

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1348

By: Dahm

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 2011, Section 1277, as last amended by Section 1, Chapter 226, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1277), which relates to unlawful carry in certain places; modifying inclusions; amending 21 O.S. 2011, Section 1280.1, as last amended by Section 2, Chapter 310, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1280.1), which relates to possession of a firearm on school property; modifying inclusions; amending 21 O.S. 2011, Section 1289.6, as amended by Section 11, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015, Section 1289.6), which relates to conditions under which firearms may be carried; adding condition; amending 21 O.S. 2011, Section 1289.7, as amended by Section 12, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015, Section 1289.7), which relates to firearms in vehicles; modifying certain carry; restricting certain action; amending 21 O.S. 2011, Section 1290.22, as amended by Section 7, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2015, Section 1290.22), which relates to business owner's rights; modifying inclusions; stating presumption; protecting rights; amending 29 O.S. 2011, Section 5-202, as amended by Section 1, Chapter 200, O.S.L. 2012 (29 O.S. Supp. 2015, Section 5-202), which relates to the permission to hunt, take, fish or engage in recreational activity upon land of another; prohibiting certain actions by game wardens; and providing an effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1277, as
2 last amended by Section 1, Chapter 226, O.S.L. 2015 (21 O.S. Supp.
3 2015, Section 1277), is amended to read as follows:

4 Section 1277.

5 UNLAWFUL CARRY IN CERTAIN PLACES

6 A. It shall be unlawful for any person in possession of a valid
7 handgun license issued pursuant to the provisions of the Oklahoma
8 Self-Defense Act to carry any concealed or unconcealed handgun into
9 any of the following places:

10 1. Any structure, building, or office space which is owned or
11 leased by a city, town, county, state or federal governmental
12 authority for the purpose of conducting business with the public;

13 2. Any prison, jail, detention facility or any facility used to
14 process, hold or house arrested persons, prisoners or persons
15 alleged delinquent or adjudicated delinquent, except as provided in
16 Section 21 of Title 57 of the Oklahoma Statutes;

17 3. Any public or private elementary or public or private
18 secondary school, except as provided in subsection C of this
19 section;

20 4. Any sports arena during a professional sporting event;

21 5. Any place where pari-mutuel wagering is authorized by law;
22 and

23 6. Any other place specifically prohibited by law.
24

1 B. For purposes of paragraphs 1, 2, 3, 4 and 5 of subsection A
2 of this section, the prohibited place does not include and
3 specifically excludes the following property:

4 1. Any property set aside for the use or parking of any
5 vehicle, whether attended or unattended, by a city, town, county,
6 state or federal governmental authority;

7 2. Any property set aside for the use or parking of any
8 vehicle, whether attended or unattended, by any entity offering any
9 professional sporting event which is open to the public for
10 admission, or by any entity engaged in pari-mutuel wagering
11 authorized by law;

12 3. Any property adjacent to a structure, building or office
13 space in which concealed or unconcealed weapons are prohibited by
14 the provisions of this section;

15 4. Any property designated by a city, town, county or state
16 governmental authority as a park, recreational area, or fairgrounds;
17 provided, nothing in this paragraph shall be construed to authorize
18 any entry by a person in possession of a concealed or unconcealed
19 handgun into any structure, building or office space which is
20 specifically prohibited by the provisions of subsection A of this
21 section; and

22 5. Any property set aside by a public or private elementary or
23 secondary school for the use or parking of any vehicle, whether
24 attended or unattended; provided, however, said handgun shall be

1 stored and hidden from view in a locked motor vehicle when the motor
2 vehicle is left unattended on school property.

3 Nothing contained in any provision of this subsection or
4 subsection C of this section shall be construed to authorize or
5 allow any person in control of any place described in paragraph 1,
6 2, 3, 4 or 5 of subsection A of this section to establish any policy
7 or rule that has the effect of prohibiting any person in lawful
8 possession of a handgun license from possession of a handgun
9 allowable under such license in places described in paragraph 1, 2,
10 3, 4 or 5 of this subsection.

