

1 **SENATE FLOOR VERSION**

2 February 19, 2015

3 SENATE BILL NO. 234

By: Justice

4  
5 An Act relating to firearms for off-duty police  
6 officers; amending 21 O.S. 2011, Section 1289.23, as  
7 last amended by Section 1, Chapter 366, O.S.L. 2013  
8 (21 O.S. Supp. 2014, Section 1289.23), which relates  
9 to firearms for off-duty police officers; modifying  
10 certain conditions; amending 21 O.S. 2011, Section  
11 1289.8, which relates to carrying concealed weapon;  
12 modifying where certain people can carry; and  
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.23, as  
16 last amended by Section 1, Chapter 366, O.S.L. 2013 (21 O.S. Supp.  
17 2014, Section 1289.23), is amended to read as follows:

18 Section 1289.23.

19 **CONCEALED FIREARM FOR OFF-DUTY POLICE OFFICER**

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

1 on active duty as provided by the provisions of subsection B of this  
2 section.

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

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

12 2. To keep the ~~authorized~~ approved weapon concealed or  
13 unconcealed at all times, except when the weapon is used within the  
14 guidelines established 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~~  
23 an approved weapon when such officer is off duty as provided by  
24 subsection E of this section, provided:

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

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

10 E. When an off-duty reserve peace officer carries ~~a certified~~  
11 ~~weapon~~ an approved weapon, the officer shall be wearing the law  
12 enforcement uniform prescribed by the employing agency or when not  
13 wearing the prescribed law enforcement uniform, the officer shall be  
14 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~~ approved weapon concealed or  
20 unconcealed at all times, except when the weapon is used within the  
21 guidelines 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  
24

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 off-duty~~  
7 ~~officer elects to carry a handgun~~ An off-duty, full-time peace  
8 officer or reserve peace officer shall be deemed to have elected to  
9 carry a handgun under the authority of the Oklahoma Self-Defense  
10 Act, ~~the person shall comply with all provisions of such act and~~  
11 ~~shall not be representing the employing agency~~ when the officer:

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

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

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

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

23 1. The officer shall apply in writing to the Council on Law  
24 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  
23 to, training, fingerprints and criminal history records checks  
24 unless the officer does not have fingerprints on file or a criminal

1 history records background check conducted prior to employment as a  
2 peace officer. The OSBI shall not be required to conduct any  
3 further investigation into the eligibility of the peace officer  
4 applicant and shall not deny a handgun license except when  
5 preclusions are found to exist~~;~~;

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

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

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

24

1 6. CLEET may promulgate any rules, forms or procedures  
2 necessary to implement the provisions of this section~~;~~ and

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

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

9 Section 1289.8.

10 CARRYING CONCEALED WEAPON

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

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

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



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

8 2. A notarized statement, signed by the retired peace officer,  
9 stating that the officer:

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

20 D. A retired peace officer, who has made application for the  
21 CLEET identification card authorized in subsection B of this  
22 section, shall be authorized to carry a concealed firearm as an off-  
23 duty peace officer, pursuant to Section 1289.23 of this title, until  
24

1 the authority to carry a concealed firearm as a retired officer is  
2 finally approved or denied by CLEET.

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

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY  
12 February 19, 2015 - DO PASS

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