

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1131

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2021,
8 Sections 1290.2, 1290.4, 1290.7, 1290.8, 1290.24,
9 1290.25, and 1290.26, which relate to definitions,
10 unlawful carry, construing authority of license,
11 possession of license required, liability,
12 legislative intent, and reciprocal agreement
13 authority; clarifying terms; modifying definitions;
14 modifying lawful carry; modifying compliance; stating
15 applicable certain proof; modifying components of
16 reciprocity; updating statutory language; and
17 providing an effective date.

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

21 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1290.2, is
22 amended to read as follows:

23 Section 1290.2.

24 DEFINITIONS

25 A. As used in the Oklahoma Self-Defense Act:

26 1. "Completed application" means all fields are completed, all
27 questions are answered and the required signatures are present on
28 the application for a handgun license, and the required documents

1 are attached to the application, including legible fingerprints, if
2 applicable;

3 2. "Concealed ~~handgun~~ firearm" means a loaded or unloaded
4 ~~pistol or handgun~~ firearm not openly visible to the ordinary
5 observation of a reasonable person;

6 3. "Unconcealed ~~handgun~~ firearm" or "open carry" means a loaded
7 or unloaded ~~pistol or handgun~~ firearm that is not held in the hand,
8 but rather is carried upon the person in a holster where the firearm
9 is visible, or carried upon the person using a scabbard, or sling ~~or~~
10 ~~case designed for carrying firearms~~ in a general vertical position
11 where the barrel of the firearm is safely pointed in a general up or
12 down direction. The provisions of this paragraph shall not apply
13 while lawfully at a gun range, while lawfully hunting, or during an
14 act of self-defense; and

15 4. "Pistol" or "handgun" shall have the same definition as
16 provided in ~~the Oklahoma Firearms Act of 1971, defined in Section~~
17 1289.3 of this title;

18 5. "Rifle" shall have the same definition as provided in
19 Section 1289.4 of this title; and

20 6. "Shotgun" shall have the same definition as provided in
21 Section 1289.5 of this title.

22 B. The definition of pistol or handgun for purposes of the
23 Oklahoma Self-Defense Act shall not apply to imitation pistols,
24 flare guns, underwater fishing guns or blank pistols.

1 1. Carry or possess any weapon other than an authorized ~~pistol~~
2 firearm as defined by the provisions of ~~Section 1290.2~~ Sections
3 1289.3, 1289.4, or 1289.5 of this title;

4 2. Carry or possess any ~~pistol~~ firearm in any manner or in any
5 place otherwise prohibited by law;

6 3. Carry or possess any prohibited ammunition or any illegal,
7 ~~imitation or homemade pistol~~ firearm in violation of state law;

8 4. Carry or possess any ~~pistol~~ firearm when the person is
9 prohibited by state ~~or federal~~ law from carrying or possessing any
10 firearm; or

11 5. Point, discharge or use the ~~pistol~~ firearm in any manner not
12 otherwise authorized by law.

13 B. The ~~availability of a license~~ ability to carry a firearm
14 pursuant to the provisions of the Oklahoma Self-Defense Act shall
15 not be construed to prohibit the lawful transport or carrying of a
16 ~~handgun or pistol~~ firearm in a vehicle or on or about the person
17 whether concealed or unconcealed, loaded or unloaded, ~~and without a~~
18 ~~valid handgun license~~ as permitted by law.

19 SECTION 4. AMENDATORY 21 O.S. 2021, Section 1290.8, is
20 amended to read as follows:

21 Section 1290.8.

22 POSSESSION OF LICENSE REQUIRED

23 NOTIFICATION TO POLICE OF GUN

1 A. Except as otherwise prohibited by law, an eligible person
2 shall have authority to carry a concealed or unconcealed ~~handgun~~
3 firearm in this state when:

