

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 ENGROSSED SENATE

5 BILL NO. 234

By: Justice of the Senate

and

Osborn of the House

8 An Act relating to firearms for off-duty police
9 officers; amending 21 O.S. 2011, Section 1289.23, as
10 last amended by Section 1, Chapter 366, O.S.L. 2013
11 (21 O.S. Supp. 2014, Section 1289.23), which relates
12 to firearms for off-duty police officers; modifying
13 certain conditions; amending 21 O.S. 2011, Section
14 1289.8, which relates to carrying concealed weapon;
15 modifying where certain people can carry; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.23, as
19 last amended by Section 1, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
20 2014, Section 1289.23), is amended to read as follows:

21 Section 1289.23.

22 CONCEALED FIREARM FOR OFF-DUTY POLICE OFFICER

23 A. A Notwithstanding any provision of law to the contrary, a
24 full-time duly appointed peace officer who is certified by the
25 Council on Law Enforcement Education and Training (CLEET), pursuant
26 to the provisions of Section 3311 of Title 70 of the Oklahoma

1 Statutes, is hereby authorized to carry a weapon ~~certified and~~
2 approved by the employing agency anywhere in the state of Oklahoma,
3 both while on active duty and during periods when the officer is not
4 on active duty as provided by the provisions of subsection B of this
5 section.

6 B. When ~~an a off-duty~~ full-time duly appointed officer carries
7 ~~a certified weapon~~ an approved weapon, the officer shall be wearing
8 the law enforcement uniform prescribed by the employing agency or
9 ~~when~~ plainclothes. When not wearing the prescribed law enforcement
10 uniform, the officer shall be required:

11 1. To have the official peace officers badge, Commission Card
12 and CLEET Certification Card on his or her person at all times when
13 carrying a weapon ~~certified and~~ approved by the employing agency;
14 and

15 2. To keep the ~~authorized~~ approved weapon concealed or
16 unconcealed at all times, except when the weapon is used within the
17 guidelines established by the employing agency.

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

21 D. A reserve peace officer who has satisfactorily completed a
22 basic police course of not less than one hundred twenty (120) hours
23 of accredited instruction for reserve police officers and reserve
24 deputies from the Council on Law Enforcement Education and Training

1 or a course of study approved by CLEET may carry ~~a certified weapon~~
2 an approved weapon when such officer is off duty as provided by
3 subsection E of this section, provided:

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

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

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

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

22 2. To keep the ~~authorized weapon~~ approved weapon concealed or
23 unconcealed at all times, except when the weapon is used within the
24 guidelines established by the employing agency.

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

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

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

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

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

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

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

7 a. an official letter from his or her employing agency
8 confirming the officer's employment and status as a
9 full-time commissioned peace officer or an active
10 reserve peace officer,

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

13 c. two passport-size photographs of the peace officer
14 applicant~~;~~;

15 2. Upon receiving the required information, CLEET shall
16 determine whether the peace officer is in good standing, has CLEET
17 certification and training, and is otherwise eligible for a handgun
18 license. Upon verification of the officer's eligibility, CLEET
19 shall send the information to the Oklahoma State Bureau of
20 Investigation (OSBI) and OSBI shall issue a handgun license in the
21 same or similar form as other handgun licenses. All other
22 requirements in Section 1290.12 of this title concerning application
23 for a handgun license shall be waived for active duty peace officers
24 except as provided in this subsection~~;~~ including~~;~~, but not limited

1 to, training, fingerprints and criminal history records checks
2 unless the officer does not have fingerprints on file or a criminal
3 history records background check conducted prior to employment as a
4 peace officer. The OSBI shall not be required to conduct any
5 further investigation into the eligibility of the peace officer
6 applicant and shall not deny a handgun license except when
7 preclusions are found to exist;

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

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

22 5. There shall be no refund of any fee for any unexpired term
23 of any handgun license that is suspended, revoked~~7~~ or voluntarily
24

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~~;~~; and

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 2. AMENDATORY 21 O.S. 2011, Section 1289.8, is
10 amended to read as follows:

