

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 385

By: Sykes

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5  
6 AS INTRODUCED

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

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

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

20 Section 1289.24.

21 FIREARM REGULATION - STATE PREEMPTION

22 A. 1. The State Legislature hereby occupies and preempts the  
23 entire field of legislation in this state touching in any way  
24 firearms, knives, firearm and ammunition components, ammunition, and  
related 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, except in legitimate  
7 defense of self or others, and

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

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

21 4. A public or private school may create a policy regulating  
22 the possession of knives by students on school property or in any  
23 school bus or vehicle used by the school for purposes of  
24 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 related 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, firearm or  
14 ammunition component, ammunition or related supplies improperly may  
15 include a provision for confiscation of property.

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

24

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" 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 2. This act shall become effective November 1, 2017.

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23 56-1-392

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