

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1413

By: Hutchison

AS INTRODUCED

An Act relating to posted property; amending 21 O.S. 1991, Section 1835, which relates to trespassing; modifying methods for posting property; creating the Oklahoma Posted Land Act; stating intent and purpose of act; stating effect of act on certain statutes; defining certain term; prohibiting entry on real property posted pursuant to act; providing certain defense for violation of act; stating type of offense for violation of act; providing methods for posting forest land; requiring the Department of Agriculture to prescribe color of paint for posting; providing methods for posting property other than forest land; prohibiting use of color of posting paint for any other purpose; providing penalty for violation; prohibiting posting of land by certain persons; providing a penalty for violation; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1835, is amended to read as follows:

Section 1835. A. Whoever shall willfully or maliciously enter the garden, yard, pasture or field of another after being expressly forbidden to do so or without permission by the owner or lawful occupant thereof when such property is posted shall be deemed guilty of trespass and upon conviction thereof shall be fined in any sum not to exceed Two Hundred Fifty Dollars (\$250.00); ~~provided, that this.~~ This provision shall not apply to registered land surveyors and registered professional engineers for the purpose of land surveying in the performance of their professional services; ~~and, provided further, that anyone.~~ Anyone who willfully or maliciously enters any such garden, yard, pasture or field, and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by confinement in the county jail for not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment. For purposes of this section, "posted" means exhibiting signs to read as follows: "PROPERTY RESTRICTED"; "POSTED - KEEP OUT"; "KEEP OUT"; "NO TRESPASSING"; or similar signs which are displayed or by placing identifying paint marks as provided for in the Oklahoma Posted Land Act. Property that is fenced or not fenced must have ~~such~~ signs or identifying paint marks placed conspicuously and at all places where entry to the property is normally expected.

B. No provisions of this act shall conflict with Section 5-202 or 6-304 of Title 29 of the Oklahoma Statutes.

C. Whoever shall willfully enter the pecan grove of another without the prior consent of the owner or occupant thereof to so do shall be deemed guilty of trespass and upon conviction thereof shall be fined in any sum not to exceed Twenty-five Dollars (\$25.00); ~~provided, that anyone.~~ Anyone who willfully enters any ~~such~~ pecan grove and therein commits or attempts to commit waste, theft, or

damage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Five Hundred Dollars (\$500.00), or by confinement in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841 of Title 60, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 8 of this act shall be known and may be cited as the "Oklahoma Posted Land Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 842 of Title 60, unless there is created a duplication in numbering, reads as follows:

It is the intent and purpose of the Oklahoma Posted Land Act to clarify the posting law of this state. This act does not set forth the exclusive method by which a property owner or lessee may notify persons to not enter or remain upon their property. The provisions of this act shall not conflict with or modify Sections 10 through 15 of Title 76 of the Oklahoma Statutes, which limit the liability of landowners to persons gratuitously utilizing their property for recreational purposes, nor shall the provisions of this act conflict with or modify Section 1835 of Title 21 of the Oklahoma Statutes, which relates to trespassing, or Section 5-202 or 6-304 of Title 29 of the Oklahoma Statutes, which relate to hunting or fishing on the land of another.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843 of Title 60, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Posted Land Act, "recreational purposes" includes, but is not limited to, the following activities:

1. Hunting;
2. Fishing;

3. Trapping;
4. Swimming;
5. Boating;
6. Camping;
7. Picnicking;
8. Hiking;
9. Pleasure driving;
10. Nature study;
11. Water skiing;
12. Winter sports; and
13. Viewing or enjoying historical, archaeological, scenic, or scientific sites.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 844 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. No person shall enter real property posted pursuant to the Oklahoma Posted Land Act for recreational purposes without permission of the owner or lessee of the real property.

B. It shall be unlawful for any person to enter upon any real property posted pursuant to the provisions of this act without the consent of the owner or lessee of the real property.

C. It shall be an affirmative defense to prosecution under this act that consent was given by a person holding himself out to be the owner, lessee, or agent of the owner or lessee of the property.

D. Any person who knowingly enters real property without the consent of the owner or lessee shall be guilty of trespass in accordance with Section 1835 of Title 21 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 845 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. The owner or lessee of any forest land may post the land by either of the following methods:

1. By placing signs around the boundaries of the property at conspicuous points and at each point of entry. The signs shall read "PROPERTY RESTRICTED", "POSTED - KEEP OUT", "KEEP OUT" or "NO TRESPASSING" or similar signs which are displayed. The signs shall be placed so as to be readily visible to any person approaching the property; or

2. By placing identifying paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight (8) inches in length, and the bottom of the mark shall be no less than three (3) feet nor more than five (5) feet high. The paint marks shall be placed not more than one hundred (100) feet apart and shall be readily visible to any person approaching the property.

B. The type and color of the paint to be used for posting shall be prescribed by the Department of Agriculture. The Department shall not select a color that is presently being used by the timber industry in Oklahoma to mark land lines or property lines.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 846 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. The owner or lessee of any real property other than forest land, including cultivated land, orchards, pasture land, impoundments, or other real property, may post the real property by either of the following methods:

1. By placing signs around the boundaries of the property at conspicuous points and at each point of entry. The signs shall read "PROPERTY RESTRICTED", "POSTED - KEEP OUT", "KEEP OUT" or "NO TRESPASSING" or similar signs which are displayed. The signs shall be placed so as to be readily visible to any person approaching the property; or

2. By placing identifying paint marks on posts around the area to be posted. Each paint mark shall be a vertical line of at least

eight (8) inches in length, and the bottom of the mark shall be no less than three (3) feet nor more than five (5) feet high. The paint marks shall be placed not more than one thousand (1,000) feet apart and shall be readily visible to any person approaching the property.

B. The type and color of the paint to be used for posting shall be prescribed by the Department of Agriculture. The Department shall not select a color that is presently being used by the timber industry in Oklahoma to mark land lines or property lines.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 847 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. The color of paint prescribed by the Department of Agriculture for posting purposes shall not be used on trees or posts for any other purpose. Any person who knowingly paints any tree or post the color used for posting purposes for any other purpose other than posting real property pursuant to the Oklahoma Posted Land Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed Two Hundred Fifty Dollars (\$250.00).

B. It shall be unlawful for any person to post any land which the person does not own or lease except with the permission of the owner or lessee. Any person violating this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed Two Hundred Fifty Dollars (\$250.00).

SECTION 9. This act shall become effective November 1, 1995.

45-1-5081 KB