

ENGROSSED HOUSE
BILL NO. 1032

By: Cox of the House

and

Leftwich of the Senate

An Act relating to initiative and referendum;
enacting the Ban the Bounty for the Initiative and
Referendum Process Act of 1995; defining term;
prohibiting payments by and to certain persons and
entities under certain circumstances; prescribing
penalty; identifying persons liable to punishment;
providing exceptions for certain persons based upon
certain demonstration; defining term; prohibiting
certain persons or entities from engaging in
certain activity; prescribing penalty; identifying
persons liable to punishment; providing exceptions
for certain persons based upon certain
demonstration; amending 34 O.S. 1991, Section 3.1,
which relates to circulation of petitions;
modifying entities subject to certain requirement
for circulation of petitions; prescribing
conditions under which certain entities considered
domiciled; identifying persons liable to punishment
and providing exceptions; providing for
codification; providing for noncodification; and
declaring an emergency.

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

SECTION 1. This act shall be known and may be cited as the "Ban the Bounty for the Initiative and Referendum Process Act of 1995".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.2 of Title 34, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "person" means any individual, firm, partnership, corporation, limited liability company, trust, estate, or any other legal entity or combination of natural persons, combination of legal entities or combination of both natural persons and legal entities.

B. It shall be unlawful for any person to pay or to be paid any form of compensation or remuneration for the circulation of an initiative or referendum petition if the compensation or remuneration is based upon or in any way related to the number of signatures obtained, the number of pages containing signatures, the number of completed pamphlets or any other system of payment which depends upon the numerical or procedural adequacy of an initiative or referendum petition. It shall not be unlawful for such compensation to be based upon an hourly, daily or similar rate of pay based upon the time expended in the effort to obtain signatures on an initiative or referendum petition. Any person who makes payment to any other person of any form of compensation or remuneration for the circulation of an initiative or referendum petition or any person who receives payment from any other person of any form of compensation or remuneration for such circulation prohibited by this section, upon conviction, shall be deemed guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) for each such payment or by imprisonment in the county jail for a period not to exceed one (1) year or by both such fine and imprisonment.

C. If the offense defined by subsection B of this section is committed by an entity other than a natural person, then except as otherwise provided by subsection D of this section, the parties liable for the offense shall be as follows:

1. All general partners of a general partnership;
2. All general partners of a limited partnership;
3. All principal officers of a corporation, who for purposes of this section shall be the president, any vice-president, the secretary, the treasurer or any combination of titles of such officers;
4. All managers of a limited liability company;
5. All trustees of an express private trust; or
6. The persons primarily responsible for decisions regarding the use of economic resources of any other legal entity not specifically identified in this subsection.

D. Any person otherwise subject to criminal liability as provided in subsection C of this section may be found not guilty, as a matter of law or after a trial of the relevant facts, upon a showing by a preponderance of the evidence that the person was not directly involved in the commission of the offense with which the person was charged pursuant to this section. Relevant factors for such determination may include, but are not limited to, presence or absence at a relevant meeting of the governing body of the legal entity, formal notice of the meeting at which action was taken, a dissenting vote, whether or not the vote was formally recorded, resignation of office or other position after discovery of wrongdoing, notification to law enforcement authorities and such other factors as may be found relevant in the particular case as justice may require.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.3 of Title 34, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "person" means any individual, firm, partnership, corporation, limited liability company, trust, estate, or any other legal entity or combination of natural persons, combination of legal entities or combination of both natural persons and legal entities.

B. It shall be unlawful for any person who is a resident of the State of Oklahoma or for any legal entity domiciled, domesticated or otherwise qualified to transact business within the State of Oklahoma to assist in the preparation, circulation, filing, or any other procedure in connection with an initiative petition or referendum petition within the State of Oklahoma if the person or other legal entity has been or is legally entitled to be compensated in any form for having prepared, circulated, filed, or otherwise having participated in the process for an initiative petition or referendum petition in a state other than the State of Oklahoma.

