

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 13, 2016

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 1185

By: David of the Senate and Derby et al of the House

Title: Firearms; modifying reciprocal agreement. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

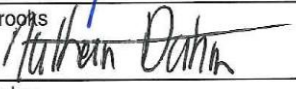
SENATE CONFEREES:


David


Fields

Barrington

Bass

Brooks

Dahm

Wyrick

HOUSE CONFEREES:

Conference Committee on Public Safety

Senate Action _____ Date _____ House Action _____ Date _____

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STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 1185

By: David of the Senate

and

Derby, Ritze and Kern of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to firearms; amending 21 O.S. 2011, Section 1289.3, which relates to definitions for Firearms Act; modifying language; amending 21 O.S. 2011, Section 1289.16, as amended by Section 20, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015, Section 1290.16), which relates to felony pointing firearms; modifying inclusions; 21 O.S. 2011, Section 1289.25, which relates to physical or deadly force against intruder; defining terms; modifying certain action; amending 21 O.S. 2011, Section 1290.2, as last amended by Section 2, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.2), which relates to definitions; modifying language; amending 21 O.S. 2011, Section 1290.8, as last amended by Section 4, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.8), which relates to possession of license required; authorizing certain identification for certain purpose; amending 21 O.S. 2011, Section 1290.15, as last amended by Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.15), which relates to exemptions from training courses; modifying certain exemption requirements and documentation; amending 21 O.S. 2011, Section 1290.26, as last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.26), which relates to reciprocal agreement authority; modifying requirements; and providing an effective date.

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

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

4 Section 1289.3.

5 DEFINITIONS FOR FIREARMS ACT

6 "Pistols" or "handguns" as used in the Oklahoma Firearms Act of
7 1971, ~~Sections 1289.1 through 1289.17 of this title,~~ shall mean any
8 firearm capable of discharging ~~a projectile~~ single or multiple
9 projectiles from a single round of ammunition composed of any
10 material which may reasonably be expected to be able to cause lethal
11 injury, with a barrel or barrels less than sixteen (16) inches in
12 length, and using ~~either gunpowder, gas or any means of rocket~~
13 ~~propulsion~~ a combustible propellant charge, but not to include flare
14 guns, underwater fishing guns or blank pistols.

15 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1289.16, as
16 amended by Section 20, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015,
17 Section 1289.16), is amended to read as follows:

18 Section 1289.16.

19 FELONY POINTING FIREARMS

20 ~~It~~ Except for an act of self-defense, it shall be unlawful for
21 any person to willfully or without lawful cause point a shotgun,
22 rifle or pistol, or any deadly weapon, whether loaded or not, at any
23 person or persons for the purpose of threatening or with the
24 intention of discharging the firearm or with any malice or for any

1 purpose of injuring, either through physical injury or mental or
2 emotional intimidation or for purposes of whimsy, humor or prank, or
3 in anger or otherwise, but not to include the pointing of shotguns,
4 rifles or pistols by law enforcement authorities in the performance
5 of their duties, armed security guards or armed private
6 investigators licensed by the Council on Law Enforcement Education
7 and Training pursuant to the Oklahoma Security Guard and Private
8 Investigator Act in the performance of their duties, members of the
9 state military forces in the performance of their duties, members of
10 the federal military reserve and active military components in the
11 performance of their duties, or any federal government law
12 enforcement officer in the performance of any duty, or in the
13 performance of a play on stage, rodeo, television or on film, or in
14 defense of any person, one's home or property. Any person convicted
15 of a violation of the provisions of this section shall be punished
16 as provided in Section 1289.17 of this title.

17 Any person convicted of a violation of the provisions of this
18 section after having been issued a handgun license pursuant to the
19 Oklahoma Self-Defense Act shall have the license revoked and shall
20 be subject to an administrative fine of One Thousand Dollars
21 (\$1,000.00), upon a hearing and determination by the Oklahoma State
22 Bureau of Investigation that the person is in violation of the
23 provisions of this section.

SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.25, is amended to read as follows:

Section 1289.25.

PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

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

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

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

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

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

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.

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

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

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

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

21 J. A person pointing a weapon at a perpetrator in self-defense
22 or in order to thwart, stop or deter a forcible felony or attempted
23 forcible felony shall not be deemed guilty of committing a criminal
24 act.

K. As used in this section:

1. "Defensive force" includes, but shall not be limited to,
pointing a weapon at a perpetrator in self-defense or in order to
thwart, stop or deter a forcible felony or attempted forcible
felony;

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

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

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

SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.2, as last amended by Section 2, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.2), is amended to read as follows:

Section 1290.2.

DEFINITIONS

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

1. "Concealed handgun" means a loaded or unloaded pistol,~~the~~
~~presence of which is~~ handgun not openly ~~discernible~~ visible to
the ordinary observation of a reasonable person;

1 2. "Unconcealed handgun" or "open carry" means a loaded or
2 unloaded pistol or handgun carried upon the person in a ~~belt holster~~
3 ~~or shoulder holster that is wholly or partially~~ where the firearm is
4 visible, or carried upon the person ~~in~~ using a scabbard, sling or
5 case designed for carrying firearms ~~that is wholly or partially~~
6 ~~visible~~; and

7 3. "Pistol" or "handgun" means any derringer, revolver or
8 semiautomatic firearm which:

- 9 a. has an overall barrel or barrels length of less than
10 sixteen (16) inches,
- 11 b. is capable of discharging ~~a projectile~~ single or
12 multiple projectiles from a single round of ammunition
13 composed of any material which may reasonably be
14 expected to be able to cause lethal injury,
- 15 c. ~~is designed to~~ can be held and fired by the use of ~~a~~
16 ~~single hand~~ one or both hands, and
- 17 d. uses ~~either gunpowder, gas or any means of rocket~~
18 ~~propulsion~~ a combustible propellant charge to
19 ~~discharge~~ propel the projectile or projectiles.

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

1 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1290.8, as
2 last amended by Section 4, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
3 2015, Section 1290.8), is amended to read as follows:

4 Section 1290.8.

5 POSSESSION OF LICENSE REQUIRED

6 NOTIFICATION TO POLICE OF GUN

7 A. Except as otherwise prohibited by law, an eligible person
8 shall have authority to carry a concealed or unconcealed handgun in
9 this state when ~~the~~:

10 1. The person has been issued a handgun license from the
11 Oklahoma State Bureau of Investigation pursuant to the provisions of
12 the Oklahoma Self-Defense Act, provided the person is in compliance
13 with the provisions of the Oklahoma Self-Defense Act, and the
14 license has not expired or been subsequently suspended or revoked;

15 2. The person, twenty-one (21) years of age or older, is on
16 active military duty, National Guard duty or regular military
17 reserve duty or has been honorably discharged from military service
18 and presents a valid military identification card in lieu of a
19 handgun license; or

20 3. A person in possession of a valid handgun license or a valid
21 military identification card and in compliance with the provisions
22 of the Oklahoma Self-Defense Act shall be authorized to carry such
23 concealed or unconcealed handgun while bow hunting or fishing.
24

1 B. The person shall be required to have possession of his or
2 her valid handgun license or valid military identification card and
3 a valid Oklahoma driver license or an Oklahoma State photo
4 identification at all times when in possession of an authorized
5 pistol. The person shall display the handgun license or a valid
6 military identification card on demand of a law enforcement officer;
7 provided, however, that in the absence of reasonable and articulable
8 suspicion of other criminal activity, an individual carrying an
9 unconcealed or concealed handgun shall not be disarmed or physically
10 restrained unless the individual fails to display a valid handgun
11 license or valid military identification card in response to that
12 demand. Any violation of the provisions of this subsection may be
13 punishable as a criminal offense as authorized by Section 1272 of
14 this title or pursuant to any other applicable provision of law.
15 Any second or subsequent violation of the provisions of this
16 subsection shall be grounds for the Bureau to suspend the handgun
17 license for a period of six (6) months, in addition to any other
18 penalty imposed.