4 1. The person ~~has been issued a handgun license from the~~
5 ~~Oklahoma State Bureau of Investigation pursuant to the provisions of~~
6 ~~the Oklahoma Self-Defense Act,~~ provided the person is in compliance
7 with the provisions of the Oklahoma Self-Defense Act, ~~and the~~
8 ~~license has not expired or been subsequently suspended or revoked;~~
9 or

10 2. The person is ~~twenty-one (21) years of age or older,~~ and is
11 ~~either:~~

12 a. ~~active military,~~ or

13 b. ~~a member of the Reserve or National Guard to include~~
14 ~~Drill Status Guard and Reserve, Active Guard Reserves~~
15 ~~or Military Technicians,~~

16 and presents a valid military identification card that shall be
17 considered a valid handgun license issued authorized pursuant to the
18 ~~Oklahoma Self-Defense Act~~ provisions of Section 1272 of this title.

19 B. A person in possession of a valid state photo identification
20 card, driver license or valid handgun license or who ~~meets the~~
21 ~~criteria and~~ presents a valid military identification card ~~as~~
22 ~~provided for in this section~~ and is in compliance with the
23 provisions of the Oklahoma Self-Defense Act shall be authorized to
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1 carry such concealed or unconcealed ~~handgun~~ firearm while scouting
2 as it relates to hunting or fishing or while hunting or fishing.

3 C. The person shall be required to have possession of his or
4 her valid handgun license ~~or,~~ a valid military identification card
5 ~~as provided for qualified persons in this section and,~~ a valid
6 driver license or state photo identification card at all times when
7 in possession of ~~an authorized pistol~~ a firearm. The person shall
8 display ~~the~~ either a valid handgun license or, a valid military
9 identification card, a valid driver license, or a valid state photo
10 identification card as provided for qualified persons in this
11 section on demand of a law enforcement officer; provided, however,
12 that in the absence of reasonable and articulable suspicion of other
13 criminal activity, an individual carrying an unconcealed or
14 concealed ~~handgun~~ firearm shall not be disarmed or physically
15 restrained unless the individual fails to display one of the
16 following: a valid handgun license ~~or,~~ a valid military
17 identification card, a valid driver license, or a valid state photo
18 identification card as provided for qualified persons in this
19 section in response to that demand. Any violation of the provisions
20 of this subsection may be punishable as a criminal offense as
21 authorized by Section 1272 of this title or pursuant to any other
22 applicable provision of law.

23 Upon the arrest of any person for a violation of the provisions
24 of this subsection, the person may show proof to the court that a
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1 valid handgun license ~~and the other required,~~ a valid military
2 identification card, a valid driver license, or a valid state photo
3 identification card has been issued to such person and the person
4 may state any reason why the valid handgun license, a valid military
5 identification card, valid driver license, or valid state photo
6 identification card as provided for qualified persons in this
7 section ~~or the other required identification~~ was not carried by the
8 person as required by the Oklahoma Self-Defense Act. The court
9 shall dismiss an alleged violation of Section 1272 of this title
10 upon payment of court costs, if proof of one of the following: a
11 valid handgun license ~~and other required,~~ a valid military
12 identification card, a valid driver license, or valid state photo
13 identification card is shown to the court within ten (10) days of
14 the arrest of the person. ~~The court shall report a dismissal of a~~
15 ~~charge to the Bureau for consideration of administrative proceedings~~
16 ~~against the licensee.~~

17 D. It shall be unlawful for any person to fail or refuse to
18 identify the fact that the person is in actual possession of a
19 concealed or unconcealed firearm pursuant to the authority of the
20 Oklahoma Self-Defense Act during the course of any arrest,
21 detainment, or routine traffic stop. ~~Said~~ The identification to the
22 law enforcement officer shall be required upon the demand of the law
23 enforcement officer. No person shall be required to identify
24 himself or herself as ~~a handgun licensee or as~~ lawfully in

1 possession of any other firearm if the law enforcement officer does
2 not demand the information. No person shall be required to identify
3 himself or herself as a ~~handgun licensee~~ in possession of a firearm
4 when no ~~handgun~~ firearm is in the possession of the person or in any
5 vehicle in which the person is driving or is a passenger. Any
6 violator of the provisions of this subsection may be issued a
7 citation for an amount not exceeding One Hundred Dollars (\$100.00).

