

An Act

ENROLLED SENATE
BILL NO. 41

By: Fry and Shortey of the
Senate

and

Calvey and Faught of the
House

An Act relating to public safety; amending 21 O.S. 2011, Sections 1289.3, 1289.25 and 1290.22, as amended by Section 7, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2014, Section 1290.22), which relate to definitions, physical or deadly force against an intruder and business owner's rights; broadening definition; modifying construing provision; limiting certain prohibition; and providing an effective date.

SUBJECT: Firearm rights

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

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

Section 1289.3

DEFINITIONS FOR FIREARMS ACT

"Pistols" or "handguns" as used in the Oklahoma Firearms Act of 1971, ~~Sections 1289.1 through 1289.17 of this title,~~ shall mean any firearm capable of discharging a projectile or series of projectiles from single rounds of ammunition composed of any material which may reasonably be expected to be able to cause lethal injury, with a

barrel or barrels less than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include flare guns, underwater fishing guns or blank pistols.

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

Section 1289.25

PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

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

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

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

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

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

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

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

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

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

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

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

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

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

I. The provisions of this section and the provisions of the Oklahoma Self-Defense Act shall not be construed to require any

person using a ~~pistol~~ weapon pursuant to the provisions of this section to be licensed in any manner.

J. As used in this section:

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

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

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

SECTION 3. AMENDATORY 21 O.S. 2011, Section 1290.22, as amended by Section 7, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2014, Section 1290.22), is amended to read as follows:

Section 1290.22

BUSINESS OWNER'S RIGHTS

A. Except as provided in ~~subsection~~ subsections B and C of this section, nothing contained in any provision of the Oklahoma Self-Defense Act shall be construed to limit, restrict or prohibit in any manner the existing rights of any person, property owner, tenant, employer, place of worship or business entity to control the possession of weapons on any property owned or controlled by the person or business entity.

B. No person, property owner, tenant, employer, place of worship or business entity shall be permitted to establish any policy or rule that has the effect of prohibiting any person, except a convicted felon, from transporting and storing firearms in a locked vehicle on any property set aside for any vehicle.

C. A property owner, tenant, employer, place of worship or business entity may prohibit any person from carrying a concealed or unconcealed firearm on the property, unless the property is within

the specific exclusions provided for in paragraph 4 of subsection B of Section 1277 of this title. If the building or property is open to the public, the property owner, tenant, employer, place of worship or business entity shall post signs on or about the property stating such prohibition.

D. The carrying of a concealed or unconcealed firearm by a person who has been issued a handgun license on property that has signs prohibiting the carrying of firearms shall not be deemed a criminal act but may subject the person to being denied entrance onto the property or removed from the property. If the person refuses to leave the property and a peace officer is summoned, the person may be issued a citation for an amount not to exceed Two Hundred Fifty Dollars (\$250.00).

E. A person, corporation, place of worship or any other business entity that does or does not prohibit any individual except a convicted felon from carrying a loaded or unloaded, concealed or unconcealed weapon on property that the person, corporation, place of worship or other business entity owns, or has legal control of, is immune from any liability arising from that decision. Except for acts of gross negligence or willful or wanton misconduct, an employer who does or does not prohibit their employees from carrying a concealed or unconcealed weapon is immune from any liability arising from that decision. The provisions of this subsection shall not apply to claims pursuant to the Workers' Compensation Code.

SECTION 4. This act shall become effective November 1, 2015.

Passed the Senate the 4th day of May, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2015.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____