

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 645

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2011,
8 Section 1277, as last amended by Section 1, Chapter
9 235, O.S.L. 2019 (21 O.S. Supp. 2020, Section 1277),
10 which relates to the unlawful carry of firearms in
11 certain places; authorizing municipalities to allow
12 for the carry of concealed firearms by municipal
13 employees for personal protection; providing
14 eligibility requirements; providing conditions by
15 which firearms shall be carried and stored; providing
16 immunity from civil and criminal liability under
17 certain circumstances; prohibiting the carrying of
18 firearms at firearm-prohibited locations; providing
19 penalty; defining term; providing construing
20 provision related to the carrying of firearms by
21 municipal employees; amending 21 O.S. 2011, Section
22 1289.24, as last amended by Section 8, Chapter 1,
23 O.S.L. 2019 (21 O.S. Supp. 2020, Section 1289.24),
24 which relates to firearm regulation; modifying state
preemption; authorizing courts to order political
subdivisions to pay reasonable expenses under certain
circumstances; defining term; and providing an
effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1277, as
last amended by Section 1, Chapter 235, O.S.L. 2019 (21 O.S. Supp.
2020, Section 1277), is amended to read as follows:

Section 1277.

1 UNLAWFUL CARRY IN CERTAIN PLACES

2 A. It shall be unlawful for any person, including a person in
3 possession of a valid handgun license issued pursuant to the
4 provisions of the Oklahoma Self-Defense Act, to carry any concealed
5 or unconcealed ~~handgun~~ firearm into any of the following places:

6 1. Any structure, building, or office space which is owned or
7 leased by a city, town, county, state or federal governmental
8 authority for the purpose of conducting business with the public;

9 2. Any courthouse, courtroom, prison, jail, detention facility
10 or any facility used to process, hold or house arrested persons,
11 prisoners or persons alleged delinquent or adjudicated delinquent,
12 except as provided in Section 21 of Title 57 of the Oklahoma
13 Statutes;

14 3. Any public or private elementary or public or private
15 secondary school, except as provided in subsections C and D of this
16 section;

17 4. Any publicly owned or operated sports arena or venue during
18 a professional sporting event, unless allowed by the event holder;

19 5. Any place where gambling is authorized by law, unless
20 allowed by the property owner; and

21 6. Any other place specifically prohibited by law.

22 B. For purposes of subsection A of this section, the prohibited
23 place does not include and specifically excludes the following
24 property:

1 1. Any property set aside for the use or parking of any
2 vehicle, whether attended or unattended, by a city, town, county,
3 state or federal governmental authority;

4 2. Any property set aside for the use or parking of any
5 vehicle, whether attended or unattended, which is open to the
6 public, or by any entity engaged in gambling authorized by law;

7 3. Any property adjacent to a structure, building or office
8 space in which concealed or unconcealed weapons are prohibited by
9 the provisions of this section;

10 4. Any property designated by a city, town, county or state
11 governmental authority as a park, recreational area, wildlife
12 refuge, wildlife management area or fairgrounds; provided, nothing
13 in this paragraph shall be construed to authorize any entry by a
14 person in possession of a concealed or unconcealed firearm into any
15 structure, building or office space which is specifically prohibited
16 by the provisions of subsection A of this section; and

17 5. Any property set aside by a public or private elementary or
18 secondary school for the use or parking of any vehicle, whether
19 attended or unattended; provided, however, the firearm shall be
20 stored and hidden from view in a locked motor vehicle when the motor
21 vehicle is left unattended on school property.

22 Nothing contained in any provision of this subsection or
23 subsection C of this section shall be construed to authorize or
24 allow any person in control of any place described in subsection A

1 of this section to establish any policy or rule that has the effect
2 of prohibiting any person in lawful possession of a handgun license
3 or otherwise in lawful possession of a firearm from carrying or
4 possessing the firearm on the property described in this subsection.

5 C. A concealed or unconcealed weapon may be carried onto
6 private school property or in any school bus or vehicle used by any
7 private school for transportation of students or teachers by a
8 person who is licensed pursuant to the Oklahoma Self-Defense Act,7;
9 provided, a policy has been adopted by the governing entity of the
10 private school that authorizes the carrying and possession of a
11 weapon on private school property or in any school bus or vehicle
12 used by a private school. Except for acts of gross negligence or
13 willful or wanton misconduct, a governing entity of a private school
14 that adopts a policy which authorizes the possession of a weapon on
15 private school property, a school bus or vehicle used by the private
16 school shall be immune from liability for any injuries arising from
17 the adoption of the policy. The provisions of this subsection shall
18 not apply to claims pursuant to the Administrative Workers'
19 Compensation Act.

