CS for HB 1090

THE HOUSE OF REPRESENTATIVES
Monday, March 5, 2007

Committee Substitute for

House Bill No. 1090

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1090 - By: SHERRER of the House and BURRAGE of the Senate.

An Act relating to motor vehicles; amending 21 O.S. 2001, Section 264, which relates to false personation of peace officers; making certain acts unlawful; providing penalties; providing an exception; amending 47 O.S. 2001, Section 1-103, as last amended by Section 6, Chapter 190, O.S.L. 2005 (47 O.S. Supp. 2006, Section 1-103), which relates to authorized emergency vehicle definition; modifying definition; amending 47 O.S. 2001, Sections 17-101, as amended by Section 2, Chapter 387, O.S.L. 2004 and 17-102, as amended by Section 3, Chapter 387, O.S.L. 2004 (47 O.S. Supp. 2006, Sections 17-101 and 17-102), which relate to misdemeanor and felony penalties; providing waiver under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 264, is amended to read as follows:

Section 264. A. Any person who shall without due authority exercise or attempt to exercise the functions of or hold himself or herself out to any one as a deputy sheriff, marshal, ~~policeman~~ police officer, constable or peace officer~~,~~ shall ~~be deemed guilty of a misdemeanor and~~, upon conviction ~~thereof~~, ~~shall~~ be ~~imprisoned~~ guilty of a misdemeanor punishable by imprisonment in the county jail for ~~any period~~ not more than one (1) year, ~~to which may be added~~ or by a fine not exceeding One Hundred Dollars ($100.00)~~.~~

~~Provided, However, that~~, or by both such fine and imprisonment; provided, however, this section shall not be so construed as to prevent private persons from making arrests for felonies or misdemeanors committed in their presence.

B. It shall be unlawful for any person to affix on his or her motor vehicle, either temporarily or permanently, any insignia typically used by a law enforcement agency for the purpose of causing any other motor vehicle operator to yield the right-of-way and stop, or which actually causes any other motor vehicle operator to yield the right-of-way and stop, whether intended or not. Any person who violates the provisions of this subsection shall, upon conviction, be guilty of a misdemeanor punishable 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. The provisions of this subsection shall not apply to vehicles of any fire department, fire patrol, law enforcement vehicles, ambulances, or other authorized emergency vehicles.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 1-103, as last amended by Section 6, Chapter 190, O.S.L. 2005 (47 O.S. Supp. 2006, Section 1-103), is amended to read as follows:

Section 1-103. A. When equipped as prescribed in subsection B of this section:

1. Vehicles of fire departments;

2. Ambulances or vehicles specified pursuant to subsection B of Section 1-2512 of Title 63 of the Oklahoma Statutes of licensed ambulance service providers;

3. State vehicles of law enforcement agencies;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

4. County vehicles of sheriffs and full-time commissioned deputies and vehicles designated by the sheriff for support of the sheriff's office including privately owned vehicles driven by the sheriff and full-time, part-time and reserve commissioned deputies;

5. Municipal vehicles of police departments;

6. Vehicles owned and operated by the United States Marshals Service or the Federal Bureau of Investigation;

7. Vehicles of Oklahoma National Guard units designated by the Adjutant General for support to civil authorities; or

8. Vehicles owned and operated by any local organization for emergency management as defined by Section 683.3 of Title 63 of the Oklahoma Statutes, are authorized emergency vehicles.

B. All vehicles prescribed in subsection A of this section shall be equipped with sirens capable of giving audible signals as required by the provisions of Section 12-218 of this title and flashing red lights as authorized by the provisions of Section 12-218 of this title.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 17-101, as amended by Section 2, Chapter 387, O.S.L. 2004 (47 O.S. Supp. 2006, Section 17-101), is amended to read as follows:

Section 17-101. A. It is a misdemeanor for any person to violate any of the provisions of this title unless such violation is by this title or other law of this state declared to be a felony.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. 1. Every person convicted of a misdemeanor for a violation of any of the provisions of Sections 10-101 through 14-121 or Sections 16-101 through 16-114 of this title for which another penalty is not provided shall upon conviction thereof be punished by a fine of not less than Five Dollars ($5.00) nor more than Five Hundred Dollars ($500.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year after the first conviction by imprisonment for not more than twenty (20) days; upon a third or subsequent conviction within one (1) year after the first conviction by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

2. Any person violating the provisions of Sections 10-101 through 14-121 or Sections 16-101 through 16-114 of this title, where a jail sentence is not mandatory may, in the discretion of the district attorney wherein the offense occurred, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the court wherein the case is filed. A remittance covering the fine and costs may be considered and received with the same force and effect as a written plea of guilty.

C. Unless another penalty is in this title or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any other provision of this title shall be punished by a fine of not less than Five Dollars ($5.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

D. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this title which

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

E. The conviction of any person, as prescribed in this section, when the offense occurred during a period when the driving privileges of the person were under suspension, revocation, cancellation, denial, or disqualification or the person had not been granted driving privileges by Oklahoma or any other state, shall result in the doubling of the appropriate fine, as provided for in subsections B and C of this section, and the doubling of all court costs and all fees collected by the court on behalf of any other entity, unless waived by the court.

F. One-half (1/2) of any fine collected pursuant to the provisions of subsection E of this section, shall be deposited to the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 17-102, as amended by Section 3, Chapter 387, O.S.L. 2004 (47 O.S. Supp. 2006, Section 17-102), is amended to read as follows:

Section 17-102. A. Any person who is convicted of a violation of any of the provisions of the Uniform Vehicle Code declared by the Code or by other laws of this state to constitute a felony shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than five (5) years, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. The conviction of any person, as prescribed in this section, when the offense occurred during a period when the driving privileges of the person were under suspension, revocation, cancellation, denial, or disqualification or the person had not been granted driving privileges by Oklahoma or any other state, shall result in the doubling of the appropriate fine, as provided for in subsection A of this section, and the doubling of all court costs and all fees collected by the court on behalf of any other entity, unless waived by the court.

C. One-half (1/2) of any fine collected pursuant to the provisions of subsection B of this section, shall be deposited to the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

SECTION 5. This act shall become effective November 1, 2007.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY, dated 03-01-07 - DO PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.