

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2005

By: Townley

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5
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2011,
8 Sections 1279, as amended by Section 1, Chapter 171,
9 O.S.L. 2013 and 1280 (21 O.S. Supp. 2020, Section
10 1279), which relate to misdemeanor penalties for
11 pointing a firearm; clarifying scope of certain
12 prohibited act; providing exception for persons under
13 certain circumstances; removing certain mandatory
14 penalties and administrative fines; amending 21 O.S.
15 2011, Sections 1289.16, as last amended by Section 1,
16 Chapter 266, O.S.L. 2017 and 1289.25, as last amended
17 by Section 1, Chapter 218, O.S.L. 2018 (21 O.S. Supp.
18 2020, Sections 1289.16 and 1289.25), which relate to
19 the Oklahoma Firearms Act of 1971; authorizing the
20 pointing of firearms under certain circumstances;
21 making certain acts unlawful; removing mandatory
22 revocation of handgun license and administrative
23 penalty; expanding right to use deadly force at
24 occupied premises; authorizing the defensive display
of firearms under certain circumstances; providing
exceptions; defining terms; and declaring an
emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1279, as
amended by Section 1, Chapter 171, O.S.L. 2013 (21 O.S. Supp. 2020,
Section 1279), is amended to read as follows:

Section 1279.

MISDEMEANOR POINTING A FIREARM

~~Except for an act of self-defense, it~~ It shall be unlawful for any person to point any ~~pistol~~ firearm or any other deadly weapon, whether loaded or not, at any other person or persons. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable as provided in Section 1280 of this title.

~~Any person convicted of violating the~~ The provisions of this section ~~after having been issued~~ shall not apply to any person acting in self-defense or in defense of real property or private property, whether owned, leased or occupied by permission of the property owner and whether or not the person possesses a valid handgun license pursuant to the provisions of the Oklahoma Self-Defense Act ~~may be subject to an administrative violation as provided in Section 1280 of this title.~~

SECTION 2. AMENDATORY 21 O.S. 2011, Section 1280, is amended to read as follows:

Section 1280.

PENALTY FOR 1279

Any person violating the provisions of Section 1279 of this title shall, upon conviction, ~~shall~~ be guilty of a misdemeanor. ~~The person offending shall be punished~~ punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) ~~and shall be imprisoned,~~ or by imprisonment in

1 the county jail for a period of not less than three (3) nor more
2 than twelve (12) months, or by both such fine and imprisonment. Any
3 ~~person convicted of violating the provisions of Section 1279 of this~~
4 ~~title after having been issued a handgun license pursuant to the~~
5 ~~provisions of the Oklahoma Self-Defense Act, Sections 1 through 25~~
6 ~~of this act, shall have the handgun license permanently revoked and~~
7 ~~shall be liable for an administrative fine of Fifty Dollars (\$50.00)~~
8 ~~upon a hearing and determination by the Oklahoma State Bureau of~~
9 ~~Investigation that the person is in violation of the provisions of~~
10 ~~this section.~~

11 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.16, as
12 last amended by Section 1, Chapter 266, O.S.L. 2017 (21 O.S. Supp.
13 2020, Section 1289.16), is amended to read as follows:

14 Section 1289.16

15 FELONY POINTING FIREARMS

16 ~~Except for an act of~~ A. It shall be lawful to point a shotgun,
17 rifle, pistol, knife or any other deadly weapon at a perpetrator by
18 a person who can legally own or possess weapons pursuant to the
19 provisions of Section 1272 of this title while acting in self-
20 ~~defense, it shall be unlawful for any person to willfully or without~~
21 ~~lawful cause point a shotgun, rifle or pistol, or any deadly weapon,~~
22 ~~whether loaded or not, at any person or persons for the purpose of~~
23 ~~threatening or with the intention of discharging the firearm or with~~
24 ~~any malice or for any purpose of injuring, either through physical~~

1 ~~injury or mental or emotional intimidation or for purposes of~~
2 ~~whimsy, humor or prank, or in anger or otherwise, but not to include~~
3 ~~the pointing of shotguns, rifles or pistols~~ or in defense of real or
4 private property, whether owned, leased or occupied by permission of
5 the property owner and whether or not he or she possesses a valid
6 handgun license pursuant to the provisions of the Oklahoma Self-
7 Defense Act, or by law enforcement authorities in the performance of
8 their duties, armed security guards licensed by the Council on Law
9 Enforcement Education and Training pursuant to the Oklahoma Security
10 Guard and Private Investigator Act in the performance of their
11 duties, members of the state military forces in the performance of
12 their duties, members of the federal military reserve and active
13 military components in the performance of their duties, ~~or any~~
14 federal government law enforcement ~~officer~~ officers in the
15 performance of ~~any duty~~ their duties, persons in possession of a
16 valid handgun license pursuant to the provisions of the Oklahoma
17 Self-Defense Act or persons in the performance of a play on stage,
18 rodeo, television program or ~~on film, or in defense of any person,~~
19 ~~one's home or property.~~

20 B. It shall be unlawful for any person to willfully or without
21 lawful cause point a shotgun, rifle, pistol, knife or any other
22 deadly weapon, whether loaded or not, at any person for the purpose
23 of:

24

1 occupied premises and have the right to establish policies regarding
2 the possession of weapons on property pursuant to the provisions of
3 Section 1290.22 of this title.

