

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 41

By: Fry of the Senate

and

Calvey of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public safety; amending 21 O.S.
12 2011, Sections 1289.3 and 1289.25, which relate to
13 definitions and physical or deadly force against an
14 intruder; broadening definition; modifying construing
15 provision; and providing an effective date.

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

17 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.3, is
18 amended to read as follows:

19 Section 1289.3

20 DEFINITIONS FOR FIREARMS ACT

21 "Pistols" or "handguns" as used in the Oklahoma Firearms Act of
22 1971, ~~Sections 1289.1 through 1289.17 of this title,~~ shall mean any
23 firearm capable of discharging a projectile or series of projectiles
24 from single rounds of ammunition composed of any material which may

1 reasonably be expected to be able to cause lethal injury, with a
2 barrel or barrels less than sixteen (16) inches in length, and using
3 either gunpowder, gas or any means of rocket propulsion, but not to
4 include flare guns, underwater fishing guns or blank pistols.

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

7 Section 1289.25

8 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

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

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

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

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

4 C. The presumption set forth in subsection B of this section
5 does not apply if:

6 1. The person against whom the defensive force is used has the
7 right to be in or is a lawful resident of the dwelling, residence,
8 or vehicle, such as an owner, lessee, or titleholder, and there is
9 not a protective order from domestic violence in effect or a written
10 pretrial supervision order of no contact against that person;

11 2. The person or persons sought to be removed are children or
12 grandchildren, or are otherwise in the lawful custody or under the
13 lawful guardianship of, the person against whom the defensive force
14 is used; or

15 3. The person who uses defensive force is engaged in an
16 unlawful activity or is using the dwelling, residence, occupied
17 vehicle, or place of business to further an unlawful activity.

18 D. A person who is not engaged in an unlawful activity and who
19 is attacked in any other place where he or she has a right to be has
20 no duty to retreat and has the right to stand his or her ground and
21 meet force with force, including deadly force, if he or she
22 reasonably believes it is necessary to do so to prevent death or
23 great bodily harm to himself or herself or another or to prevent the
24 commission of a forcible felony.

1 E. A person who unlawfully and by force enters or attempts to
2 enter the dwelling, residence, occupied vehicle of another person,
3 or a place of business is presumed to be doing so with the intent to
4 commit an unlawful act involving force or violence.

5 F. A person who uses force, as permitted pursuant to the
6 provisions of subsections B and D of this section, is justified in
7 using such force and is immune from criminal prosecution and civil
8 action for the use of such force. As used in this subsection, the
9 term "criminal prosecution" includes charging or prosecuting the
10 defendant.

11 G. A law enforcement agency may use standard procedures for
12 investigating the use of force, but the law enforcement agency may
13 not arrest the person for using force unless it determines that
14 there is probable cause that the force that was used was unlawful.

15 H. The court shall award reasonable attorney fees, court costs,
16 compensation for loss of income, and all expenses incurred by the
17 defendant in defense of any civil action brought by a plaintiff if
18 the court finds that the defendant is immune from prosecution as
19 provided in subsection F of this section.

20 I. The provisions of this section and the provisions of the
21 Oklahoma Self-Defense Act shall not be construed to require any
22 person using a ~~pistol~~ weapon pursuant to the provisions of this
23 section to be licensed in any manner.

24 J. As used in this section:

1 1. "Dwelling" means a building or conveyance of any kind,
2 including any attached porch, whether the building or conveyance is
3 temporary or permanent, mobile or immobile, which has a roof over
4 it, including a tent, and is designed to be occupied by people;

5 2. "Residence" means a dwelling in which a person resides
6 either temporarily or permanently or is visiting as an invited
7 guest; and

8 3. "Vehicle" means a conveyance of any kind, whether or not
9 motorized, which is designed to transport people or property.

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

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12 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/09/2015 -
13 DO PASS, As Amended.
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