

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 735

6 By: David

7 COMMITTEE SUBSTITUTE

8 An Act relating to firearms; amending 21 O.S. 2011,
9 Section 1290.8, as last amended by Section 4, Chapter
10 366, O.S.L. 2013 (21 O.S. Supp. 2015, Section
11 1290.8), which relates of possession of license
12 required; authorizing certain identification for
13 certain purpose; amending 21 O.S. 2011, Section
14 1290.12, as last amended by Section 1, Chapter 72,
15 O.S.L. 2015 (21 O.S. Supp. 2015, Section 1290.12),
16 which relates to the procedure for application;
17 modifying requirements; amending 21 O.S. 2011,
18 Section 1290.15, as last amended by Section 2,
19 Chapter 86, O.S.L. 2013 (21 O.S. Supp. 2015, Section
20 1290.15), which relates to exemptions from training
21 courses; modifying certain exemption requirements and
22 documentation; amending 21 O.S. 2011, Section
23 1290.26, as last amended by Section 18, Chapter 15,
24 O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.26),
which relates to reciprocal agreement authority;
authorizing certain persons to use certain
identification for certain purpose; and providing an
effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.8, as
last amended by Section 4, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
2015, Section 1290.8), is amended to read as follows:

Section 1290.8.

1 POSSESSION OF LICENSE REQUIRED

2 NOTIFICATION TO POLICE OF GUN

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

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

11 or

12 2. The person is twenty-one (21) years of age or older, is on
13 active military or National Guard duty, regular military or National
14 Guard reserve duty or has retired or been honorably discharged from
15 military service and presents a valid military identification card
16 in lieu of a handgun license. A person in possession of a valid
17 handgun license or a valid military identification card and in
18 compliance with the provisions of the Oklahoma Self-Defense Act
19 shall be authorized to carry such concealed or unconcealed handgun
20 while bow hunting or fishing.

21 B. The person shall be required to have possession of his or
22 her valid handgun license or valid military identification card and
23 a valid Oklahoma driver license or an Oklahoma State photo
24 identification at all times when in possession of an authorized

1 pistol. The person shall display the handgun license or a valid
2 military identification card on demand of a law enforcement officer;
3 provided, however, that in the absence of reasonable and articulable
4 suspicion of other criminal activity, an individual carrying an
5 unconcealed or concealed handgun shall not be disarmed or physically
6 restrained unless the individual fails to display a valid handgun
7 license or valid military identification card in response to that
8 demand. Any violation of the provisions of this subsection may be
9 punishable as a criminal offense as authorized by Section 1272 of
10 this title or pursuant to any other applicable provision of law.
11 Any second or subsequent violation of the provisions of this
12 subsection shall be grounds for the Bureau to suspend the handgun
13 license for a period of six (6) months, in addition to any other
14 penalty imposed.

15 Upon the arrest of any person for a violation of the provisions
16 of this subsection, the person may show proof to the court that a
17 valid handgun license and the other required identification has been
18 issued to such person and the person may state any reason why the
19 handgun license or the other required identification was not carried
20 by the person as required by the Oklahoma Self-Defense Act. The
21 court shall dismiss an alleged violation of Section 1272 of this
22 title upon payment of court costs, if proof of a valid handgun
23 license and other required identification is shown to the court
24 within ten (10) days of the arrest of the person. The court shall

1 report a dismissal of a charge to the Bureau for consideration of
2 administrative proceedings against the licensee.

3 C. It shall be unlawful for any person to fail or refuse to
4 identify the fact that the person is in actual possession of a
5 concealed or unconcealed handgun pursuant to the authority of the
6 Oklahoma Self-Defense Act when the person comes into contact with
7 any law enforcement officer of this state or its political
8 subdivisions or a federal law enforcement officer during the course
9 of any arrest, detainment, or routine traffic stop. Said
10 identification to the law enforcement officer shall be made at the
11 first opportunity. No person shall be required to identify himself
12 or herself as a handgun licensee when no handgun is in the
13 possession of the person or in any vehicle in which the person is
14 driving or is a passenger. Any violation of the provisions of this
15 subsection shall, upon conviction, be a misdemeanor punishable by a
16 fine not exceeding One Hundred Dollars (\$100.00).

17 D. Any law enforcement officer coming in contact with a person
18 whose handgun license is suspended, revoked, or expired, or who is
19 in possession of a handgun license which has not been lawfully
20 issued to that person, shall confiscate the license and return it to
21 the Oklahoma State Bureau of Investigation for appropriate
22 administrative proceedings against the licensee when the license is
23 no longer needed as evidence in any criminal proceeding.

