

Cherokee Nation Code Annotated
Title 21: Crimes and Punishments
Part VI. Crimes Against Public Peace
Chapter 53: Manufacturing, Selling and Wearing Weapons
§ 1289.23. Off-duty peace officers authorized to carry weapons
Cite as: 21 CNCA § 1289.23

A. Notwithstanding any provision of law to the contrary, a full-time duly appointed peace officer who is certified by the Council on Law Enforcement Education and Training, pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma Statutes, is hereby authorized to carry a weapon approved by his employing agency anywhere in the Cherokee Nation, both while on active duty and during periods when he is not on active duty as provided by the provisions of subsection B of this section.

B. When a full-time duly appointed officer carries an approved weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or plainclothes. When not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have the official peace officers badge, Commission Card and C.L.E.E.T. Certification Card on his person at all times when carrying a weapon certified and approved by the employing agency; and
2. To keep the approved weapon concealed from view at all times except when the weapon is used within the guidelines established by the employing agency.

C. Nothing in this section shall be construed to alter or amend the provisions of Section 1272.1 of this title or expand the duties, authority or jurisdiction of any peace officer.

D. A reserve peace officer who has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies from the Council of Law Enforcement Education and Training or a course of study approved by CLEET may carry an approved weapon when such officer is off duty as provided by subsection E of this section, provided:

1. The officer has been granted written authorization signed by the director of the employing agency; and
2. The employing agency shall maintain a current list of any officers authorized to carry an approved weapon while the officers are off duty, and shall provide a copy of such list to the Council on Law Enforcement Education and Training. Any change to the list shall be made in writing and mailed to the Council on Law Enforcement Education and Training within five (5) days.

E. When an off-duty reserve peace officer carries an approved weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or when not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have his or her official peace officer's badge, Commission Card, CLEET Certification Card; and
2. To keep the approved weapon on his or her person at all times, except when the weapon is used within the guidelines established by the employing agency.

F. Nothing in subsection D of this section shall be construed to alter or amend the provisions of Section 1750.2 of Title 59 of the Oklahoma Statutes or expand the duties, jurisdiction or authority of any reserve peace officer.

G. Nothing in this section shall be construed to limit or restrict any peace officer or reserve peace officer from carrying a handgun, concealed or unconcealed, as allowed by the Cherokee Nation Self-Defense Act after issuance of a valid license. An off-duty, full-time peace officer or reserve peace officer shall be deemed to have elected to carry a handgun under the authority of the Cherokee Nation Self-Defense Act when the officer:

1. Has been issued a valid handgun license and is carrying a handgun not authorized by the employing agency; or
2. Is carrying a handgun in a manner or in a place not specifically authorized for off-duty carry by the employing agency.

H. Any off-duty peace officer who carries any weapon in violation of the provisions of this section shall be deemed to be in violation of Section 1272 of this title and may be prosecuted as provided by law for a violation of that section.

I. On or after November 1, 2004, a reserve or full-time commissioned peace officer may apply to carry a weapon pursuant to the Cherokee Nation Self-Defense Act as follows:

1. The officer shall apply in writing to the Council on Law Enforcement Education and Training (CLEET) stating that the officer desires to have a handgun license pursuant to the Cherokee Nation Self-Defense Act and certifying that he or she has no preclusions to having such handgun license. The officer shall submit with the application:

- a. an official letter from his or her employing agency confirming the officer's employment and status as a full-time commissioned peace officer or an active reserve peace officer,
- b. a fee of Twenty-five Dollars (\$25.00) for the handgun license, and
- c. two passport-size photographs of the peace officer applicant;

2. Upon receiving the required information, CLEET shall determine whether the peace officer is in good standing, has CLEET certification and training, and is otherwise eligible for a handgun license. Upon verification of the officer's eligibility, CLEET shall send the information to the Oklahoma State Bureau of Investigation (OSBI) and OSBI shall issue a handgun license in the same or similar form as other handgun licenses. All other requirements in Section 1290.12 of this title concerning application for a handgun license shall be waived for active duty peace officers except as provided in this subsection including, but not limited to, training, fingerprints and criminal history records checks unless the officer does not have fingerprints on file or a criminal history records background check conducted prior to employment as a peace officer. The OSBI shall conduct a check of the National Instant Criminal Background Check System (NICS) prior to the issuance of a handgun license. The OSBI shall not be required to conduct any further investigation into the eligibility of the peace officer applicant and shall not deny a handgun license except when preclusions are found to exist;

3. The term of the handgun license for an active duty reserve or full-time commissioned peace officer pursuant to this section shall be as provided in Section 1290.5 of this title, renewable in the same manner provided in this subsection for an original application by a peace officer. The handgun license shall be valid when the peace officer is in possession of a valid driver license and law enforcement commission card;

4. If the commission card of a law enforcement officer is terminated, revoked or suspended, the handgun license shall be immediately returned to CLEET. When a peace officer in possession of a handgun license pursuant to this subsection changes employment, the person must notify CLEET within ninety (90) days and send a new letter verifying employment and status as a full-time commissioned or reserve peace officer;

5. There shall be no refund of any fee for any unexpired term of any handgun license that is suspended, revoked or voluntarily returned to CLEET, or that is denied, suspended or revoked by the OSBI;

6. CLEET may promulgate any rules, forms or procedures necessary to implement the provisions of this section; and

7. Nothing in this subsection shall be construed to change or amend the application process, eligibility, effective date or fees of any handgun license pending issuance on November 1, 2004, or previously issued to any peace officer prior to November 1, 2004.

Historical Data

LA 10-90, eff. November 13, 1990. Amended LA 28-20, eff. December 14, 2020.