

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2626

By: Ross

COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; amending Section 1, Chapter 286, O.S.L. 1992, Section 3, Chapter 309, O.S.L. 1993 and 21 O.S. 1991, Section 1273, as amended by Section 2, Chapter 309, O.S.L. 1993 (21 O.S. Supp. 1993, Section 858, 1271.1 and 1273), which relates to firearms; increasing certain penalties; clarifying certain cites; providing for and modifying confiscation and forfeiture of certain weapons in possession of certain minors; providing penalties; modifying procedures relating to such confiscation and forfeiture of weapons; prohibiting sales of such weapons; authorizing certain lease of such weapons, and providing for procedures related thereto; defining term; prohibiting certain return of weapons; clarifying certain language; making certain persons providing weapons to minors criminally and civilly liable for certain offenses committed by the minor with such weapon; providing penalty; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 286, O.S.L. 1992 (21 O.S. Supp. 1993, Section 858), is amended to read as follows:

Section 858. Any custodial parent or guardian of a child under eighteen (18) years of age whose child commits the crime of possession of a firearm on school property may be fined not exceeding ~~Two Hundred Dollars (\$200.00)~~ Two Thousand Dollars (\$2,000.00), or ordered to perform community service not exceeding ~~forty (40)~~ two hundred (200) hours or both such fine and community service. To satisfy any community service requirement, the court may give preference to work which benefits the school said child attends. Said penalty shall be an administrative penalty and

shall not be recorded on the custodial parent's or guardian's criminal record. The fine shall be payable to the court clerk to be deposited in the court fund. Nothing in this section shall prohibit the filing or prosecution of any criminal charge.

SECTION 2. AMENDATORY Section 3, Chapter 309, O.S.L. 1993 (21 O.S. Supp. 1993, Section 1271.1), is amended to read as follows:

Section 1271.1 A. Whenever a person under eighteen (18) years of age is detained or arrested by a law enforcement officer and is carrying any weapon or firearm prohibited by Section 1272 of ~~Title 21 of the Oklahoma Statutes, every~~ this title, each such prohibited weapon and firearm ~~may~~ shall be confiscated and forfeited ~~by law to the confiscating State of Oklahoma by the law enforcement~~ authority. Such confiscation and forfeiture ~~shall not~~ may require that criminal charges be filed against the minor.

B. The legal owner of, seller of or person who furnished to the minor any weapon or firearm confiscated pursuant to the provisions of this section shall be in violation of the provisions of Section 1273 of this title. However, ~~when~~ if the owner of a weapon or firearm confiscated pursuant to the provisions of this section declares by sworn affidavit that such weapon or firearm has been taken by ~~a~~ the minor without the permission of the owner, said owner shall be deemed not to be in violation of Section 1273 of this title, and the weapon or firearm shall may be returned to the owner pursuant to the procedures provided in Section 1321 of Title 22 of the Oklahoma Statutes, provided the possession of such weapon or firearm by ~~an adult~~ the owner is not otherwise prohibited by law.

C. Any weapon or firearm confiscated and forfeited by law to any law enforcement authority shall not be sold at public auction, but shall be delivered to the State Bureau of Investigation when no longer needed as evidence in the criminal proceeding. The Bureau may lease any firearm confiscated and forfeited by law pursuant to this section to any law enforcement agency for a period of one (1) year and such lease may be renewed each year thereafter at the discretion of the Bureau to assist in the

enforcement of the laws of this state or its political subdivisions. Any weapon or firearm deemed by the Bureau to be inappropriate for lease shall be destroyed.

D. For purposes of this section, the term "confiscate" shall not be construed to prohibit any parent, guardian or other adult person from removing or otherwise seizing from any minor any weapon or firearm in the minor's possession. Provided however, no school authority shall return any weapon or firearm removed or otherwise seized from any minor to any person, and shall immediately deliver such weapon or firearm to a law enforcement authority for prosecution and forfeiture.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1273, as amended by Section 2, Chapter 309, O.S.L. 1993 (21 O.S. Supp. 1993, Section 1273), is amended to read as follows:

Section 1273. ~~It~~ A. Except as otherwise provided in this section, it shall be unlawful for any person within this state, to sell or give to any ~~minor~~ person less than eighteen (18) years of age any of the arms or weapons designated in Section 1272 of this title; provided, the.

B. The provisions of this section shall not prohibit a parent from giving his or her minor child a rifle or shotgun for participation in hunting animals or fowl, hunter safety classes, target shooting, skeet, trap or other recognized sporting events.
~~Any~~

C. Except as provided for in subsection D of this section, any person violating this section shall, upon conviction, be punishable as provided in Section 1276 of this title.

D. Any person convicted of violating this section, when such arms or weapons were used by the person less than eighteen (18) years of age in the commission of any misdemeanor or felony offense, may be held criminally and civilly liable for the criminal action of the person less than eighteen (18) years of age. It is not necessary that such person had actual knowledge of the plans for use of the arms or weapons of the minor in order to be subject to such liability. Such person may be convicted as an

accessory to such misdemeanor or felony offense and sentenced as such is provided for an accessory to that offense.

SECTION 4. This act shall become effective July 1, 1994.

SECTION 5. 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.

44-2-8954

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