

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1961

By: Jett

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 2021, Section 1289.24e, which relates to the right to keep and bear arms; prohibiting enforcement of certain federal acts; prohibiting certain defense; providing certain liability; authorizing civil action; providing certain construction; authorizing material aid to federal entities under certain circumstances; defining terms; stating findings and declarations of the Legislature; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.24e, is amended to read as follows:

Section 1289.24e. A. The State Legislature hereby occupies and preempts the entire field of legislation by any agency of this state or any political subdivision in this state to infringe upon the rights of a citizen of the State of Oklahoma, the unalienable right to keep and bear arms as guaranteed to them by the Second Amendment of the United States Constitution.

B. Any federal, state, county or municipal act, law, executive order, administrative order, court order, rule, policy or regulation

1 ordering the buy-back, confiscation or surrender of firearms,
2 firearm accessories or ammunition from law-abiding citizens of this
3 state shall be considered an infringement on the rights of citizens
4 to keep and bear arms as guaranteed by the Second Amendment of the
5 Constitution of the United States and Article II, Section 26 of the
6 Constitution of Oklahoma.

7 C. It shall be the duty of the courts and law enforcement
8 agencies of this state to protect the rights of law-abiding citizens
9 to keep and to bear arms within the borders of this state and to
10 protect these rights from the infringement provided under the
11 provisions of this act.

12 D. The preemption provided in this act shall include:

13 1. Any regulation of arms and ammunition, pursuant to the
14 National Firearms Act of 1934, prohibited or regulated on or after
15 the effective date of this act; and

16 2. Any regulations or provision of the Gun Control Act of 1968,
17 prohibited or regulated on or after the effective date of this act.

18 E. Any public office, public officer, or employee of this state
19 or a political subdivision shall not enforce, attempt to enforce, or
20 participate in any way in the enforcement of any federal acts,
21 executive orders, administrative orders, rules, regulations,
22 statutes, or ordinances regarding firearms, firearm accessories, or
23 ammunition.

1 F. Any public office, public officers, or employee of this
2 state or a political subdivision shall not accede to a request from
3 another public office, public officer, or employee of this state or
4 a political subdivision to give material aid or support to the
5 efforts of the other in the enforcement of the implementation of any
6 federal acts, laws, executive orders, rules, regulations, or
7 ordinances regarding firearms, firearm accessories, or ammunition.

8 G. Sovereign immunity shall not be an affirmative defense in
9 any action pursuant to this section.

10 H. 1. Notwithstanding anything to the contrary, if the state
11 or a political subdivision employs a law enforcement officer who
12 knowingly violates subsections E or F of this section, the state or
13 political subdivision shall be liable to the injured party in an
14 action at law, suit in equity, or other proper proceeding for
15 redress, and subject to a civil penalty of Fifty Thousand Dollars
16 (\$50,000.00) per occurrence.

17 2. Any person injured under the provisions of this subsection
18 shall have standing to pursue an action for injunctive relief in the
19 district court of the county in which the action allegedly occurred.
20 The court shall hold a hearing on the motion for a temporary
21 restraining order and preliminary injunction within thirty (30) days
22 of service of the petition. In such actions, notwithstanding
23 anything to the contrary, the court may award the prevailing party,
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1 other than this state or any political subdivision of the state,
2 reasonable attorney fees and costs.

3 I. If the state or any political subdivision of the state
4 knowingly employs an individual who is acting as or previously acted
5 as an official, agent, employee, or deputy of the government of the
6 United States, or otherwise acting under the color of federal law
7 within the borders of this state, after the effective date of this
8 act, the state or political subdivision shall be subject to a civil
9 penalty of Fifty Thousand Dollars (\$50,000.00) per employee hired by
10 the state or political subdivision who violates the applicable
11 provision.

12 J. Nothing in this section shall be construed to prohibit
13 public officers or employees of the state or a political subdivision
14 of the state from requesting or accepting aid from federal officials
15 in an effort to enforce laws of the state or of a political
16 subdivision for either of the following:

17 1. Referring firearm cases to any United States attorney for
18 potential prosecution if such case is a violent felony offense
19 involving the use of a weapon, provided that such weapons violations
20 are merely ancillary to that prosecution; or

21 2. Participating with federal law enforcement to enforce laws
22 of the state or a political subdivision of the state in any National
23 Integrated Ballistic Information Network investigation or lead, or
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1 distributing such leads, whether or not through a Crime Gun
2 Intelligence Center.

3 K. It shall not be considered a violation of this section to
4 provide material aid to federal officials who are in pursuit of a
5 suspect when there is a demonstrable criminal nexus with another
6 state or country and such suspect is either not a citizen of this
7 state or is not present in this state.

8 L. It shall not be considered a violation of this section to
9 provide material aid to federal prosecutions for either of the
10 following:

11 1. Felony crimes against a person when such prosecution
12 includes weapons violations so long as such weapons violations are
13 merely ancillary to such prosecution; or

14 2. Class A or class B felony violations, as designated under
15 federal law.

16 M. Nothing in this section shall be construed to prohibit a
17 public officer or employee of the state or a political subdivision
18 from participating in an inter-jurisdictional task force for the
19 purpose of enforcing laws not related to firearms, firearm
20 accessories, or ammunition.

