

# An Act

ENROLLED SENATE  
BILL NO. 35

By: David, Pittman, Brecheen,  
Dahm and Bergstrom of the  
Senate

and

McDugle, Coody, West (Josh)  
and Faught of the House

An Act relating to firearms; amending 21 O.S. 2011, Section 1290.8, as last amended by Section 4, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2016, Section 1290.8), which relates to possession of license required; modifying inclusions; amending 21 O.S. 2011, Section 1290.12, as last amended by Section 2, Chapter 256, O.S.L. 2016 (21 O.S. Supp. 2016, Section 1290.12), which relates to the procedure for application; modifying certain requirements; amending 21 O.S. 2011, Section 1290.15, as last amended by Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp. 2016, Section 1290.15), which relates to persons exempt from training course; modifying inclusions; modifying certain exemption requirements; amending 21 O.S. 2011, Section 1290.26, as last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp. 2016, Section 1290.26), which relates to reciprocal agreement authority; modifying authorized inclusions; and providing an effective date.

SUBJECT: Firearm possession requirements

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.8, as last amended by Section 4, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2016, Section 1290.8), is amended to read as follows:

Section 1290.8.

POSSESSION OF LICENSE REQUIRED

NOTIFICATION TO POLICE OF GUN

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

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

2. The person is twenty-one (21) years of age or older, and is either:

a. active military, or

b. a member of the Reserve or National Guard to include Drill Status Guard and Reserve, Active Guard Reserves or Military Technicians,

and presents a valid military identification card that shall be considered a valid handgun license issued pursuant to the Oklahoma Self-Defense Act.

B. A person in possession of a valid handgun license or meets the criteria and presents a valid military identification card as provided for in this section and in compliance with the provisions of the Oklahoma Self-Defense Act shall be authorized to carry such concealed or unconcealed handgun while bow hunting or fishing.

~~B.~~ C. The person shall be required to have possession of his or her valid handgun license or valid military identification card as

provided for qualified persons in this section and a valid Oklahoma driver license or an Oklahoma State photo identification at all times when in possession of an authorized pistol. The person shall display the handgun license or a valid military identification card as provided for qualified persons in this section on demand of a law enforcement officer; provided, however, that in the absence of reasonable and articulable suspicion of other criminal activity, an individual carrying an unconcealed or concealed handgun shall not be disarmed or physically restrained unless the individual fails to display a valid handgun license or a valid military identification card as provided for qualified persons in this section in response to that demand. Any violation of the provisions of this subsection may be punishable as a criminal offense as authorized by Section 1272 of this title or pursuant to any other applicable provision of law. Any second or subsequent violation of the provisions of this subsection shall be grounds for the Bureau to suspend the handgun license for a period of six (6) months, in addition to any other penalty imposed.

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

~~C.~~ D. It shall be unlawful for any person to fail or refuse to identify the fact that the person is in actual possession of a concealed or unconcealed handgun pursuant to the authority of the Oklahoma Self-Defense Act when the person comes into contact with any law enforcement officer of this state or its political subdivisions or a federal law enforcement officer during the course of any arrest, detainment, or routine traffic stop. Said identification to the law enforcement officer shall be made at the

first opportunity. No person shall be required to identify himself or herself as a handgun licensee when no handgun is in the possession of the person or in any vehicle in which the person is driving or is a passenger. Any violation of the provisions of this subsection shall, upon conviction, be a misdemeanor punishable by a fine not exceeding One Hundred Dollars (\$100.00).

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

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

SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as last amended by Section 2, Chapter 256, O.S.L. 2016 (21 O.S. Supp. 2016, Section 1290.12), is amended to read as follows:

Section 1290.12.

#### PROCEDURE FOR APPLICATION

A. Except as provided in paragraph 11 of this subsection, the procedure for applying for a handgun license and processing the application shall be as follows:

1. An eligible person may request an application packet for a handgun license from the Oklahoma State Bureau of Investigation or the county sheriff's office either in person or by mail. The Bureau may provide application packets to each sheriff not exceeding two hundred packets per request. The Bureau shall provide the following information in the application packet:

- a. an application form,
- b. procedures to follow to process the application form, and

- c. a copy of the Oklahoma Self-Defense Act with any modifications thereto;

