

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 420

By: Smith

AS INTRODUCED

An Act relating to felony limits; amending Section 4, Chapter 199, O.S.L. 1994, as amended by Section 119, Chapter 133, O.S.L. 1997 (3A O.S. Supp. 2000, Section 504), which relates to amusement or carnival game offenses; amending 21 O.S. 1991, Section 1462, as last amended by Section 252, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1462), which relates to embezzlement; amending 21 O.S. 1991, Section 1541.2, as last amended by Section 262, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1541.2), which relates to money, property or valuables; amending 21 O.S. 1991, Section 1541.3, as last amended by Section 263, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1541.3), which relates to two or more false or bogus checks; amending 21 O.S. 1991, Section 1550.2, which relates to credit and debit cards; amending 21 O.S. 1991, Section 1704, which relates to definition of grand and petit larceny; amending 21 O.S. 1991, Section 1719.1, as last amended by Section 288, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1719.1), which relates to larceny of fish and game; amending 21 O.S. 1991, Section 1722, as last amended by Section 292, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1722), which relates to taking oil, gas and gasoline; amending 21 O.S. 1991, Section 1731, as last amended by Section 297, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1731), which relates to larceny from retailer; amending 68 O.S. 1991, Section 218.1, as last amended by Section 401, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (68 O.S. Supp. 2000, Section 218.1), which relates to false or bogus check for taxes; increasing felony limits; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 199, O.S.L. 1994, as amended by Section 119, Chapter 133, O.S.L. 1997 (3A O.S. Supp. 2000, Section 504), is amended to read as follows:

Section 504. A. Multiple count violations of subsection A or B of Section 502 of this title, or violations resulting in a loss of money or other valuable consideration, in which said loss exceeds ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), shall constitute a felony, and shall be punishable pursuant to subsection B of Section 505 of this title.

B. Any person serving in a managerial or supervisory capacity for any fair, exposition, or any other event open to the public, paid admission or free, who knowingly or intentionally promotes or allows the operation of any amusement or carnival game in violation of this act, upon conviction, shall be guilty of a misdemeanor.

C. Any person who manufactures or distributes amusement or carnival games of the type described in Section 502 of this title, upon conviction, shall be guilty of a misdemeanor punishable pursuant to subsection A of Section 505 of this title, with said games to be confiscated as contraband.

D. Any person charged with law enforcement responsibilities or legal compliance inspections of amusement or carnival games, and who knowingly and intentionally allows or who knowingly and intentionally fails to prevent the operation of any amusement or carnival game violating the Amusement and Carnival Games Act, upon conviction, shall be guilty of omission of duty and/or guilty of a misdemeanor punishable pursuant to subsection A of Section 505 of this title.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1462, as last amended by Section 252, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1462), is amended to read as follows:

Section 1462. Every person guilty of embezzlement shall be guilty of a felony punishable in the manner prescribed for feloniously stealing property of the value of that embezzled, except that every person convicted of felonious embezzlement of any item

valued at ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more but less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) shall be punished by incarceration in the county jail for not to exceed one (1) year or incarceration in the county jail one or more nights per week or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes, and every person convicted of embezzlement of any item valued at less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) shall be guilty of a misdemeanor. And where the property embezzled is an evidence of debt or right in action, the sum due upon it, or secured to be paid by it, shall be taken as its value.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1541.2, as last amended by Section 262, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1541.2), is amended to read as follows:

Section 1541.2 If the value of the money, property or valuable thing referred to in Section 1541.1 of this title is ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more but less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), any person convicted pursuant to this section shall be guilty of a felony and shall be punished by incarceration in the county jail for not to exceed one (1) year or incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes, and if the value is ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) or more, any person convicted hereunder shall be deemed guilty of a

felony and shall be punished by imprisonment in the State Penitentiary for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 1541.3, as last amended by Section 263, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1541.3), is amended to read as follows:

Section 1541.3 Any person making, drawing, uttering or delivering two or more false or bogus checks, drafts or orders, as defined by Section 1541.4 of this title, the total sum of which is ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) or more, even though each separate instrument is written for less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), all in pursuance of a common scheme or plan to cheat and defraud, shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. If the total sum of two or more false or bogus checks, drafts or orders is ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more, but less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), the person shall be guilty of a felony and shall be punished by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 1550.2, is amended to read as follows:

Section 1550.2 Any person who knowingly uses or attempts to use in person or by telephone, for the purpose of obtaining credit, or for the purchase of goods, property or services, or for the purpose of obtaining cash advances in lieu of these items, or to deposit, obtain or transfer funds, either a credit card or a debit card which has not been issued to such person or which is not used with the consent of the person to whom issued or a credit card or a debit card which has been revoked or cancelled by the issuer of such card and actual notice thereof has been given to such person, or a credit card or a debit card which is false, counterfeit or nonexistent is guilty of a misdemeanor and punishable by a fine of not more than One Hundred Dollars (\$100.00) or imprisonment for not more than thirty (30) days or both such fine and imprisonment if the amount of the credit or purchase or funds deposited, obtained or transferred by such use does not exceed ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00); or, by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment for not more than one (1) year or both such fine and imprisonment if the amount of the credit or purchase or funds deposited, obtained or transferred by such use exceeds ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00).

SECTION 6. AMENDATORY 21 O.S. 1991, Section 1704, is amended to read as follows:

Section 1704. Grand larceny is larceny committed in either of the following cases:

1. When the property taken is of value exceeding ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00).

2. When such property, although not of value exceeding ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), is taken from the person of another.

