

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1723

By: Osborn and Ritze of the
House

and

Sykes of the Senate

10 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

4. The carrying or use of weapons in a courthouse by a district judge, associate district judge ~~or~~, special district judge or municipal judge within this state, who is in possession of a valid

1 handgun license issued pursuant to the provisions of the Oklahoma
2 Self-Defense Act and whose name appears on a list maintained by the
3 Administrative Director of the Courts; or

4 5. The carrying and use of firearms and other weapons provided
5 in this subsection when used for the purpose of living history
6 reenactment. For purposes of this paragraph, "living history
7 reenactment" means depiction of historical characters, scenes,
8 historical life or events for entertainment, education, or
9 historical documentation through the wearing or use of period,
10 historical, antique or vintage clothing, accessories, firearms,
11 weapons, and other implements of the historical period.

12 B. Any person convicted of violating the foregoing provision
13 shall be guilty of a misdemeanor punishable as provided in Section
14 1276 of this title.

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

18 Section 1277.

19 UNLAWFUL CARRY IN CERTAIN PLACES

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

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

4 2. Any meeting of any city, town, county, state or federal
5 officials, school board members, legislative members, or any other
6 elected or appointed officials;

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

10 4. Any elementary or secondary school;

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

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

14 7. Any other place specifically prohibited by law.

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

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

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

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

6 4. Any property designated by a city, town, county, or state,
7 governmental authority as a park, recreational area, or fairgrounds;
8 provided, nothing in this paragraph shall be construed to authorize
9 any entry by a person in possession of a concealed or unconcealed
10 handgun into any structure, building, or office space which is
11 specifically prohibited by the provisions of subsection A of this
12 section.

13 Nothing contained in any provision of this subsection shall be
14 construed to authorize or allow any person in control of any place
15 described in paragraph 1, 2, 3, 5 or 6 of subsection A of this
16 section to establish any policy or rule that has the effect of
17 prohibiting any person in lawful possession of a handgun license
18 from possession of a handgun allowable under such license in places
19 described in paragraph 1, 2, 3 or 4 of this subsection.

20 C. Any person violating the provisions of subsection A of this
21 section shall, upon conviction, be guilty of a misdemeanor
22 punishable by a fine not to exceed Two Hundred Fifty Dollars
23 (\$250.00). Any person convicted of violating the provisions of
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1 subsection A of this section may be liable for an administrative
2 fine of Two Hundred Fifty Dollars (\$250.00) upon a hearing and
3 determination by the Oklahoma State Bureau of Investigation that the
4 person is in violation of the provisions of subsection A of this
5 section.

6 D. No person in possession of a valid handgun license issued
7 pursuant to the provisions of the Oklahoma Self-Defense Act shall be
8 authorized to carry the handgun into or upon any college,
9 university, or technology center school property, except as provided
10 in this subsection. For purposes of this subsection, the following
11 property shall not be construed as prohibited for persons having a
12 valid handgun license:

13 1. Any property set aside for the use or parking of any
14 vehicle, whether attended or unattended, provided the handgun is
15 carried or stored as required by law and the handgun is not removed
16 from the vehicle without the prior consent of the college or
17 university president or technology center school administrator while
18 the vehicle is on any college, university, or technology center
19 school property;

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

22 3. Any property authorized by the written consent of the
23 college or university president or technology center school
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1 administrator, provided the written consent is carried with the
2 handgun and the valid handgun license while on college, university,
3 or technology center school property.

4 The college, university, or technology center school may notify
5 the Oklahoma State Bureau of Investigation within ten (10) days of a
6 violation of any provision of this subsection by a licensee. Upon
7 receipt of a written notification of violation, the Bureau shall
8 give a reasonable notice to the licensee and hold a hearing. At the
9 hearing upon a determination that the licensee has violated any
10 provision of this subsection, the licensee may be subject to an
11 administrative fine of Two Hundred Fifty Dollars (\$250.00) and may
12 have the handgun license suspended for three (3) months.

13 Nothing contained in any provision of this subsection shall be
14 construed to authorize or allow any college, university, or
15 technology center school to establish any policy or rule that has
16 the effect of prohibiting any person in lawful possession of a
17 handgun license from possession of a handgun allowable under such
18 license in places described in paragraphs 1, 2 and 3 of this
19 subsection. Nothing contained in any provision of this subsection
20 shall be construed to limit the authority of any college or
21 university in this state from taking administrative action against
22 any student for any violation of any provision of this subsection.

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

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

15 Section 1289.23

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

17 A. A full-time duly appointed peace officer who is certified by
18 the Council on Law Enforcement Education and Training (CLEET),
19 pursuant to the provisions of Section 3311 of Title 70 of the
20 Oklahoma Statutes, is hereby authorized to carry ~~a weapon certified~~
21 ~~and weapons~~ approved by the employing agency ~~during periods when the~~
22 ~~officer is not~~ while on active duty anywhere in the State of

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1 Oklahoma as provided by the provisions of subsection B of this
2 section.

3 B. When an ~~off-duty~~ on-duty officer carries a ~~certified~~ an
4 approved weapon, the officer ~~shall be wearing~~ may wear the law
5 enforcement uniform prescribed by the employing agency ~~or when~~ or
6 plain clothes. When not wearing the prescribed law enforcement
7 uniform, the officer shall be required:

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

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

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

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

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

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

11 E. When an off-duty reserve peace officer carries a certified
12 weapon, the officer shall be wearing the law enforcement uniform
13 prescribed by the employing agency or when not wearing the
14 prescribed law enforcement uniform, the officer shall be required:

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

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

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

3 G. Nothing in this section shall be construed to limit or
4 restrict any peace officer or reserve peace officer from carrying a
5 handgun, concealed or unconcealed, as allowed by the Oklahoma Self-
6 Defense Act after issuance of a valid license. ~~When an~~ An off-duty
7 peace officer elects or reserve peace officer shall be deemed to
8 have elected to carry a handgun under the authority of the Oklahoma
9 Self-Defense Act, ~~the person shall comply with all provisions of~~
10 ~~such act and shall not be representing~~ when the officer:

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

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

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

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

22 1. The officer shall apply in writing to the Council on Law
23 Enforcement Education and Training (CLEET) stating that the officer

1 desires to have a handgun license pursuant to the Oklahoma Self-
2 Defense Act and certifying that he or she has no preclusions to
3 having such handgun license. The officer shall submit with the
4 application:

- 5 a. an official letter from his or her employing agency
6 confirming the officer's employment and status as a
7 full-time commissioned peace officer or an active
8 reserve peace officer,
- 9 b. a fee of Twenty-five Dollars (\$25.00) for the handgun
10 license, and
- 11 c. two passport-size photographs of the peace officer
12 applicant.

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

7 3. The term of the handgun license for an active duty reserve
8 or full-time commissioned peace officer pursuant to this section
9 shall be as provided in Section 1290.5 of this title, renewable in
10 the same manner provided in this subsection for an original
11 application by a peace officer. The handgun license shall be valid
12 when the peace officer is in possession of a valid driver license
13 and law enforcement commission card.

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

21 5. There shall be no refund of any fee for any unexpired term
22 of any handgun license that is suspended, revoked, or voluntarily
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1 returned to CLEET, or that is denied, suspended or revoked by the
2 OSBI.

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

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

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

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11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/14/2013 -
12 DO PASS, As Amended and Coauthored.

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