

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB2093 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mike Sanders

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE

4 SUBSTITUTE

5 FOR ENGROSSED

6 SENATE BILL NO. 2093

By: Sparks of the Senate

and

Sanders of the House

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8
9 PROPOSED COMMITTEE SUBSTITUTE

10 [trespassing - making shooting from a public road or

11 highway onto the land of another a trespass -

12 effective date]

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

17 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L.

18 2006, as last amended by Section 2, Chapter 458, O.S.L. 2009 (21

19 O.S. Supp. 2009, Section 1835.2), is amended to read as follows:

20 Section 1835.2 A. Notwithstanding the provisions of Section

21 1835 of this title, the following provisions apply to private land

22 that is primarily devoted to farming, ranching, or forestry

23 purposes:

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

18 2. This provision shall not apply to peace officers as defined
19 in Section 99 of this title or any federal, state, or local
20 government employees engaged in the performance of their duties, or
21 to any firefighters, emergency medical personnel, or public utility
22 employees engaged in addressing an emergency that presents an
23 imminent danger to health, safety, or the environment in the
24 performance of their duties, or to parties engaged in oil and gas

1 operations, which shall include, without limitation, exploration,
2 drilling, production and sales activities, under authority of
3 mineral ownership, an oil and gas lease, seismic agreement or
4 permit, gas gathering, purchase, transportation, or treating
5 contracts, Corporation Commission order, or other lawful authority
6 from persons entitled to give the same. The provisions of this
7 section shall not prohibit railroad employees and emergency
8 equipment from entering such land to restore rail service following
9 an accident, derailment or natural disaster; nor the entrance of
10 utility employees or contractors while acting in the scope of their
11 employment; nor employees or contractors of valid easement or
12 license holders while acting in the scope of their employment;

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

23 4. Anyone who willfully or maliciously enters any such land of
24 another and therein commits or attempts to commit waste, theft, or

1 damage shall be deemed guilty of a misdemeanor and, upon conviction
2 thereof, shall be fined in any sum not less than Two Hundred Fifty
3 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
4 by confinement in the county jail for not less than thirty (30) days
5 nor more than six (6) months, or by both such fine and imprisonment,
6 and in addition, the court shall order restitution for actual
7 damages incurred. Persons convicted of a second or subsequent
8 offense under this paragraph shall be guilty of a misdemeanor and
9 shall be punished by a fine in any sum not less than Seven Hundred
10 Dollars (\$700.00) nor more than One Thousand Five Hundred Dollars
11 (\$1,500.00), or by confinement in the county jail for not less than
12 thirty (30) days nor more than six (6) months, or by both such fine
13 and imprisonment, and in addition, the court shall order restitution
14 for actual damages.

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

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

22 2. If an accused reasonably believed he or she was upon
23 property for which they had permission to be upon, it shall be an
24 affirmative defense to prosecution under paragraph 1 of subsection A

1 of this section that the accused had with him or her, on his or her
2 person, written permission from the owner, lessee, hunting lessee,
3 or lawful occupant to be upon such person's land while the accused
4 was upon any adjoining property. This defense shall not be
5 available to the accused if:

6 a. the accused has previously pled guilty, nolo
7 contendere, or has been convicted of any act of
8 trespass or has been found civilly liable of any act
9 of trespass, or

10 b. the accused, while the accused was upon the adjoining
11 property, does not have with him or her, on his or her
12 person, the written permission specified in this
13 paragraph.

14 SECTION 2. AMENDATORY Section 2, Chapter 63, O.S.L.
15 2008, as amended by Section 1, Chapter 266, O.S.L. 2009 (29 O.S.
16 Supp. 2009, Section 7-209), is amended to read as follows:

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

23 B. Any person who willfully enters a facility licensed pursuant
24 to the Oklahoma Farmed Cervidae Act or a big game commercial hunting

1 area licensed pursuant to Section 4-106 of this title or willfully
2 shoots from or across a public road or highway onto the facility or
3 big game commercial hunting area and hunts, takes or attempts to
4 take a cervidae or wildlife without permission by the owner shall be
5 deemed guilty of a misdemeanor and, upon conviction thereof, shall
6 be punished by a fine of not less than Two Thousand Five Hundred
7 Dollars (\$2,500.00) nor more than Ten Thousand Dollars (\$10,000.00)
8 or by imprisonment in the county jail not to exceed sixty (60) days,
9 or by both such fine and imprisonment, and in addition, the court
10 shall order restitution for actual damages incurred. For purposes
11 of this subsection, "actual damages" includes, but is not limited
12 to, damages to real or personal property wherein the person
13 willfully entering a licensed facility hunts, shoots, shoots at,
14 kills, attempts to kill, disturbs, hazes, takes, or attempts to take
15 any personal property of the owner without permission from the
16 owner.

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

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19 52-2-10491 GRS 03/31/10

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