

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 835

By: Shurden of the Senate

and

Leist of the House

AS INTRODUCED

An Act relating to crimes and punishments; amending Provisions No. 1 through 9 of State Question 687, Petition No. 365 (21 O.S. Supp. 2002, 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 prohibitions to certain equipment and apparatuses; deleting prohibition to owning, possessing, training or keeping certain birds; deleting felony penalty; providing misdemeanor penalty; providing for seizure and forfeiture of certain contraband; prohibiting return of seized contraband; construing certain provisions for purpose of prosecution; expanding exemptions; and declaring an emergency.

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

SECTION 1. AMENDATORY Provision No. 1, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, Section 1692.1), is amended to read as follows:

Section 1692.1 As used in Sections 1692.2 through 1692.9 of this ~~act~~ title:

~~A. 1. "Cockfight" or "cockfighting" is means a planned fight between birds, whether or not game fowl instituted for the purpose of gaming or sport where the game fowl are 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~~ 2. "Cockfighting equipment" means spurs, knives or gaffs,

~~cages, pens, feeding apparatuses, training pens and other related devices and equipment, and is hereby declared contraband and subject to seizure~~ which are fitted to game fowl for the purpose of fighting or training for a cockfight.

SECTION 2. AMENDATORY Provision No. 2, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, 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 conviction of any violation of this section shall be as provided in Section ~~&~~ 1692.8 of this ~~act~~ title.

SECTION 3. AMENDATORY Provision No. 3, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, Section 1692.3), is amended to read as follows:

Section 1692.3 Every person who keeps any pit or other place for the purpose of cockfighting, or knowingly provides any cockfighting equipment ~~or facilities to be used in permitting any~~ ~~cockfight~~, upon conviction, shall be guilty of a ~~felony~~ misdemeanor. The penalty for a conviction of any 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, Petition No. 365 (21 O.S. Supp. 2002, Section 1692.4), is amended to read as follows:

Section 1692.4 Every person who knowingly 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 as provided in Section 1692.8 of this title. Such activities and services specifically prohibited by this section include, but are not limited to: promoting or refereeing of ~~birds~~ game fowl at a cockfight, advertising a cockfight, or serving as a stakes holder of any money wagered on any cockfight. The penalty for a conviction of

any violation of this section shall be as provided in Section & 1692.8 of this ~~act~~ title.

SECTION 5. AMENDATORY Provision No. 5, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, Section 1692.5), is amended to read as follows:

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

SECTION 6. AMENDATORY Provision No. 6, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, 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 or participate in such preparation ~~or~~ for a cockfight, or who is knowingly and willfully present at ~~such~~ any cockfight, upon conviction shall be guilty of a misdemeanor as provided in Section 1692.8 of this title.

SECTION 7. AMENDATORY Provision No. 7, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, 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 of this act, the court entering the judgment shall order that the birds and knives or gaffs used in violation of this act 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~~ Every law enforcement officer is authorized to seize for purposes of forfeiture any game fowl or cockfighting equipment present at any cockfight. A separate forfeiture

proceeding shall be held by the court to properly dispose of any seized game fowl and cockfighting equipment. The owner or interested party of any seized game fowl or cockfighting equipment shall not be eligible for return of any cockfighting equipment or game fowl.

SECTION 8. AMENDATORY Provision No. 8, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, Section 1692.8), is amended to read as follows:

Section 1692.8 A. Every person who is ~~guilty of a felony under convicted of a violation of~~ any of the provisions of Sections ~~2, 3, 4, or 5~~ 1692.2 through 1692.6 of this ~~act~~ title shall be punished by imprisonment in the ~~state penitentiary county jail~~ for ~~not less than one (1) year nor more than ten (10) years~~ a term of not more than one (1) year, or ~~shall be fined not less than Two Thousand Dollars (\$2,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00)~~ by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

B. ~~Every person who upon conviction is guilty of any of the provisions of Section 6 of this act shall be punished by imprisonment in the county jail for not more than one (1) year, or shall be fined not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment~~ The number of game fowl present at a cockfight or the quantity of cockfighting equipment present at any cockfight shall not be used to constitute separate violations for purposes of prosecution.

SECTION 9. AMENDATORY Provision No. 9, State Question No. 687, Petition No. 365 (21 O.S. Supp. 2002, Section 1692.9), is amended to read as follows:

Section 1692.9 Nothing in Sections 1692.2 through 1692.6 of this ~~act~~ title shall be construed to prohibit any of the following:

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

~~B.~~ 2. Agricultural production of fowl for human consumption;

3. Buying, selling, owning, keeping, breeding or possessing birds, fowl or game fowl for food, food products, food production, research, pets, show, prey or any other legal purpose; and

4. Providing veterinarian services or any medical care or treatment to any game fowl or bird, including but not limited to any treatment or service related to inoculation, growth, breeding, examinations, injury, disease, and prevention services.

SECTION 10. 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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