

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2139

By: Hickman

4
5 AS INTRODUCED

6 An Act relating to firearms; directing court clerks
7 to forward commitment orders to certain entities;
8 directing court clerks to provide certain notice;
9 authorizing petition for relief; requiring service of
10 petition; directing courts to consider certain
11 evidence; providing hearing procedures; directing
12 court clerks to forward order of relief to certain
13 entities; amending 21 O.S. 2011, Sections 1290.2,
14 1290.7 and 1290.8, as amended by Sections 23, 28 and
15 29, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
16 Sections 1290.2, 1290.7 and 1290.8), which relate to
17 the Oklahoma Self-Defense Act; modifying definition;
18 deleting certain prohibited act; clarifying scope of
19 certain prohibited conduct; deleting penalty;
20 amending 21 O.S. 2011, Section 1903, which relates to
21 the Bus Passenger Safety Act; updating language;
22 modifying scope of prohibited act; providing for
23 codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1289.30 of Title 21, unless
there is created a duplication in numbering, reads as follows:

A. When a court orders a commitment or makes a finding or
adjudication under the laws of this state by which a person becomes
subject to the provisions of Section 922(d)(4) and (g)(4) of Title

1 18 of the United State Code, the clerk of court shall forward a
2 certified copy of the commitment order to the Federal Bureau of
3 Investigation or its successor agency for the sole purpose of
4 inclusion in the National Instant Criminal Background Check system
5 database and to the Oklahoma State Bureau of Investigation. The
6 clerk of the court shall also notify the person of the prohibitions
7 contained within the provisions of Section 922(d)(4) and (g)(4) of
8 Title 18 of the United States Code. If the person does not have a
9 handgun license, the Oklahoma State Bureau of Investigation shall
10 destroy the information within three (3) days of receiving such
11 information.

12 B. A person who is subject to the disabilities of Section
13 922(d)(4) and (g)(4) of Title 18 of the United States Code or of
14 Sections 1290.11(A)(3) and (4) of this title because of an
15 adjudication or commitment that occurred under the laws of this
16 state may petition the court in which such adjudication or
17 commitment proceedings occurred or the district court of the county
18 in which the person currently resides to remove all such
19 disabilities. Not less than thirty (30) days prior to any hearing
20 on the matter, a copy of the petition for relief shall be served
21 upon the district attorney for that county.

22 C. The court shall receive and consider evidence in a closed
23 hearing, including evidence offered by the petitioner, concerning:
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1 1. The circumstances regarding the firearm disabilities from
2 which relief is sought;

3 2. The mental health and criminal history records of the
4 petitioner, if any;

5 3. The reputation of the petitioner, developed at a minimum
6 through character witness statements, testimony, or other character
7 evidence; and

8 4. Changes in the condition or circumstances of the petitioner
9 since the original adjudication or commitment relevant to the relief
10 sought.

11 The court shall grant the petition for relief if it finds by a
12 preponderance of the evidence that the petitioner will not be likely
13 to act in a manner dangerous to public safety and that granting the
14 relief will not be contrary to the interests of the public. A
15 record shall be kept of the proceedings, but it shall remain
16 confidential and be disclosed only to a court or the parties in the
17 event of an appeal. The petitioner may appeal a denial of the
18 requested relief, and review on appeal shall be de novo.

19 D. The clerk of the court shall promptly forward to the Federal
20 Bureau of Investigation or its successor agency for the sole purpose
21 of inclusion in the National Instant Criminal Background Check
22 system database and to the Oklahoma State Bureau of Investigation a
23 certified copy of the order granting relief under this section. If
24 the person does not have a handgun license, the Oklahoma State

1 Bureau of Investigation shall destroy the information within three
2 (3) days of receiving such information.

3 E. A person may petition for relief under this section not more
4 than once every two years and, in the case of a person who was
5 committed to a mental institution, not before the person has been
6 discharged from such commitment.

