

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 3057

By: Newell

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 2011, Section 1289.24, as last amended by Section 1, Chapter 241, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1289.24), which relates to the Oklahoma Firearms Act of 1971; clarifying preemption provision and certain mandate; modifying requirements for persons filing civil actions; providing for reasonable expenses under certain circumstances; defining terms; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.24, as last amended by Section 1, Chapter 241, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1289.24), is amended to read as follows:

Section 1289.24

FIREARM REGULATION - STATE PREEMPTION

A. 1. The State Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way firearms, knives, firearm and ammunition components, ammunition, and supplies to the complete exclusion of any order, ordinance, or regulation by any municipality or other political subdivision of

1 this state. Any existing or future orders, ordinances, or
2 regulations in this field, except as provided for in paragraph 2 of
3 this subsection and subsection C of this section, are null and void.

4 2. A municipality may adopt any ordinance:

- 5 a. relating to the discharge of firearms within the
6 jurisdiction of the municipality, and
- 7 b. allowing the municipality to issue a traffic citation
8 for transporting a firearm improperly as provided for
9 in Section 1289.13A of this title, provided however,
10 that penalties contained for violation of any
11 ordinance enacted pursuant to the provisions of this
12 subparagraph shall not exceed the penalties
13 established in the Oklahoma Self-Defense Act.

14 3. As provided in the preemption provisions of this section,
15 the otherwise lawful open carrying of a handgun under the provisions
16 of the Oklahoma Self-Defense Act shall not be punishable by any
17 municipality or other political subdivision of this state as
18 disorderly conduct, disturbing the peace or similar offense against
19 public order.

20 4. A public or private school may create a policy regulating
21 the possession of knives by students on school property or in any
22 school bus or vehicle used by the school for purposes of
23 transportation.
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1 B. No municipality or other political subdivision of this state
2 shall adopt any order, ordinance, or regulation concerning in any
3 way the sale, purchase, purchase delay, transfer, ownership, use,
4 keeping, possession, carrying, bearing, transportation, licensing,
5 permit, registration, taxation other than sales and compensating use
6 taxes, or other controls on firearms, knives, firearm and ammunition
7 components, ammunition, and supplies.

8 C. Except as hereinafter provided, this section shall not
9 prohibit any order, ordinance, or regulation by any municipality
10 concerning the confiscation of property used in violation of the
11 ordinances of the municipality as provided for in Section 28-121 of
12 Title 11 of the Oklahoma Statutes. Provided, however, no municipal
13 ordinance relating to transporting a firearm or knife improperly may
14 include a provision for confiscation of property.

15 D. ~~When a person's rights pursuant to the protection of the~~
16 ~~preemption provisions of this section have been violated, the A~~
17 person adversely affected by any order, ordinance or regulation
18 promulgated or enforced by any municipality or other political
19 subdivision of this state in violation of the preemption provisions
20 of this section shall have the right to bring a civil action against
21 the persons, municipality, ~~and~~ or political subdivision jointly and
22 severally for injunctive relief or monetary damages or both.

1 E. A court shall award reasonable expenses to a person
2 adversely affected in an action filed pursuant to the provisions of
3 subsection D of this section if:

4 1. A court grants a final determination in favor of the person
5 adversely affected; or

6 2. The order, ordinance or regulation in question is rescinded,
7 repealed or otherwise abrogated after a lawsuit has been filed
8 pursuant to the provisions of subsection D of this section but
9 before a final determination by the court.

10 F. As used in this section:

11 1. "Person adversely affected" means:

12 a. A resident of this state who may legally possess under
13 federal and state law an item listed in subsection B
14 of this section, and

15 b. Any person who otherwise has standing under the laws
16 of this state to bring an action pursuant to the
17 provisions of subsection D of this section; and

18 2. "Reasonable expenses" includes, but shall not be limited to,
19 attorney fees, expert witness fees, court costs and costs and
20 compensation for lost income.

21 SECTION 2. This act shall become effective November 1, 2016.

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