24

1 E. Nothing in this section shall be construed to authorize a
2 law enforcement officer to inspect any weapon properly concealed or
3 unconcealed without probable cause that a crime has been committed.

4 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as
5 last amended by Section 1, Chapter 72, O.S.L. 2015 (21 O.S. Supp.
6 2015, Section 1290.12), is amended to read as follows:

7 Section 1290.12.

8 PROCEDURE FOR APPLICATION

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

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

- 18 a. an application form,
- 19 b. procedures to follow to process the application form,
- 20 and
- 21 c. a copy of the Oklahoma Self-Defense Act with any
22 modifications thereto;

23 2. The person shall be required to successfully complete a
24 firearms safety and training course from a firearms instructor who

1 is approved and registered in this state as provided in Section
2 1290.14 of this title, and the person shall be required to
3 demonstrate competency and qualification with a pistol authorized
4 for concealed or unconcealed carry by the Oklahoma Self-Defense Act.
5 The original certificate of training shall be submitted with the
6 application for a handgun license. No duplicate, copy, facsimile or
7 other reproduction of the certificate of training or exemption from
8 training shall be acceptable as proof of training as required by the
9 provisions of the Oklahoma Self-Defense Act. ~~A person exempt from
10 the training requirements as provided in Section 1290.15 of this
11 title must show the required proof of such exemption to the firearms
12 instructor to receive an exemption certificate. The original
13 exemption certificate must be submitted with the application for a
14 handgun license when the person claims an exemption from training
15 and qualification;~~

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

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

- 1 a. a money order or a cashier's check made payable to the
2 Oklahoma State Bureau of Investigation,
- 3 b. by a nationally recognized credit card issued to the
4 applicant. For purposes of this paragraph,
5 "nationally recognized credit card" means any
6 instrument or device, whether known as a credit card,
7 credit plate, charge plate, or by any other name,
8 issued with or without fee by the issuer for the use
9 of the cardholder in obtaining goods, services, or
10 anything else of value on credit which is accepted by
11 over one thousand merchants in the state. The
12 Oklahoma State Bureau of Investigation shall determine
13 which nationally recognized credit cards will be
14 accepted by the Bureau, or
- 15 c. by electronic funds transfer.

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

21 The processing fee shall not be refundable in the event of a
22 denial of a handgun license or any suspension or revocation
23 subsequent to the issuance of a license. Persons making application
24 for a firearms instructor shall not be required to pay the

1 application fee as provided in this section, but shall be required
2 to pay the costs provided in paragraphs 6 and 8 of this subsection;

3 5. The completed application form shall be signed by the
4 applicant in person before the sheriff. The signature shall be
5 given voluntarily upon a sworn oath that the person knows the
6 contents of the application and that the information contained in
7 the application is true and correct. Any person making any false or
8 misleading statement on an application for a handgun license shall,
9 upon conviction, be guilty of perjury as defined by Section 491 of
10 this title. Any conviction shall be punished as provided in Section
11 500 of this title. In addition to a criminal conviction, the person
12 shall be denied the right to have a handgun license pursuant to the
13 provisions of Section 1290.10 of this title and the Oklahoma State
14 Bureau of Investigation shall revoke the handgun license, if issued;

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

1 7. The sheriff shall witness the signature of the applicant and
2 review or take the photographs of the applicant and shall verify
3 that the person making application for a handgun license is the same
4 person in the photographs submitted and the same person who signed
5 the application form. Proof of a valid Oklahoma driver license with
6 a photograph of the applicant or an Oklahoma State photo
7 identification for the applicant shall be required to be presented
8 by the applicant to the sheriff for verification of the person's
9 identity;

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

22 9. The sheriff shall submit to the Oklahoma State Bureau of
23 Investigation within the fourteen-day period, together with the
24 completed application, including the certificate of training ~~or~~

1 ~~exemption certificate~~, photographs, processing fee and legible
2 fingerprints meeting the Oklahoma State Bureau of Investigation's
3 Automated Fingerprint Identification System (AFIS) submission
4 standards, and a report of information deemed pertinent to an
5 investigation of the applicant for a handgun license. The sheriff
6 shall make a preliminary investigation of pertinent information
7 about the applicant and the court clerk shall assist the sheriff in
8 locating pertinent information in court records for this purpose.
9 If no pertinent information is found to exist either for or against
10 the applicant, the sheriff shall so indicate in the report;

11 10. The Oklahoma State Bureau of Investigation, upon receipt of
12 the application and required information from the sheriff, shall
13 forward one full set of fingerprints of the applicant to the Federal
14 Bureau of Investigation for a national criminal history records
15 search. The cost of processing the fingerprints nationally shall be
16 paid from the processing fee collected by the Oklahoma State Bureau
17 of Investigation;

