An Act

ENROLLED SENATE
BILL NO. 234

By: Justice of the Senate

and

Osborn of the House

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

SUBJECT: Firearms for officers on and off duty

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

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

Section 1289.23.

CONCEALED FIREARM FOR OFF-DUTY POLICE OFFICER

A. ~~A~~ Notwithstanding any provision of law to the contrary, a full-time duly appointed peace officer who is certified by the Council on Law Enforcement Education and Training (CLEET), pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma 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 on active duty as provided by the provisions of subsection B of this section.

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

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

2. To keep the ~~authorized~~ approved weapon concealed or unconcealed at all times, except when the weapon is used within the guidelines established by the employing agency.

C. Nothing in this section shall be construed to alter or amend the provisions of Section 1272.1 of this title or expand the duties, authority or jurisdiction of any peace officer.

D. A reserve peace officer who has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies from the Council on Law Enforcement Education and Training or a course of study approved by CLEET may carry ~~a certified~~ ~~weapon~~ an approved weapon when such officer is off duty as provided by subsection E of this section, provided:

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

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

E. When an off-duty reserve peace officer carries ~~a certified weapon~~ an approved weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or when not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have his or her official peace officer's badge, Commission Card, CLEET Certification Card and written authorization on his or her person at all times when carrying a weapon ~~certified and~~ approved by the employing agency; and

2. To keep the ~~authorized weapon~~ approved weapon concealed or unconcealed at all times, except when the weapon is used within the guidelines established by the employing agency.

F. Nothing in subsection D of this section shall be construed to alter or amend the provisions of Section 1750.2 of Title 59 of the Oklahoma Statutes or expand the duties, jurisdiction or authority of any reserve peace officer.

G. Nothing in this section shall be construed to limit or restrict any peace officer or reserve peace officer from carrying a handgun, concealed or unconcealed, as allowed by the Oklahoma Self-Defense Act after issuance of a valid license. ~~When an off-duty officer elects to carry a handgun~~ An off-duty, full-time peace officer or reserve peace officer shall be deemed to have elected to carry a handgun under the authority of the Oklahoma Self-Defense Act~~, the person shall comply with all provisions of such act and shall not be representing the employing agency~~ when the officer:

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

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

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

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

1. The officer shall apply in writing to the Council on Law Enforcement Education and Training (CLEET) stating that the officer desires to have a handgun license pursuant to the Oklahoma Self-Defense Act and certifying that he or she has no preclusions to having such handgun license. The officer shall submit with the application:

a. an official letter from his or her employing agency confirming the officer's employment and status as a full-time commissioned peace officer or an active reserve peace officer,

b. a fee of Twenty-five Dollars ($25.00) for the handgun license, and

c. two passport-size photographs of the peace officer applicant~~.~~;

2. Upon receiving the required information, CLEET shall determine whether the peace officer is in good standing, has CLEET certification and training, and is otherwise eligible for a handgun license. Upon verification of the officer's eligibility, CLEET shall send the information to the Oklahoma State Bureau of Investigation (OSBI) and OSBI shall issue a handgun license in the same or similar form as other handgun licenses. All other requirements in Section 1290.12 of this title concerning application for a handgun license shall be waived for active duty peace officers except as provided in this subsection~~,~~ including, but not limited to, training, fingerprints and criminal history records checks unless the officer does not have fingerprints on file or a criminal history records background check conducted prior to employment as a peace officer. The OSBI shall not be required to conduct any further investigation into the eligibility of the peace officer applicant and shall not deny a handgun license except when preclusions are found to exist~~.~~;

3. The term of the handgun license for an active duty reserve or full-time commissioned peace officer pursuant to this section

shall be as provided in Section 1290.5 of this title, renewable in the same manner provided in this subsection for an original application by a peace officer. The handgun license shall be valid when the peace officer is in possession of a valid driver license and law enforcement commission card.;

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

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

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

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

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

Section 1289.8.

CARRYING CONCEALED WEAPON

A. Any fire marshal inspector who is retired, state, county, or municipal peace officer of this state who is retired, or any state, county, or municipal peace officer classified as a reserve who is retired, or any federal law enforcement officer who is retired may retain their status as a peace officer, retired, in the State of Oklahoma, and as such may carry a concealed pistol pursuant to the provisions of subsection B of this section. A retired state, county, or municipal peace officer may in times of great emergency

or danger serve to enforce the law, keep the peace~~,~~ or to protect the public in keeping with their availability and ability at the request of the Governor, the sheriff~~,~~ or the mayor of their retirement jurisdiction. If a retired fire marshal is activated for duty, the peace officer powers of the retired fire marshal are limited to the duties granted prior to retirement.

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

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

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

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

a. has not been convicted of and is currently not subject to any pending criminal prosecution for any felony offense, any drug-related offense, aggravated assault and battery~~,~~ or any offense involving impairment by drugs or alcohol,

b. has not been forced into retirement due to any mental disorder, and

c. has not suffered any injury or any physical or mental impairment which would render the person unsafe to carry a concealed pistol.

D. A retired peace officer, who has made application for the CLEET identification card authorized in subsection B of this section, shall be authorized to carry a concealed firearm as an off-duty peace officer, pursuant to Section 1289.23 of this title, until the authority to carry a concealed firearm as a retired officer is finally approved or denied by CLEET.

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

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

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

Passed the Senate the 3rd day of March, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2015.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 16th day of April, 2015, at 3:25 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 21st day of April, 2015, at 2:06 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st day of April, 2015, at 3:19 o'clock P. M.

By: C. Benge