

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE

FOR

SENATE BILL 275

By: Dahm

COMMITTEE SUBSTITUTE

An Act relating to firearms; amending 21 O.S. 2011, Section 1272, as last amended by Section 1, Chapter 217, O.S.L. 2016 (21 O.S. Supp. 2016, Section 1272), which relates to unlawful carry; modifying inclusions; amending 21 O.S. 2011, Section 1289.24, as last amended by Section 1, Chapter 241, O.S.L. 2015 (21 O.S. Supp. 2016, Section 1289.24), which relates to the Oklahoma Firearms Act of 1971; clarifying preemption provision and certain mandate; modifying requirements for person 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 1272, as last amended by Section 1, Chapter 217, O.S.L. 2016 (21 O.S. Supp. 2016, Section 1272), is amended to read as follows:

Section 1272.

UNLAWFUL CARRY

A. It shall be unlawful for any person to carry upon or about his or her person, or in a purse or other container belonging to the

1 person, any pistol, revolver, shotgun or rifle whether loaded or
2 unloaded or any blackjack, loaded cane, ~~billy~~, hand chain, metal
3 knuckles, ~~or any other offensive weapon~~, whether such weapon be
4 concealed or unconcealed, except this section shall not prohibit:

5 1. The proper use of guns and knives for hunting, fishing,
6 educational or recreational purposes;

7 2. The carrying or use of weapons in a manner otherwise
8 permitted by statute or authorized by the Oklahoma Self-Defense Act;

9 3. The carrying, possession and use of any weapon by a peace
10 officer or other person authorized by law to carry a weapon in the
11 performance of official duties and in compliance with the rules of
12 the employing agency;

13 4. The carrying or use of weapons in a courthouse by a district
14 judge, associate district judge or special district judge within
15 this state, who is in possession of a valid handgun license issued
16 pursuant to the provisions of the Oklahoma Self-Defense Act and
17 whose name appears on a list maintained by the Administrative
18 Director of the Courts; or

19 5. The carrying and use of firearms and other weapons provided
20 in this subsection when used for the purpose of living history
21 reenactment. For purposes of this paragraph, "living history
22 reenactment" means depiction of historical characters, scenes,
23 historical life or events for entertainment, education, or
24 historical documentation through the wearing or use of period,

1 historical, antique or vintage clothing, accessories, firearms,
2 weapons, and other implements of the historical period.

3 B. Any person convicted of violating the foregoing provision
4 shall be guilty of a misdemeanor punishable as provided in Section
5 1276 of this title.

6 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1289.24, as
7 last amended by Section 1, Chapter 241, O.S.L. 2015 (21 O.S. Supp.
8 2016, Section 1289.24), is amended to read as follows:

9 Section 1289.24.

10 FIREARM REGULATION - STATE PREEMPTION

11 A. 1. The State Legislature hereby occupies and preempts the
12 entire field of legislation in this state touching in any way
13 firearms, knives, firearm and ammunition components, ammunition, and
14 related supplies to the complete exclusion of any order, ordinance,
15 or regulation by any municipality or other political subdivision of
16 this state. Any existing or future orders, ordinances, or
17 regulations in this field, except as provided for in paragraph 2 of
18 this subsection and subsection C of this section, are null and void.

19 2. A municipality may adopt any ordinance:

- 20 a. relating to the discharge of firearms within the
21 jurisdiction of the municipality, except in legitimate
22 defense of self or others, and
23 b. allowing the municipality to issue a traffic citation
24 for transporting a firearm improperly as provided for

1 in Section 1289.13A of this title, provided however,
2 that penalties contained for violation of any
3 ordinance enacted pursuant to the provisions of this
4 subparagraph shall not exceed the penalties
5 established in the Oklahoma Self-Defense Act.

6 3. As provided in the preemption provisions of this section,
7 the otherwise lawful open carrying of a handgun under the provisions
8 of the Oklahoma Self-Defense Act shall not be punishable by any
9 municipality or other political subdivision of this state as
10 disorderly conduct, disturbing the peace or similar offense against
11 public order.

12 4. A public or private school may create a policy regulating
13 the possession of knives by students on school property or in any
14 school bus or vehicle used by the school for purposes of
15 transportation.

16 B. No municipality or other political subdivision of this state
17 shall adopt any order, ordinance, or regulation concerning in any
18 way the sale, purchase, purchase delay, transfer, ownership, use,
19 keeping, possession, carrying, bearing, transportation, licensing,
20 permit, registration, taxation other than sales and compensating use
21 taxes, or other controls on firearms, knives, firearm and ammunition
22 components, ammunition, and related supplies.

23 C. Except as hereinafter provided, this section shall not
24 prohibit any order, ordinance, or regulation by any municipality

1 concerning the confiscation of property used in violation of the
2 ordinances of the municipality as provided for in Section 28-121 of
3 Title 11 of the Oklahoma Statutes. Provided, however, no municipal
4 ordinance relating to transporting a firearm ~~or~~, knife, firearm or
5 ammunition component, ammunition or related supplies improperly may
6 include a provision for confiscation of property.

7 D. ~~When a person's rights pursuant to the protection of the~~
8 ~~preemption provisions of this section have been violated, the A~~
9 person adversely affected by any order, ordinance or regulation
10 promulgated or enforced by any municipality or other political
11 subdivision of this state in violation of the preemption provisions
12 of this section shall have the right to bring a civil action against
13 the persons, municipality, ~~and~~ or political subdivision jointly and
14 severally for injunctive relief or monetary damages or both.

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

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

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

24 F. As used in this section:

1. "Person adversely affected" means:

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

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

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

SECTION 3. This act shall become effective November 1, 2017.

56-1-1480 BH 7/17/2018 10:00:33 AM