An Act

ENROLLED SENATE
BILL NO. 959

By: Paddack and Pittman of the Senate

and

Thomsen and Sherrer of the House

An Act relating to firearms; amending 21 O.S. 2011, Section 1289.8, as amended by Section 2, Chapter 144, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1289.8), which relates to carrying a concealed weapon; clarifying definitions; modifying certain requirements; amending 21 O.S. 2011, Section 1290.12, as last amended by Section 7 of Enrolled House Bill No. 3201 of the 2nd Session of the 55th Oklahoma Legislature, which relates to the procedure for application; clarifying language; and providing an effective date.

SUBJECT: Carrying of firearms

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.8, as amended by Section 2, Chapter 144, O.S.L. 2015 (21 O.S. Supp. 2015, 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~~ firearm 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~~ firearm 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~~ every ten (10) years and 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~~ In order to renew the permit, the Council on Law Enforcement Education and Training shall request, pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes, 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. A retired peace officer requesting a renewal of his or her permit shall submit to the Council a nonrefundable fee for a national criminal history record with fingerprint analysis, as provided in Section 150.9 of Title 74 of the Oklahoma Statutes. 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~~ firearm.

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~~ preclusion prescribed in Section 1290.10 or 1290.11 of this title,

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~~ firearm.

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~~ firearm 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 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as last amended by Section 7 of Enrolled House Bill No. 3201 of the 2nd Session of the 55th Oklahoma Legislature, is amended to read as follows:

Section 1290.12

PROCEDURE FOR APPLICATION

A. Except as provided in paragraph 11 of this subsection, the procedure for applying for a handgun license and processing the application shall be as follows:

1. An eligible person may request an application packet for a handgun license from the Oklahoma State Bureau of Investigation or the county sheriff's office either in person or by mail. The Bureau may provide application packets to each sheriff not exceeding two hundred packets per request. The Bureau shall provide the following information in the application packet:

a. an application form,

b. procedures to follow to process the application form, and

c. a copy of the Oklahoma Self-Defense Act with any modifications thereto;

2. The person shall be required to successfully complete a firearms safety and training course from a firearms instructor who is approved and registered in this state as provided in Section 1290.14 of this title or from an interactive online firearms safety and training course available electronically via the Internet which has been approved ~~and certified~~ as to curriculum by the Council on Law Enforcement Education and Training, and the person shall be required to demonstrate competency and qualification with a pistol authorized for concealed or unconcealed carry by the Oklahoma Self-

Defense Act. The original certificate of successful completion of a firearms safety and training course and an original certificate of successful demonstration of competency and qualification to carry and handle a pistol shall be submitted with the application for a handgun license. No duplicate, copy, facsimile or other reproduction of the certificate of training, certificate of competency and qualification or exemption from training shall be acceptable as proof of training as required by the provisions of the Oklahoma Self-Defense Act. A person exempt from the training requirements as provided in Section 1290.15 of this title must show the required proof of such exemption to the firearms instructor to receive an exemption certificate. The original exemption certificate must be submitted with the application for a handgun license when the person claims an exemption from training and qualification;

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

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

a. a money order or a cashier's check made payable to the Oklahoma State Bureau of Investigation,

b. ~~by~~ a nationally recognized credit card issued to the applicant. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by the issuer for the use of the cardholder in obtaining goods, services, or anything else of value on credit which is accepted by over one thousand merchants in the state. The Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau, or

c. ~~by~~ electronic funds transfer.

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

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

5. The completed application form shall be signed by the applicant in person before the sheriff. The signature shall be given voluntarily upon a sworn oath that the person knows the contents of the application and that the information contained in the application is true and correct. Any person making any false or misleading statement on an application for a handgun license shall, upon conviction, be guilty of perjury as defined by Section 491 of this title. Any conviction shall be punished as provided in Section 500 of this title. In addition to a criminal conviction, the person shall be denied the right to have a handgun license pursuant to the provisions of Section 1290.10 of this title and the Oklahoma State Bureau of Investigation shall revoke the handgun license, if issued;

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

7. The sheriff shall witness the signature of the applicant and review or take the photographs of the applicant and shall verify

that the person making application for a handgun license is the same person in the photographs submitted and the same person who signed the application form. Proof of a valid Oklahoma driver license with a photograph of the applicant or an Oklahoma state photo identification for the applicant shall be required to be presented by the applicant to the sheriff for verification of the person's identity;

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

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

10. The Oklahoma State Bureau of Investigation, upon receipt of the application and required information from the sheriff, shall forward one full set of fingerprints of the applicant to the Federal Bureau of Investigation for a national criminal history records search. The cost of processing the fingerprints nationally shall be

paid from the processing fee collected by the Oklahoma State Bureau of Investigation;

11. Notwithstanding the provisions of the Oklahoma Self-Defense Act, or any other provisions of law, any person who has been granted a permanent ~~victim's~~ victim protective order by the court, as provided for in the Protection from Domestic Abuse Act, may be issued a temporary handgun license for a period not to exceed six (6) months. A temporary handgun license may be issued if the person has successfully passed the required weapons course, completed the application process for the handgun license, passed the preliminary investigation of the person by the sheriff and court clerk, and provided the sheriff proof of a certified permanent victim ~~protection~~ protective order and a valid Oklahoma state photo identification card or driver license. The sheriff shall issue a temporary handgun license on a form approved by the Oklahoma State Bureau of Investigation, at no cost. Any person who has been issued a temporary license shall carry the temporary handgun license and a valid Oklahoma state photo identification on his or her person at all times, and shall be subject to all the requirements of the Oklahoma Self-Defense Act when carrying a handgun. The person may proceed with the handgun licensing process. In the event the ~~victim's protection~~ victim protective order is no longer enforceable, the temporary handgun license shall cease to be valid;

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

a. In the course of the investigation by the Bureau, it shall present the name of the applicant along with any known aliases, the address of the applicant and the social security number of the applicant to the Department of Mental Health and Substance Abuse Services. The Department of Mental Health and

Substance Abuse Services shall respond within ten (10) days of receiving such information to the Bureau as follows:

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

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

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

b. In the course of the investigation by the Bureau, it shall check the name of any applicant who is twenty-eight (28) years of age or younger along with any known aliases, the address of the applicant and the social security number of the applicant against the records in the Juvenile Online Tracking System (JOLTS) of the Office of Juvenile Affairs. The Office of Juvenile Affairs shall provide the Bureau direct access to check the applicant against the records available on JOLTS~~.~~:

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

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

(3) ~~If~~ if the records suggest the applicant may have been adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult but such record is inconclusive, the Bureau shall ask the applicant whether he or she was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years. If the applicant states under penalty of perjury that he or she was not adjudicated a delinquent within ten (10) years, the Bureau shall continue processing the application for a license; and

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

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

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

SECTION 3. This act shall become effective November 1, 2016.

Passed the Senate the 28th day of April, 2016.

Eddie Fields
Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2016.

Joe R. Dorman
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 2nd day of May, 2016, at 2:40 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 5th day of May, 2016, at 3:04 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th day of May, 2016, at 3:38 o'clock P. M.

By: Chris Benge