

1 **SENATE FLOOR VERSION**

2 February 19, 2021

3 SENATE BILL NO. 442

By: Dahm and Hamilton

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6 An Act relating to firearms; amending 21 O.S. 2011,  
7 Section 1289.9, as amended by Section 14, Chapter  
8 259, O.S.L. 2012 (21 O.S. Supp. 2020, Section  
9 1289.9), which relates to carrying weapons under the  
10 influence of alcohol; modifying inclusions; amending  
11 21 O.S. 2011, Section 1290.11, as last amended by  
12 Section 6, Chapter 406, O.S.L. 2019 (21 O.S. Supp.  
13 2020, Section 1290.11), which relates to eligibility  
14 for a handgun license; making certain exception for  
15 medical marijuana card holder; and prohibiting  
16 certain denial; and 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 1289.9, as  
19 amended by Section 14, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2020,  
20 Section 1289.9), is amended to read as follows:

21 Section 1289.9.

22 CARRYING WEAPONS UNDER INFLUENCE OF ALCOHOL

23 It shall be unlawful for any person to carry or use shotguns,  
24 rifles or pistols in any circumstances while under the influence of  
beer, intoxicating liquors or any hallucinogenic, or any unlawful or  
unprescribed drug, and it shall be unlawful for any person to carry  
or use shotguns, rifles or pistols when under the influence of any

1 drug prescribed by a licensed physician or medical marijuana  
2 obtained pursuant to a valid medical marijuana patient license if  
3 the current or aftereffects of such consumption affect mental,  
4 emotional or physical processes to a degree that would result in  
5 abnormal behavior. Any person convicted of a violation of the  
6 provisions of this section shall be punished as provided in Section  
7 1289.15 of this title.

8 Any person convicted of a violation of the provisions of this  
9 section after having been issued a handgun license pursuant to the  
10 provisions of the Oklahoma Self-Defense Act shall have the license  
11 suspended for a term of six (6) months and shall be subject to an  
12 administrative fine of Fifty Dollars (\$50.00), upon a hearing and  
13 determination by the Oklahoma State Bureau of Investigation that the  
14 person is in violation of the provisions of this section.

15 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.11, as  
16 last amended by Section 6, Chapter 406, O.S.L. 2019 (21 O.S. Supp.  
17 2020, Section 1290.11), is amended to read as follows:

18 Section 1290.11.

19 OTHER PRECLUSIONS

20 A. The following conditions shall preclude a person from being  
21 eligible for a handgun license pursuant to the provisions of the  
22 Oklahoma Self-Defense Act for a period of time as prescribed in each  
23 of the following paragraphs:

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1           1. An arrest for an alleged commission of a felony offense or a  
2 felony charge pending in this state, another state or pursuant to  
3 the United States Code. The preclusive period shall be until the  
4 final determination of the matter;

5           2. The person is subject to the provisions of a deferred  
6 sentence or deferred prosecution in this state or another state or  
7 pursuant to federal authority for the commission of a felony  
8 offense. The preclusive period shall be three (3) years and shall  
9 begin upon the final determination of the matter;

10          3. Any involuntary commitment for a mental illness, condition,  
11 or disorder pursuant to the provisions of Section 5-410 of Title 43A  
12 of the Oklahoma Statutes or any involuntary commitment in another  
13 state pursuant to any provisions of law of that state. The  
14 preclusive period shall be permanent as provided by Title 18 of the  
15 United States Code Section 922(g)(4) unless the person has been  
16 granted relief from the disqualifying disability pursuant to Section  
17 1290.27 of this title;

18          4. The person has previously undergone treatment for a mental  
19 illness, condition, or disorder which required medication or  
20 supervision as defined by paragraph 7 of Section 1290.10 of this  
21 title. The preclusive period shall be three (3) years from the last  
22 date of treatment or upon presentation of a certified statement from  
23 a licensed physician stating that the person is either no longer  
24 disabled by any mental or psychiatric illness, condition, or

1 disorder or that the person has been stabilized on medication for  
2 ten (10) years or more;

3 5. Inpatient treatment for substance abuse. The preclusive  
4 period shall be three (3) years from the last date of treatment or  
5 upon presentation of a certified statement from a licensed physician  
6 stating that the person has been free from substance use for twelve  
7 (12) months or more preceding the filing of an application for a  
8 handgun license;

9 6. Two or more convictions of public intoxication pursuant to  
10 subsection D of Section 6-101 of Title 37A of the Oklahoma Statutes,  
11 or a similar law of another state. The preclusive period shall be  
12 three (3) years from the date of the completion of the last  
13 sentence;

14 7. Two or more misdemeanor convictions relating to intoxication  
15 or driving under the influence of an intoxicating substance or  
16 alcohol. The preclusive period shall be three (3) years from the  
17 date of the completion of the last sentence or shall require a  
18 certified statement from a licensed physician stating that the  
19 person is not in need of substance abuse treatment;

20 8. A court order for a final Victim Protection Order against  
21 the applicant, as authorized by the Protection from Domestic Abuse  
22 Act, or any court order granting a final victim protection order  
23 against the applicant from another state. The preclusive period  
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1 shall be sixty (60) days from the date an order was vacated,  
2 canceled, withdrawn or otherwise no longer in effect;

3 9. An adjudicated delinquent or convicted felon residing in the  
4 residence of the applicant which may be a violation of Section 1283  
5 of this title. The preclusive period shall be thirty (30) days from  
6 the date the person no longer resides in the same residence as the  
7 applicant; or

8 10. An arrest for an alleged commission of, a charge pending  
9 for, or the person is subject to the provisions of a deferred  
10 prosecution for any one or more of the following misdemeanor  
11 offenses in this state or another state:

12 a. any assault and battery which caused serious physical  
13 injury to the victim or any second or subsequent  
14 assault and battery,

15 b. any aggravated assault and battery,

16 c. any stalking pursuant to Section 1173 of this title,  
17 or a similar law of another state,

18 d. any violation of the Protection from Domestic Abuse  
19 Act or any violation of a victim protection order of  
20 another state,

21 e. any violation relating to illegal drug use or  
22 possession except for an applicant or licensee in  
23 legal possession of a medical marijuana patient  
24 license, or

1 f. an act of domestic abuse as defined by Section 644 of  
2 this title or an act of domestic assault and battery  
3 or any comparable acts under the law of another state.

4 The preclusive period shall be until the final determination of  
5 the matter. The preclusive period for a person subject to the  
6 provisions of a deferred sentence for the offenses mentioned in this  
7 paragraph shall be three (3) years and shall begin upon the final  
8 determination of the matter.

9 B. Nothing in this section shall be construed to require a full  
10 investigation of the applicant by the Oklahoma State Bureau of  
11 Investigation.

12 C. Nothing in this section shall be construed to allow the  
13 Oklahoma State Bureau of Investigation to deny an otherwise  
14 qualified applicant from obtaining a handgun license pursuant to the  
15 Oklahoma Self-Defense Act solely on the basis of the applicant being  
16 a lawful holder of a medical marijuana patient license.

17 SECTION 3. This act shall become effective November 1, 2021.

18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY  
19 February 19, 2021 - DO PASS  
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