

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1481

By: Blackburn

AS INTRODUCED

An Act relating to crimes and punishments; prohibiting use of name, face or likeness of state official or employee for certain purposes; stating penalty; amending Section 1, Chapter 343, O.S.L. 1995 (21 O.S. Supp. 1998, Section 187), which relates to unlawful campaign contributions; modifying definition; 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 360.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

No official or employee of the State of Oklahoma or a political subdivision of the State of Oklahoma shall authorize the use of any public funds of any kind, including federal funds, for television, radio, newspaper, magazine, brochure or any other type of advertising as a promotional campaign or advertisement on behalf of the state or the political subdivision which features the name, face, voice or likeness of an official or employee of the State of Oklahoma or a political subdivision of the State of Oklahoma. Any person who knowingly and willfully violates this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment.

SECTION 2. AMENDATORY Section 1, Chapter 343, O.S.L. 1995 (21 O.S. Supp. 1998, Section 187), is amended to read as follows:

Section 187. As used in Sections ~~1~~ 187 through ~~3~~ 187.2 of this ~~act~~ title:

1. "Accept", with reference to a contribution, means failure by a candidate, treasurer, deputy treasurer or agent of a committee to expressly and unconditionally reject and return a tendered contribution to the contributor within six (6) business days from receipt of the tender;

2. "Ballot measure" means an initiative, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election;

3. "Campaign" means and includes all activities for or against the election of a candidate to a specific state or local office for a specific term or the passage or defeat of a ballot measure from the date of acceptance of the first contribution, the making of the first expenditure, or the filing of a declaration of candidacy, whichever is first, until a final campaign contributions and expenditures report is filed;

4. "Candidate" means a person who seeks nomination or election to state or local office. An individual is a candidate when the individual:

- a. has filed a declaration of candidacy for any state office with the Secretary of the State Election Board,
- b. has filed a declaration of candidacy for any local office with the secretary of any county election board,
- c. has filed a declaration of candidacy with the Secretary of State and has drawn active opposition,

- d. is nominated as a "substitute candidate" pursuant to Section 1-105 of Title 26 of the Oklahoma Statutes, or
- e. solicits or accepts contributions, makes expenditures or gives consent to an individual, organization, party committee, or other committee to solicit or accept contributions or make expenditures to secure election to any state or local office at any time, whether or not the office for which the individual will seek nomination or election is known when the:
  - (1) solicitation is made,
  - (2) contribution is accepted, or
  - (3) expenditure is made.

The term "candidate" shall include a person whose candidacy is unopposed;

5. "Candidate committee" means the committee, consisting of one or more persons who may be the candidate only, designated by a candidate to promote the candidate's candidacy and serve as the recipient of all contributions and the disbursing officer of all expenditures for the candidate;

6. "Committee" means a candidate committee, political action committee, or party committee;

7. a. "Contribution" means and includes:

- (1) a gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution, or deposit of money or anything of value made to and with the knowledge and for the benefit of a committee for use in a campaign, or for reducing the debt of a committee,
- (2) an expenditure made by a person or committee, other than a candidate committee, with the cooperation of, or in consultation with, a

committee, a candidate, candidate committee, or candidate's agent or that is made in concert with, or at the request or suggestion of, a candidate, candidate committee, or candidate's agent,

- (3) the difference between the payment to a person, other than a candidate or committee, of compensation for personal services or products to the candidate or committee, and the reasonable and customary rate charged by the person for like services or products in like quantities when the candidate or committee has knowledge of the discounted services or products,
- (4) anything of value received by a committee that is transferred from another committee or other source,
- (5) sums paid for tickets for a political event such as a reception, rally, or a similar fundraising event; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting and contribution limitations requirements of Section ~~2~~ 187.1 of this ~~act~~ title, by the actual cost of consumables furnished by the committee in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution,
- (6) the candidate's own money used on behalf of that candidate's candidacy, ~~and~~
- (7) the difference between the open market value and a discount or rebate:
  - (a) not extended to the public generally, or

(b) by a television or radio station not extended equally to all candidates for the same office, and

(8) the featuring of the name, voice or likeness of an official or employee of the State of Oklahoma or a political subdivision of the State of Oklahoma for television, radio, newspaper, magazine, brochure or other type of advertising.

b. The term "contribution" shall not include:

- (1) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or committee,
- (2) for purposes of the contribution limits set forth in Section ~~2~~ 187.1 of this ~~act~~ title, the transfer of any funds by a political action committee to another political action committee, provided the committees have been established as provided by law and the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common entity,
- (3) any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes,
- (4) a nonreimbursed payment made by an individual for the individual's own travel expenses on behalf of a committee,

- (5) a payment made by an occupant of a residence or office for costs related to a meeting or fundraising event held in the occupant's residence or office if the costs for the meeting or fundraising event do not exceed Five Hundred Dollars (\$500.00). However, if the occupant hosts more than one event in an election cycle for the same beneficiary, all subsequent payments that exceed Five Hundred Dollars (\$500.00) in the aggregate are contributions,
- (6) a loan of money made in the ordinary course of business by a financial institution authorized to transact business in this state at terms and interest rates generally available to a member of the public without regard to that person's status as a state or local officer or state or local employee or a candidate for state or local office by the institution,
- (7) a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, directors, executive administrative personnel, or their families, or
- (8) a tender of a contribution if the tender is not accepted, including use as collateral, or is transferred to the state as provided in Rule 10-1-2 of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Chapter 62, App.;

8. "Expenditure" means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee deposit, transfer of funds between committees, or a gift made by a committee. An expenditure does not include the following:

- a. a loan of money, made in the ordinary course of business, by a financial institution authorized to transact business in this state,
- b. a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, executive administrative personnel, or their families, except a communication by the corporation's political action committee promoting or opposing a candidate or candidates,
- c. uncompensated services provided by an individual volunteering the individual's time, or
- d. a transfer of funds to another committee if such transfer is not accepted;

9. "Family" means an individual, his or her spouse, if any, and all children under the age of eighteen (18) years residing in the same household;

10. "Local office" means all elective offices for which a declaration of candidacy is filed with the secretary of any county election board;

11. "Party committee" means a political party or any affiliated or connected entity;

12. "Person" means an individual, corporation, association, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business trust, estate, trust, company, organization, committee, or club, or a group of persons who are voluntarily acting in concert;

13. "Political action committee":

- a. means a combination of at least two individuals, or a person other than an individual:

- (1) with the primary purpose of:

- (a) supporting or opposing a candidate or candidates, or a party committee, except

those required to file with the Federal Election Commission, or

- (b) supporting or opposing a ballot measure, and
- (2) which accepts or gives contributions or makes expenditures from a joint account aggregating at least Five Hundred Dollars (\$500.00) during a calendar year, and

b. does not include:

- (1) a party committee or a candidate committee,
- (2) a person other than an individual, when that person makes an expenditure or expenditures from an account to which contributions have not been solicited or accepted from any other persons or individuals; and the expenditure or expenditures are required by law or by Chapter 10 of the Rules of the Ethics Commission to be reported by the recipient committee or committees as a contribution or contributions, and
- (3) a combination of individuals, or a person other than an individual, if the combination of individuals, or a person other than an individual, solicits contributions on behalf of a committee, and any contributions received as a result of the solicitation are forwarded to the committee without being deposited in any account; and the contributions are required by law or by Chapter 10 of the Rules of the Ethics Commission to be reported by the committee that receives the contributions;

14. "Political party" means any political party so recognized for the purpose of having candidates appear on the ballot; and

15. "State office" means all elective offices for which declarations of candidacy are filed with the Secretary of the State Election Board.

SECTION 3. This act shall become effective November 1, 1999.

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