

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2322

By: Coody and McDugle

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8 COMMITTEE SUBSTITUTE

9 An Act relating to firearms; amending 21 O.S. 2011,
10 Section 1289.24, as last amended by Section 1,
11 Chapter 241, O.S.L. 2015 (21 O.S. Supp. 2016, Section
12 1289.24), which relates to the Oklahoma Firearms Act
13 of 1971; clarifying preemption provision and certain
14 mandate; modifying requirements for persons filing
15 civil actions; providing for reasonable expenses
16 under certain circumstances; defining terms; and
17 providing an effective date.

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

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

22 Section 1289.24

23 FIREARM REGULATION - STATE PREEMPTION

24 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

1 supplies to the complete exclusion of any order, ordinance, or
2 regulation by any municipality or other political subdivision of
3 this state. Any existing or future orders, ordinances, or
4 regulations in this field, except as provided for in paragraph 2 of
5 this subsection and subsection C of this section, are null and void.

6 2. A municipality may adopt any ordinance:

7 a. relating to the discharge of firearms within the
8 jurisdiction of the municipality, and

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

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

22 4. A public or private school may create a policy regulating
23 the possession of knives on school property or in any school bus or
24 vehicle used by the school for purposes of transportation.

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 paragraph 1 of
14 subsection A 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 and court costs.

20 SECTION 2. This act shall become effective November 1, 2017.

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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND
23 ENVIRONMENTAL, dated 02/14/2017 - DO PASS, As Amended and
24 Coauthored.