

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 35

6 By: David

7 COMMITTEE SUBSTITUTE

8 An Act relating to firearms; amending 21 O.S. 2011,
9 Section 1290.8, as last amended by Section 4, Chapter
10 366, O.S.L. 2013 (21 O.S. Supp. 2016, Section
11 1290.8), which relates to possession of license
12 required; modifying inclusions; amending 21 O.S.
13 2011, Section 1290.12, as last amended by Section 2,
14 Chapter 256, O.S.L. 2016 (21 O.S. Supp. 2016, Section
15 1290.12), which relates to the procedure for
16 application; modifying certain requirements; amending
17 21 O.S. 2011, Section 1290.15, as last amended by
18 Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp.
19 2016, Section 1290.15), which relates to persons
20 exempt from training course; modifying inclusions;
21 modifying certain exemption requirements; amending 21
22 O.S. 2011, Section 1290.26, as last amended by
23 Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp.
24 2016, Section 1290.26), which relates to reciprocal
agreement authority; modifying authorized inclusions;
and providing an effective date.

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.

1 POSSESSION OF LICENSE REQUIRED

2 NOTIFICATION TO POLICE OF GUN

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

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

11 or

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

14 a. active military, or

15 b. a member of the Reserve or National Guard to include

16 Drill Status Guard and Reserve, Active Guard Reserves

17 or Military Technicians,

18 and presents a valid military identification card in lieu of a
19 handgun license.

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

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

21 Upon the arrest of any person for a violation of the provisions
22 of this subsection, the person may show proof to the court that a
23 valid handgun license and the other required identification has been
24 issued to such person and the person may state any reason why the

1 handgun license, a valid military identification card as provided
2 for qualified persons in this section or the other required
3 identification was not carried by the person as required by the
4 Oklahoma Self-Defense Act. The court shall dismiss an alleged
5 violation of Section 1272 of this title upon payment of court costs,
6 if proof of a valid handgun license and other required
7 identification is shown to the court within ten (10) days of the
8 arrest of the person. The court shall report a dismissal of a
9 charge to the Bureau for consideration of administrative proceedings
10 against the licensee.

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

- 1 a. an application form,
- 2 b. procedures to follow to process the application form,
- 3 and
- 4 c. a copy of the Oklahoma Self-Defense Act with any
- 5 modifications thereto;

6 2. The person shall be required to successfully complete a
7 firearms safety and training course from a firearms instructor who
8 is approved and registered in this state as provided in Section
9 1290.14 of this title or from an interactive online firearms safety
10 and training course available electronically via the Internet which
11 has been approved as to curriculum by the Council on Law Enforcement
12 Education and Training, and the person shall be required to
13 demonstrate competency and qualification with a pistol authorized
14 for concealed or unconcealed carry by the Oklahoma Self-Defense Act.
15 The original certificate of successful completion of a firearms
16 safety and training course and an original certificate of successful
17 demonstration of competency and qualification to carry and handle a
18 pistol shall be submitted with the application for a handgun
19 license. No duplicate, copy, facsimile or other reproduction of the
20 certificate of training, certificate of competency and qualification
21 or exemption from training shall be acceptable as proof of training
22 as required by the provisions of the Oklahoma Self-Defense Act.—A
23 ~~person exempt from the training requirements as provided in Section~~
24 ~~1290.15 of this title must show the required proof of such exemption~~

1 ~~to the firearms instructor to receive an exemption certificate. The~~
2 ~~original exemption certificate must be submitted with the~~
3 ~~application for a handgun license when the person claims an~~
4 ~~exemption from training and qualification;~~

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

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

- 14 a. a money order or a cashier's check made payable to the
15 Oklahoma State Bureau of Investigation,
- 16 b. a nationally recognized credit card issued to the
17 applicant. For purposes of this paragraph,
18 "nationally recognized credit card" means any
19 instrument or device, whether known as a credit card,
20 credit plate, charge plate, or by any other name,
21 issued with or without fee by the issuer for the use
22 of the cardholder in obtaining goods, services, or
23 anything else of value on credit which is accepted by
24 over one thousand merchants in the state. The

1 Oklahoma State Bureau of Investigation shall determine
2 which nationally recognized credit cards will be
3 accepted by the Bureau, or
4 c. electronic funds transfer.