18 11. Notwithstanding the provisions of the Oklahoma Self-Defense
19 Act, or any other provisions of law, any person who has been granted
20 a permanent victim's protective order by the court, as provided for
21 in the Protection from Domestic Abuse Act, may be issued a temporary
22 handgun license for a period not to exceed six (6) months. A
23 temporary handgun license may be issued if the person has
24 successfully passed the required weapons course, completed the

1 application process for the handgun license, passed the preliminary
2 investigation of the person by the sheriff and court clerk, and
3 provided the sheriff proof of a certified permanent victim
4 protection order and a valid Oklahoma state photo identification
5 card or driver license. The sheriff shall issue a temporary handgun
6 license on a form approved by the Oklahoma State Bureau of
7 Investigation, at no cost. Any person who has been issued a
8 temporary license shall carry the temporary handgun license and a
9 valid Oklahoma state photo identification on his or her person at
10 all times, and shall be subject to all the requirements of the
11 Oklahoma Self-Defense Act when carrying a handgun. The person may
12 proceed with the handgun licensing process. In the event the
13 victim's protection order is no longer enforceable, the temporary
14 handgun license shall cease to be valid;

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

1 a. In the course of the investigation by the Bureau, it
2 shall present the name of the applicant along with any
3 known aliases, the address of the applicant and the
4 social security number of the applicant to the
5 Department of Mental Health and Substance Abuse
6 Services. The Department of Mental Health and
7 Substance Abuse Services shall respond within ten (10)
8 days of receiving such information to the Bureau as
9 follows:

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

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

18 (3) with an "Inconclusive" answer if the records of
19 the Department suggest the applicant may be a
20 formerly committed person. In the case of an
21 inconclusive answer, the Bureau shall ask the
22 applicant whether he or she was involuntarily
23 committed. If the applicant states under penalty
24 of perjury that he or she has not been

1 involuntarily committed, the Bureau shall
2 continue processing the application for a
3 license.

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

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

19 (2) If the Bureau finds no record on the JOLTS
20 indicating the named person was adjudicated
21 delinquent for an offense that would constitute a
22 felony offense if committed by an adult within
23 the last ten (10) years, or
24

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

13 13. If the background check set forth in paragraph 12 of this
14 subsection reveals no records pertaining to the applicant, the
15 Oklahoma State Bureau of Investigation shall either issue a handgun
16 license or deny the application within sixty (60) days of the date
17 of receipt of the applicant's completed application and the required
18 information from the sheriff. In all other cases, the Oklahoma
19 State Bureau of Investigation shall either issue a handgun license
20 or deny the application within ninety (90) days of the date of the
21 receipt of the applicant's completed application and the required
22 information from the sheriff. The Bureau shall approve an applicant
23 who appears to be in full compliance with the provisions of the
24 Oklahoma Self-Defense Act, if completion of the federal fingerprint

1 search is the only reason for delay of the issuance of the handgun
2 license to that applicant. Upon receipt of the federal fingerprint
3 search information, if the Bureau receives information which
4 precludes the person from having a handgun license, the Bureau shall
5 revoke the handgun license previously issued to the applicant. The
6 Bureau shall deny a license when the applicant fails to properly
7 complete the application form or application process or is
8 determined not to be eligible as specified by the provisions of
9 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
10 approve an application in all other cases. If an application is
11 denied, the Bureau shall notify the applicant in writing of its
12 decision. The notification shall state the grounds for the denial
13 and inform the applicant of the right to an appeal as may be
14 provided by the provisions of the Administrative Procedures Act.
15 All notices of denial shall be mailed by first-class mail to the
16 address of the applicant listed in the application. Within sixty
17 (60) calendar days from the date of mailing a denial of application
18 to an applicant, the applicant shall notify the Bureau in writing of
19 the intent to appeal the decision of denial or the right of the
20 applicant to appeal shall be deemed waived. Any administrative
21 hearing on a denial which may be provided shall be conducted by a
22 hearing examiner appointed by the Bureau. The decision of the
23 hearing examiner shall be a final decision appealable to a district
24 court in accordance with the Administrative Procedures Act. When an

1 application is approved, the Bureau shall issue the license and
2 shall mail the license by first-class mail to the address of the
3 applicant listed in the application.

