

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.

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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.