2. The person shall be required to successfully complete a firearms safety and training course from a firearms instructor who is approved and registered in this state as provided in Section 1290.14 of this title or from an interactive online firearms safety and training course available electronically via the Internet which has been approved as to curriculum by the Council on Law Enforcement Education and Training, and the person shall be required to demonstrate competency and qualification with a pistol authorized for concealed or unconcealed carry by the Oklahoma Self-Defense Act. The original certificate of successful completion of a firearms safety and training course and an original certificate of successful demonstration of competency and qualification to carry and handle a pistol shall be submitted with the application for a handgun license. No duplicate, copy, facsimile or other reproduction of the certificate of training, certificate of competency and qualification or exemption from training shall be acceptable as proof of training as required by the provisions of the Oklahoma Self-Defense Act. ~~A person exempt from the training requirements as provided in Section 1290.15 of this title must show the required proof of such exemption to the firearms instructor to receive an exemption certificate. The original exemption certificate must be submitted with the application for a handgun license when the person claims an exemption from training and qualification;~~

3. The application form shall be completed and delivered by the applicant, in person, to the sheriff of the county wherein the applicant resides;

4. The person shall deliver to the sheriff at the time of delivery of the completed application form a fee of One Hundred Dollars (\$100.00) for processing the application through the Oklahoma State Bureau of Investigation and processing the required fingerprints through the Federal Bureau of Investigation. The processing fee shall be in the form of:

- a. a money order or a cashier's check made payable to the Oklahoma State Bureau of Investigation,

- b. a nationally recognized credit card issued to the applicant. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by the issuer for the use of the cardholder in obtaining goods, services, or anything else of value on credit which is accepted by over one thousand merchants in the state. The Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau, or
- c. electronic funds transfer.

Any person paying application fees to the Oklahoma State Bureau of Investigation by means of a nationally recognized credit card or by means of an electronic funds transfer shall be required to complete and submit his or her application through the online application process of the Bureau.

The processing fee shall not be refundable in the event of a denial of a handgun license or any suspension or revocation subsequent to the issuance of a license. Persons making application for a firearms instructor shall not be required to pay the application fee as provided in this section, but shall be required to pay the costs provided in paragraphs 6 and 8 of this subsection;

5. The completed application form shall be signed by the applicant in person before the sheriff. The signature shall be given voluntarily upon a sworn oath that the person knows the contents of the application and that the information contained in the application is true and correct. Any person making any false or misleading statement on an application for a handgun license shall, upon conviction, be guilty of perjury as defined by Section 491 of this title. Any conviction shall be punished as provided in Section 500 of this title. In addition to a criminal conviction, the person shall be denied the right to have a handgun license pursuant to the provisions of Section 1290.10 of this title and the Oklahoma State Bureau of Investigation shall revoke the handgun license, if issued;

6. Two passport-size photographs of the applicant shall be submitted with the completed application. The cost of the photographs shall be the responsibility of the applicant. The sheriff is authorized to take the photograph of the applicant for purposes of the Oklahoma Self-Defense Act and, if such photographs are taken by the sheriff, the cost of the photographs shall not exceed Ten Dollars (\$10.00) for the two photos. All money received by the sheriff from photographing applicants pursuant to the provisions of this paragraph shall be retained by the sheriff and deposited into the Sheriff's Service Fee Account;

7. The sheriff shall witness the signature of the applicant and review or take the photographs of the applicant and shall verify that the person making application for a handgun license is the same person in the photographs submitted and the same person who signed the application form. Proof of a valid Oklahoma driver license with a photograph of the applicant or an Oklahoma state photo identification for the applicant shall be required to be presented by the applicant to the sheriff for verification of the person's identity;

8. Upon verification of the identity of the applicant, the sheriff shall take two complete sets of fingerprints of the applicant. Both sets of fingerprints shall be submitted by the sheriff with the completed application, certificate of training or an exemption certificate, photographs and processing fee to the Oklahoma State Bureau of Investigation within fourteen (14) days of taking the fingerprints. The cost of the fingerprints shall be paid by the applicant and shall not exceed Twenty-five Dollars (\$25.00) for the two sets. All fees collected by the sheriff from taking fingerprints pursuant to the provisions of this paragraph shall be retained by the sheriff and deposited into the Sheriff's Service Fee Account;

9. The sheriff shall submit to the Oklahoma State Bureau of Investigation within the fourteen-day period, together with the completed application, including the certificate of training, certificate of competency and qualification ~~or exemption certificate~~, photographs, processing fee and legible fingerprints meeting the Oklahoma State Bureau of Investigation's Automated Fingerprint Identification System (AFIS) submission standards, and a report of information deemed pertinent to an investigation of the

applicant for a handgun license. The sheriff shall make a preliminary investigation of pertinent information about the applicant and the court clerk shall assist the sheriff in locating pertinent information in court records for this purpose. If no pertinent information is found to exist either for or against the applicant, the sheriff shall so indicate in the report;