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

10 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1290.15, as
11 last amended by Section 2, Chapter 86, O.S.L. 2013 (21 O.S. Supp.
12 2015, Section 1290.15), is amended to read as follows:

13 Section 1290.15.

14 PERSONS EXEMPT FROM TRAINING COURSE

15 A. The following individuals may be exempt from all or part of
16 the required training and qualification course established pursuant
17 to the provisions of Section 1290.14 of this title:

18 1. A firearms instructor registered with the Oklahoma State
19 Bureau of Investigation for purposes of the Oklahoma Self-Defense
20 Act;

21 2. An active duty law enforcement officer of this state or any
22 of its political subdivisions or of the federal government;

23 3. A retired law enforcement officer authorized by this state
24 pursuant to Section 1289.8 of this title to carry a firearm;

1 4. A CLEET-certified armed security officer, armed guard,
2 correctional officer, or any other person having a CLEET
3 certification to carry a firearm in the course of their employment;

4 5. A person on active military duty, National Guard duty or
5 regular military reserve duty who is a legal resident of this state
6 and who is trained and qualified in the use of handguns;

7 6. A person honorably discharged from active military duty,
8 National Guard duty or military reserves within twenty (20) years
9 preceding the date of the application for a handgun license pursuant
10 to the provisions of the Oklahoma Self-Defense Act, who is a legal
11 resident of this state, and who has been trained and qualified in
12 the use of handguns;

13 7. A person retired as a peace officer in good standing from a
14 law enforcement agency located in another state, who is a legal
15 resident of this state, and who has received training equivalent to
16 the training required for CLEET certification in this state; and

17 8. Any person who is otherwise deemed qualified for a training
18 exemption by ~~CLEET~~ the Council on Law Enforcement Education and
19 Training.

20 ~~Provided, however, persons applying for an exemption pursuant to~~
21 ~~paragraph 3, 4, 5, 6 or 7 of this subsection may be required to~~
22 ~~successfully complete the classroom portion of the training course.~~
23 ~~The fee for the classroom portion of the training course shall be~~
24

1 ~~determined by the instructor or entity that is conducting the~~
2 ~~course.~~

3 B. ~~The Council on Law Enforcement Education and Training~~
4 ~~(CLEET) shall establish criteria for providing proof of an~~
5 ~~exemption. Before any person shall be considered exempt from all or~~
6 ~~part of the required training and qualification pursuant to the~~
7 ~~provisions of the Oklahoma Self-Defense Act, the person shall~~
8 ~~present the required proof of exemption to a registered firearms~~
9 ~~instructor. Each person determined to be exempt from training or~~
10 ~~qualification as provided in this subsection shall receive an~~
11 ~~exemption certificate from the registered firearms instructor. The~~
12 ~~rules promulgated by CLEET to implement the provisions of this~~
13 ~~section and Section 1290.14 of this title may require that a fee not~~
14 ~~to exceed Five Dollars (\$5.00) be charged for processing an~~
15 ~~exemption certificate.~~

16 ~~The original exemption certificate must be submitted with an~~
17 ~~application for a handgun license as provided in paragraph 2 of~~
18 ~~Section 1290.12 of this title. No person who is determined to be~~
19 ~~exempt from training or qualification may carry a concealed or~~
20 ~~unconcealed firearm pursuant to the authority of the Oklahoma Self-~~
21 ~~Defense Act until issued a valid handgun license or possesses a~~
22 ~~valid military identification card as provided for in Section 1290.8~~
23 ~~of this title.~~

1 C. Nothing contained in any provision of the Oklahoma Self-
2 Defense Act shall be construed to alter, amend, or modify the
3 authority of any active duty law enforcement officer, or any person
4 certified by the Council on Law Enforcement Education and Training
5 to carry a pistol during the course of their employment, to carry
6 any pistol in any manner authorized by law or authorized by the
7 employing agency.

8 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.26, as
9 last amended by Section 18, Chapter 15, O.S.L. 2013 (21 O.S. Supp.
10 2015, Section 1290.26), is amended to read as follows:

11 Section 1290.26.

12 RECIPROCAL AGREEMENT AUTHORITY

13 The State of Oklahoma hereby recognizes any valid concealed or
14 unconcealed carry weapons permit, valid military identification or
15 license issued by another state, or if the state is a nonpermitting
16 carry state, this state shall reciprocate under the permitting law
17 of that state.

18 A. Any person entering this state in possession of a firearm
19 authorized for concealed or unconcealed carry upon the authority and
20 license of another state or a valid military identification card is
21 authorized to continue to carry a concealed or unconcealed firearm
22 and license in this state; provided the license from the other state
23 or military identification card remains valid. The firearm must
24 either be carried unconcealed or concealed from detection and view,

1 and upon coming in contact with any peace officer of this state, the
2 person must disclose the fact that he or she is in possession of a
3 concealed or unconcealed firearm pursuant to a valid concealed or
4 unconcealed carry weapons permit ~~or~~, license or a valid military
5 identification card issued in another state.

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

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

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SECTION 5. This act shall become effective November 1, 2016.

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