20 D. Notwithstanding paragraph 3 of subsection A of this section,
21 a board of education of a school district may adopt a policy
22 pursuant to Section 5-149.2 of Title 70 of the Oklahoma Statutes to
23 authorize the carrying of a handgun onto school property by school
24

1 personnel specifically designated by the board of education⁷ⁱ

2 provided, such personnel either:

3 1. Possess a valid armed security guard license as provided for
4 in Section 1750.1 et seq. of Title 59 of the Oklahoma Statutes; or

5 2. Hold a valid reserve peace officer certification as provided
6 for in Section 3311 of Title 70 of the Oklahoma Statutes.

7 Nothing in this subsection shall be construed to restrict authority
8 granted elsewhere in law to carry firearms.

9 E. In any municipal zoo or park of any size that is owned,
10 leased, operated or managed by:

11 1. A public trust created pursuant to the provisions of Section
12 176 of Title 60 of the Oklahoma Statutes; or

13 2. A nonprofit entity,
14 an individual shall be allowed to carry a concealed handgun but not
15 openly carry a handgun on the property.

16 F. Any person violating the provisions of paragraph 2 or 3 of
17 subsection A of this section shall, upon conviction, be guilty of a
18 misdemeanor punishable by a fine not to exceed Two Hundred Fifty
19 Dollars (\$250.00). A person violating any other provision of
20 subsection A of this section may be denied entrance onto the
21 property or removed from the property. If the person refuses to
22 leave the property and a peace officer is summoned, the person may
23 be issued a citation for an amount not to exceed Two Hundred Fifty
24 Dollars (\$250.00).

1 G. No person in possession of a valid handgun license issued
2 pursuant to the provisions of the Oklahoma Self-Defense Act or who
3 is carrying or in possession of a firearm as otherwise permitted by
4 law or who is carrying or in possession of a machete, blackjack,
5 loaded cane, hand chain or metal knuckles shall be authorized to
6 carry the firearm, machete, blackjack, loaded cane, hand chain or
7 metal knuckles into or upon any college, university or technology
8 center school property, except as provided in this subsection. For
9 purposes of this subsection, the following property shall not be
10 construed to be college, university or technology center school
11 property:

12 1. Any property set aside for the use or parking of any motor
13 vehicle, whether attended or unattended, provided the firearm,
14 machete, blackjack, loaded cane, hand chain or metal knuckles are
15 carried or stored as required by law and the firearm, machete,
16 blackjack, loaded cane, hand chain or metal knuckles are not removed
17 from the motor vehicle without the prior consent of the college or
18 university president or technology center school administrator while
19 the vehicle is on any college, university or technology center
20 school property;

21 2. Any property authorized for possession or use of firearms,
22 machetes, blackjacks, loaded canes, hand chains or metal knuckles by
23 college, university or technology center school policy; and
24

1 3. Any property authorized by the written consent of the
2 college or university president or technology center school
3 administrator, provided the written consent is carried with the
4 firearm, machete, blackjack, loaded cane, hand chain or metal
5 knuckles and the valid handgun license while on college, university
6 or technology center school property.

7 The college, university or technology center school may notify
8 the Oklahoma State Bureau of Investigation within ten (10) days of a
9 violation of any provision of this subsection by a licensee. Upon
10 receipt of a written notification of violation, the Bureau shall
11 give a reasonable notice to the licensee and hold a hearing. At the
12 hearing, upon a determination that the licensee has violated any
13 provision of this subsection, the licensee may be subject to an
14 administrative fine of Two Hundred Fifty Dollars (\$250.00) and may
15 have the handgun license suspended for three (3) months.

16 Nothing contained in any provision of this subsection shall be
17 construed to authorize or allow any college, university or
18 technology center school to establish any policy or rule that has
19 the effect of prohibiting any person in lawful possession of a
20 handgun license or any person in lawful possession of a firearm,
21 machete, blackjack, loaded cane, hand chain or metal knuckles from
22 possession of a firearm, machete, blackjack, loaded cane, hand chain
23 or metal knuckles in places described in paragraphs 1, 2 and 3 of
24 this subsection. Nothing contained in any provision of this

1 subsection shall be construed to limit the authority of any college,
2 university or technology center school in this state from taking
3 administrative action against any student for any violation of any
4 provision of this subsection.

