

SHORT TITLE: Firearms; shooting galleries; preemption; business owner's right; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1050

By: Shurden

AS INTRODUCED

An Act relating to firearms; amending 11 O.S. 1991, Section 22-110, which relates to municipal authority; limiting and construing certain authority; amending 21 O.S. 1991, Sections 908, 1289.24, as amended by Section 56, Chapter 272, O.S.L. 1995, Section 22, Chapter 272, O.S.L. 1995, and 1362 (21 O.S. Supp. 1995, Sections 1289.24 and 1290.22), which relate to Sabbath-breaking, firearms preemption law, business owners right and disturbing the peace; permitting shooting on Sunday; modifying references; modifying language; removing exception for different penalties from state preemption; clarifying authority of municipality to regulate certain employee rights; exempting certain discharge of firearm from certain prosecution; amending 63 O.S. 1991, Sections 701, 702, 703, 704, 705, 706, 707 and 708, which relate to shooting gallery standards, ammunitions, operators, inspection certificates, city license, hours of operation, penalties, and exceptions; limiting ammunition in open air shooting galleries; clarifying certain penalty; deleting language; specifying times of operation for shooting galleries; providing certain immunity from noise ordinances for certain shooting galleries; prohibiting certain court action; exempting certain shooting galleries from certain rules; specifying liability of certain participant; providing for dormant range; construing authority to limit certain activities; providing for certain regulation of expanded shooting gallery after certain date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 22-110, is amended to read as follows:

Section 22-110. A. The municipal governing body may regulate or prohibit riots, assaults, batteries, petty larceny, disturbances or disorderly assemblies, and immoral or indecent shows, exhibitions  
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or concerts, in any street, house or place in the municipality; and may regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or other dangerously combustible material in the streets, lots, grounds, alleys or about, or in the vicinity of any buildings; provided, however, the discharge of a firearm pursuant to any act of self-defense by a person licensed to carry a concealed handgun pursuant to the Oklahoma Self-Defense Act, Sections 1290.1 through 1290.25 of Title 21 of the Oklahoma Statutes, shall not be regulated or punishable by the municipality in any manner. ~~The governing body may also regulate the carrying of firearms or other deadly weapons, concealed or otherwise, as provided for in Section 2 of this act~~

B. The municipal governing body is prohibited, as provided by the state's firearm preemption, Section 1289.24 of Title 21 of the Oklahoma Statutes, from adopting any order, ordinance or regulation which does not conform exactly to the criminal laws of this state, except as may be authorized for the discharge of firearms.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 908, is amended to read as follows:

Section 908. The following are the acts forbidden to be done on the first day of the week, the doing of any of which is Sabbath-breaking:

1. Servile labor, except works of necessity or charity;~~;~~
2. Trades, manufactures, and mechanical employment;~~;~~
3. All ~~shooting, and~~ horse racing or gaming except as authorized by the Oklahoma Horse Racing Commission pursuant to the provisions of the Oklahoma Horse Racing Act~~, Section 200 et seq. of Title 3A of the Oklahoma Statutes;~~ and
4. All manner of public selling, or offering or exposing for sale publicly, of any commodities, except that meats, bread, fish,

and all other foods may be sold at any time, and except that food and drink may be sold to be eaten and drank upon the premises where sold, and drugs, medicines, milk, ice, and surgical appliances and burial appliances and all other necessities may be sold at any time of the day.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1289.24, as amended by Section 56, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1995, Section 1289.24), is amended to read as follows:

Section 1289.24

FIREARM REGULATION - STATE PREEMPTION

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 C 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, as authorized by Section 22-110 of Title 11 of the Oklahoma Statutes.

B. 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. 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 and Sections 1 through 25 of this act~~ criminal laws of this state.

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.

SECTION 4. AMENDATORY Section 22, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1995, Section 1290.22), is amended to read as follows:

Section 1290.22

BUSINESS OWNER'S RIGHTS

Nothing contained in any provision of the Oklahoma Self-Defense Act, Sections 1290.1 through 1290.25 of Title 21 of the Oklahoma Statutes, shall be construed to limit, restrict or prohibit in any manner the existing rights of any person, property owner, tenant, employer or other business entity to control the possession of weapons on any property owned or controlled by the person or business entity.

For purposes of this section and pursuant to the state's preemption law for firearms, municipalities and other political subdivisions of this state may only regulate the employees of their respective governmental entity during the performance of any governmental duties, obligations or work.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 1362, is amended to read as follows:

Section 1362. ~~If any~~ A. Any person who shall willfully or maliciously disturb, either by day or night, the peace and quiet of any city of the first class, town, village, neighborhood, family or person by loud or unusual noise, or by abusive, violent, obscene or

profane language, whether addressed to the party so disturbed or some other person, or by threatening to kill, do bodily harm or injury, destroy property, fight, or by quarreling or challenging to fight, or fighting, or shooting off any firearms, or brandishing the same, or by running any horse at unusual speed along any street, alley, highway or public road, ~~he~~ shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed One Hundred Dollars (\$100.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment, ~~at the discretion of the court or jury trying the same.~~

B. The discharge of a firearm at any site constituting a shooting gallery, as authorized by Section 701 et seq. of Title 63 of the Oklahoma Statutes, shall not constitute a violation of subsection A of this section.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 701, is amended to read as follows:

Section 701. ~~(A)~~ A. Open air shooting galleries constructed ~~from on~~ on and after ~~the effective date of this act~~ June 3, 1955, shall conform to the following standards and specifications:

~~(a)~~ 1. There shall be a backstop not less than seven and one-half (7 1/2) feet high, which shall be constructed of steel of a thickness not less than U.S. standard eight-gauge steel and shall be well lapped at the joints; the backstop shall be not less than eight (8) nor more than twenty-five (25) feet wide.

