

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2713

By: Echols

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8 COMMITTEE SUBSTITUTE

9 An Act relating to firearms; amending 21 O.S. 2011,
10 Section 1283, as last amended by Section 1, Chapter
11 179, O.S.L. 2014 (21 O.S. Supp. 2017, Section 1283),
12 which relates to possession of firearms by convicted
13 felons and delinquents; prohibiting certain persons
14 from possessing firearms; providing penalty; updating
15 definitions; amending 21 O.S. 2011, Sections 1289.7,
16 as amended by Section 12, Chapter 259, O.S.L. 2012
17 and 1289.13A, as amended by Section 19, Chapter 259,
18 O.S.L. 2012 (21 O.S. Supp. 2017, Sections 1289.7 and
19 1289.13A), which relate to the Oklahoma Firearms Act
20 of 1971; modifying manner in which firearms may be
21 transported in vehicles; deleting certain definition;
22 deleting certain manner in which rifles or shotguns
23 may be transported; authorizing certain persons to
24 transport pistols in motor vehicles; stating
authority of business entities to control the
possession or transportation of firearms in vehicles
under their control; making certain acts unlawful;
providing penalty; prohibiting law enforcement from
disarming or restraining persons who possess weapons;
making issuance of citations discretionary; modifying
firearms confiscation guidelines; and providing an
effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1283, as
2 last amended by Section 1, Chapter 179, O.S.L. 2014 (21 O.S. Supp.
3 2017, Section 1283), is amended to read as follows:

4 Section 1283.

5 CONVICTED FELONS AND DELINQUENTS

6 A. Except as provided in subsection B of this section, it shall
7 be unlawful for any person convicted of any felony in any court of
8 this state or of another state or of the United States to have in
9 his or her possession or under his or her immediate control, or in
10 any vehicle which the person is operating, or in which the person is
11 riding as a passenger, or at the residence where the convicted
12 person resides, any pistol, imitation or homemade pistol, altered
13 air or toy pistol, machine gun, sawed-off shotgun or rifle, or any
14 other dangerous or deadly firearm.

15 B. Any person who has previously been convicted of a nonviolent
16 felony in any court of this state or of another state or of the
17 United States, and who has received a full and complete pardon from
18 the proper authority and has not been convicted of any other felony
19 offense which has not been pardoned, shall have restored the right
20 to possess any firearm or other weapon prohibited by subsection A of
21 this section, the right to apply for and carry a handgun, concealed
22 or unconcealed, pursuant to the Oklahoma Self-Defense Act and the
23 right to perform the duties of a peace officer, gunsmith, or for
24 firearms repair.

1 C. It shall be unlawful for any person serving a term of
2 probation for any felony in any court of this state or of another
3 state or of the United States or under the jurisdiction of any
4 alternative court program to have in his or her possession or under
5 his or her immediate control, or at his or her residence, or in any
6 passenger vehicle which the person is operating or is riding as a
7 passenger, any pistol, shotgun or rifle, including any imitation or
8 homemade pistol, altered air or toy pistol, shotgun or rifle, while
9 such person is subject to supervision, probation, parole or inmate
10 status.

11 D. It shall be unlawful for any person previously adjudicated
12 as a delinquent child or a youthful offender for the commission of
13 an offense, which would have constituted a felony offense if
14 committed by an adult, to have in the possession of the person or
15 under the immediate control of the person, or have in any vehicle
16 which he or she is driving or in which the person is riding as a
17 passenger, or at the residence of the person, any pistol, imitation
18 or homemade pistol, altered air or toy pistol, machine gun, sawed-
19 off shotgun or rifle, or any other dangerous or deadly firearm
20 within ten (10) years after such adjudication; provided, that
21 nothing in this subsection shall be construed to prohibit the
22 placement of the person in a home with a full-time duly appointed
23 peace officer who is certified by the Council on Law Enforcement
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1 Education and Training (CLEET) pursuant to the provisions of Section
2 3311 of Title 70 of the Oklahoma Statutes.

3 E. It shall be unlawful for any person who is not lawfully
4 present in the United States to have in the possession of the person
5 or under the immediate control of the person, or in any vehicle the
6 person is operating or in which the person is riding as a passenger,
7 or at the residence where the person resides, any pistol, imitation
8 or homemade pistol, altered air or toy pistol, shotgun, rifle or any
9 other dangerous or deadly firearm. Any person who violates the
10 provisions of this subsection shall, upon conviction, be guilty of a
11 misdemeanor punishable by a fine of Two Hundred Fifty Dollars
12 (\$250.00).

13 F. Any person having been issued a handgun license pursuant to
14 the provisions of the Oklahoma Self-Defense Act and who thereafter
15 knowingly or intentionally allows a convicted felon or adjudicated
16 delinquent or a youthful offender as prohibited by the provisions of
17 subsection A, C, or D of this section to possess or have control of
18 any pistol authorized by the Oklahoma Self-Defense Act shall, upon
19 conviction, be guilty of a felony punishable by a fine not to exceed
20 Five Thousand Dollars (\$5,000.00). In addition, the person shall
21 have the handgun license revoked by the Oklahoma State Bureau of
22 Investigation after a hearing and determination that the person has
23 violated the provisions of this section.

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1 ~~F.~~ G. Any convicted or adjudicated person violating the
2 provisions of this section shall, upon conviction, be guilty of a
3 felony punishable as provided in Section 1284 of this title.

4 ~~G.~~ H. For purposes of this section, ~~"sawed-off shotgun or
5 rifle"~~ shall mean:

6 1. "Sawed-off shotgun or rifle" means any shotgun or rifle
7 which has been shortened to any length.