21 N. For purposes of this section:

22 1. "Arms" is defined as any firearm, firearm part, accessory or
23 ammunition required to render that firearm operable and effective;

1 2. "Infringement" shall mean any law that reduces, represses,
2 diminishes or subverts the right to keep and bear arms, ammunition,
3 parts and accessories in any amount that is legal as of the
4 effective date of this act of any citizen in this state; and

5 3. "Law-abiding citizen" means a person who is not otherwise
6 precluded under state law from possessing a firearm and shall not be
7 construed to include anyone who is not legally present in the United
8 States or this state;

9 4. "Material aid or support" includes giving or allowing others
10 to make use of lodging, communications equipment, or services
11 including social media accounts, facilities, weapons, personnel,
12 transportation, clothing, or other physical assets but does not
13 include giving or allowing the use of medicine or other materials
14 necessary for the treatment of physical injuries or any assistance
15 to help persons escape a serious, present risk of life-threatening
16 injury as deemed by a court warrant;

17 5. "Political subdivision" means a county, township, municipal
18 corporation, or any other body corporate and politic responsible for
19 governmental activities in a geographic area smaller than that of
20 this state;

21 6. "Public office" includes any state agency, public
22 institution, political subdivision, or other organized body, office,
23 agency, institution, or entity established by the laws of this state
24 for the exercise of any function of government; and

1 7. "Public officer" includes all officers, employees, or duly
2 authorized representatives or agents of a public office.

3 SECTION 2. NEW LAW A new section of law not to be
4 codified in the Oklahoma Statutes reads as follows:

5 The Legislature finds and declares that:

6 1. The Legislature is firmly resolved to support and defend the
7 Constitution of the United States against every aggression, whether
8 foreign or domestic, and is duty-bound to oppose every infraction of
9 those principles that constitute the basis of the union of the
10 states because only a faithful observance of those principles can
11 secure the existence of the union and the public happiness;

12 2. Acting through the Constitution of the United States, the
13 people of the several states created the federal government to be
14 their agent in the exercise of a few defined powers, while reserving
15 for the state governments the power to legislate matters concerning
16 the lives, liberties, and properties of citizens in the ordinary
17 course of affairs;

18 3. The limitation of the power of the federal government is
19 affirmed under the Tenth Amendment of the United States
20 Constitution, which defines the total scope of federal powers as
21 being those which have been delegated by the people of the several
22 states to the federal government, and all powers not delegated to
23 the federal government in the Constitution of the United States are
24 reserved to the states respectively or the people themselves;

1 4. If the federal government assumes powers that the people did
2 not grant it in the Constitution of the United States, its acts are
3 unauthoritative and of no force;

4 5. The several states of the United States respect the proper
5 role of the federal government but reject the proposition that such
6 respect requires unlimited submission. If the federal government,
7 created by a compact among the states, were the exclusive or final
8 judge of the extent of the powers granted to it by the states
9 through the Constitution of the United States, the discretion of the
10 federal government, and not the Constitution of the United States,
11 would necessarily become the measure of those powers. To the
12 contrary, as in all other cases of compacts among powers having no
13 common judge, each party has an equal right to judge for itself as
14 to whether infractions of the compact have occurred, as well as to
15 determine the mode and measure of redress. Although the several
16 states have granted supremacy to laws and treaties made under the
17 powers granted in the Constitution of the United States, such
18 supremacy does not extend to various federal statutes, executive
19 orders, administrative orders, court orders, rules, regulations, or
20 other actions that collect data or restrict or prohibit the
21 manufacture, ownership, and use of firearms, firearm accessories, or
22 ammunition exclusively within the borders of Oklahoma. Such
23 statutes, executive orders, administrative orders, court orders,
24 rules, regulations, and other actions exceed the powers granted to

1 the federal government except to the extent they are necessary and
2 proper for governing and regulating the United States Armed Forces
3 or for organizing, arming, and disciplining militia forces actively
4 employed in the service of the United States Armed Forces;

5 6. The people of the several states have given Congress the
6 power to regulate commerce with foreign nations and among the
7 several states, but regulating commerce does not include the power
8 to limit the right of citizens to keep and bear arms in defense of
9 their families, neighbors, persons, or property nor to dictate what
10 sort of arms and accessories law-abiding citizens may buy, sell,
11 exchange, or otherwise possess within the borders of this state;

12 7. The people of the several states also have granted Congress
13 the power to lay and collect taxes, duties, imports, and excises, to
14 pay the debts and provide for the common defense and general welfare
15 of the United States, and to make all laws which shall be necessary
16 and proper for carrying into execution the powers vested by the
17 Constitution of the United States in the government of the United
18 States, or in any department or office thereof. These
19 constitutional provisions merely identify the means by which the
20 federal government may execute its limited powers and shall not be
21 construed to grant unlimited power because to do so would be to
22 destroy the carefully constructed equilibrium between the federal
23 and state governments. The taxing and spending powers of Congress
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1 may not be used to diminish in any way the right of the people to
2 keep and bear arms;

3 8. The Legislature finds that the federal excise tax rate on
4 arms and ammunition in effect before January 1, 2021, which funds
5 programs under the Pittman-Robertson Wildlife Restoration Act, does
6 not have a chilling effect on the purchase or ownership of such arms
7 and ammunition;

8 9. The people of this state have vested the Legislature with
9 the authority to regulate the manufacture, possession, exchange, and
10 use of firearms within the borders of this state, subject only to
11 the limits imposed by the Second Amendment of the United States
12 Constitution and the Constitution of Oklahoma as of the effective
13 date of this act; and

14 10. The Legislature strongly promotes responsible gun
15 ownership, including parental supervision of minors in the proper
16 use, storage, and ownership of all firearms, the prompt reporting of
17 stolen firearms, and the proper enforcement of all state gun laws.
18 The Legislature hereby condemns any unlawful transfer of firearms
19 and the use of any firearm in any criminal or unlawful activity.

20 SECTION 3. This act shall become effective November 1, 2024.

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