11 Section 1289.8.

12 CARRYING CONCEALED WEAPON

13 A. Any fire marshal inspector who is retired, state, county~~;~~ or
14 municipal peace officer of this state who is retired, or any state,
15 county~~;~~ or municipal peace officer classified as a reserve who is
16 retired, or any federal law enforcement officer who is retired may
17 retain their status as a peace officer, retired, in the State of
18 Oklahoma, and as such may carry a concealed pistol pursuant to the
19 provisions of subsection B of this section. A retired state,
20 county~~;~~ or municipal peace officer may in times of great emergency
21 or danger serve to enforce the law, keep the peace~~;~~ or to protect
22 the public in keeping with their availability and ability at the
23 request of the Governor, the sheriff~~;~~ or the mayor of their
24 retirement jurisdiction. If a retired fire marshal is activated for

1 duty, the peace officer powers of the retired fire marshal are
2 limited to the duties granted prior to retirement.

3 B. The Council on Law Enforcement Education and Training
4 (CLEET) shall issue an identification card to eligible retired
5 federal, state, county, and municipal peace officers which
6 authorizes the retired peace officer to carry a concealed pistol ~~in~~
7 ~~this state~~ anywhere in the state of Oklahoma. The identification
8 card shall bear the full name of the retired officer, the signature
9 of the retired officer, the date of issuance, and such other
10 information as may be deemed appropriate by CLEET. The card shall
11 not expire, but may be denied, suspended, or revoked as provided by
12 the rules promulgated by CLEET or upon the discovery of any
13 preclusion prescribed in Section 1290.10 or 1290.11 of this title.
14 The Council on Law Enforcement Education and Training shall request
15 the Oklahoma State Bureau of Investigation to conduct a state and
16 national criminal history records search on each retired peace
17 officer authorized to carry a concealed firearm pursuant to the
18 provisions of this section every four (4) years, and unless a
19 preclusion prescribed in Section 1290.10 or 1290.11 of this title is
20 found to exist, no action shall be necessary. When a preclusion is
21 discovered, the Council shall notify the retired peace officer and
22 shall hold a hearing before taking any action to suspend or revoke
23 the authority to carry a concealed pistol.
24

1 C. The retired peace officer shall be required to submit the
2 following information to the Council on Law Enforcement Education
3 and Training (CLEET) and any other information requested by CLEET:

4 1. A statement from the appropriate retirement system verifying
5 the status of the person as a retired peace officer of the
6 jurisdiction or, if the retired peace officer does not participate
7 in a retirement system, a statement from the appropriate law
8 enforcement agency verifying the status of the person as a retired
9 peace officer of that jurisdiction, and the reason why the retired
10 peace officer does not participate in a retirement system; and

11 2. A notarized statement, signed by the retired peace officer,
12 stating that the officer:

- 13 a. has not been convicted of and is currently not subject
14 to any pending criminal prosecution for any felony
15 offense, any drug-related offense, aggravated assault
16 and battery~~7~~ or any offense involving impairment by
17 drugs or alcohol,
18 b. has not been forced into retirement due to any mental
19 disorder, and
20 c. has not suffered any injury or any physical or mental
21 impairment which would render the person unsafe to
22 carry a concealed pistol.

23 D. A retired peace officer, who has made application for the
24 CLEET identification card authorized in subsection B of this

1 section, shall be authorized to carry a concealed firearm as an off-
2 duty peace officer, pursuant to Section 1289.23 of this title, until
3 the authority to carry a concealed firearm as a retired officer is
4 finally approved or denied by CLEET.

5 E. The Council on Law Enforcement Education and Training shall
6 promulgate rules and procedures necessary to implement the
7 provisions of this section.

8 F. Any peace officer, retired, who carries any pistol in
9 violation of the provisions of this section shall be deemed to be in
10 violation of Section 1272 of this title and may be prosecuted as
11 provided by law for a violation of that section.

12 SECTION 3. This act shall become effective November 1, 2015.

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14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/06/2015 -
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