

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1407

By: Dank

AS INTRODUCED

An Act relating to children; enacting the Oklahoma Statewide Curfew Act; stating legislative findings and intent; defining terms; designating certain conduct as violating act; establishing certain defenses; requiring certain conduct prior to enforcement of act; establishing penalty for violations of act; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1170 of Title 10, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Statewide Curfew Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1171 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Legislature finds that the state has a compelling governmental interest in restricting certain late-night activities of juveniles in order to protect the health, safety and welfare of juveniles and other persons and their property.

The Legislature further finds that juveniles are particularly vulnerable to the influence of persons who do not have the best interest of the juvenile in mind, due to the inability of juveniles to make important or critical decisions in an informed and mature manner and to avoid choices that could be detrimental to their health, safety or welfare.

It is therefore the intent of the Legislature to restrict the late-night activities of juveniles only as much as is necessary to protect the health, safety and welfare of juveniles and other persons and their property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1172 of Title 10, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Statewide Curfew Act:

1. "Curfew hours" mean:

- a. 12:01 a.m. until 6:00 a.m. on any Monday, Tuesday, Wednesday, Thursday or Friday, and
- b. 1:00 a.m. until 6:00 a.m. on any Saturday or Sunday;

2. "Emergency" means any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life;

3. "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment;

4. "Guardian" means:

- a. a person who, under court order, is the guardian of the person of a juvenile, or
- b. a public or private agency with whom a juvenile has been placed by a court;

5. "Juvenile" means any person under eighteen (18) years of age;

6. "Parent" means any person who is a natural parent, adoptive parent or stepparent of another person;

7. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and retail establishments;

8. "Remain" means to:

- a. linger or stay, or
- b. fail to leave premises when requested to do so by a peace officer or the owner, operator or other person in control of the premises;

9. "Operator" means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation;

10. "Responsible adult" means any person having, assuming or charged with permanent or temporary care or custody of a juvenile, including, but not limited to:

- a. any legal guardian or adult exercising legal guardianship over a juvenile,
- b. an adult who stands in loco parentis to a juvenile,
- c. any person to whom legal custody of a juvenile has been given by order of a court,
- d. any adult who has, assumes or is charged with the care or custody of a juvenile at the request of or on behalf of a parent, guardian, loco parentis or person to whom legal custody has been given by order of a court,

- e. any adult who has, assumes or is charged with the care or custody of a juvenile at the request of or on behalf of another parent; and

11. "Knowingly permit" means the parent, other responsible adult or operator is aware of the fact the juvenile is in violation of the curfew hours or that the person by exercise of reasonable care would have known that the juvenile is in violation of the curfew hours.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1173 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A juvenile commits an offense if the juvenile remains in any public place or on the premises of any establishment during curfew hours.

B. A parent or other responsible adult commits an offense if:

1. The parent or other responsible adult knowingly permits or allows the juvenile to remain in any public place or on the premises of any establishment during curfew hours; and

2. The parent or other responsible adult has twice previously acted within any consecutive six-month period so as to knowingly permit or allow the juvenile to remain in any public place or on the premises of any establishment during curfew hours.

C. The owner, operator or any employee of an establishment commits an offense if the owner, operator or employee knowingly permits or allows a juvenile to remain upon the premises of the establishment during curfew hours.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1174 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. It is a defense that the juvenile was at the time in question:

1. Accompanied by the juvenile's parent or a responsible adult;

2. On an errand at the direction of the juvenile's parent or a responsible adult, without any detour or stop;

3. In a motor vehicle involved in interstate travel;

4. Engaged in employment activity, or going to or returning home from an employment activity, without any detour or stop;

5. Involved in an emergency;

6. On property abutting the juvenile's residence or abutting the residence of a neighbor, if the neighbor did not complain about the juvenile's presence;

7. Attending, going to or returning home, without any detour or stop, from an official school, religious or other recreational activity supervised by adults or an event sponsored by a governmental entity, civic organization or another similar entity that takes responsibility for the juvenile;

8. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly or other rights protected by the United States or Oklahoma Constitution; or

9. Had the disabilities of minority removed in accordance with state law.

B. It is a defense that the owner, operator or employee of an establishment promptly notified a peace officer that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1175 of Title 10, unless there is created a duplication in numbering, reads as follows:

Before taking any enforcement action under this section, a peace officer shall ask the apparent offender's age and reason for being out during curfew hours. The peace officer shall not issue a citation or make an arrest under the Oklahoma Statewide Curfew Act unless the peace officer reasonably believes that an offense has

occurred and that based upon the apparent offender's response and other circumstances no defense to being out during curfew hours exists.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1176 of Title 10, unless there is created a duplication in numbering, reads as follows:

A person who violates a provision of the Oklahoma Statewide Curfew Act is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00), plus costs. A court may require community service in lieu of a fine.

SECTION 8. This act shall become effective November 1, 1995.

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