

THE HOUSE OF REPRESENTATIVES
Thursday, March 25, 2010

ENGROSSED
Senate Bill No. 1715

ENGROSSED SENATE BILL NO. 1715 - By: JUSTICE, JOLLEY, CORN AND
RUSSELL of the Senate and OSBORN AND DORMAN of the House.

An Act relating to schools; amending 70 O.S. 2001, Section 10-105, as last amended by Section 1, Chapter 210, O.S.L. 2006 (70 O.S. Supp. 2009, Section 10-105), which relates to school attendance; authorizing excused absence for student participation in certain ceremony upon approval of school principal; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 70 O.S. 2001, Section 10-105, as last amended by
2 Section 1, Chapter 210, O.S.L. 2006 (70 O.S. Supp. 2009, Section 10-105), is amended to
3 read as follows:
4 Section 10-105. A. It shall be unlawful for a parent, guardian, or other person
5 having custody of a child who is over the age of five (5) years, and under the age of
6 eighteen (18) years, to neglect or refuse to cause or compel such child to attend and
7 comply with the rules of some public, private or other school, unless other means of
8 education are provided for the full term the schools of the district are in session or the
9 child is excused as provided in this section. One-half (1/2) day of kindergarten shall be
10 required of all children five (5) years of age or older unless the child is excused from

1 kindergarten attendance as provided in this section. A child who is five (5) years of age
2 shall be excused from kindergarten attendance until the next school year after the child
3 is six (6) years of age if a parent, guardian, or other person having custody of the child
4 notifies the superintendent of the district where the child is a resident by certified mail
5 prior to enrollment in kindergarten, or at any time during the first school year that the
6 child is required to attend kindergarten pursuant to this section, of election to withhold
7 the child from kindergarten until the next school year after the child is six (6) years of
8 age. A kindergarten program shall be directed toward developmentally appropriate
9 objectives for such children. The program shall require that any teacher employed on
10 and after January 1, 1993, to teach a kindergarten program within the public school
11 system shall be certified in early childhood education. All teachers hired to teach a
12 kindergarten program within the public school system prior to January 1, 1993, shall be
13 required to obtain certification in early childhood education on or before the 1996-97
14 school year in order to continue to teach a kindergarten program.

15 B. It shall be unlawful for any child who is over the age of twelve (12) years and
16 under the age of eighteen (18) years, and who has not finished four (4) years of high
17 school work, to neglect or refuse to attend and comply with the rules of some public,
18 private or other school, or receive an education by other means for the full term the
19 schools of the district are in session.

20 Provided, that this section shall not apply:

21 1. If any ~~such~~ child is prevented from attending school by reason of mental or
22 physical disability, to be determined by the board of education of the district upon a

1 certificate of the school physician or public health physician, or, if no such physician is
2 available, a duly licensed and practicing physician;

3 2. If any ~~such~~ child is excused from attendance at school, due to an emergency, by
4 the principal teacher of the school in which such child is enrolled, at the request of the
5 parent, guardian, custodian or other person having control of such child;

6 3. If any ~~such~~ child who has attained his or her sixteenth birthday is excused from
7 attending school by written, joint agreement between:

8 a. the school administrator of the school district where the child attends
9 school, and

10 b. the parent, guardian or custodian of the child. Provided, further, that
11 no child shall be excused from attending school by such joint
12 agreement between a school administrator and the parent, guardian or
13 custodian of the child unless and until it has been determined that
14 such action is for the best interest of the child and/or the community,
15 and that said child shall thereafter be under the supervision of the
16 parent, guardian or custodian until the child has reached the age of
17 eighteen (18) years; ~~or~~

18 4. If any ~~such~~ child is excused from attending school for the purpose of observing
19 religious holy days if before the absence, the parent, guardian, or person having custody
20 or control of the student submits a written request for the excused absence. The school
21 district shall excuse a student pursuant to this subsection for the days on which the

1 religious holy days are observed and for the days on which the student must travel to and
2 from the site where the student will observe the holy days; or

3 5. If any child is excused from attending school for the purpose of participating in a
4 military funeral honors ceremony upon approval of the school principal.

5 C. It shall be the duty of the attendance officer to enforce the provisions of this
6 section. In the prosecution of a parent, guardian, or other person having custody of a
7 child for violation of any provision of this section, it shall be an affirmative defense that
8 the parent, guardian, or other person having custody of the child has made substantial
9 and reasonable efforts to comply with the compulsory attendance requirements of this
10 section but is unable to cause the child to attend school. If the court determines the
11 affirmative defense is valid, it shall dismiss the complaint against the parent, guardian,
12 or other person having custody of the child and shall notify the school attendance officer
13 who shall refer the child to the district attorney for the county in which the child resides
14 for the filing of a Child in Need of Supervision petition against the child pursuant to the
15 Oklahoma Juvenile Code.

16 D. Any parent, guardian, custodian, child or other person violating any of the
17 provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be
18 punished as follows:

19 1. For the first offense, a fine of not less than Twenty-five Dollars (\$25.00) nor more
20 than Fifty Dollars (\$50.00), or imprisonment for not more than five (5) days, or both such
21 fine and imprisonment;

1 2. For the second offense, a fine of not less than Fifty Dollars (\$50.00) nor more
2 than One Hundred Dollars (\$100.00), or imprisonment for not more than ten (10) days, or
3 both such fine and imprisonment; and

4 3. For the third or subsequent offense, a fine of not less than One Hundred Dollars
5 (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00), or imprisonment for not
6 more than fifteen (15) days, or both such fine and imprisonment.

7 Each day the child remains out of school after the oral and documented or written
8 warning has been given to the parent, guardian, custodian, child or other person or the
9 child has been ordered to school by the juvenile court shall constitute a separate offense.

10 E. At the trial of any person charged with violating the provisions of this section,
11 the attendance records of the child or ward may be presented in court by any authorized
12 employee of the school district.

13 F. The court may order the parent, guardian, or other person having custody of the
14 child to perform community service in lieu of the fine set forth in this section. The court
15 may require that all or part of the community service be performed for a public school
16 district.

17 G. The court may order as a condition of a deferred sentence or as a condition of
18 sentence upon conviction of the parent, guardian, or other person having custody of the
19 child any conditions as the court considers necessary to obtain compliance with school
20 attendance requirements. The conditions may include, but are not limited to, the
21 following:

22 1. Verifying attendance of the child with the school;

2. Attending meetings with school officials;
3. Taking the child to school;
4. Taking the child to the bus stop;
5. Attending school with the child;
6. Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator; and
7. Taking the child for drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluator, unless excused by the court.

SECTION 2. This act shall become effective July 1, 2010.

SECTION 3. 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.

COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 03-24-10
- DO PASS, As Coauthored.