

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 2093

By: Sparks of the Senate
and
Sanders of the House

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8 (trespassing - making shooting from a public road or
9 highway onto the land of another a trespass -
10 effective date)
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13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "An Act relating to trespassing; amending Section 4,
16 Chapter 268, O.S.L. 2006, as last amended by Section
17 2, Chapter 458, O.S.L. 2009 (21 O.S. Supp. 2009,
18 Section 1835.2), which relates to trespassing on
19 land devoted to agriculture; making shooting from a
20 public road, highway or railroad right-of-way onto
21 the land of another a trespass; amending Section 2,
22 Chapter 63, O.S.L. 2008, as amended by Section 1,
23 Chapter 266, O.S.L. 2009 (29 O.S. Supp. 2009,
24 Section 7-209), which relates to trespass on certain
lands; making shooting from a public road, highway
or railroad right-of-way onto certain licensed
facilities or big game commercial hunting areas a
trespass; and providing an effective date.

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

2 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L.
3 2006, as last amended by Section 2, Chapter 458, O.S.L. 2009 (21
4 O.S. Supp. 2009, Section 1835.2), is amended to read as follows:

5 Section 1835.2 A. Notwithstanding the provisions of Section
6 1835 of this title, the following provisions apply to private land
7 that is primarily devoted to farming, ranching, or forestry
8 purposes:

9 1. Except as provided in this section, whoever willfully enters
10 private land of another or who willfully shoots from or across a
11 public road, highway or railroad right-of-way onto the land of
12 another that is primarily devoted to farming, ranching, or forestry
13 purposes without permission by the owner, lessee, hunting lessee, or
14 lawful occupant thereof shall be deemed guilty of trespass and, upon
15 conviction thereof, shall be fined in any sum not less than Five
16 Hundred Dollars (\$500.00) nor more than One Thousand Five Hundred
17 Dollars (\$1,500.00), and in addition, the court shall order
18 restitution for actual damages incurred. Persons convicted of a
19 second or subsequent offense under this paragraph shall be guilty of
20 a misdemeanor and shall be punished by a fine in any sum not less
21 than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two
22 Thousand Five Hundred Dollars (\$2,500.00), or by confinement in the
23 county jail for not less than thirty (30) days nor more than six (6)

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1 months, or by both such fine and imprisonment, and in addition, the
2 court shall order restitution for actual damages incurred;

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

22 3. The following persons may enter such land of another unless
23 forbidden to do so, either orally or in writing, by the owner or
24 lawful occupier thereof: registered land surveyors and registered

1 professional engineers for the purpose of land surveying in the
2 performance of their professional services; persons in the sole
3 process of retrieving their domestic livestock or other animals;
4 persons making a delivery, selling a product or service, conducting
5 a survey or poll, working on behalf of a candidate for political
6 office, or who otherwise have a legitimate reason for entering and
7 who, immediately upon entering, seek to conduct such business; and
8 4. Anyone who willfully or maliciously enters any such land of
9 another and therein commits or attempts to commit waste, theft, or
10 damage shall be deemed guilty of a misdemeanor and, upon conviction
11 thereof, shall be fined in any sum not less than Two Hundred Fifty
12 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
13 by confinement in the county jail for not less than thirty (30) days
14 nor more than six (6) months, or by both such fine and imprisonment,
15 and in addition, the court shall order restitution for actual
16 damages incurred. Persons convicted of a second or subsequent
17 offense under this paragraph shall be guilty of a misdemeanor and
18 shall be punished by a fine in any sum not less than Seven Hundred
19 Dollars (\$700.00) nor more than One Thousand Five Hundred Dollars
20 (\$1,500.00), or by confinement in the county jail for not less than
21 thirty (30) days nor more than six (6) months, or by both such fine
22 and imprisonment, and in addition, the court shall order restitution
23 for actual damages.

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1 B. This section shall not be construed to prohibit acts that
2 are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the
3 Oklahoma Statutes.

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

8 2. If an accused reasonably believed he or she was upon
9 property for which they had permission to be upon, it shall be an
10 affirmative defense to prosecution under paragraph 1 of subsection A
11 of this section that the accused had with him or her, on his or her
12 person, written permission from the owner, lessee, hunting lessee,
13 or lawful occupant to be upon such person's land while the accused
14 was upon any adjoining property. This defense shall not be
15 available to the accused if:

16 a. the accused has previously pled guilty, nolo
17 contendere, or has been convicted of any act of
18 trespass or has been found civilly liable of any act
19 of trespass, or

20 b. the accused, while the accused was upon the adjoining
21 property, does not have with him or her, on his or her
22 person, the written permission specified in this
23 paragraph.

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1 SECTION 2. AMENDATORY Section 2, Chapter 63, O.S.L.
2 2008, as amended by Section 1, Chapter 266, O.S.L. 2009 (29 O.S.
3 Supp. 2009, Section 7-209), is amended to read as follows:

4 Section 7-209. A. Any person who willfully enters a facility
5 licensed pursuant to the Oklahoma Farmed Cervidae Act or a
6 commercial hunting area licensed pursuant to Section 4-106 of this
7 title without permission by the owner shall be deemed guilty of
8 trespass and, upon conviction thereof, shall be fined in any sum not
9 to exceed Two Hundred Fifty Dollars (\$250.00).

10 B. Any person who willfully enters a facility licensed pursuant
11 to the Oklahoma Farmed Cervidae Act or a big game commercial hunting
12 area licensed pursuant to Section 4-106 of this title or willfully
13 shoots from or across a public road, highway or railroad right-of-
14 way onto the facility or big game commercial hunting area and hunts,
15 takes or attempts to take a cervidae or wildlife without permission
16 by the owner shall be deemed guilty of a misdemeanor and, upon
17 conviction thereof, shall be punished by a fine of not less than Two
18 Thousand Five Hundred Dollars (\$2,500.00) nor more than Ten Thousand
19 Dollars (\$10,000.00) or by imprisonment in the county jail not to
20 exceed sixty (60) days, or by both such fine and imprisonment, and
21 in addition, the court shall order restitution for actual damages
22 incurred. For purposes of this subsection, "actual damages"
23 includes, but is not limited to, damages to real or personal
24 property wherein the person willfully entering a licensed facility

1 hunts, shoots, shoots at, kills, attempts to kill, disturbs, hazes,
2 takes, or attempts to take any personal property of the owner
3 without permission from the owner.

4 SECTION 3. This act shall become effective November 1, 2010."

5 Passed the House of Representatives the 19th day of April, 2010.

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Presiding Officer of the House of
Representatives

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10 Passed the Senate the ____ day of _____, 2010.

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Presiding Officer of the Senate

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