8 E. Any law enforcement officer coming in contact with a person
9 whose handgun license is suspended, or revoked, ~~or expired,~~ or who
10 is in possession of a handgun license which has not been lawfully
11 issued to that person, shall confiscate the license and return it to
12 the Oklahoma State Bureau of Investigation for appropriate
13 administrative proceedings against the licensee when the license is
14 no longer needed as evidence in any criminal proceeding.

15 F. Nothing in this section shall be construed to authorize a
16 law enforcement officer to inspect any weapon properly concealed or
17 unconcealed without probable cause that a crime has been committed.

18 SECTION 5. AMENDATORY 21 O.S. 2021, Section 1290.24, is
19 amended to read as follows:

20 Section 1290.24.

21 IMMUNITY

22 A. The state or any political subdivision of the state, as
23 defined in Section 152 of Title 51 of the Oklahoma Statutes, and its
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1 officers, agents and employees shall not be ~~immune from~~ subject to
2 liability resulting or arising from:

3 1. Failure to prevent the licensing of an individual for whom
4 the receipt of the license is unlawful pursuant to the provisions of
5 the Oklahoma Self-Defense Act or any other provision of law of this
6 state;

7 2. Any action or misconduct with a firearm committed by a
8 person pursuant to the provisions of the Oklahoma Self-Defense Act
9 or by any person who obtains a firearm;

10 3. Any injury to any person during a ~~handgun~~ firearm training
11 course conducted by a firearms instructor certified by the Council
12 on Law Enforcement Education and Training to conduct training under
13 the Oklahoma Self-Defense Act, or injury from any misfire or
14 malfunction of any ~~handgun~~ firearm on a training course firing range
15 supervised by a certified firearms instructor under the provisions
16 of the Oklahoma Self-Defense Act, or any injury resulting from
17 carrying a concealed or unconcealed ~~handgun~~ firearm pursuant to a
18 ~~handgun license~~ any firearms training; and

19 4. Any action or finding pursuant to a hearing conducted in
20 accordance with the Administrative Procedures Act as required in the
21 Oklahoma Self-Defense Act.

22 B. Firearms instructors certified by the Council on Law
23 Enforcement Education and Training to conduct training for the
24 Oklahoma Self-Defense Act shall not be ~~immune from~~ subject to
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1 liability to third persons resulting or arising from any claim based
2 on an act or omission of a trainee.

3 C. The provisions of this subsection shall not apply to claims
4 pursuant to the Administrative Workers' Compensation Act.

5 SECTION 6. AMENDATORY 21 O.S. 2021, Section 1290.25, is
6 amended to read as follows:

7 Section 1290.25.

8 LEGISLATIVE INTENT

9 The Legislature finds as a matter of public policy and fact that
10 it is necessary to provide statewide uniform standards for ~~issuing~~
11 ~~licenses to carry~~ carrying concealed or unconcealed ~~handguns~~
12 firearms for lawful self-defense and self-protection, and further
13 finds it necessary to occupy the field of regulation of the bearing
14 of concealed or unconcealed ~~handguns~~ firearms to ensure that no
15 honest, law-abiding citizen who qualifies pursuant to the provisions
16 of the Oklahoma Self-Defense Act is subjectively or arbitrarily
17 denied his or her rights. The Legislature does not delegate to the
18 Oklahoma State Bureau of Investigation any authority to regulate or
19 restrict the issuing of handgun licenses except as provided by the
20 provisions of ~~this act~~ the Oklahoma Self-Defense Act. Subjective or
21 arbitrary actions or rules which encumber the issuing process by
22 placing burdens on the applicant beyond those requirements detailed
23 in the provisions of the Oklahoma Self-Defense Act or which create
24 restrictions beyond those specified in this act are deemed to be in
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1 conflict with the intent of ~~this act~~ the Oklahoma Self-Defense Act
2 and are hereby prohibited. The Oklahoma Self-Defense Act shall be
3 liberally construed to carry out the constitutional right to bear
4 arms for self-defense and self-protection. The provisions of the
5 Oklahoma Self-Defense Act are cumulative to existing rights to bear
6 arms and nothing in the Oklahoma Self-Defense Act shall impair or
7 diminish those rights.