C. Any person who violates the provisions of subsection B of this section, upon conviction, shall be deemed guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) for each offense or by imprisonment in the county jail for a period not to exceed one (1) year or by both such fine and imprisonment.

D. If the offense defined by subsection B of this section is committed by an entity other than a natural person, then except as otherwise provided by subsection E of this section, the parties liable for the offense shall be as follows:

1. All general partners of a general partnership;
2. All general partners of a limited partnership;
3. All principal officers of a corporation, who for purposes of this section shall be the president, any vice-president, the secretary, the treasurer or any combination of titles of such officers;
4. All managers of a limited liability company;

5. All trustees of an express private trust; or

6. The persons primarily responsible for decisions regarding the use of economic resources of any other legal entity not specifically identified in this subsection.

E. Any person otherwise subject to criminal liability as provided in subsection D of this section may be found not guilty, as a matter of law or after a trial of the relevant facts, upon a showing by a preponderance of the evidence that the person was not directly involved in the commission of the offense with which the person was charged pursuant to this section. Relevant factors for such determination may include, but are not limited to, presence or absence at a relevant meeting of the governing body of the legal entity, formal notice of the meeting at which action was taken, a dissenting vote, whether or not the vote was formally recorded, resignation of office or other position after discovery of wrongdoing, notification to law enforcement authorities and such other factors as may be found relevant in the particular case as justice may require.

SECTION 4. AMENDATORY 34 O.S. 1991, Section 3.1, is amended to read as follows:

Section 3.1 A. It shall be unlawful for any person other than a qualified elector of the State of Oklahoma to circulate any initiative or referendum petition to amend, add to, delete, strike or otherwise change in any way the Constitution or laws of the State of Oklahoma, or of any subdivision of the State of Oklahoma. Every person convicted of a violation of this section shall be punished by a fine of not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not to exceed one (1) year, or by both said fine and imprisonment.

B. It shall be unlawful for any legal entity or business entity which is not domiciled within the State of Oklahoma to circulate or cause to be circulated any initiative or referendum petition to

amend, add to, delete, strike or otherwise change in any way the Constitution or laws of the State of Oklahoma, or of any subdivision of the State of Oklahoma. Every person convicted of a violation of this subsection shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a period not to exceed one (1) year, or by both said fine and imprisonment.

C. For purposes of this section, a legal entity is considered domiciled within the State of Oklahoma under the following conditions:

1. All general partners of a general partnership are residents of this state;

2. All general partners of a limited partnership are residents of this state;

3. A majority of the shares entitled to vote of a corporation are owned by persons who are residents of this state;

4. All managers of a limited liability company are residents of this state;

5. All trustees of an express private trust are residents of this state; or

6. All of the persons primarily responsible for decisions regarding the use of the economic resources of any other legal entity not specifically identified in this subsection are residents of this state.

D. Except as otherwise provided by this subsection, the parties liable for the offense shall be as follows:

1. All general partners of a general partnership;

2. All general partners of a limited partnership;

3. All principal officers of a corporation, who for purposes of this section shall be the president, any vice-president, the secretary, the treasurer or any combination of titles of such officers;

4. All managers of a limited liability company;
5. All trustees of an express private trust; or
6. The persons primarily responsible for decisions regarding the use of the economic resources of any other legal entity not specifically identified in this subsection.

C. Any person otherwise subject to criminal liability as provided in subsection B of this section may be found not guilty, as a matter of law or after a trial of the relevant facts, upon a showing by a preponderance of the evidence that the person was not directly involved in the commission of the offense with which the person was charged pursuant to this section. Relevant factors for such determination may include, but are not limited to, presence or absence at a relevant meeting of the governing body of the legal entity, formal notice of the meeting at which action was taken, a dissenting vote, whether or not the vote was formally recorded, resignation of office or other position after discovery of wrongdoing, notification to law enforcement authorities and such other factors as may be found relevant in the particular case as justice may require.

SECTION 5. Section 1 of this act shall not be codified in the Oklahoma Statutes.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 1st day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate