

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 473

By: Shurden of the Senate

and

Leist and Ingmire of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 1051 and 981, which relate to lotteries and gambling definitions; providing that certain activities of churches, schools and affiliated entities, and certain organizations not be deemed violation of lottery or gambling laws of this state; defining term; expanding certain definition; amending 21 O.S. 1991, Section 1541.4, which relates to false or bogus checks; modifying definition; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1051, is amended to read as follows:

Section 1051. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid, or promised, or agreed to pay any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share of or interest in such property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by a lot or chance, whether called a lottery, a raffle, or a gift enterprise, or by whatever name the same may be known. "Valuable consideration" shall be construed to mean money or goods of actual pecuniary value. Provided, it shall not be a violation of the lottery or gambling laws of this state for ~~(1) a~~ a:

1. A bona fide resident merchant or merchants of a city or town, acting in conjunction with the Chamber of Commerce or Commercial Club of this state thereof, to issue free of charge numbered tickets on sales of ~~his~~ merchandise, the corresponding stub of one or more of which tickets to be drawn or chosen by lot by a representative or representatives of said Chamber of Commerce or of said Commercial Club in the manner set forth on said tickets, the numbered stub or stubs so drawn to entitle the holder of the corresponding numbered issued ticket to a valuable prize donated by said merchant; ~~(2)-a~~

2. A bona fide community chest welfare fund on a military post or reservation to issue numbered tickets in conjunction with voluntary contributions to said fund, the corresponding stub or stubs of one or more of said tickets to be drawn by lot under the supervision of a military commander, the stub or stubs so drawn entitling the ticket holder to a prize of some value. Provided however, that no person shall sell tickets or receive contributions to said fund off the military reservation; or

3. A qualified organization to raise funds by issuing numbered tickets in conjunction with voluntary contributions to the qualified organization, the corresponding stub or stubs of one or more of said tickets to be drawn by lot under the supervision of an official of the qualified organization, the stub or stubs so drawn entitling the ticket holder to a prize. As used in this paragraph, "qualified organization" means:

- a. a church,
- b. a public or private school accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs,

- c. a student group or organization affiliated with a public or private school pursuant to subparagraph b of this paragraph,
- d. a parent-teacher association or organization affiliated with a public or private school pursuant to subparagraph b of this paragraph, or
- e. a religious, charitable, labor, fraternal, veteran, firefighter, law enforcement, educational or other type of entity included within the definition of "organization" as such term is defined in paragraph 20 of Section 402 of Title 3A of the Oklahoma Statutes.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 981, as amended by Section 31, Chapter 328, O.S.L. 1992 (21 O.S. Supp. 1998, Section 981), is amended to read as follows:

Section 981. As used in Section 981 et seq. of this act ~~æ~~ title:

1. A "bet" is a bargain in which the parties agree that, dependent upon chance, or in which one of the parties to the transaction has valid reason to believe that it is dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

- a. bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance; or
- b. any charity game conducted pursuant to the provisions of the Oklahoma Charity Games Act; or
- c. offers of purses, prizes or premiums to the actual participants in public and semipublic events, as

follows, to wit: Rodeos, animal shows, hunting,
fishing or shooting competitions, expositions, fairs,
athletic events, tournaments and other shows and
contests where the participants qualify for a monetary
prize or other recognition. This subparagraph further
excepts an entry fee from the definition of "a bet" as
applied to enumerated public and semipublic events.

2. "Consideration" as used in this section means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. As used in this paragraph, the term "consideration" shall not include sums of money paid by or for participants in any hunting, fishing or shooting competition or any bingo game or a game of chance with comparable characteristics as defined by subparagraph b of paragraph 1 of this section and it shall be conclusively presumed that such sums paid by or for said participants were intended by said participants to be for the benefit and use of the organizations ~~described in subparagraph b of paragraph 1 of this section for the use of such organizations~~ in furthering the purposes of such organizations;

3. A "gambling device" is a contrivance designed primarily for gambling purposes which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, or any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device; and

4. A "gambling place" is any place, room, building, vehicle, tent or location which is used for any of the following: making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1541.4, is amended to read as follows:

Section 1541.4 The term "false or bogus check or checks" shall include checks or orders which are not honored on account of insufficient funds of the maker to pay same, or because the check or order was drawn on a closed account or on a nonexistent account when such checks or orders are given for payment of child support or for the payment of wages from an employer to an employee or contractor or in exchange for money or property or in exchange for any benefit or thing of value, as against the maker or drawer thereof, ~~the~~. The making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for payment; and provided, further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

SECTION 4. 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.

47-1-1512

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