7 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.2, as
8 amended by Section 23, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
9 Section 1290.2), is amended to read as follows:

10 Section 1290.2

11 DEFINITIONS

12 A. As used in the Oklahoma Self-Defense Act:

13 1. "Concealed handgun" means a loaded or unloaded pistol
14 carried hidden from the detection and view of another person either
15 upon or about the person, in a purse or other container belonging to
16 the person, or in a vehicle which is operated by the person or in
17 which the person is riding as a passenger;

18 2. "Unconcealed handgun" means a loaded or unloaded pistol
19 carried upon the person in a belt holster or shoulder holster that
20 is wholly or partially visible, or carried upon the person in a
21 scabbard or case designed for carrying firearms that is wholly or
22 partially visible; and

23 3. "Pistol" means any derringer, revolver or semiautomatic
24 firearm which:

- a. has an overall length of less than sixteen (16) inches,
- b. is capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury,
- c. is designed to be held and fired by the use of a single hand, and
- d. uses either gunpowder, gas or any means of rocket propulsion to discharge the projectile.

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

SECTION 3. AMENDATORY 21 O.S. 2011, Section 1290.7, as amended by Section 28, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012, Section 1290.7), is amended to read as follows:

Section 1290.7

CONSTRUING AUTHORITY OF LICENSE

The authority to carry a concealed or unconcealed handgun pursuant to a valid handgun license as authorized by the provisions of the Oklahoma Self-Defense Act shall not be construed to authorize any person to:

1. Carry or possess any weapon other than an authorized pistol as defined by the provisions of Section 1290.2 of this title;

1 2. Carry or possess any pistol in any manner or in any place
2 otherwise prohibited by law;

3 3. Carry or possess any prohibited ammunition or any illegal,
4 imitation or homemade pistol;

5 4. Carry or possess any pistol when the person is prohibited by
6 state or federal law from carrying or possessing any firearm; or

7 5. Point, discharge, ~~intentionally display the pistol,~~ or use
8 the pistol in any manner not otherwise authorized by law.

9 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.8, as
10 amended by Section 29, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
11 Section 1290.8), is amended to read as follows:

12 Section 1290.8

13 POSSESSION OF LICENSE REQUIRED -

14 NOTIFICATION TO POLICE OF GUN

15 A. Except as otherwise prohibited by law, an eligible person
16 shall have authority to carry a concealed or unconcealed handgun in
17 this state when the person has been issued a handgun license from
18 the Oklahoma State Bureau of Investigation pursuant to the
19 provisions of the Oklahoma Self-Defense Act, provided the person is
20 in compliance with the provisions of the Oklahoma Self-Defense Act,
21 and the license has not expired or been subsequently suspended or
22 revoked. A person in possession of a valid handgun license and in
23 compliance with the provisions of the Oklahoma Self-Defense Act

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1 shall be authorized to carry such concealed or unconcealed handgun
2 while bow hunting or fishing.

3 B. The person shall be required to have possession of his or
4 her valid handgun license and a valid Oklahoma driver license or an
5 Oklahoma State photo identification at all times when in possession
6 of an authorized pistol. The person shall display the handgun
7 license on demand of a law enforcement officer; provided, however,
8 that in the absence of reasonable and articulable suspicion of other
9 criminal activity, an individual carrying an unconcealed or
10 concealed handgun shall not be disarmed or physically restrained
11 unless the individual fails to display a valid handgun license in
12 response to that demand. Any violation of the provisions of this
13 subsection may be punishable as a criminal offense as authorized by
14 Section 1272 of this title or pursuant to any other applicable
15 provision of law. ~~In addition to any criminal prosecution which may~~
16 ~~result from not carrying the handgun license and the required~~
17 ~~identification with the authorized pistol as required by the~~
18 ~~provisions of this subsection, the person may be subject to an~~
19 ~~administrative fine for violation of the provisions of this~~
20 ~~subsection. The administrative fine shall be Fifty Dollars (\$50.00)~~
21 ~~and shall be assessed by the Oklahoma State Bureau of Investigation~~
22 ~~after a hearing and determination that the licensee is in violation~~
23 ~~of the provisions of this subsection. Any second or subsequent~~
24 violation of the provisions of this subsection shall be grounds for

1 the Bureau to suspend the handgun license for a period of six (6)
2 months, in addition to any other penalty imposed.