5 H. The provisions of this section shall not apply to the
6 following:

7 1. Any peace officer or any person authorized by law to carry a
8 firearm in the course of employment;

9 2. District judges, associate district judges and special
10 district judges, who are in possession of a valid handgun license
11 issued pursuant to the provisions of the Oklahoma Self-Defense Act
12 and whose names appear on a list maintained by the Administrative
13 Director of the Courts, when acting in the course and scope of
14 employment within the courthouses of this state;

15 3. Private investigators with a firearms authorization when
16 acting in the course and scope of employment;

17 4. Elected officials of a county, who are in possession of a
18 valid handgun license issued pursuant to the provisions of the
19 Oklahoma Self-Defense Act, may carry a concealed handgun when acting
20 in the performance of their duties within the courthouses of the
21 county in which he or she was elected. The provisions of this
22 paragraph shall not allow the elected county official to carry the
23 handgun into a courtroom;

1 5. The sheriff of any county may authorize certain employees of
2 the county, who possess a valid handgun license issued pursuant to
3 the provisions of the Oklahoma Self-Defense Act, to carry a
4 concealed handgun when acting in the course and scope of employment
5 within the courthouses in the county in which the person is
6 employed. Nothing in the Oklahoma Self-Defense Act shall prohibit
7 the sheriff from requiring additional instruction or training before
8 receiving authorization to carry a concealed handgun within the
9 courthouse. The provisions of this paragraph and of paragraph 6 of
10 this subsection shall not allow the county employee to carry the
11 handgun into a courtroom, sheriff's office, adult or juvenile jail
12 or any other prisoner detention area; and

13 6. The board of county commissioners of any county may
14 authorize certain employees of the county, who possess a valid
15 handgun license issued pursuant to the provisions of the Oklahoma
16 Self-Defense Act, to carry a concealed handgun when acting in the
17 course and scope of employment on county annex facilities or grounds
18 surrounding the county courthouse.

19 I. 1. Municipalities may, by ordinance, authorize all or
20 certain municipal employees to carry concealed firearms, as defined
21 in Section 1290.2 of this title, for their personal protection
22 according to the terms and conditions outlined in this subsection.
23 To be eligible to carry a concealed firearm while working and
24 employed on a municipal property, the employee must have been issued

1 a valid handgun license pursuant to the provisions of the Oklahoma
2 Self-Defense Act.

3 2. Carrying a firearm as authorized in this section shall not
4 in any way be considered a requirement for continued employment with
5 the municipality, municipal authority or municipal trust.

6 3. When carrying a firearm pursuant to this subsection, the
7 employee shall at all times carry the firearm on his or her person
8 or the firearm shall be stored in a locked and secured location
9 which is permanently affixed or tethered at the expense of the
10 employee and with permission of the governing body. The
11 municipality shall not be liable for any loss, damage or injuries
12 that occur in relation to or caused by the possession or storage of
13 a firearm under the provisions of this subsection.

14 4. Any municipal employee authorized to carry a firearm under
15 the provisions of this subsection, while acting in a reasonable and
16 prudent manner, shall be immune from civil and criminal liability
17 for any injury resulting from the carrying, accidental discharge or
18 intentional discharge of a handgun on municipal property as provided
19 in this subsection. Any municipality, public authority or trust
20 with a municipality as a beneficiary, city council, board of
21 trustees or participating local law enforcement agency shall be
22 immune from civil and criminal liability for any injury, act or
23 other suit at law or in equity resulting from any act, failure to
24 act or refusal to act committed by a municipal employee who carries,

1 accidentally discharges or intentionally discharges a handgun on
2 municipal property as authorized by this subsection.

3 5. For purposes of this subsection, firearms may only be
4 carried by a municipal employee in the place of employment of the
5 municipal employee during working hours, unless the location is a
6 firearm-prohibited location. In addition to any employment
7 disciplinary actions, any person who violates the provisions of this
8 subsection shall be subject to the penalties provided for in
9 subsection F of this section. As used in this paragraph, "firearm-
10 prohibited location" shall include the following locations:

11 a. any room, location or other public place where public
12 meetings or other meetings governed by the Oklahoma
13 Open Meeting Act occur,

14 b. any room, location or other place on municipally
15 owned, leased or maintained property designated as a
16 firearm-prohibited location by the municipal
17 government, and

18 c. any police department, courthouse, courtroom, prison,
19 jail, detention facility or any facility used to
20 process, hold or house arrested persons, prisoners or
21 persons alleged delinquent or adjudicated delinquent.