8 ~~H.~~ For purposes of this section, ~~"altered toy pistol"~~ shall
9 mean;

10 2. "Altered toy pistol" means any toy weapon which has been
11 altered from its original manufactured state to resemble a real
12 weapon.

13 ~~I.~~ For purposes of this section, ~~"altered air pistol"~~ shall
14 mean;

15 3. "Altered air pistol" means any air pistol manufactured to
16 propel projectiles by air pressure which has been altered from its
17 original manufactured state.

18 ~~J.~~ For purposes of this section, ~~"alternative court program"~~
19 shall mean; and

20 4. "Alternative court program" means any drug court, Anna
21 McBride or mental health court, DUI court or veterans court.

22 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1289.7, as
23 amended by Section 12, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2017,
24 Section 1289.7), is amended to read as follows:

1 Section 1289.7

2 FIREARMS IN VEHICLES

3 A. Any person, except a convicted felon or person that is
4 otherwise disqualified from the possession or legal purchase of a
5 firearm under state or federal law and is not involved in a crime,
6 may transport in a motor vehicle a rifle, or shotgun or pistol, open
7 concealed or unconcealed and unloaded, at any time. For purposes of
8 this section "open" means the firearm is transported in plain view,
9 in a case designed for carrying firearms, which case is wholly or
10 partially visible, in a gun rack mounted in the vehicle, in an
11 exterior locked compartment or a trunk of a vehicle.

12 ~~Any person, except a convicted felon, may transport in a motor~~
13 ~~vehicle a rifle or shotgun concealed behind a seat of the vehicle or~~
14 ~~within the interior of the vehicle provided the rifle or shotgun is~~
15 ~~not clip, magazine or chamber loaded. The authority to transport a~~
16 ~~clip_ or magazine_loaded rifle or shotgun shall be pursuant to~~
17 ~~Section 1289.13 of this title.~~

18 B. Any person twenty-five (25) years of age or older, except a
19 convicted felon or person that is otherwise disqualified from the
20 possession or legal purchase of a firearm under state or federal
21 law, may transport in a motor vehicle a pistol, concealed or
22 unconcealed, loaded or unloaded, without a valid handgun license
23 issued pursuant to the Oklahoma Self-Defense Act, provided the
24 person is not involved in a crime. The provisions of this

1 subsection shall not prohibit a business entity from controlling the
2 transporting, possessing or carrying of firearms in or about the
3 vehicle that is under the control of the business entity.

4 C. Any person who is the operator of a vehicle or is a
5 passenger in any vehicle wherein another person who is licensed
6 pursuant to the Oklahoma Self-Defense Act to carry a handgun,
7 concealed or unconcealed, and is carrying a handgun or has the
8 handgun in such vehicle, shall not be deemed in violation of the
9 provisions of this section provided the licensee is in or near the
10 vehicle.

11 D. It shall be unlawful for any person to fail or refuse to
12 identify the fact that the person is in actual possession of a
13 firearm pursuant to the authority of the Oklahoma Self-Defense Act
14 or the Oklahoma Firearms Act of 1971, when the person comes into
15 contact with any law enforcement officer of this state or its
16 political subdivisions or a federal law enforcement officer during
17 the course of any arrest, detainment or routine traffic stop. Said
18 identification to the law enforcement officer shall be made at the
19 first opportunity. Any person who violates the provisions of this
20 subsection shall, upon conviction, be guilty of a misdemeanor
21 punishable by a fine not exceeding One Hundred Dollars (\$100.00).

22 E. Absent a reasonable and articulable suspicion of other
23 criminal activity, an individual possessing a concealed or
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1 unconcealed weapon shall not be disarmed or physically restrained by
2 any law enforcement officer.

3 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.13A, as
4 amended by Section 19, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2017,
5 Section 1289.13A), is amended to read as follows:

6 Section 1289.13A

7 IMPROPER TRANSPORTATION OF FIREARMS

8 A. Notwithstanding the provisions of Section 1272 or 1289.13 of
9 this title, any person stopped pursuant to a moving traffic
10 violation who is transporting a loaded pistol in the motor vehicle
11 without a valid handgun license authorized by the Oklahoma Self-
12 Defense Act or valid license from another state, whether the loaded
13 firearm is concealed or unconcealed in the vehicle, ~~shall~~ may be
14 issued a traffic citation in the amount of Seventy Dollars (\$70.00),
15 plus court costs for transporting a firearm improperly. In addition
16 to the traffic citation provided in this section, the person may
17 also be arrested for any other violation of law.

18 B. When the arresting officer determines that the driver of the
19 vehicle is twenty-five (25) years of age or older or a valid handgun
20 license exists, pursuant to the Oklahoma Self-Defense Act or any
21 provision of law from another state, for any person in the stopped
22 vehicle, any firearms permitted to be carried pursuant to that
23 license shall not be confiscated, unless:

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1 1. The person is arrested for violating another provision of
2 law other than a violation of subsection A of this section;
3 provided, however, if the person is never charged with an offense
4 pursuant to this paragraph or if the charges are dismissed or the
5 person is acquitted, the weapon shall be returned to the person; or

6 2. The officer has probable cause to believe the weapon is:
7 a. contraband, or
8 b. a firearm used in the commission of a crime other than
9 a violation of subsection A of this section.

10 C. ~~Nothing~~ Absent a criminal act, nothing in this section shall
11 be construed to require confiscation of any firearm.

12 SECTION 4. This act shall become effective November 1, 2018.

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