10. The Oklahoma State Bureau of Investigation, upon receipt of the application and required information from the sheriff, shall forward one full set of fingerprints of the applicant to the Federal Bureau of Investigation for a national criminal history records search. The cost of processing the fingerprints nationally shall be paid from the processing fee collected by the Oklahoma State Bureau of Investigation;

11. Notwithstanding the provisions of the Oklahoma Self-Defense Act, or any other provisions of law, any person who has been granted a permanent victim protective order by the court, as provided for in the Protection from Domestic Abuse Act, may be issued a temporary handgun license for a period not to exceed six (6) months. A temporary handgun license may be issued if the person has successfully passed the required weapons course, completed the application process for the handgun license, passed the preliminary investigation of the person by the sheriff and court clerk, and provided the sheriff proof of a certified permanent victim protective order and a valid Oklahoma state photo identification card or driver license. The sheriff shall issue a temporary handgun license on a form approved by the Oklahoma State Bureau of Investigation, at no cost. Any person who has been issued a temporary license shall carry the temporary handgun license and a valid Oklahoma state photo identification on his or her person at all times, and shall be subject to all the requirements of the Oklahoma Self-Defense Act when carrying a handgun. The person may proceed with the handgun licensing process. In the event the victim protective order is no longer enforceable, the temporary handgun license shall cease to be valid;

12. The Oklahoma State Bureau of Investigation shall make a reasonable effort to investigate the information submitted by the applicant and the sheriff, to ascertain whether or not the issuance of a handgun license would be in violation of the provisions of the Oklahoma Self-Defense Act. The investigation by the Bureau of an

applicant shall include, but shall not be limited to: a statewide criminal history records search, a national criminal history records search, a Federal Bureau of Investigation fingerprint search, and if applicable, an investigation of medical records or other records or information deemed by the Bureau to be relevant to the application.

a. In the course of the investigation by the Bureau, it shall present the name of the applicant along with any known aliases, the address of the applicant and the social security number of the applicant to the Department of Mental Health and Substance Abuse Services. The Department of Mental Health and Substance Abuse Services shall respond within ten (10) days of receiving such information to the Bureau as follows:

- (1) with a "Yes" answer, if the records of the Department indicate that the person was involuntarily committed to a mental institution in Oklahoma,
- (2) with a "No" answer, if there are no records indicating the name of the person as a person involuntarily committed to a mental institution in Oklahoma, or
- (3) with an "Inconclusive" answer if the records of the Department suggest the applicant may be a formerly committed person. In the case of an inconclusive answer, the Bureau shall ask the applicant whether he or she was involuntarily committed. If the applicant states under penalty of perjury that he or she has not been involuntarily committed, the Bureau shall continue processing the application for a license.

b. In the course of the investigation by the Bureau, it shall check the name of any applicant who is twenty-eight (28) years of age or younger along with any known aliases, the address of the applicant and the social security number of the applicant against the

records in the Juvenile Online Tracking System (JOLTS) of the Office of Juvenile Affairs. The Office of Juvenile Affairs shall provide the Bureau direct access to check the applicant against the records available on JOLTS:

- (1) if the Bureau finds a record on the JOLTS that indicates the person was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years the Bureau shall deny the license,
- (2) if the Bureau finds no record on the JOLTS indicating the named person was adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years, or
- (3) if the records suggest the applicant may have been adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult but such record is inconclusive, the Bureau shall ask the applicant whether he or she was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years. If the applicant states under penalty of perjury that he or she was not adjudicated a delinquent within ten (10) years, the Bureau shall continue processing the application for a license; and

13. If the background check set forth in paragraph 12 of this subsection reveals no records pertaining to the applicant, the Oklahoma State Bureau of Investigation shall either issue a handgun license or deny the application within sixty (60) days of the date of receipt of the applicant's completed application and the required information from the sheriff. In all other cases, the Oklahoma State Bureau of Investigation shall either issue a handgun license or deny the application within ninety (90) days of the date of the receipt of the applicant's completed application and the required information from the sheriff. The Bureau shall approve an applicant who appears to be in full compliance with the provisions of the

