

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 523

By: Helton and Williams of
the Senate

and

Askins and Braddock of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 1289.12, as amended by Section 50, Chapter 272, O.S.L. 1995, and 1289.24, as last amended by Section 9, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Sections 1289.12 and 1289.24), which relate to giving firearms to incompetent persons and state preemption of firearm regulation; authorizing safekeeping in certain situations; adding exception; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1289.12, as amended by Section 50, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1996, Section 1289.12), is amended to read as follows:

Section 1289.12

GIVING FIREARMS TO CONVICTED PERSONS

AND RELEASE OF WEAPONS TAKEN FROM CERTAIN PERSONS

A. It shall be unlawful for any person within this state to knowingly sell, trade, give, transmit or otherwise cause the transfer of rifles, shotguns or pistols to any convicted felon or an adjudicated delinquent, and it shall be unlawful for any person within this state to knowingly sell, trade, give, transmit or otherwise cause the transfer of any shotgun, rifle or pistol to any individual who is under the influence of alcohol or drugs or is mentally or emotionally unbalanced or disturbed. All persons who engage in selling, trading or otherwise transferring firearms

will display this section prominently in full view at or near the point of normal firearms sale, trade or transfer. Any person convicted of violating the provisions of this section shall be punished as provided in Section 1289.15 of this title.

Any person convicted of a violation of this section after having been issued a concealed handgun license pursuant to the Oklahoma Self-Defense Act, ~~Sections 1 through 25~~ Section 1290.1 et seq. of this ~~act~~ title, shall have the license suspended for six (6) months and shall be liable for an administrative fine of Fifty Dollars (\$50.00), upon a hearing and determination by the Oklahoma State Bureau of Investigation that the person is in violation of the provisions of this section.

B. Any peace officer making contact with a person in possession of a firearm or any other weapon is authorized to take possession thereof and hold the weapon for safekeeping if there is probable cause to believe that the person who has possession of such weapon is under the influence of alcohol, drugs, or other intoxicating substance, is mentally or emotionally disturbed, is suicidal, or is involved in an act or a threatened act of domestic abuse. Upon taking possession of any such weapon, the peace officer shall hold the same for safekeeping until:

1. The peace officer determines that the weapon is not needed as evidence of a crime and that the person claiming the weapon has a lawful right to possession thereof and is no longer under the influence of alcohol, drugs, or other intoxicating substance, is no longer mentally or emotionally disturbed, is no longer suicidal, or is no longer a threat to commit an act or a threatened act of domestic abuse; or

2. A court of competent jurisdiction determines that the weapon is not needed as evidence of a crime and that the person claiming the weapon has a lawful right to possession thereof and is no longer under the influence of alcohol, drugs, or other intoxicating substance, is no longer mentally or emotionally disturbed, is no longer suicidal, or is no longer a threat to commit an act or a threatened act of domestic abuse and orders the release of such weapon.

If a court action for release of the weapon is necessary, it shall be the responsibility of the party claiming the weapon to institute such action. Notwithstanding any other provision of law, neither the peace officer nor his or her employing agency shall be civilly liable or in any way responsible for any costs or fees for holding such weapon pending a court order determining the propriety of releasing said property.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1289.24, as last amended by Section 9, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, 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.

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, carrying, bearing, transportation, licensing, permit, registration, taxation other than sales and compensating use taxes, or other controls on firearms, components, ammunition, and supplies.

C. 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 or concerning commercial establishments involving the sale, purchase, transfer or use of firearms or

firearm-related goods or services (not including gunsmithing services) on land zoned for residential use.

D. The transporting of unloaded firearms for sporting purposes shall be exempt from this act.

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.

46-1-1488

JT