~~(b)~~ 2. Attached to each side of the backstop at ninety (90) degree angles, extending toward the counter, shall be side walls of the same height as the backstop, which side walls shall be constructed of steel of a thickness not less than U.S. standard sixteen-gauge steel and shall be from six (6) to twenty-five (25)

feet in length. In the event the steel side walls do not extend to the counter, the remaining portion of the side walls shall be so constructed as to prevent any person from getting into the line of fire.

~~(e)~~ 3. The inside edge of the counter from which the shooting takes place shall be placed not less than twenty-five (25) feet from the backstop or any metal target.

~~(d)~~ 4. All targets shall be placed not less than twelve (12) inches from the ends of the backstop, and shall be not less than twenty-four (24) inches from the top and not less than twelve (12) inches from the bottom of the backstop.

~~(B)~~ B. Closed shooting galleries constructed after ~~the effective date of this act~~ June 3, 1955, shall be lawful of any size, provided that closed shooting galleries shall be constructed so that they at least conform to the minimum requirements of open air shooting galleries.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 702, is amended to read as follows:

Section 702. The only type of ammunition which shall be lawful for use in open shooting galleries shall be twenty-two (22) caliber shorts.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 703, is amended to read as follows:

Section 703. No person under the age of twenty-one (21) years shall operate or be employed at any shooting gallery. Violation of this section shall be cause for revocation of the inspection statement provided for in Section 4 703 of this ~~act~~ title, in addition to any criminal penalty which may be authorized by law.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 704, is amended to read as follows:

Section 704. Before any shooting gallery shall begin to operate in any county, city or town of this state, it shall be inspected by the sheriff of ~~said~~ the county, or ~~his~~ an authorized deputy, for safety, and the owner must have a statement in writing by ~~said~~ the sheriff or ~~his~~ an authorized deputy that ~~he~~ the sheriff's office has inspected the premises and is of the opinion that it is safe to operate. Such statement shall not be furnished by the sheriff or ~~his~~ the authorized deputy unless the shooting gallery meets the requirements of ~~this act~~ Section 701 et seq. of this title. In the event a shooting gallery is moved from one place to another, a new inspection statement must be secured by the owner or operator prior to beginning operation. It is hereby made the duty of the sheriff of each county personally or through ~~his~~ an authorized deputy to make the inspection required herein upon request of the owner or operator. Shooting galleries constructed prior to ~~the effective date of this act~~ June 3, 1955, shall be furnished an inspection statement as required herein even though ~~such~~ the shooting gallery does not meet the requirements of ~~this act~~ Section 701 et seq. of this title if, in the opinion of the sheriff or ~~his~~ the authorized deputy, it is safe to operate.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 705, is amended to read as follows:

Section 705. Cities and towns wherein shooting galleries are operated are ~~hereby~~ authorized to levy and collect a license tax upon their operation, which license tax shall not exceed Twenty Dollars (\$20.00) per year.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 706, is amended to read as follows:

Section 706. ~~In cities and towns and in areas outside the corporate limits of a city or town,~~ All open air shooting galleries

~~shall close from 11:59 o'clock p.m. Saturday until 8:00 a.m. Monday, except that cities having a population in excess of fifty thousand (50,000), according to the next preceding Federal Decennial Census, may permit the operation of at dusk. All closed shooting galleries during the period from 11:59 o'clock p.m. Saturday and 8:00 a.m. Monday shall close by 11:00 o'clock p.m. Monday through Saturday and by 8:00 p.m. Sunday.~~

SECTION 12. AMENDATORY 63 O.S. 1991, Section 707, is amended to read as follows:

Section 707. Any violation of ~~this act is hereby made~~ the provisions of Sections 701 through 706 of this title shall be a misdemeanor punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 13. AMENDATORY 63 O.S. 1991, Section 708, is amended to read as follows:

Section 708. Nothing in ~~this act~~ any provision of Sections 701 through 706 of this title shall apply to turkey shoots or similar types of public shootings sponsored by civic, fraternal, veterans, or other nonprofit organizations.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 709 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A person who owns, operates or uses a shooting gallery in this state, pursuant to Section 701 et seq. of Title 63 of the Oklahoma Statutes, shall not be subject to civil liability or criminal prosecution for noise disturbance or noise pollution resulting from the operation or use of the gallery, provided, the gallery is in compliance with the noise control laws or ordinances

that applied to the gallery and its operation at the time of construction or initial operation.

B. A person who owns, operates or uses a shooting gallery is not subject to an action for nuisance, and the court shall not enjoin the use or operation of any shooting gallery on the basis of noise or noise pollution, if the gallery is in compliance with the noise control laws or ordinances that applied to the gallery and its operation at the time of construction or initial operation.

C. Rules or regulations adopted by any state agency, municipality, or other political subdivision of the state for limiting levels of noise in terms of decibel levels which may occur in the open air shooting gallery shall not apply to any open air shooting gallery exempted from liability under this section.

D. Each person who participates in sport shooting at a shooting gallery established pursuant to Section 701 et seq. of this title, accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting gallery, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees and other forms of natural growth or debris.

E. When there has been no shooting activity at a shooting gallery for a period of three (3) years, resumption of shooting shall be considered establishment of a new shooting gallery for purposes of Sections 701 through 709 of Title 63 of the Oklahoma Statutes.

F. A municipal noise control ordinance may not require or be applied to require an established shooting gallery to limit or

eliminate shooting activities that have occurred on a regular basis prior to the enactment date of the ordinance.

G. Nothing in this section shall be construed to limit the ability of a municipality to regulate noise produced by the expansion of activity at a shooting gallery after the effective date of this act.

SECTION 15. 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.

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