22 6. Nothing in this section should be construed as a mechanism
23 to allow municipal employees to carry a firearm as a duty or
24 function of their employment with the municipality. Any act

1 concerning the carrying of a firearm, a refusal or failure to act
2 with a firearm or the accidental or intentional discharge of a
3 firearm shall be considered taken on the personal behalf of the
4 municipal employee and not on behalf of the municipality and shall
5 not be considered an act performed within the scope of duties of the
6 employee nor shall it be construed as an act by the municipality,
7 municipal authority or municipal trust, or any employee thereof.

8 J. For the purposes of this section, "motor vehicle" means any
9 automobile, truck, minivan, or sports utility vehicle, or motorcycle
10 as defined in Section 1-135 of Title 47 of the Oklahoma Statutes,
11 equipped with a locked accessory container within or affixed to the
12 motorcycle.

13 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1289.24, as
14 last amended by Section 8, Chapter 1, O.S.L. 2019 (21 O.S. Supp.
15 2020, Section 1289.24), is amended to read as follows:

16 Section 1289.24

17 FIREARM REGULATION - STATE PREEMPTION

18 A. 1. The State Legislature hereby occupies and preempts the
19 entire field of legislation in this state touching in any way
20 firearms, knives, firearm and ammunition components, ammunition, and
21 supplies to the complete exclusion of any order, policy, ordinance, or
22 or regulation by any municipality or other political subdivision of
23 this state. Any existing or future orders, policies, ordinances, or
24

1 regulations in this field, except as provided for in paragraph 2 of
2 this subsection and subsection C of this section, are null and void.

3 2. A municipality may adopt any ordinance:

4 a. relating to the discharge of firearms within the
5 jurisdiction of the municipality, and

6 b. allowing the municipality to issue a traffic citation
7 for transporting a firearm improperly as provided for
8 in Section 1289.13A of this title~~7~~; provided, however,
9 that penalties contained for violation of any
10 ordinance enacted pursuant to the provisions of this
11 subparagraph shall not exceed the penalties
12 established in the Oklahoma Self-Defense Act.

13 3. As provided in the preemption provisions of this section,
14 the otherwise lawful carrying or possession of a firearm under the
15 provisions of Chapter 53 of this title shall not be punishable by
16 any municipality or other political subdivision of this state as
17 disorderly conduct, disturbing the peace or similar offense against
18 public order.

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

22 B. No municipality or other political subdivision of this state
23 shall adopt any order, policy, ordinance~~7~~ or regulation concerning
24 in any way the sale, purchase, purchase delay, transfer, ownership,

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

5 C. Except as hereinafter provided, this section shall not
6 prohibit any order, policy, ordinance, 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 improperly may include a provision for confiscation of
12 property.

13 D. When a person's rights pursuant to the protection of the
14 preemption provisions of this section have been violated by any
15 order, policy, ordinance or regulation promulgated or enforced by
16 any person, municipality, agency or other political subdivision of
17 this state, the person shall have the right to bring a civil action
18 against the persons, municipality, agency and political subdivision
19 jointly and severally for injunctive relief or monetary damages or
20 both.

21 E. A court may require the political subdivision to pay
22 reasonable expenses to a person in an action filed pursuant to the
23 provisions of subsection D of this section if:
24

1 1. The aggrieved party first provides written notice of the
2 unlawful order, policy, ordinance or regulation by certified first-
3 class mail or service of process and allows the political
4 subdivision ninety (90) days to rescind, repeal or otherwise
5 abrogate the order, policy, ordinance or regulation; and

6 2. A court grants final determination in favor of the person.

7 If the political subdivision fails to rescind, repeal or
8 otherwise abrogate the unlawful order, policy, ordinance or
9 regulation within ninety (90) days of required notice as provided in
10 paragraph 1 of this subsection and the order, policy, ordinance or
11 regulation is subsequently rescinded, repealed or otherwise
12 abrogated after the aggrieved party files suit, the aggrieved party
13 shall retain standing in the suit and may recover damages or
14 reasonable expenses.

15 F. As used in this section, "reasonable expenses" includes, but
16 is not limited to, attorney fees, expert witness fees and court
17 costs.

18 SECTION 3. This act shall become effective November 1, 2021.

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