

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 275, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Dahm

Dahm-BH-FS-Req#1547
2/27/2017 1:54 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 275

By: Dahm of the Senate

and

Jordan, Coody, Bennett
(John), Faught and Gann of
the House

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

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

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

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

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

5. The carrying and use of firearms and other weapons provided in this subsection when used for the purpose of living history reenactment. For purposes of this paragraph, "living history

reenactment" means depiction of historical characters, scenes, historical life or events for entertainment, education, or historical documentation through the wearing or use of period, historical, antique or vintage clothing, accessories, firearms, weapons, and other implements of the historical period.

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

SECTION 2. AMENDATORY 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), 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 related supplies to the complete exclusion of any order, ordinance, policy or regulation by any municipality, agency or other political subdivision of this state. Any existing or future orders, ordinances, policies or regulations in this field, except as provided for in paragraph 2 of this subsection and subsection C of this section, are null and void.

2. A municipality may adopt any ordinance:

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

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

17 4. A public or private school may create a policy regulating
18 the possession of knives by students on school property or in any
19 school bus or vehicle used by the school for purposes of
20 transportation.

21 B. No municipality, agency or other political subdivision of
22 this state shall adopt any order, ordinance, policy or regulation
23 concerning in any way the sale, purchase, purchase delay, transfer,
24 ownership, use, keeping, possession, carrying, bearing,

1 transportation, licensing, permit, registration, taxation other than
2 sales and compensating use taxes, or other controls on firearms,
3 knives, firearm and ammunition components, ammunition, and related
4 supplies.

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

14 D. ~~When a person's rights pursuant to the protection of the~~
15 ~~preemption provisions of this section have been violated, the A~~
16 person adversely affected by any order, ordinance, policy or
17 regulation promulgated or enforced by any municipality, agency or
18 other political subdivision of this state in violation of the
19 preemption provisions of this section shall have the right to bring
20 a civil action against the persons, municipality, ~~and~~ agency or
21 political subdivision jointly and severally for injunctive relief or
22 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, policy or regulation in question is
7 rescinded, repealed or otherwise abrogated after a lawsuit has been
8 filed 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" shall include, but shall not be
19 limited to, attorney fees, expert witness fees, court costs and
20 costs and compensation for lost income.

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

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