SENATE BILL NO. 1036

By: Dahm

An Act relating to firearms; amending 21 O.S. 2021, Section 1289.9, which relates to carrying weapons under the influence of alcohol; modifying inclusions; amending 21 O.S. 2021, Section 1290.11, which relates to eligibility for a handgun license; making certain exception for medical marijuana card holder; prohibiting certain denial; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.9, is amended to read as follows:

Section 1289.9.

CARRYING WEAPONS UNDER INFLUENCE OF ALCOHOL

It shall be unlawful for any person to carry or use shotguns, rifles or pistols in any circumstances while under the influence of beer, intoxicating liquors or any hallucinogenic, or any unlawful or unprescribed drug, and it shall be unlawful for any person to carry or use shotguns, rifles or pistols when under the influence of any drug prescribed by a licensed physician or medical marijuana obtained pursuant to a valid medical marijuana patient license if the current or aftereffects of such consumption affect mental,
emotional or physical processes to a degree that would result in abnormal behavior. Any person convicted of a violation of the provisions of this section shall be punished as provided in Section 1289.15 of this title.

Any person convicted of a violation of the provisions of this section after having been issued a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act shall have the license suspended for a term of six (6) months and shall be subject to an administrative fine of Fifty Dollars ($50.00), upon a hearing and determination by the Oklahoma State Bureau of Investigation that the person is in violation of the provisions of this section.

SECTION 2. AMENDATORY 21 O.S. 2021, Section 1290.11, is amended to read as follows:

Section 1290.11.

OTHER PRECLUSIONS

A. The following conditions shall preclude a person from being eligible for a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act for a period of time as prescribed in each of the following paragraphs:

1. An arrest for an alleged commission of a felony offense or a felony charge pending in this state, another state or pursuant to the United States Code. The preclusive period shall be until the final determination of the matter;
2. The person is subject to the provisions of a deferred sentence or deferred prosecution in this state or another state or pursuant to federal authority for the commission of a felony offense. The preclusive period shall be three (3) years and shall begin upon the final determination of the matter;

3. Any involuntary commitment for a mental illness, condition, or disorder pursuant to the provisions of Section 5-410 of Title 43A of the Oklahoma Statutes or any involuntary commitment in another state pursuant to any provisions of law of that state. The preclusive period shall be permanent as provided by Title 18 of the United States Code Section 922(g)(4) unless the person has been granted relief from the disqualifying disability pursuant to Section 1290.27 of this title;

4. The person has previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision as defined by paragraph 7 of Section 1290.10 of this title. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician stating that the person is either no longer disabled by any mental or psychiatric illness, condition, or disorder or that the person has been stabilized on medication for ten (10) years or more;

5. Inpatient treatment for substance abuse. The preclusive period shall be three (3) years from the last date of treatment or
upon presentation of a certified statement from a licensed physician stating that the person has been free from substance use for twelve (12) months or more preceding the filing of an application for a handgun license;

6. Two or more convictions of public intoxication pursuant to subsection D of Section 6-101 of Title 37A of the Oklahoma Statutes, or a similar law of another state. The preclusive period shall be three (3) years from the date of the completion of the last sentence or shall require a certified statement from a licensed physician stating that the person is not in need of substance abuse treatment;

7. Two or more misdemeanor convictions relating to intoxication or driving under the influence of an intoxicating substance or alcohol. The preclusive period shall be three (3) years from the date of the completion of the last sentence or shall require a certified statement from a licensed physician stating that the person is not in need of substance abuse treatment;

8. A court order for a final Victim Protection Order against the applicant, as authorized by the Protection from Domestic Abuse Act, or any court order granting a final victim protection order against the applicant from another state. The preclusive period shall be sixty (60) days from the date an order was vacated, canceled, withdrawn or is otherwise no longer in effect;
9. An adjudicated delinquent or convicted felon residing in the residence of the applicant which may be a violation of Section 1283 of this title. The preclusive period shall be thirty (30) days from the date the person no longer resides in the same residence as the applicant;

10. An arrest for an alleged commission of, a charge pending for, or the person is subject to the provisions of a deferred prosecution for any one or more of the following misdemeanor offenses in this state or another state:

   a. any assault and battery which caused serious physical injury to the victim or any second or subsequent assault and battery,
   b. any aggravated assault and battery,
   c. any stalking pursuant to Section 1173 of this title, or a similar law of another state,
   d. any violation of the Protection from Domestic Abuse Act or any violation of a victim protection order of another state,
   e. any violation relating to illegal drug use or possession except for an applicant or licensee in legal possession of a medical marijuana patient license, or
f. an act of domestic abuse as defined by Section 644 of this title or an act of domestic assault and battery or any comparable acts under the law of another state.

The preclusive period shall be until the final determination of the matter. The preclusive period for a person subject to the provisions of a deferred sentence for the offenses mentioned in this paragraph shall be three (3) years and shall begin upon the final determination of the matter; or

11. A previously issued handgun license has been revoked. The preclusive period shall be five (5) years from the date of revocation and shall require the person to submit a new application for a handgun license pursuant to the provisions of Section 1290.12 of this title.

B. Nothing in this section shall be construed to require a full investigation of the applicant by the Oklahoma State Bureau of Investigation.

C. Nothing in this section shall be construed to allow the Oklahoma State Bureau of Investigation to deny an otherwise qualified applicant from obtaining a handgun license pursuant to the Oklahoma Self-Defense Act solely on the basis of the applicant being a lawful holder of a medical marijuana patient license.

SECTION 3. This act shall become effective November 1, 2023.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
February 16, 2023 - DO PASS