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

15 C. It shall be unlawful for any person to fail or refuse to
16 identify the fact that the person is in actual possession of a
17 concealed or unconcealed handgun pursuant to the authority of the
18 Oklahoma Self-Defense Act when the person comes into contact with
19 any law enforcement officer of this state or its political
20 subdivisions or a federal law enforcement officer during the course
21 of any arrest, detainment, or routine traffic stop. Said
22 identification to the law enforcement officer shall be made at the
23 first opportunity. No person shall be required to identify himself
24 or herself as a handgun licensee when no handgun is in the

1 possession of the person or in any vehicle in which the person is
2 driving or is a passenger. Any violation of the provisions of this
3 subsection shall, upon conviction, be a misdemeanor punishable by a
4 fine not exceeding One Hundred Dollars (\$100.00).

5 D. Any law enforcement officer coming in contact with a person
6 whose handgun license is suspended, revoked, or expired, or who is
7 in possession of a handgun license which has not been lawfully
8 issued to that person, shall confiscate the license and return it to
9 the Oklahoma State Bureau of Investigation for appropriate
10 administrative proceedings against the licensee when the license is
11 no longer needed as evidence in any criminal proceeding.

12 E. Nothing in this section shall be construed to authorize a
13 law enforcement officer to inspect any weapon properly concealed or
14 unconcealed without probable cause that a crime has been committed.

15 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1903, is
16 amended to read as follows:

17 Section 1903. A. No person shall by force or violence, or
18 threat of force or violence, seize or exercise control of any bus.
19 Any person violating this subsection shall, upon conviction, be
20 guilty of a felony, ~~and shall, upon conviction, be imprisoned~~
21 punishable by imprisonment in the custody of the Department of
22 Corrections for not more than twenty (20) years, or fined not more
23 than Twenty Thousand Dollars (\$20,000.00), or by both fine and
24 imprisonment.

1 B. In addition, no person shall intimidate, threaten, assault
2 or batter any driver, attendant, guard or passenger of any bus with
3 intent to violate subsection A of this section. Any person
4 violating this subsection shall, upon conviction, be guilty of a
5 felony, ~~and shall, upon conviction, be imprisoned~~ punishable by
6 imprisonment in the custody of the Department of Corrections for not
7 more than ten (10) years, or fined not more than Five Thousand
8 Dollars (\$5,000.00), or by both such fine and imprisonment.

9 C. In addition, any person violating subsection A or B of this
10 section using a dangerous or deadly weapon shall, upon conviction,
11 be guilty of a felony, ~~and shall, upon conviction, be imprisoned~~
12 punishable by imprisonment in the custody of the Department of
13 Corrections for not more than twenty (20) years, or fined not more
14 than Twenty Thousand Dollars (\$20,000.00), or by both such fine and
15 imprisonment.

16 D. No person, other than an authorized law enforcement officer,
17 shall board a bus with a dangerous or deadly weapon concealed or
18 unconcealed upon or about his person. Upon the discovery of any
19 such item or material, the company may obtain possession and retain
20 custody of such item or material until it is transferred to the
21 custody of law enforcement officers. Any person ~~convicted of~~
22 violating this subsection shall, upon conviction, be guilty of a
23 felony, ~~and shall, upon conviction, be imprisoned~~ punishable by
24 imprisonment in the custody of the Department of Corrections for not

1 more than ten (10) years, or fined not more than Ten Thousand
2 Dollars (\$10,000.00), or by both such fine and imprisonment.

3 E. It shall be unlawful for any person to discharge any firearm
4 or hurl or place in the path any missile at, into or within any bus,
5 terminal or other transportation facility. ~~Such~~ Any person
6 violating this subsection shall, upon conviction, be guilty of a
7 felony punishable by imprisonment in the custody of the Department
8 of Corrections for not more than five (5) years, or a fine of not
9 more than Five Thousand Dollars (\$5,000.00) ~~or by imprisonment for~~
10 ~~not more than five (5) years,~~ or by both such fine and imprisonment.

11 SECTION 6. This act shall become effective November 1, 2013.

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13 54-1-6392 GRS 01/15/13

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