Oklahoma Self-Defense Act, if completion of the federal fingerprint search is the only reason for delay of the issuance of the handgun license to that applicant. Upon receipt of the federal fingerprint search information, if the Bureau receives information which precludes the person from having a handgun license, the Bureau shall revoke the handgun license previously issued to the applicant. The Bureau shall deny a license when the applicant fails to properly complete the application form or application process or is determined not to be eligible as specified by the provisions of Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall approve an application in all other cases. If an application is denied, the Bureau shall notify the applicant in writing of its decision. The notification shall state the grounds for the denial and inform the applicant of the right to an appeal as may be provided by the provisions of the Administrative Procedures Act. All notices of denial shall be mailed by first-class mail to the address of the applicant listed in the application. Within sixty (60) calendar days from the date of mailing a denial of application to an applicant, the applicant shall notify the Bureau in writing of the intent to appeal the decision of denial or the right of the applicant to appeal shall be deemed waived. Any administrative hearing on a denial which may be provided shall be conducted by a hearing examiner appointed by the Bureau. The decision of the hearing examiner shall be a final decision appealable to a district court in accordance with the Administrative Procedures Act. When an application is approved, the Bureau shall issue the license and shall mail the license by first-class mail to the address of the applicant listed in the application.

B. Nothing contained in any provision of the Oklahoma Self-Defense Act shall be construed to require or authorize the registration, documentation or providing of serial numbers with regard to any firearm. For purposes of the Oklahoma Self-Defense Act, the sheriff may designate a person to receive, fingerprint, photograph or otherwise process applications for handgun licenses.

SECTION 3. AMENDATORY 21 O.S. 2011, Section 1290.15, as last amended by Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp. 2016, Section 1290.15), is amended to read as follows:

Section 1290.15.

PERSONS EXEMPT FROM TRAINING COURSE

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

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

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

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

4. A ~~CLEET-certified~~ Council on Law Enforcement Education and Training (CLEET) certified armed security officer, armed guard, correctional officer, or any other person having a CLEET certification to carry a firearm in the course of their employment;

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

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

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

8. Any person who is otherwise deemed qualified for a training exemption by CLEET.

~~Provided, however, persons applying for an exemption pursuant to paragraph 3, 4, 5, 6 or 7 of this subsection may be required to successfully complete the classroom portion of the training course. The fee for the classroom portion of the training course shall be determined by the instructor or entity that is conducting the course.~~

~~B. The Council on Law Enforcement Education and Training (CLEET) shall establish criteria for providing proof of an exemption. Before any person shall be considered exempt from all or part of the required training and qualification pursuant to the provisions of the Oklahoma Self-Defense Act, the person shall present the required proof of exemption to a registered firearms instructor. Each person determined to be exempt from training or qualification as provided in this subsection shall receive an exemption certificate from the registered firearms instructor. The rules promulgated by CLEET to implement the provisions of this section and Section 1290.14 of this title may require that a fee not to exceed Five Dollars (\$5.00) be charged for processing an exemption certificate. The original exemption certificate must be submitted with an application for a handgun license as provided in paragraph 2 of Section 1290.12 of this title. No person who is determined to be exempt from training or qualification may carry a concealed or unconcealed firearm pursuant to the authority of the Oklahoma Self-Defense Act until issued a valid handgun license or possesses a valid military identification card as provided for qualified persons in Section 1290.8 of this title.~~

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

SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.26, as last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp. 2016, Section 1290.26), is amended to read as follows:

Section 1290.26.

## RECIPROCAL AGREEMENT AUTHORITY

The State of Oklahoma hereby recognizes any valid concealed or unconcealed carry weapons permit, valid military identification card as provided for qualified persons in Section 1290.8 of this title or license issued by another state, or if the state is a nonpermitting carry state, this state shall reciprocate under the permitting law of that state.

A. Any person entering this state in possession of a firearm authorized for concealed or unconcealed carry upon the authority and license of another state or a valid military identification card as provided for qualified persons in Section 1290.8 of this title is authorized to continue to carry a concealed or unconcealed firearm and license in this state; provided the license from the other state or valid military identification card as provided for qualified persons in Section 1290.8 of this title remains valid. The firearm must either be carried unconcealed or concealed ~~from detection and view~~, and upon coming in contact with any peace officer of this state, the person must disclose the fact that he or she is in possession of a concealed or unconcealed firearm pursuant to a valid concealed or unconcealed carry weapons permit ~~or~~, license or a valid military identification card as provided for qualified persons in Section 1290.8 of this title issued in another state.

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

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

SECTION 5. This act shall become effective November 1, 2017.

Passed the Senate the 10th day of May, 2017.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2017.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_