of this subsection shall be
5 construed to authorize or allow any college, university, or
6 technology center school to establish any policy or rule that has
7 the effect of prohibiting any person in lawful possession of a
8 handgun license from possession of a handgun allowable under such
9 license in places described in paragraphs 1, 2 and 3 of this
10 subsection. Nothing contained in any provision of this subsection
11 shall be construed to limit the authority of any college or
12 university in this state from taking administrative action against
13 any student for any violation of any provision of this subsection.

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

1 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.23, as
2 amended by Section 21, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
3 Section 1289.23), is amended to read as follows:

4 Section 1289.23

5 CONCEALED FIREARM FOR OFF-DUTY ~~POLICE~~ PEACE OFFICER

6 A. A full-time duly appointed peace officer who is certified by
7 the Council on Law Enforcement Education and Training (CLEET),
8 pursuant to the provisions of Section 3311 of Title 70 of the
9 Oklahoma Statutes, is hereby authorized to carry ~~a weapon certified~~
10 ~~and weapons~~ approved by the employing agency ~~during periods when the~~
11 ~~officer is not~~ while on active duty anywhere in the State of
12 Oklahoma as provided by the provisions of subsection B of this
13 section.

14 B. When an ~~off-duty~~ on-duty officer carries ~~a certified~~ an
15 approved weapon, the officer ~~shall be wearing~~ may wear the law
16 enforcement uniform prescribed by the employing agency ~~or when~~ or
17 plain clothes. When not wearing the prescribed law enforcement
18 uniform, the officer shall be required:

19 1. To have the official peace ~~officers~~ officer's badge,
20 Commission Card and CLEET Certification Card on his or her person at
21 all times ~~when carrying a weapon certified and approved by the~~
22 ~~employing agency;~~ and

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1 2. To keep the authorized weapon concealed from view at all
2 times, ~~except when the weapon is used within the guidelines~~
3 ~~established~~ unless otherwise authorized by the employing agency.

4 C. Nothing in this section shall be construed to alter or amend
5 the provisions of Section 1272.1 of this title or expand the duties,
6 authority or jurisdiction of any peace officer.

7 D. A reserve peace officer who has satisfactorily completed a
8 basic police course of not less than one hundred twenty (120) hours
9 of accredited instruction for reserve police officers and reserve
10 deputies from the Council on Law Enforcement Education and Training
11 or a course of study approved by CLEET may carry a certified weapon
12 when such officer is off duty as provided by subsection E of this
13 section, provided:

14 1. The officer has been granted written authorization signed by
15 the director of the employing agency; and

16 2. The employing agency shall maintain a current list of any
17 officers authorized to carry a certified weapon while said officers
18 are off duty, and shall provide a copy of such list to the Council
19 on Law Enforcement Education and Training. Any change to the list
20 shall be made in writing and mailed to the Council on Law
21 Enforcement Education and Training within five (5) days.

22 E. When an off-duty reserve peace officer carries a certified
23 weapon, the officer shall be wearing the law enforcement uniform
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1 prescribed by the employing agency or when not wearing the
2 prescribed law enforcement uniform, the officer shall be required:

3 1. To have his or her official peace officer's badge,
4 Commission Card, CLEET Certification Card and written authorization
5 on his or her person at all times when carrying a weapon certified
6 and approved by the employing agency; and

7 2. To keep the authorized weapon concealed from view at all
8 times, except when the weapon is used within the guidelines
9 established by the employing agency.

10 F. Nothing in subsection D of this section shall be construed
11 to alter or amend the provisions of Section 1750.2 of Title 59 of
12 the Oklahoma Statutes or expand the duties, jurisdiction or
13 authority of any reserve peace officer.

14 G. Nothing in this section shall be construed to limit or
15 restrict any peace officer or reserve peace officer from carrying a
16 handgun, concealed or unconcealed, as allowed by the Oklahoma Self-
17 Defense Act after issuance of a valid license. ~~When an~~ An off-duty
18 peace officer elects or reserve peace officer shall be deemed to
19 have elected to carry a handgun under the authority of the Oklahoma
20 Self-Defense Act, ~~the person shall comply with all provisions of~~
21 ~~such act and shall not be representing~~ when the officer:

22 1. Has been issued a valid handgun license and is carrying a
23 handgun not authorized by the employing agency; or
24

1 2. Is carrying a handgun in a manner or in a place not
2 specifically authorized for off-duty carry by the employing agency.

3 H. Any off-duty peace officer who carries any weapon in
4 violation of the provisions of this section shall be deemed to be in
5 violation of Section 1272 of this title and may be prosecuted as
6 provided by law for a violation of that section.

7 I. On or after November 1, 2004, a reserve or full-time
8 commissioned peace officer may apply to carry a weapon pursuant to
9 the Oklahoma Self-Defense Act as follows:

10 1. The officer shall apply in writing to the Council on Law
11 Enforcement Education and Training (CLEET) stating that the officer
12 desires to have a handgun license pursuant to the Oklahoma Self-
13 Defense Act and certifying that he or she has no preclusions to
14 having such handgun license. The officer shall submit with the
15 application:

16 a. an official letter from his or her employing agency
17 confirming the officer's employment and status as a
18 full-time commissioned peace officer or an active
19 reserve peace officer,

20 b. a fee of Twenty-five Dollars (\$25.00) for the handgun
21 license, and

22 c. two passport-size photographs of the peace officer
23 applicant.

1 2. Upon receiving the required information, CLEET shall
2 determine whether the peace officer is in good standing, has CLEET
3 certification and training, and is otherwise eligible for a handgun
4 license. Upon verification of the officer's eligibility, CLEET
5 shall send the information to the Oklahoma State Bureau of
6 Investigation (OSBI) and OSBI shall issue a handgun license in the
7 same or similar form as other handgun licenses. All other
8 requirements in Section 1290.12 of this title concerning application
9 for a handgun license shall be waived for active duty peace officers
10 except as provided in this subsection, including but not limited to
11 training, fingerprints and criminal history records checks unless
12 the officer does not have fingerprints on file or a criminal history
13 records background check conducted prior to employment as a peace
14 officer. The OSBI shall not be required to conduct any further
15 investigation into the eligibility of the peace officer applicant
16 and shall not deny a handgun license except when preclusions are
17 found to exist.

18 3. The term of the handgun license for an active duty reserve
19 or full-time commissioned peace officer pursuant to this section
20 shall be as provided in Section 1290.5 of this title, renewable in
21 the same manner provided in this subsection for an original
22 application by a peace officer. The handgun license shall be valid
23 when the peace officer is in possession of a valid driver license
24 and law enforcement commission card.

1 4. If the commission card of a law enforcement officer is
2 terminated, revoked or suspended, the handgun license shall be
3 immediately returned to CLEET. When a peace officer in possession
4 of a handgun license pursuant to this subsection changes employment,
5 the person must notify CLEET within ninety (90) days and send a new
6 letter verifying employment and status as a full-time commissioned
7 or reserve peace officer.

8 5. There shall be no refund of any fee for any unexpired term
9 of any handgun license that is suspended, revoked, or voluntarily
10 returned to CLEET, or that is denied, suspended or revoked by the
11 OSBI.

12 6. CLEET may promulgate any rules, forms or procedures
13 necessary to implement the provisions of this section.

14 7. Nothing in this subsection shall be construed to change or
15 amend the application process, eligibility, effective date or fees
16 of any handgun license pending issuance on November 1, 2004, or
17 previously issued to any peace officer prior to November 1, 2004.

18 SECTION 4. This act shall become effective November 1, 2013.

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