

ENGROSSED HOUSE  
BILL NO. 2197

By: Miller

( schools - amending 70 O.S., Section 10-105 - neglect or  
refusal to compel a child to attend school - effective  
date - emergency )

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 10-105, as  
last amended by Section 1, Chapter 270, O.S.L. 1995 (70 O.S. Supp.  
1996, Section 10-105), is amended to read as follows:

Section 10-105. A. It shall be unlawful for a parent,  
guardian, or other person having custody of a child who is over the  
age of five (5) years, and under the age of eighteen (18) years, to  
neglect or refuse to cause or compel such child to attend and comply  
with the rules of some public, private or other school, unless other  
means of education are provided for the full term the schools of the  
district are in session or the child is excused as provided in this  
section. One-half (1/2) day of kindergarten shall be required of  
all children five (5) years of age or older unless the child is  
excused from kindergarten attendance as provided in this section. A  
child who is five (5) years of age shall be excused from  
kindergarten attendance until the next school year after the child  
is six (6) years of age if a parent, guardian, or other person  
having custody of the child notifies the superintendent of the  
district where the child is a resident by certified mail prior to  
enrollment in kindergarten, or at any time during the first school  
year that the child is required to attend kindergarten pursuant to

this section, of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age. A kindergarten program shall be directed toward developmentally appropriate objectives for such children. The program shall require that any teacher employed on and after January 1, 1993, to teach a kindergarten program within the public school system shall be certified in early childhood education. All teachers hired to teach a kindergarten program within the public school system prior to January 1, 1993, shall be required to obtain certification in early childhood education on or before the 1996-97 school year in order to continue to teach a kindergarten program.

B. It shall be unlawful for any child who is over the age of sixteen (16) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.

Provided, that this section shall not apply:

1. If any such child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

2. If any such child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

3. If any such child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between:

- a. the school administrator of the school district where the child attends school, and

b. the parent, guardian or custodian of the child.

Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of eighteen (18) years; or

4. If any such child is excused pursuant to subsection C of this section.

C. A school district shall excuse a student from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

D. It shall be the duty of the attendance officer to enforce the provisions of this section. Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) for the first offense, not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) for the second offense, and not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each subsequent offense. Each day the child remains out of school after the oral and documented or written warning has been given to the parent, guardian, custodian, child or other person or the child

has been ordered to school by the juvenile court may constitute a separate offense. At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

E. Notwithstanding the provisions of subsection D of this section, any peace officer of this state or of any political subdivision of this state or any district attorney representative or any authorized representative of the school board may issue a state citation to any person committing a violation of this section. The person issued the citation shall be required to appear in court on the date specified in the citation.

SECTION 2. This act shall become effective July 1, 1997.

SECTION 3. 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 10th day of March, 1997.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1997.

President of the Senate