11 C. A concealed or unconcealed weapon may be carried onto
12 private school property or in any school bus or vehicle used by any
13 private school for transportation of students or teachers by a
14 person who is licensed pursuant to the Oklahoma Self-Defense Act,
15 provided a policy has been adopted by the governing entity of the
16 private school that authorizes the carrying and possession of a
17 weapon on private school property or in any school bus or vehicle
18 used by a private school. Except for acts of gross negligence or
19 willful or wanton misconduct, a governing entity of a private school
20 that adopts a policy which authorizes the possession of a weapon on
21 private school property, a school bus or vehicle used by the private
22 school shall be immune from liability for any injuries arising from
23 the adoption of the policy. The provisions of this subsection shall
24 not apply to claims pursuant to the Workers' Compensation Code.

1 D. Any person violating the provisions of subsection A of this
2 section shall, upon conviction, be guilty of a misdemeanor
3 punishable by a fine not to exceed Two Hundred Fifty Dollars
4 (\$250.00).

5 E. No person in possession of a valid handgun license issued
6 pursuant to the provisions of the Oklahoma Self-Defense Act shall be
7 authorized to carry the handgun into or upon any college, university
8 or technology center school property, except as provided in this
9 subsection. For purposes of this subsection, the following property
10 shall not be construed as prohibited for persons having a valid
11 handgun license:

12 1. Any property set aside for the use or parking of any
13 vehicle, whether attended or unattended, provided the handgun is
14 carried or stored as required by law ~~and the handgun is not removed~~
15 ~~from the vehicle without the prior consent of the college or~~
16 ~~university president or technology center school administrator while~~
17 ~~the vehicle is on any college, university or technology center~~
18 ~~school property;~~

19 2. Any property authorized for ~~possession or~~ use of handguns by
20 college, university or technology center school policy; and

21 3. ~~Any property authorized by the written consent of the~~
22 ~~college or university president or technology center school~~
23 ~~administrator, provided the written consent is carried with the~~
24 ~~handgun and the valid handgun license while on college, university~~

~~or technology center school property~~ Any person in possession of a valid license pursuant to the Oklahoma Self Defense Act may carry on any property of the college, university or technology center school, provided the handgun remains concealed at all times and is not carried openly and the valid handgun license remains at all times with the licensee while on college, university or technology center school property.

~~The college, university or technology center school may notify the Oklahoma State Bureau of Investigation within ten (10) days of a violation of any provision of this subsection by a licensee. Upon receipt of a written notification of violation, the Bureau shall give a reasonable notice to the licensee and hold a hearing. At the hearing, upon a determination that the licensee has violated any provision of this subsection, the licensee may be subject to an administrative fine of Two Hundred Fifty Dollars (\$250.00) and may have the handgun license suspended for three (3) months~~ Any person violating the provisions of subsection E of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00).

Nothing contained in any provision of this subsection shall be construed to authorize or allow any college, university or technology center school to establish any policy or rule that has the effect of prohibiting any person in lawful possession of a handgun license from possession of a handgun allowable under such

1 license in places described in paragraphs 1, 2, and 3 of this
2 subsection. Nothing contained in any provision of this subsection
3 shall be construed to limit the authority of any college, university
4 or technology center school in this state from taking administrative
5 action against any student for any violation of any provision of
6 this subsection.

7 F. The provisions of this section shall not apply to any peace
8 officer or to any person authorized by law to carry a pistol in the
9 course of employment. District judges, associate district judges,
10 and special district judges, who are in possession of a valid
11 handgun license issued pursuant to the provisions of the Oklahoma
12 Self-Defense Act and whose names appear on a list maintained by the
13 Administrative Director of the Courts, shall be exempt from this
14 section when acting in the course and scope of employment within the
15 courthouses of this state. Private investigators with a firearms
16 authorization shall be exempt from this section when acting in the
17 course and scope of employment.

18 G. For the purposes of this section, "motor vehicle" means any
19 automobile, truck, minivan or sports utility vehicle.

20 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1280.1, as
21 last amended by Section 2, Chapter 310, O.S.L. 2015 (21 O.S. Supp.
22 2015, Section 1280.1), is amended to read as follows:

23 Section 1280.1.

24 POSSESSION OF FIREARM ON SCHOOL PROPERTY

1 A. It shall be unlawful for any person to have in his or her
2 possession on any public or private school property or while in any
3 school bus or vehicle used by any school for transportation of
4 students or teachers any firearm or weapon designated in Section
5 1272 of this title, except as provided in subsection C of this
6 section or as otherwise authorized by law.

7 B. For purposes of this section:

8 1. "School property" means any publicly owned property held for
9 purposes of elementary, or secondary ~~or vocational-technical~~
10 education, and shall not include property owned by public school
11 districts or where such property is leased or rented to an
12 individual or corporation and used for purposes other than
13 educational;

14 2. "Private school" means a school that offers a course of
15 instruction for students in one or more grades from prekindergarten
16 through grade twelve and is not operated by a governmental entity;
17 and

18 3. "Motor vehicle" means any automobile, truck, minivan or
19 sports utility vehicle.

20 C. Firearms and weapons are allowed on school property and
21 deemed not in violation of subsection A of this section as follows:

22 1. A gun or knife designed for hunting or fishing purposes kept
23 in a privately owned vehicle and properly displayed or stored as
24 required by law, provided such vehicle containing said gun or knife

1 is driven onto school property only to transport a student to and
2 from school and such vehicle does not remain unattended on school
3 property;

4 2. A gun or knife used for the purposes of participating in the
5 Oklahoma Department of Wildlife Conservation certified hunter
6 training education course or any other hunting, fishing, safety or
7 firearms training courses, or a recognized firearms sports event,
8 team shooting program or competition, or living history reenactment,
9 provided the course or event is approved by the principal or chief
10 administrator of the school where the course or event is offered,
11 and provided the weapon is properly displayed or stored as required
12 by law pending participation in the course, event, program or
13 competition;

14 3. Weapons in the possession of any peace officer or other
15 person authorized by law to possess a weapon in the performance of
16 his or her duties and responsibilities;

17 4. A concealed or unconcealed weapon carried onto private
18 school property or in any school bus or vehicle used by any private
19 school for transportation of students or teachers by a person who is
20 licensed pursuant to the Oklahoma Self-Defense Act, provided a
21 policy has been adopted by the governing entity of the private
22 school that authorizes the possession of a weapon on private school
23 property or in any school bus or vehicle used by a private school.
24 Except for acts of gross negligence or willful or wanton misconduct,

1 a governing entity of a private school that adopts a policy which
2 authorizes the possession of a weapon on private school property, a
3 school bus or vehicle used by the private school shall be immune
4 from liability for any injuries arising from the adoption of the
5 policy. The provisions of this paragraph shall not apply to claims
6 pursuant to the Workers' Compensation Code;

7 5. A gun, knife, bayonet or other weapon in the possession of a
8 member of a veterans group, the national guard, active military, the
9 Reserve Officers' Training Corps (ROTC) or Junior ROTC, in order to
10 participate in a ceremony, assembly or educational program approved
11 by the principal or chief administrator of a school or school
12 district where the ceremony, assembly or educational program is
13 being held; provided, however, the gun or other weapon that uses
14 projectiles is not loaded and is inoperable at all times while on
15 school property;

16 6. A handgun carried in a motor vehicle pursuant to a valid
17 handgun license authorized by the Oklahoma Self-Defense Act onto
18 property set aside by a public or private elementary or secondary
19 school for the use or parking of any vehicle; provided, however,
20 said handgun shall be stored and hidden from view in a locked motor
21 vehicle when the motor vehicle is left unattended on school
22 property; ~~and~~

