

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1195

By: Paulk

AS INTRODUCED

An Act relating to evidence; amending 12 O.S. 1991, Section 2304, which relates to presumptions in criminal cases; clarifying language in the Oklahoma Evidence Code; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 2304, is amended to read as follows:

Section 2304. A. Except as otherwise provided by law, presumptions against an accused, in a criminal case, recognized at common law or created by statute, including statutory provisions that certain facts are prima facie evidence of other facts or of guilt, are governed by this Code.

B. The court shall not direct the jury to find a presumed fact against the accused. The court may only submit the question of the existence of the presumed fact to the jury, if a reasonable juror considering the evidence as a whole, including the evidence of the basic facts, could find the presumed fact beyond a reasonable doubt.

C. Whenever the existence of a presumed fact against the accused establishes guilt or is an element of the offense or negatives a defense and is submitted to the jury, the judge shall give an

instruction explaining that the jury may regard the basic facts as sufficient evidence of the presumed fact but is not required to do so. ~~Where~~ If the presumed fact establishes guilt, is an element of the offense or negatives a defense, the judge also shall instruct the jury that its existence must be proved beyond a reasonable doubt.

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

46-1-5678

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