

ENROLLED HOUSE
BILL NO. 2547

By: Richardson, DeWitt,
McMullen, Sears, Hickman
and Martin (Steve) of the
House

and

Schulz of the Senate

An Act relating to crimes and punishments; amending Section 4, Chapter 268, O.S.L. 2006 (21 O.S. Supp. 2007, Section 1835.2), which relates to trespassing upon certain private land; modifying penalties; prohibiting hunting or fishing on certain lands devoted to certain activities; amending 23 O.S. 2001, Section 72, which relates to damages; specifying damages for wrongful injuries to crops and livestock; and defining terms.

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

SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L. 2006 (21 O.S. Supp. 2007, Section 1835.2), is amended to read as follows:

Section 1835.2 A. Notwithstanding the provisions of Section 1835 of ~~Title 21 of the Oklahoma Statutes~~ this title, the following provisions apply to private land that is primarily devoted to farming, ranching, or forestry purposes:

1. ~~Except as provided in this section, whoever~~ Whoever willfully enters private land of another that is primarily devoted to farming, ranching, or forestry purposes without permission by the owner or lawful occupant thereof shall be deemed guilty of trespass and, upon conviction thereof, shall be ~~fin~~ subject to a fine of not to exceed Two Hundred Fifty Dollars (\$250.00) less than

Five Hundred Dollars (\$500.00), and if the person has a hunting or fishing license, the court may, in its discretion, require that the person forfeit such license for a period not to exceed one (1) year;

2. This provision shall not apply to peace officers as defined in Section 99 of ~~Title 21 of the Oklahoma Statutes~~ this title or any federal, state, or local government employees engaged in the performance of their duties, or to any firefighters, emergency medical personnel, or public utility employees engaged in addressing an emergency that presents an imminent danger to health, safety, or the environment in the performance of their duties, or to parties engaged in oil and gas operations, which shall include, without limitation, exploration, drilling, production and sales activities, under authority of mineral ownership, an oil and gas lease, seismic agreement or permit, gas gathering, purchase, transportation, or treating contracts, Corporation Commission order, or other lawful authority from persons entitled to give the same. The provisions of this section shall not prohibit railroad employees and emergency equipment from entering such land to restore rail service following an accident, derailment or natural disaster; nor the entrance of utility employees or contractors while acting in the scope of their employment; nor employees or contractors of valid easement or license holders while acting in the scope of their employment;

3. The following persons may enter such land of another unless forbidden to do so, either orally or in writing, by the owner or lawful occupier thereof: registered land surveyors and registered professional engineers for the purpose of land surveying in the performance of their professional services; persons in the sole process of retrieving their domestic livestock or other animals; persons making a delivery, selling a product or service, conducting a survey or poll, working on behalf of a candidate for political office, or who otherwise have a legitimate reason for entering and who, immediately upon entering, seek to conduct said business; and

4. Anyone who willfully or maliciously enters any such land of another and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be ~~finned in any sum~~ subject to a fine of 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.

~~B. This section shall not be construed to prohibit acts that are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the Oklahoma Statutes~~ Hunting or fishing without permission is hereby prohibited on land that is primarily devoted to farming, ranching, or forestry purposes without the requirement to post such land.

C. It shall be an affirmative defense to prosecution under paragraph 1 of subsection A of this section that the accused had express or implied permission or legal authority to be on the property.

SECTION 2. AMENDATORY 23 O.S. 2001, Section 72, is amended to read as follows:

Section 72. A. For wrongful injuries to timber, crops or livestock upon the land of another, or removal thereof, the measure of damages is not less than three (3) times nor more than ten (10) times such a sum as would compensate for the actual detriment, unless:

1. The trespass was casual and involuntary;

2. Committed under the belief that the timber or land belonged to the trespasser; or

3. The timber was taken by the authority of highway officers for the purposes of a highway, in which case the damages are a sum equal to the actual detriment.

B. The prevailing party shall be entitled to costs and attorneys fees.

C. For purposes of this section, the term "timber" shall be defined as the term is defined by Section 1301-102 of Title 2 of the Oklahoma Statutes.

D. For purposes of this section, the term "crops" shall be defined as the term is defined by Section 5-104 of Title 2 of the Oklahoma Statutes.

E. For purposes of this section, the term "livestock" shall be defined as the term is defined by Section 1-3 of Title 2 of the Oklahoma Statutes.

Passed the House of Representatives the 7th day of May, 2008.

Presiding Officer of the House of
Representatives

Passed the Senate the 14th day of April, 2008.

Presiding Officer of the Senate