

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1487

BY: ROSS

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; REQUIRING A FELONY OFFENSE RECORD BACKGROUND CHECK ON THE PURCHASER OF CERTAIN FIREARMS AND PROCEDURES RELATED THERETO; PROVIDING PENALTIES; PROVIDING FOR CIVIL LIABILITY; STATING LEGISLATIVE INTENT; AND PROVIDING AN EFFECTIVE DATE.

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 fourteen (14) 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. Prior to a purchase of a firearm, the purchaser shall give his correct and legal name and social security number to the retailer. For purposes of a background felony check prior to the delivery of such firearm to the purchaser, the retailer shall request in writing from the Oklahoma State Bureau of Investigation information concerning any felony offense conviction of the purchaser of a firearm from that retailer. The felony record search shall be made on the name and social security number submitted to the retailer by the purchaser. The Oklahoma State Bureau of Investigation shall provide the felony record requested by the retailer within fourteen (14) days from the receipt of the request. The felony record provided to the retailer shall include the name of the purchaser and

whether or not the purchaser has been convicted of any felony offense. The retailer shall not deliver a firearm to any person who has a felony record pursuant to this subsection. The retailer shall return the money or other valuable consideration to the purchaser if the retailer cannot deliver the firearm to such person because of the felony conviction.

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 fourteen-day waiting period specified in subsection C of this section may be held civilly liable for any death, injury or other damage resulting from the use of such firearm during the fourteen-day period. Any retailer who transfers a firearm to a purchaser after being given notice that the purchaser has a felony conviction may be held civilly liable for any death, injury or other damage resulting from the use of such firearm.

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 September 1, 1991.

43-1-5991

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