4 B. A person, regardless of official capacity or lack of
5 official capacity, within a place of worship or occupied premises,
6 or a person, an owner, manager or employee of a business, is
7 presumed to have held a reasonable fear of imminent peril of death
8 or great bodily harm to himself or herself or another when using
9 defensive force that is intended or likely to cause death or great
10 bodily harm to another if:

11 1. a. The person against whom the defensive force was used
12 was in the process of unlawfully and forcefully
13 entering, or had unlawfully and forcibly entered, a
14 dwelling, residence, occupied vehicle, place of
15 business ~~or,~~ place of worship or occupied premises, or
16 if that person had removed or was attempting to remove
17 another against the will of that person from the
18 dwelling, residence, occupied vehicle, place of
19 business ~~or,~~ place of worship or occupied premises.

20 b. The person who uses defensive force knew or had reason
21 to believe that an unlawful and forcible entry or
22 unlawful and forcible act was occurring or had
23 occurred; or
24

1 2. The person who uses defensive force knew or had a reasonable
2 belief that the person against whom the defensive force was used
3 entered or was attempting to enter into a dwelling, residence,
4 occupied vehicle, place of business ~~or~~, place of worship or occupied
5 premises for the purpose of committing a forcible felony, as defined
6 in Section 733 of this title, and that the defensive force was
7 necessary to prevent the commission of the forcible felony.

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

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

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

19 3. The person who uses defensive force is engaged in an
20 unlawful activity or is using the dwelling, residence, occupied
21 vehicle, place of business ~~or~~, place of worship or occupied premises
22 to further an unlawful activity.

23 D. A person who is not engaged in an unlawful activity and who
24 is attacked in any other place where he or she has a right to be has

1 no duty to retreat and has the right to stand his or her ground and
2 meet force with force, including deadly force, if he or she
3 reasonably believes it is necessary to do so to prevent death or
4 great bodily harm to himself or herself or another or to prevent the
5 commission of a forcible felony.

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

11 F. A person who uses defensive force, as permitted pursuant to
12 the provisions of subsections A, B, D and E of this section, is
13 justified in using such defensive force ~~and is immune from~~ shall not
14 be subject to criminal prosecution and civil action for the use of
15 such defensive force. As used in this subsection, the term
16 "criminal prosecution" includes charging or prosecuting the
17 defendant.

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

23 H. The court shall award reasonable attorney fees, court costs,
24 compensation for loss of income, and all expenses incurred by the

1 defendant in defense of any civil action brought by a plaintiff if
2 the court finds that the defendant ~~is immune from~~ shall not be
3 subject to prosecution as provided in subsection F of this section.

4 I. The provisions of this section and the provisions of the
5 Oklahoma Self-Defense Act shall not be construed to require any
6 person using a weapon pursuant to the provisions of this section to
7 be licensed in any manner.

8 J. A person pointing a weapon at a perpetrator in self-defense
9 or in order to thwart, stop or deter a forcible felony or attempted
10 forcible felony shall not be deemed guilty of committing a criminal
11 act.

12 K. 1. Defensive display of a firearm or other deadly weapon by
13 a person acting in self-defense or in defense of real property or
14 private property, whether owned, leased or occupied by permission of
15 the property owner and whether or not the person possesses a valid
16 handgun license pursuant to the provisions of the Oklahoma Self-
17 Defense Act, against a perpetrator is justified if the person
18 reasonably believes that physical force is immediately necessary to
19 protect himself, herself or another against the use or attempted use
20 of unlawful physical or deadly force and shall not be deemed a
21 criminal act.

22 2. The provisions of this subsection shall not apply to a
23 person who:
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- 1 a. intentionally provokes another person to use or
2 attempt to use unlawful physical or deadly force, or
3 b. uses a firearm during the commission of an unlawful
4 act involving force or violence.

5 3. The provisions of this subsection do not require the
6 defensive display of a firearm or other deadly weapon before the use
7 or threat to use defensive force by a person who is justified in the
8 use or threatened use of defensive force.

9 4. For purposes of this subsection, "defensive display of a
10 firearm" includes, but is not limited to:

- 11 a. verbally informing another person that he or she
12 possesses or has available a firearm or any other
13 deadly weapon,
14 b. exposing or displaying a firearm or any other deadly
15 weapon in a manner that a reasonable person would
16 understand was meant to protect the person against the
17 use or attempted use by another of unlawful physical
18 or deadly force, or
19 c. placing the hand of the person on a firearm or any
20 other deadly weapon while the firearm is contained in
21 a pocket, purse, holster, sling scabbard, case or
22 other means of containment or transport.

23 L. As used in this section:
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1 1. "Defensive force" includes, but shall not be limited to,
2 pointing a weapon at a perpetrator in self-defense or in order to
3 thwart, stop or deter a forcible felony or attempted forcible
4 felony;

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

9 3. "Occupied premises" means any private property occupied by
10 an owner, tenant, lessee, guest, business, place of worship, liquor
11 store or authorized user of the premises including his or her
12 agents;

13 4. "Place of worship" means:

- 14 a. any permanent building, structure, facility or office
15 space owned, leased, rented or borrowed, on a full-
16 time basis, when used for worship services, activities
17 and business of the congregation, which may include,
18 but not be limited to, churches, temples, synagogues
19 and mosques, and
- 20 b. any permanent building, structure, facility or office
21 space owned, leased, rented or borrowed for use on a
22 temporary basis, when used for worship services,
23 activities and business of the congregation including,
24

1 but not limited to, churches, temples, synagogues and
2 mosques;

3 ~~4.~~ 5. "Residence" means a dwelling in which a person resides
4 either temporarily or permanently or is visiting as an invited
5 guest; and

6 ~~5.~~ 6. "Vehicle" means a conveyance of any kind, whether or not
7 motorized, which is designed to transport people or property.

8 SECTION 5. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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13 58-1-6397 GRS 01/19/21
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