

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1174

BY: MONSON

AS INTRODUCED

AN ACT RELATING TO CRIMES AND PUNISHMENTS; AMENDING SECTION 2, CHAPTER 28, O.S.L. 1985, AS AMENDED BY SECTION 1, CHAPTER 223, O.S.L. 1985 (21 O.S. SUPP. 1990, SECTION 1289.24), WHICH RELATES TO STATE PREEMPTION ON FIREARM REGULATION; REQUIRING A WAITING PERIOD BETWEEN THE PURCHASE AND DELIVERY OF A FIREARM; DEFINING TERMS; PROVIDING FOR CANCELLATION OF SUCH SALE; PROVIDING PENALTIES; PROVIDING FOR CIVIL LIABILITY; REQUIRING THE RETURN OF CERTAIN CONSIDERATION; AUTHORIZING A CANCELLATION FEE; STATING LEGISLATIVE INTENT; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY Section 2, Chapter 28, O.S.L. 1985, as amended by Section 1, Chapter 223, O.S.L. 1985 (21 O.S. Supp. 1990, Section 1289.24), is amended to read as follows:

Section 1289.24 A. The State Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way firearms, components, ammunition, and supplies to the complete exclusion of any order, ordinance, or regulation by any municipality or other political subdivision of this state. Any existing or future orders, ordinances, or regulations in this field except as provided for in ~~subsection~~ subsections C, D and E of this section are null and void. Provided however, a municipality may adopt any ordinance relating to the discharge of firearms within the jurisdiction of the municipality.

B. ~~No~~ Except as provided in subsections C, D and E of this section, no municipality or other political subdivision of this state shall adopt any order, ordinance, or regulation concerning in any way the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permit, registration, taxation other than sales and compensating use taxes, or other controls on firearms, components, ammunition, and supplies.

C. There shall be a mandatory period of three (3) days, excluding weekends and legal holidays, between the purchase and delivery at retail of any firearm. For the purposes of this subsection, "purchase" means the transfer of money or other valuable consideration to the retailer, and "firearm" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. The purchaser of the firearm has the right to cancel the firearm sale until midnight of the third business day after the day on which the purchaser purchased the firearm. If the purchaser intends to cancel the purchase, the purchaser must give a written notice of cancellation to the retailer at the address of the retailer where the purchase occurred. If the retailer of the firearm receives notice of cancellation pursuant to this subsection, the retailer must tender to the buyer within ten (10) days after a firearm sale

has been canceled any payments made by the buyer and any note or other evidence of indebtedness concerning that purchase. The retailer may retain five percent (5%) of the cash price paid as a cancellation fee.

D. Any retailer who is convicted of violating the provisions of subsection C of this section, on the first or second offense, shall be guilty of a misdemeanor punishable by a fine of not to exceed Five Hundred Dollars (\$500.00). Any retailer who is convicted on a third or subsequent offense shall be guilty of a felony punishable by a fine of not to exceed Five Thousand Dollars (\$5,000.00). Any retailer who transfers a firearm to a purchaser prior to the end of the three-day waiting period specified in subsection C of this section shall be civilly liable for any damages resulting from the use of such firearm during the three-day period.

E. 1. Nothing contained in this section shall prohibit any ordinance of any municipality which conforms exactly, except for penalty provisions, with any of the provisions of Sections 1272 through ~~1289.23 of Title 21 of the Oklahoma Statutes~~ 1289.24 of this title.

2. Nothing contained in this section shall prohibit any order, ordinance, or regulation by any municipality concerning the confiscation of property used in violation of the ordinances of the municipality as provided for in Section 28-121 of Title 11 of the Oklahoma Statutes.

3. It is the intent of the Legislature that municipalities enact ordinances providing for the regulation and enforcement of subsections C and D of this section.

SECTION 2. This act shall become effective July 1, 1991.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5483

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