

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

5TH CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 835

By: Shurden of the Senate

and

Erwin of the House

5TH CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; ordering a legislative referendum pursuant to the Oklahoma Constitution; amending Provisions No. 1, 2, 3, 4, 5, 6, 7, 8 and 9, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Sections 1692.1, 1692.2, 1692.3, 1692.4, 1692.5, 1692.6, 1692.7, 1692.8 and 1692.9), which relate to cockfighting; modifying definitions; deleting certain definition; modifying references; reducing certain crimes to misdemeanors; modifying certain crimes; providing enhanced punishment for second, third and subsequent convictions; setting maximum fines and jail terms for each offense; modifying requirement for forfeitures of certain property; expanding construction of certain provisions; providing ballot title; and directing filing.

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

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma Constitution, there is hereby ordered the following legislative referendum which shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people for their approval or rejection at the next General Election to be held in 2004.

SECTION 2. AMENDATORY Provision No. 2, State Question No. 687, Initiative petition No. 365 (21 O.S. Supp. 2003, Section 1692.1), is amended to read as follows:

Section 1692.1 As used in ~~this act:~~

~~A. "Cockfight"~~ Sections 1692.2 through 1692.9 of this title,
"cockfight" or "cockfighting" is a fight between birds, ~~whether or~~

~~not~~ fitted with ~~spurs,~~ knives, or gaffs, ~~and~~ whether or not bets or wagers are made on the outcome of the fight, and includes any training fight in which birds are intended or encouraged to attack or fight with one another.

~~B. "Equipment used for training or handling a fighting bird" includes knives or gaffs, cages, pens, feeding apparatuses, training pens and other related devices and equipment, and is hereby declared contraband and subject to seizure.~~

SECTION 3. AMENDATORY Provision No. 2, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.2), is amended to read as follows:

Section 1692.2 Every person who willfully instigates or encourages any cockfight, upon conviction, shall be guilty of a ~~felony~~ misdemeanor. The penalty for a violation of this section shall be as provided in Section § 1692.8 of this ~~Act~~ title.

SECTION 4. AMENDATORY Provision No. 3, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.3), is amended to read as follows:

Section 1692.3 Every person who ~~keeps~~ provides any pit, building or other place, ~~or knowingly provides any equipment or facilities to be used in permitting~~ for any cockfight, upon conviction, shall be guilty of a ~~felony~~ misdemeanor. The penalty for a violation of this section shall be as provided in Section § 1692.8 of this ~~Act~~ title.

SECTION 5. AMENDATORY Provision No. 4, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.4), is amended to read as follows:

Section 1692.4 Every person who does any act or performs any service in the furtherance of or to facilitate any cockfight, upon conviction, shall be guilty of a ~~felony~~ misdemeanor. Such activities and services specifically prohibited by this section include, but are not limited to: promoting or refereeing of birds

at a cockfight, advertising a cockfight, or serving as a stakes holder of any money wagered on any cockfight. The penalty for a violation of this section shall be as provided in Section ~~§~~ 1692.8 of this ~~Act~~ title.

SECTION 6. AMENDATORY Provision No. 5, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.5), is amended to read as follows:

Section 1692.5 Every person who ~~owns, possesses, keeps, or trains fights~~ any bird ~~with the intent that such bird shall be engaged~~ in a cockfight, upon conviction, shall be guilty of a ~~felony misdemeanor~~. The penalty for a violation of this section shall be as provided in Section ~~§~~ 1692.8 of this ~~Act~~ title.

SECTION 7. AMENDATORY Provision No. 6, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.6), is amended to read as follows:

Section 1692.6 Every person who is knowingly present as a spectator at any ~~place, building, or other site where preparations are being made for a cockfight with the intent to be present at such preparation or cockfight, or is knowingly present at such cockfight,~~ upon conviction, shall be guilty of a misdemeanor punishable by a fine not exceeding One Hundred Dollars (\$100.00).

SECTION 8. AMENDATORY Provision No. 7, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.7), is amended to read as follows:

Section 1692.7 Following the conviction of a person for ~~Sections 2, 3, 4, or 5~~ a violation of Section 1692.2, 1692.3, 1692.4 or 1692.5 of this ~~act~~ title, the court entering the judgment shall order that ~~the birds and~~ any knives or gaffs ~~used in violation of this act~~ fitted to any bird at a cockfight or in preparation of a cockfight be forfeited to the state, ~~and may order that any and all equipment described in Section 1 used in violation of this act be forfeited to the state.~~

SECTION 9. AMENDATORY Provision No. 8, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.8), is amended to read as follows:

Section 1692.8 ~~A. Every~~ Any person who is ~~guilty of a felony under convicted of violating~~ any of the provisions of ~~Section 2, 3, 4, or 5~~ Sections 1692.2 through 1692.5 of this Act title shall be ~~punished by imprisonment in the state penitentiary for not less than one (1) year nor more than ten (10) years, or shall be fined not less than Two Thousand Dollars (\$2,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment~~ guilty of a misdemeanor.

~~B. Every person who upon~~ For a first conviction is guilty of any of the provisions of ~~Section 6 of this Act,~~ the person shall be punished by imprisonment in the county jail for not more than ~~one (1) year, or shall be fined not more than six (6) months, or by a fine not exceeding~~ Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. For a second conviction, the person shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. For any third or subsequent conviction, the person shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

SECTION 10. AMENDATORY Provision No. 9, State Question No. 687, Initiative Petition No. 365 (21 O.S. Supp. 2003, Section 1692.9), is amended to read as follows:

Section 1692.9 Nothing in Sections 1692.1 through 1692.8 of this ~~act~~ title shall be construed to prohibit any of the following:

~~A. 1.~~ 1. Hunting birds or fowl in accordance with Oklahoma regulation or statute, including but not limited to the sport of hunting game with trained raptors~~;~~;

- ~~B.~~ 2. Agricultural production of fowl for human consumption;
3. Breeding, showing or possession of any bird or fowl;
4. The possession or sale of any cage, pen, feeding apparatus,
or any other equipment or apparatus designed for birds or fowl; or
5. The ownership of any pit, building or place, whether or not
previously used or designed for cockfighting.

SECTION 11. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure defines cockfighting as fighting between birds fitted with knives or gaffs. Under current law cockfighting and providing a place for cockfighting are crimes. Also under current law knives and gaffs used for cockfighting may be taken by law officers. This measure does not change these laws. Under current law birds, cages, pens and other devices used for cockfighting are illegal. Law officers may take them. This measure allows possession of birds and related equipment. It changes the law that makes it a crime to keep a place or provide equipment that could be used for cockfighting. This measure states that owning a place that has been used in the past for cockfighting is not a crime. This measure makes the penalty for watching a cockfight a fine of up to \$100. It changes the penalties for cockfighting, instigating a cockfight, providing a place for a cockfight, and facilitating a cockfight from felonies to misdemeanors. It lowers felony penalties from up to ten years in prison to one year in the county jail and lowers fines from up to \$25,000.00 to \$2,000.00.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

- YES, FOR THE AMENDMENT
 NO, AGAINST THE AMENDMENT

SECTION 12. The President Pro Tempore of the Senate shall immediately after the passage of this order for legislative referendum, prepare and file one copy of this order for legislative referendum in accordance with Section 3 of Article V of the Oklahoma Constitution, including the Ballot Title set forth in SECTION 11 hereof, with the Secretary of State and one copy with the Attorney General.

49-2-3403

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