



U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

JUL 25 2013

Washington, DC 20226

www.atf.gov

Mr. Tim Gillespie
President
Oklahoma Second Amendment Association
18131 Valley View Road
Earlsboro, Oklahoma 74840

Dear Mr. Gillespie:

This is in response to your letter dated June 7, 2013, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), asking several questions concerning the Federal Gun-Free School Zones Act (GFSZA) as it applies to Oklahoma weapon license holders.

First, you ask if an Oklahoma license holder possessing a loaded handgun would be in violation of the GFSZA while traveling on public streets and highways which are known to the individual to be within 1,000 feet of the grounds of any school as defined by Title 18 United States Code (U.S.C.), Section 921(a)(26), while in another State that recognizes Oklahoma's license by statute or legal agreement.

As you may know, the GFSZA, Title 18, U.S.C., Section 922(q), is a Federal law that provides that it is unlawful for an individual to knowingly possess or discharge a firearm in a place that the individual knows or has reasonable cause to believe is a school zone. A "school zone" is defined by Title 18, U.S.C., Section 921(a)(25) to mean any place in, or on the grounds of, a public, parochial, or private school, or within a distance of 1,000 feet from the school grounds.

The law provides certain exceptions to the general ban on possession of firearms in school zones. One exception is where the individual possessing the firearm "is licensed to do so by the State in which the school zone is located or a political subdivision of the State" (Title 18 U.S.C. Section 922(q)(2)(B)(ii)). A license qualifies as an exception only if the law of the State or political subdivision requires law enforcement authorities to verify that the individual is qualified under law to receive the license.

The law clearly provides that in order to qualify as an exception to the general prohibition of the GFSZA, the license must be issued by the State in which the school zone is located or a political subdivision of that State. A concealed weapons license or permit from any other State would not satisfy the criteria set forth in the law.

Second, you ask if an Oklahoma license holder, while in Oklahoma, would be in violation if he knowingly discharges a firearm in otherwise lawful self-defense while on public property (e.g. sidewalks, streets, parks, or fairgrounds) that the individual knows to be within 1,000 feet of the grounds of any school. For purposes of this question, you ask us to

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assume this individual is not acting in an official law enforcement capacity or in accordance with any contract entered into with any school or in connection with any school approved program.

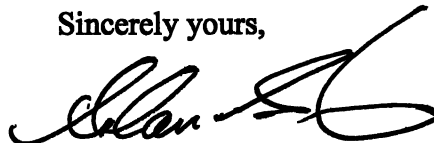
Federal law, Title 18, U.S.C., Section 922(q)(3)(A), provides in relevant part that it is unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone. Therefore, if a person discharges a firearm under these circumstances, the person would violate the GFSZA. Whether a person claiming self-defense would be prosecuted under the GFSZA after discharging a firearm in a school zone is a determination to be made by the United States Attorney's Office and requires examination of the facts of each case.

Finally, you ask whether a conviction under Title 18, U.S.C., Section 922(q) causes a person to become a lifetime prohibited firearm buyer/possessor under the Gun Control Act of 1968. You ask specifically whether the language in Title 18, U.S.C., Section 924(a)(4) stating "[e]xcept for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor" removes the legal disabilities that would normally occur under Title 18, U.S.C., Section 922(g) after conviction of a crime punishable by imprisonment for a term exceeding 1 year.

A misdemeanor violation of Section 922(q) is still a prohibiting conviction under Section 922(g)(1) since it is punishable by more than 1 year of imprisonment. As provided by Title 18, U.S.C., Section 924(a)(4), it is a crime punishable by up to 5 years' imprisonment. However, such a conviction is not necessarily a lifetime prohibition. Because the conviction is for a Federal offense, such a person could regain the ability to lawfully receive, possess, or transport firearms if the person received a Presidential pardon. You can find additional information about pardons by contacting the Office of the Pardon Attorney online at www.justice.gov/pardon/contact_info.htm, calling (202) 616-6070, or writing to the U.S. Department of Justice, Office of the Pardon Attorney, 1425 New York Avenue, NW, Suite 11000, Washington, DC 20530.

We hope this information was helpful.

Sincerely yours,



Ashan Benedict
Chief, Intergovernmental Affairs Division
Public and Governmental Affairs