1 7. A handgun carried onto public school property by school
2 personnel who have been designated by the board of education,
3 provided such personnel either:

4 a. possess a valid armed security guard license as
5 provided for in Section 1750.1 et seq. of Title 59 of
6 the Oklahoma Statutes, or

7 b. hold a valid reserve peace officer certification as
8 provided for in Section 3311 of Title 70 of the
9 Oklahoma Statutes,

10 if a policy has been adopted by the board of education of the school
11 district that authorizes the carrying of a handgun onto public
12 school property by such personnel. Nothing in this subsection shall
13 be construed to restrict authority granted elsewhere in law to carry
14 firearms; and

15 8. A handgun carried onto a college, university or technology
16 center school as designated in paragraph 3 of subsection E of
17 Section 1277 of this title.

18 D. Any person violating the provisions of this section shall,
19 upon conviction, be guilty of a misdemeanor punishable by a fine of
20 not to exceed Two Hundred Fifty Dollars (\$250.00).

21 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.6, as
22 amended by Section 11, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015,
23 Section 1289.6), is amended to read as follows:

24 Section 1289.6.

1 CONDITIONS UNDER WHICH FIREARMS MAY BE CARRIED

2 A. A person shall be permitted to carry loaded and unloaded
3 shotguns, rifles and pistols, open and not concealed and without a
4 handgun license as authorized by the Oklahoma Self-Defense Act
5 pursuant to the following conditions:

6 1. When hunting animals or fowl;

7 2. During competition in or practicing in a safety or hunter
8 safety class, target shooting, skeet, trap or other recognized
9 sporting events;

10 3. During participation in or in preparation for a military
11 function of the state military forces to be defined as the Oklahoma
12 Army or Air National Guard, Federal Military Reserve and active
13 military forces;

14 4. During participation in or in preparation for a recognized
15 police function of either a municipal, county or state government as
16 functioning police officials;

17 5. During a practice for or a performance for entertainment
18 purposes;

19 6. For lawful self-defense and self-protection or any other
20 legitimate purpose in or on property that is owned, leased, rented,
21 or otherwise legally controlled by the person; ~~or~~

22 7. When carried in a holster that is wholly or partially
23 visible or in a scabbard, case or with a sling designed for carrying
24 firearms that is wholly or partially visible and the person is

1 eighteen (18) years of age or older. Any person who carries a
2 firearm in the manner provided in this paragraph shall be prohibited
3 from carrying the firearm into any of the places prescribed in
4 subsection A of Section 1277 of this title; or

5 8. For any legitimate purpose not in violation of the Oklahoma
6 Firearms Act of 1971 or any legislative enactment regarding the use,
7 ownership and control of firearms.

8 B. A person shall be permitted to carry unloaded shotguns,
9 rifles and pistols, open and not concealed and without a handgun
10 license as authorized by the Oklahoma Self-Defense Act pursuant to
11 the following conditions:

12 1. When going to or from the person's private residence or
13 vehicle or a vehicle in which the person is riding as a passenger to
14 a place designated or authorized for firearms repairs or
15 reconditioning, or for firearms trade, sale, or barter, or gunsmith,
16 or hunting animals or fowl, or hunter safety course, or target
17 shooting, or skeet or trap shooting or any recognized firearms
18 activity or event and while in such places; or

19 2. For any legitimate purpose not in violation of the Oklahoma
20 Firearms Act of 1971.

21 C. The provisions of this section shall not be construed to
22 prohibit educational or recreational activities, exhibitions,
23 displays or shows involving the use or display of rifles, shotguns
24

1 or pistols or other weapons if the activity is approved by the
2 property owner and sponsor of the activity.

3 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1289.7, as
4 amended by Section 12, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2015,
5 Section 1289.7), is amended to read as follows:

6 Section 1289.7.

7 FIREARMS IN VEHICLES

8 Any person, except a convicted felon, may transport in a motor
9 vehicle a rifle, or shotgun ~~or pistol, open~~ unconcealed and
10 unloaded, at any time. Any person twenty-one (21) years of age or
11 older, except a convicted felon, may transport a handgun concealed
12 or unconcealed, loaded or unloaded for the purpose of self-defense
13 without a valid handgun license issued pursuant to the Oklahoma
14 Self-Defense Act provided, the person is not involved in a crime.