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

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

16 5. The completed application form shall be signed by the
17 applicant in person before the sheriff. The signature shall be
18 given voluntarily upon a sworn oath that the person knows the
19 contents of the application and that the information contained in
20 the application is true and correct. Any person making any false or
21 misleading statement on an application for a handgun license shall,
22 upon conviction, be guilty of perjury as defined by Section 491 of
23 this title. Any conviction shall be punished as provided in Section
24 500 of this title. In addition to a criminal conviction, the person

1 shall be denied the right to have a handgun license pursuant to the
2 provisions of Section 1290.10 of this title and the Oklahoma State
3 Bureau of Investigation shall revoke the handgun license, if issued;

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

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

23 8. Upon verification of the identity of the applicant, the
24 sheriff shall take two complete sets of fingerprints of the

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

11 9. The sheriff shall submit to the Oklahoma State Bureau of
12 Investigation within the fourteen-day period, together with the
13 completed application, including the certificate of training,
14 certificate of competency and qualification ~~or exemption~~
15 ~~certificate~~, photographs, processing fee and legible fingerprints
16 meeting the Oklahoma State Bureau of Investigation's Automated
17 Fingerprint Identification System (AFIS) submission standards, and a
18 report of information deemed pertinent to an investigation of the
19 applicant for a handgun license. The sheriff shall make a
20 preliminary investigation of pertinent information about the
21 applicant and the court clerk shall assist the sheriff in locating
22 pertinent information in court records for this purpose. If no
23 pertinent information is found to exist either for or against the
24 applicant, the sheriff shall so indicate in the report;

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

8 11. Notwithstanding the provisions of the Oklahoma Self-Defense
9 Act, or any other provisions of law, any person who has been granted
10 a permanent victim protective order by the court, as provided for in
11 the Protection from Domestic Abuse Act, may be issued a temporary
12 handgun license for a period not to exceed six (6) months. A
13 temporary handgun license may be issued if the person has
14 successfully passed the required weapons course, completed the
15 application process for the handgun license, passed the preliminary
16 investigation of the person by the sheriff and court clerk, and
17 provided the sheriff proof of a certified permanent victim
18 protective order and a valid Oklahoma state photo identification
19 card or driver license. The sheriff shall issue a temporary handgun
20 license on a form approved by the Oklahoma State Bureau of
21 Investigation, at no cost. Any person who has been issued a
22 temporary license shall carry the temporary handgun license and a
23 valid Oklahoma state photo identification on his or her person at
24 all times, and shall be subject to all the requirements of the

1 Oklahoma Self-Defense Act when carrying a handgun. The person may
2 proceed with the handgun licensing process. In the event the victim
3 protective order is no longer enforceable, the temporary handgun
4 license shall cease to be valid;

5 12. The Oklahoma State Bureau of Investigation shall make a
6 reasonable effort to investigate the information submitted by the
7 applicant and the sheriff, to ascertain whether or not the issuance
8 of a handgun license would be in violation of the provisions of the
9 Oklahoma Self-Defense Act. The investigation by the Bureau of an
10 applicant shall include, but shall not be limited to: a statewide
11 criminal history records search, a national criminal history records
12 search, a Federal Bureau of Investigation fingerprint search, and if
13 applicable, an investigation of medical records or other records or
14 information deemed by the Bureau to be relevant to the application.

15 a. In the course of the investigation by the Bureau, it
16 shall present the name of the applicant along with any
17 known aliases, the address of the applicant and the
18 social security number of the applicant to the
19 Department of Mental Health and Substance Abuse
20 Services. The Department of Mental Health and
21 Substance Abuse Services shall respond within ten (10)
22 days of receiving such information to the Bureau as
23 follows:
24

1 (1) with a "Yes" answer, if the records of the
2 Department indicate that the person was
3 involuntarily committed to a mental institution
4 in Oklahoma,

5 (2) with a "No" answer, if there are no records
6 indicating the name of the person as a person
7 involuntarily committed to a mental institution
8 in Oklahoma, or

9 (3) with an "Inconclusive" answer if the records of
10 the Department suggest the applicant may be a
11 formerly committed person. In the case of an
12 inconclusive answer, the Bureau shall ask the
13 applicant whether he or she was involuntarily
14 committed. If the applicant states under penalty
15 of perjury that he or she has not been
16 involuntarily committed, the Bureau shall
17 continue processing the application for a
18 license.