19 Upon the arrest of any person for a violation of the provisions
20 of this subsection, the person may show proof to the court that a
21 valid handgun license and the other required identification has been
22 issued to such person and the person may state any reason why the
23 handgun license or the other required identification was not carried
24 by the person as required by the Oklahoma Self-Defense Act. The

1 court shall dismiss an alleged violation of Section 1272 of this
2 title upon payment of court costs, if proof of a valid handgun
3 license, a valid military identification card and other required
4 identification is shown to the court within ten (10) days of the
5 arrest of the person. The court shall report a dismissal of a
6 charge to the Bureau for consideration of administrative proceedings
7 against the licensee.

8 C. It shall be unlawful for any person to fail or refuse to
9 identify the fact that the person is in actual possession of a
10 concealed or unconcealed handgun pursuant to the authority of the
11 Oklahoma Self-Defense Act when the person comes into contact with
12 any law enforcement officer of this state or its political
13 subdivisions or a federal law enforcement officer during the course
14 of any arrest, detainment, or routine traffic stop. Said
15 identification to the law enforcement officer shall be made at the
16 first opportunity. No person shall be required to identify himself
17 or herself as a handgun licensee when no handgun is in the
18 possession of the person or in any vehicle in which the person is
19 driving or is a passenger. Any violation of the provisions of this
20 subsection shall, upon conviction, be a misdemeanor punishable by a
21 fine not exceeding One Hundred Dollars (\$100.00).

22 D. Any law enforcement officer coming in contact with a person
23 whose handgun license is suspended, revoked, or expired, or who is
24 in possession of a handgun license which has not been lawfully

1 issued to that person, shall confiscate the license and return it to
2 the Oklahoma State Bureau of Investigation for appropriate
3 administrative proceedings against the licensee when the license is
4 no longer needed as evidence in any criminal proceeding.

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

8 SECTION 6. AMENDATORY 21 O.S. 2011, Section 1290.15, as
9 last amended by Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp.
10 2015, Section 1290.15), is amended to read as follows:

11 Section 1290.15.

12 PERSONS EXEMPT FROM TRAINING COURSE

13 A. The following individuals may be exempt from all or part of
14 the required training and qualification course established pursuant
15 to the provisions of Section 1290.14 of this title:

16 1. A firearms instructor registered with the Oklahoma State
17 Bureau of Investigation for purposes of the Oklahoma Self-Defense
18 Act;

19 2. An active duty or reserve duty law enforcement officer of
20 this state or any of its political subdivisions or of the federal
21 government;

22 3. A retired law enforcement officer authorized by this state
23 pursuant to Section 1289.8 of this title to carry a firearm;
24

1 4. A CLEET-certified armed security officer, armed guard,
2 correctional officer, or any other person having a CLEET
3 certification to carry a firearm in the course of their employment;

4 5. A person on active military duty, National Guard duty or
5 regular military reserve duty who is a legal resident of this state
6 and who is trained and qualified in the use of handguns;

7 6. A person honorably discharged from active military duty,
8 National Guard duty or military reserves within twenty (20) years
9 preceding the date of the application for a handgun license pursuant
10 to the provisions of the Oklahoma Self-Defense Act, who is a legal
11 resident of this state, and who has been trained and qualified in
12 the use of handguns;

13 7. A person retired as a peace officer in good standing from a
14 law enforcement agency located in another state, who is a legal
15 resident of this state, and who has received training equivalent to
16 the training required for CLEET certification in this state; and

17 8. Any person who is otherwise deemed qualified for a training
18 exemption by ~~CLEET~~ the Council on Law Enforcement Education and
19 Training.