8 However, the conditions that mandate the administrative actions
9 of license denial, suspension, revocation or an administrative fine
10 are intended to protect the health, safety and public welfare of the
11 citizens of this state. The restricting conditions specified in the
12 Oklahoma Self-Defense Act generally involve the criminal history,
13 mental state, alcohol or substance abuse of the applicant or
14 licensee, a hazard of domestic violence, a danger to police
15 officers, or the ability of the Oklahoma State Bureau of
16 Investigation to properly administer the Oklahoma Self-Defense Act.
17 The restricting conditions that establish a risk of injury or harm
18 to the public are tailored to reduce the risks to the benefit of the
19 citizens of this state.

20 SECTION 7. AMENDATORY 21 O.S. 2021, Section 1290.26, is
21 amended to read as follows:

22 Section 1290.26.

23 RECIPROCAL AGREEMENT AUTHORITY

1 A. The State of Oklahoma shall hereby ~~recognizes~~ recognize any
2 valid concealed or unconcealed carry weapons permit, valid military
3 identification card as provided for qualified persons in Section
4 1290.8 of this title or license issued by another state, or if the
5 state is a nonpermitting carry state, this state shall reciprocate
6 under the permitting law of that state.

7 ~~A.~~ B. Any person entering this state in possession of a firearm
8 authorized for concealed or unconcealed carry upon the authority and
9 license of another state ~~or,~~ a valid military identification card, a
10 valid driver license, or valid state photo identification card, as
11 provided for qualified persons in Section 1290.8 of this title is
12 authorized to continue to carry a concealed or unconcealed firearm
13 and license in this state; provided, the license from the other
14 state ~~or,~~ a valid military identification card, a valid driver
15 license, or valid state photo identification card, as provided for
16 qualified persons in Section 1290.8 of this title, remains valid.
17 The firearm must either be carried unconcealed or concealed, and
18 upon coming in contact with any peace officer of this state, the
19 person must disclose the fact that he or she is in possession of a
20 concealed or unconcealed firearm pursuant to a valid concealed or
21 unconcealed carry weapons permit, license or a valid military
22 identification card, as provided for qualified persons in Section
23 1290.8 of this title issued in another state.

1 ~~B.~~ C. Any person ~~entering~~ who enters this state in possession
2 of a firearm authorized for ~~concealed~~ carry upon the authority of a
3 state that is a nonpermitted carry state and ~~the person~~ is in
4 compliance with the Oklahoma Self-Defense Act, ~~the person is~~ shall
5 be authorized to carry a concealed or unconcealed firearm in this
6 state. The firearm must be carried fully concealed, or unconcealed
7 ~~and upon~~ in compliance with the laws of this state. When coming in
8 contact with any ~~peace~~ law enforcement officer of this state and
9 upon instruction from the law enforcement officer, the person must
10 disclose the fact that he or she is in possession of a ~~concealed or~~
11 ~~unconcealed~~ firearm pursuant to the ~~nonpermitting laws of the state~~
12 ~~in which he or she is a legal resident.~~ The person shall present
13 ~~proper identification by a valid photo ID as proof that he or she is~~
14 ~~a legal resident in such a non-permitting state.~~ The Department of
15 ~~Public Safety shall keep a current list of non-permitting states for~~
16 ~~law enforcement officers to confirm that a state is nonpermitting.~~

17 ~~C.~~ D. Any person who is twenty-one (21) years of age or older
18 having a valid firearm license from another state may apply for a
19 handgun license in this state immediately upon establishing a
20 ~~residence~~ residency in this state.

21 SECTION 8. This act shall become effective November 1, 2022.

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