

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 41

By: Fry

AS INTRODUCED

An Act relating to public safety; amending 21 O.S. 2011, Sections 1289.3 and 1289.25, which relate to definitions and physical or deadly force against an intruder; broadening definition; modifying construing provision; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.3, is amended to read as follows:

Section 1289.3.

DEFINITIONS FOR FIREARMS ACT

"Pistols" as used in the Oklahoma Firearms Act of 1971, ~~Sections 1289.1 through 1289.17 of this title,~~ shall mean any firearm capable of discharging a projectile or series of projectiles composed of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels less than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include flare guns, underwater fishing guns or blank pistols.

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1289.25, is
2 amended to read as follows:

3 Section 1289.25.

4 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

5 A. The Legislature hereby recognizes that the citizens of the
6 State of Oklahoma have a right to expect absolute safety within
7 their own homes or places of business.

8 B. A person or an owner, manager or employee of a business is
9 presumed to have held a reasonable fear of imminent peril of death
10 or great bodily harm to himself or herself or another when using
11 defensive force that is intended or likely to cause death or great
12 bodily harm to another if:

13 1. The person against whom the defensive force was used was in
14 the process of unlawfully and forcefully entering, or had unlawfully
15 and forcibly entered, a dwelling, residence, occupied vehicle, or a
16 place of business, or if that person had removed or was attempting
17 to remove another against the will of that person from the dwelling,
18 residence, occupied vehicle, or place of business; and

19 2. The person who uses defensive force knew or had reason to
20 believe that an unlawful and forcible entry or unlawful and forcible
21 act was occurring or had occurred.

22 C. The presumption set forth in subsection B of this section
23 does not apply if:
24

1 1. The person against whom the defensive force is used has the
2 right to be in or is a lawful resident of the dwelling, residence,
3 or vehicle, such as an owner, lessee, or titleholder, and there is
4 not a protective order from domestic violence in effect or a written
5 pretrial supervision order of no contact against that person;

6 2. The person or persons sought to be removed are children or
7 grandchildren, or are otherwise in the lawful custody or under the
8 lawful guardianship of, the person against whom the defensive force
9 is used; or

10 3. The person who uses defensive force is engaged in an
11 unlawful activity or is using the dwelling, residence, occupied
12 vehicle, or place of business to further an unlawful activity.

13 D. A person who is not engaged in an unlawful activity and who
14 is attacked in any other place where he or she has a right to be has
15 no duty to retreat and has the right to stand his or her ground and
16 meet force with force, including deadly force, if he or she
17 reasonably believes it is necessary to do so to prevent death or
18 great bodily harm to himself or herself or another or to prevent the
19 commission of a forcible felony.

20 E. A person who unlawfully and by force enters or attempts to
21 enter the dwelling, residence, occupied vehicle of another person,
22 or a place of business is presumed to be doing so with the intent to
23 commit an unlawful act involving force or violence.
24

1 F. A person who uses force, as permitted pursuant to the
2 provisions of subsections B and D of this section, is justified in
3 using such force and is immune from criminal prosecution and civil
4 action for the use of such force. As used in this subsection, the
5 term "criminal prosecution" includes charging or prosecuting the
6 defendant.

7 G. A law enforcement agency may use standard procedures for
8 investigating the use of force, but the law enforcement agency may
9 not arrest the person for using force unless it determines that
10 there is probable cause that the force that was used was unlawful.

11 H. The court shall award reasonable attorney fees, court costs,
12 compensation for loss of income, and all expenses incurred by the
13 defendant in defense of any civil action brought by a plaintiff if
14 the court finds that the defendant is immune from prosecution as
15 provided in subsection F of this section.

16 I. The provisions of this section and the provisions of the
17 Oklahoma Self-Defense Act shall not be construed to require any
18 person using a ~~pistol~~ weapon pursuant to the provisions of this
19 section to be licensed in any manner.

20 J. As used in this section:

21 1. "Dwelling" means a building or conveyance of any kind,
22 including any attached porch, whether the building or conveyance is
23 temporary or permanent, mobile or immobile, which has a roof over
24 it, including a tent, and is designed to be occupied by people;

1 2. "Residence" means a dwelling in which a person resides
2 either temporarily or permanently or is visiting as an invited
3 guest; and

4 3. "Vehicle" means a conveyance of any kind, whether or not
5 motorized, which is designed to transport people or property.

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

7
8 55-1-538 BH 2/18/2016 7:06:27 PM
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24