15 For purposes of this section "~~open~~" "unconcealed" means the
16 firearm is transported in plain view, or in a case designed for
17 carrying firearms, which case is wholly or partially visible, in a
18 gun rack mounted in the vehicle, in an exterior locked compartment
19 or a trunk of a vehicle.

20 Any person, except a convicted felon, may transport in a motor
21 vehicle a rifle or shotgun concealed behind a seat of the vehicle or
22 within the interior of the vehicle provided the rifle or shotgun is
23 not clip, magazine or chamber loaded. The authority to transport a
24

1 clip or magazine loaded rifle or shotgun shall be pursuant to
2 Section 1289.13 of this title.

3 Any person who is the operator of a vehicle or is a passenger in
4 any vehicle wherein another person who is licensed pursuant to the
5 Oklahoma Self-Defense Act to carry a handgun, concealed or
6 unconcealed, and is carrying a handgun or has the handgun in such
7 vehicle, shall not be deemed in violation of the provisions of this
8 section provided the licensee is in or near the vehicle.

9 In the absence of reasonable and articulable suspicion of
10 criminal activity, an individual, twenty-one (21) years of age or
11 older, possessing a concealed or unconcealed weapon in a vehicle
12 shall not be disarmed or physically restrained by any law
13 enforcement officer.

14 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1290.22, as
15 amended by Section 7, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2015,
16 Section 1290.22), is amended to read as follows:

17 Section 1290.22.

18 BUSINESS OWNER'S RIGHTS

19 A. Except as provided in subsection B of this section, nothing
20 contained in any provision of the Oklahoma Self-Defense Act shall be
21 construed to limit, restrict or prohibit in any manner the existing
22 rights of any person, property owner, tenant, employer, place of
23 worship or business entity to control the possession of weapons on
24 any property owned or controlled by the person or business entity.

1 B. No person, property owner, tenant, employer, place of
2 worship or business entity shall be permitted to establish any
3 policy or rule that has the effect of prohibiting any person, except
4 a convicted felon, from transporting and storing firearms in a
5 locked vehicle on any property set aside for any vehicle.

6 C. A property owner, tenant, employer, place of worship or
7 business entity may prohibit any person from carrying a concealed or
8 unconcealed firearm on the property. If the building or property is
9 open to the public, the property owner, tenant, employer, place of
10 worship or business entity shall post signs on or about the property
11 stating such prohibition.

12 D. The carrying of a concealed or unconcealed firearm by a
13 person who has been issued a handgun license on property that has
14 signs prohibiting the carrying of firearms shall not be deemed a
15 criminal act but may subject the person to being denied entrance
16 onto the property or removed from the property. If the person
17 refuses to leave the property and a peace officer is summoned, the
18 person may be issued a citation for an amount not to exceed Two
19 Hundred Fifty Dollars (\$250.00).

20 E. A person, corporation, place of worship or any other
21 business entity that ~~does or~~ does not prohibit any individual except
22 a convicted felon from carrying a loaded or unloaded, concealed or
23 unconcealed weapon on property that the person, corporation, place
24 of worship or other business entity owns, or has legal control of,

1 is immune from any liability arising from that decision. Except for
2 acts of gross negligence or willful or wanton misconduct, an
3 employer who ~~does or~~ does not prohibit ~~their~~ its employees from
4 carrying a concealed or unconcealed weapon is immune from any
5 liability arising from that decision. The provisions of this
6 subsection shall not apply to claims pursuant to the Workers'
7 Compensation Code.

8 F. It is a presumption of the State of Oklahoma that the
9 private employer is not including the carrying or discharge of a
10 weapon as part of its employees' job description.