20 ~~Provided, however, persons applying for an exemption pursuant to~~
21 ~~paragraph 3, 4, 5, 6 or 7 of this subsection may be required to~~
22 ~~successfully complete the classroom portion of the training course.~~
23 ~~The fee for the classroom portion of the training course shall be~~

1 ~~determined by the instructor or entity that is conducting the~~
2 ~~course.~~

3 B. ~~The Council on Law Enforcement Education and Training~~
4 ~~(CLEET) shall establish criteria for providing proof of an~~
5 ~~exemption. Before any person shall be considered exempt from all or~~
6 ~~part of the required training and qualification pursuant to the~~
7 ~~provisions of the Oklahoma Self-Defense Act, the person shall~~
8 ~~present the required proof of exemption to a registered firearms~~
9 ~~instructor. Each person determined to be exempt from training or~~
10 ~~qualification as provided in this subsection shall receive an~~
11 ~~exemption certificate from the registered firearms instructor. The~~
12 ~~rules promulgated by CLEET to implement the provisions of this~~
13 ~~section and Section 1290.14 of this title may require that a fee not~~
14 ~~to exceed Five Dollars (\$5.00) be charged for processing an~~
15 ~~exemption certificate.~~

16 ~~The original exemption certificate must be submitted with an~~
17 ~~application for a handgun license as provided in paragraph 2 of~~
18 ~~Section 1290.12 of this title. No person who is determined to be~~
19 ~~exempt from training or qualification may carry a concealed or~~
20 ~~unconcealed firearm pursuant to the authority of the Oklahoma Self-~~
21 ~~Defense Act until issued a valid handgun license or possesses a~~
22 ~~valid military identification card as provided for in Section 1290.8~~
23 ~~of this title.~~

1 C. Nothing contained in any provision of the Oklahoma Self-
2 Defense Act shall be construed to alter, amend, or modify the
3 authority of any active duty law enforcement officer, or any person
4 certified by the Council on Law Enforcement Education and Training
5 to carry a pistol during the course of their employment, to carry
6 any pistol in any manner authorized by law or authorized by the
7 employing agency.

8 SECTION 7. AMENDATORY 21 O.S. 2011, Section 1290.26, as
9 last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp.
10 2015, Section 1290.26), is amended to read as follows:

11 Section 1290.26.

12 RECIPROCAL AGREEMENT AUTHORITY

13 The State of Oklahoma hereby recognizes any valid concealed or
14 unconcealed carry weapons permit, valid military identification card
15 or license issued by another state, or if the state is a
16 nonpermitting carry state, this state shall reciprocate under the
17 permitting law of that state.

18 A. Any person entering this state in possession of a firearm
19 authorized for concealed or unconcealed carry upon the authority and
20 license of another state, or a valid military identification card is
21 authorized to continue to carry a concealed or unconcealed firearm
22 and license in this state; provided, the license from the other
23 state or military identification card remains valid. The firearm
24 must either be carried unconcealed or concealed ~~from detection and~~

1 ~~view,~~ and upon coming in contact with any peace officer of this
2 state, the person must disclose the fact that he or she is in
3 possession of a concealed or unconcealed firearm pursuant to a valid
4 concealed or unconcealed carry weapons permit ~~or,~~ license or valid
5 military identification card issued in another state.

6 B. Any person entering this state in possession of a firearm
7 authorized for concealed carry upon the authority of a state that is
8 a nonpermitted carry state and the person is in compliance with the
9 Oklahoma Self-Defense Act, the person is authorized to carry a
10 concealed or unconcealed firearm in this state. The firearm must be
11 carried fully concealed ~~from detection and view,~~ or unconcealed and
12 upon coming in contact with any peace officer of this state, the
13 person must disclose the fact that he or she is in possession of a
14 concealed or unconcealed firearm pursuant to the nonpermitting laws
15 of the state in which he or she is a legal resident. The person
16 shall present proper identification by a valid photo ID as proof
17 that he or she is a legal resident in such a non-permitting state.
18 The Department of Public Safety shall keep a current list of non-
19 permitting states for law enforcement officers to confirm that a
20 state is nonpermitting.

21 C. Any person who is twenty-one (21) years of age or older
22 having a valid firearm license from another state may apply for a
23 handgun license in this state immediately upon establishing a
24 residence in this state.

SECTION 8. This act shall become effective November 1, 2016.

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