Larceny in other cases is petit larceny.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 1719.1, as last amended by Section 288, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1719.1), is amended to read as follows:

Section 1719.1 A. For the purpose of this section:

1. "Domesticated fish or game" means all birds, mammals, fish and other aquatic forms and all other animals, regardless of classifications, whether resident, migratory or imported, protected or unprotected, dead or alive, and shall extend to and include every part of any individual species when such domesticated fish or game are not in the wild and are in the possession of a person currently licensed to possess such fish or game; and

2. "Taking" means the pursuing, killing, capturing, trapping, snaring and netting of domesticated fish or game or placing, setting, drawing or using any net, trap or other device for taking domesticated fish or game and includes specifically every attempt to take such domesticated fish or game.

B. Any domesticated fish or game shall be considered the personal property of the owner.

C. Any person who shall take any domesticated fish or game, with the intent to deprive the owner of said fish or game, and any person purchasing or receiving such domesticated fish or game knowing them to have been stolen, shall:

1. Upon conviction, if the current market value of said domesticated fish or game is less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period term not to exceed sixty (60) days, or by both such fine and imprisonment; or

2. Upon conviction, if the current market value of said domesticated fish or game is ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) or more, be guilty of a felony and

shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than five (5) years, or by both such fine and imprisonment. If the current market value is ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more but less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), the person shall be guilty of a felony and shall be punished by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 21 O.S. 1991, Section 1722, as last amended by Section 292, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1722), is amended to read as follows:

Section 1722. Any person who shall unlawfully take any crude oil or gasoline, or any product thereof, from any pipe, pipeline, tank, tank car, or other receptacle or container and any person who shall unlawfully take or cause to be taken any machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells, with intent to deprive the owner or lessee thereof of said crude oil, gas, gasoline, or any product thereof, machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells shall:

1. Be guilty of a misdemeanor if the value of said product so taken is less than ~~the sum of Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), and upon conviction thereof, shall be punished by a fine of not more than One Hundred Dollars (\$100.00), or by

imprisonment in the county jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment;

2. Be guilty of a felony if the value of such product so taken is ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) or more and upon conviction thereof, shall be punished by forfeiture of the instrumentality of the crime and by a fine of not less than One Hundred Dollars (\$100.00), and not more than Fifty Thousand Dollars (\$50,000.00), or ~~confinement~~ by imprisonment in the State Penitentiary for a term in the range of ~~not less than~~ one (1) year, ~~and not more than~~ to ten (10) years, or by both such fine and imprisonment. If the value exceeds ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) but is less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), the person shall be guilty of a felony and shall be punished by incarceration in the county jail for a term of not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 9. AMENDATORY 21 O.S. 1991, Section 1731, as last amended by Section 297, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 1731), is amended to read as follows:

Section 1731. Larceny of merchandise held for sale in retail or wholesale establishments shall be punishable as follows:

1. For the first conviction, in the event the value of the goods, edible meat or other corporeal property which has been taken is less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), ~~punishment~~ the violator shall be punishable by imprisonment in the county jail for a term not exceeding thirty (30) days, and by a fine

not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00); provided for the first conviction, in the event more than one item of goods, edible meat or other corporeal property has been taken, punishment shall be by imprisonment in the county jail for a term not to exceed thirty (30) days, and by a fine not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00).

2. If it be shown, in the trial of a case in which the value of the goods, edible meat or other corporeal property is less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), that the defendant has been once before convicted of the same offense, ~~he~~ the defendant shall, on ~~his~~ a second conviction, be punished by confinement in the county jail for a term of not less than thirty (30) days nor more than one (1) year, and by a fine not exceeding One Thousand Dollars (\$1,000.00).

3. If it be shown, upon the trial of a case where the value of the goods, edible meat or other corporeal personal property is less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), that the defendant has two or more times before been convicted of the same offense, regardless of the value of the goods, edible meat or other corporeal personal property involved in the first two convictions, upon the third or any subsequent conviction, the punishment shall be ~~by confinement~~ imprisonment in the State Penitentiary for a term of not less than two (2) nor more than five (5) years.

4. In the event the value of the goods, edible meat or other corporeal property is ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more, but is less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), the defendant shall be guilty of a felony and shall be punished by ~~incarceration~~ imprisonment in the county jail for a term of not more than one (1) year or by ~~incarceration~~ imprisonment in the county jail for one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine

of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

5. In the event the value of the goods, edible meat or other corporeal property is ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) or more, punishment shall be ~~by confinement imprisonment~~ in the State Penitentiary for a term of not less than one (1) year nor more than five (5) years.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 218.1, as last amended by Section 401, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (68 O.S. Supp. 2000, Section 218.1), is amended to read as follows:

Section 218.1 A. Any person who shall knowingly give a false or bogus check, as defined in this section, of a value less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) in payment or remittance of any taxes, fees, penalties, or interest levied pursuant to any state tax law shall be, upon conviction, guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment. If the value of the false or bogus check referred to in this subsection is ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more, such person shall be, upon conviction, guilty of a felony punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary for a term of not more than ten (10) years or by both such fine and imprisonment.

B. Any person who shall knowingly give two or more false or bogus checks, the total sum of which is ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00) or more, even though each separate instrument is written for less than ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00), in payment or remittance of any taxes, fees, penalties, or interest levied pursuant to any state tax law

shall be, upon conviction, guilty of a felony punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary for a term of not more than ten (10) years, or by both such fine and imprisonment.

C. For purposes of this section, the term "false or bogus check or checks" shall include any check or order which is 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. The making, drawing, uttering or delivering of a check or order, the payment of which is refused by the drawee, shall be prima facie evidence of the knowledge of insufficient funds, a closed account, or a nonexistent account with such bank or other depository drawee. Said term shall not include any check or order not honored on account of insufficient funds if the maker or drawer shall pay the drawee thereof the amount due within five (5) days from the date the same is presented for payment nor any check or order that is not presented for payment within thirty (30) days after same is delivered and accepted.

SECTION 11. 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.

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