

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1185

By: David of the Senate

and

Derby, Ritze and Kern of  
the House

6  
7  
8  
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to firearms; amending 21 O.S. 2011,  
11 Section 1289.3, which relates to definitions for  
12 Firearms Act; modifying language; amending 21 O.S.  
13 2011, Section 1289.16, as amended by Section 20,  
14 Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015, Section  
15 1290.16), which relates to felony pointing firearms;  
16 modifying inclusions; 21 O.S. 2011, Section 1289.25,  
17 which relates to physical or deadly force against  
18 intruder; defining terms; modifying certain action;  
19 amending 21 O.S. 2011, Section 1290.2, as last  
20 amended by Section 2, Chapter 366, O.S.L. 2013 (21  
21 O.S. Supp. 2015, Section 1290.2), which relates to  
22 definitions; modifying language; amending 21 O.S.  
23 2011, Section 1290.8, as last amended by Section 4,  
24 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.

24

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

3 Section 1289.25.

4 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

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

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

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

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

22 C. The presumption set forth in subsection B of this section  
23 does not apply if:  
24

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.



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~~  
24

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.~~

24

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.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

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

55-2-3500 BH 5/20/2016 2:37:54 PM