19 b. In the course of the investigation by the Bureau, it
20 shall check the name of any applicant who is twenty-
21 eight (28) years of age or younger along with any
22 known aliases, the address of the applicant and the
23 social security number of the applicant against the
24 records in the Juvenile Online Tracking System (JOLTS)

1 of the Office of Juvenile Affairs. The Office of
2 Juvenile Affairs shall provide the Bureau direct
3 access to check the applicant against the records
4 available on JOLTS:

5 (1) if the Bureau finds a record on the JOLTS that
6 indicates the person was adjudicated a delinquent
7 for an offense that would constitute a felony
8 offense if committed by an adult within the last
9 ten (10) years the Bureau shall deny the license,

10 (2) if the Bureau finds no record on the JOLTS
11 indicating the named person was adjudicated
12 delinquent for an offense that would constitute a
13 felony offense if committed by an adult within
14 the last ten (10) years, or

15 (3) if the records suggest the applicant may have
16 been adjudicated delinquent for an offense that
17 would constitute a felony offense if committed by
18 an adult but such record is inconclusive, the
19 Bureau shall ask the applicant whether he or she
20 was adjudicated a delinquent for an offense that
21 would constitute a felony offense if committed by
22 an adult within the last ten (10) years. If the
23 applicant states under penalty of perjury that he
24 or she was not adjudicated a delinquent within

1 ten (10) years, the Bureau shall continue
2 processing the application for a license; and

3 13. If the background check set forth in paragraph 12 of this
4 subsection reveals no records pertaining to the applicant, the
5 Oklahoma State Bureau of Investigation shall either issue a handgun
6 license or deny the application within sixty (60) days of the date
7 of receipt of the applicant's completed application and the required
8 information from the sheriff. In all other cases, the Oklahoma
9 State Bureau of Investigation shall either issue a handgun license
10 or deny the application within ninety (90) days of the date of the
11 receipt of the applicant's completed application and the required
12 information from the sheriff. The Bureau shall approve an applicant
13 who appears to be in full compliance with the provisions of the
14 Oklahoma Self-Defense Act, if completion of the federal fingerprint
15 search is the only reason for delay of the issuance of the handgun
16 license to that applicant. Upon receipt of the federal fingerprint
17 search information, if the Bureau receives information which
18 precludes the person from having a handgun license, the Bureau shall
19 revoke the handgun license previously issued to the applicant. The
20 Bureau shall deny a license when the applicant fails to properly
21 complete the application form or application process or is
22 determined not to be eligible as specified by the provisions of
23 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
24 approve an application in all other cases. If an application is

1 denied, the Bureau shall notify the applicant in writing of its
2 decision. The notification shall state the grounds for the denial
3 and inform the applicant of the right to an appeal as may be
4 provided by the provisions of the Administrative Procedures Act.
5 All notices of denial shall be mailed by first-class mail to the
6 address of the applicant listed in the application. Within sixty
7 (60) calendar days from the date of mailing a denial of application
8 to an applicant, the applicant shall notify the Bureau in writing of
9 the intent to appeal the decision of denial or the right of the
10 applicant to appeal shall be deemed waived. Any administrative
11 hearing on a denial which may be provided shall be conducted by a
12 hearing examiner appointed by the Bureau. The decision of the
13 hearing examiner shall be a final decision appealable to a district
14 court in accordance with the Administrative Procedures Act. When an
15 application is approved, the Bureau shall issue the license and
16 shall mail the license by first-class mail to the address of the
17 applicant listed in the application.

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

24

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

4 Section 1290.15.

5 PERSONS EXEMPT FROM TRAINING COURSE

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

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

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

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

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

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

24

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

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

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

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

19 ~~B. The Council on Law Enforcement Education and Training~~
20 ~~(CLEET) shall establish criteria for providing proof of an~~
21 ~~exemption. Before any person shall be considered exempt from all or~~
22 ~~part of the required training and qualification pursuant to the~~
23 ~~provisions of the Oklahoma Self-Defense Act, the person shall~~
24 ~~present the required proof of exemption to a registered firearms~~

1 ~~instructor. Each person determined to be exempt from training or~~
2 ~~qualification as provided in this subsection shall receive an~~
3 ~~exemption certificate from the registered firearms instructor. The~~
4 ~~rules promulgated by CLEET to implement the provisions of this~~
5 ~~section and Section 1290.14 of this title may require that a fee not~~
6 ~~to exceed Five Dollars (\$5.00) be charged for processing an~~
7 ~~exemption certificate. The original exemption certificate must be~~
8 ~~submitted with an application for a handgun license as provided in~~
9 ~~paragraph 2 of Section 1290.12 of this title. No person who is~~
10 determined to be exempt from training or qualification may carry a
11 concealed or unconcealed firearm pursuant to the authority of the
12 Oklahoma Self-Defense Act until issued a valid handgun license or
13 possesses a valid military identification card as provided for
14 qualified persons in Section 1290.8 of this title.

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

22 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.26, as
23 last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp.
24 2016, Section 1290.26), is amended to read as follows:

1 Section 1290.26.

2 RECIPROCAL AGREEMENT AUTHORITY

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

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

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

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

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

21

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