11 G. The above shall not prevent an employer, employee or person
12 who has suffered loss resulting from the discharge of a weapon to
13 seek redress or damages.

14 SECTION 6. AMENDATORY 29 O.S. 2011, Section 5-202, as
15 amended by Section 1, Chapter 200, O.S.L. 2012 (29 O.S. Supp. 2015,
16 Section 5-202), is amended to read as follows:

17 Section 5-202. A. Except as otherwise provided, no person may
18 hunt or take by any means or method upon the land of another without
19 the consent of the owner, lessee or occupant of such land.

20 B. For purposes of this section, consent shall be presumed to
21 be valid for not more than one (1) year, unless the owner, lessee,
22 or occupant specifically grants consent for a specified period of
23 time.
24

1 C. Excluding land primarily devoted to farming, ranching, or
2 forestry purposes as set forth in Section 1835.2 of Title 21 of the
3 Oklahoma Statutes, areas exempt from the provisions of subsection A
4 of this section are lands belonging to this state which are not
5 leased and occupied by a resident, excluding school land.

6 D. Any game warden investigating a hunter in the field has the
7 duty to inform the hunter that it is necessary to obtain the consent
8 of the landowner, lessee or occupant to hunt or take on the
9 particular property. Prosecution for violations of the provisions
10 of this section may be commenced only upon written complaint of such
11 owner, lessee or occupant filed before any court authorized to
12 punish such violation, or upon written complaint to any game warden
13 or officer authorized to make arrest for such offenses. A game
14 warden shall not enter a private property on the mere suspicion of
15 the possible possession or discharge of a firearm or bow and shall
16 not constitute probable cause for a game warden to enter said
17 private property.

18 E. No person shall operate a motor-driven conveyance on lands
19 that are fenced and posted or are in cultivation without permission
20 of the landowner, lessee or occupant.

21 F. The consent of any owner, lessee or occupant of land
22 authorizing a person to hunt, take, fish or engage in any
23 recreational activity upon the land of any such owner, lessee or
24 occupant shall not be construed to create any additional duty of

1 care or impose any additional liability other than specified by
2 Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

3 G. The obtaining of consent from any owner, lessee or occupant
4 of land authorizing a person to hunt, take, fish or engage in any
5 recreational activity shall not relieve the authorized person using
6 the land from any obligation which the person may have in the
7 absence of obtaining such consent to exercise care in the use of
8 such land and in activities thereon, or from the legal consequences
9 of failure to employ such care.

10 H. 1. It shall be an affirmative defense to prosecution under
11 subsection A of this section that the accused had express or implied
12 permission or legal authority to be on the property.

13 2. If an accused reasonably believed he or she was upon
14 property for which they had permission to be upon, it shall be an
15 affirmative defense to prosecution under subsection A of this
16 section that the accused had with him or her, on his or her person,
17 written permission from the surface owner, surface lessee, hunting
18 lessee, or lawful occupant to be upon such person's land while the
19 accused was upon any adjoining property. This defense shall not be
20 available to the accused if:

- 21 a. the accused has previously pled guilty, nolo
22 contendere, or has been convicted of any act of
23 trespass or has been found civilly liable of any act
24 of trespass, or

1 b. the accused, while the accused was upon the adjoining
2 property, does not have with him or her, on his or her
3 person, the written permission specified in this
4 paragraph.

5 I. Any person convicted for the first time of violating any
6 provisions of this section shall be guilty of a misdemeanor and
7 punished by the imposition of a fine of not less than Five Hundred
8 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
9 (\$1,500.00), or by imprisonment in the county jail for thirty (30)
10 days, or by both fine and imprisonment.

11 J. Any person convicted for the second or subsequent time of
12 violating any provisions of this section shall be guilty of a
13 misdemeanor and punished by the imposition of a fine of not less
14 than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two
15 Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in the
16 county jail for not less than six (6) months, or by both fine and
17 imprisonment.

18 SECTION 7. This act shall become effective November 1, 2016.

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