

1 ENGROSSED SENATE
2 BILL NO. 2093

By: Sparks of the Senate
and
Sanders of the House

3
4
5
6
7 [trespassing - making shooting from a public road or
8 highway onto the land of another a trespass -
9 effective date]

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L.
13 2006, as last amended by Section 2, Chapter 458, O.S.L. 2009 (21
14 O.S. Supp. 2009, Section 1835.2), is amended to read as follows:

15 Section 1835.2 A. Notwithstanding the provisions of Section
16 1835 of this title, the following provisions apply to private land
17 that is primarily devoted to farming, ranching, or forestry
18 purposes:

19 1. Except as provided in this section, whoever willfully enters
20 private land of another or who willfully shoots from or across a
21 public road or highway onto the land of another that is primarily
22 devoted to farming, ranching, or forestry purposes without
23 permission by the owner or lawful occupant thereof shall be deemed
24 guilty of trespass and, upon conviction thereof, shall be fined in

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

12 2. This provision shall not apply to peace officers as defined
13 in Section 99 of this title or any federal, state, or local
14 government employees engaged in the performance of their duties, or
15 to any firefighters, emergency medical personnel, or public utility
16 employees engaged in addressing an emergency that presents an
17 imminent danger to health, safety, or the environment in the
18 performance of their duties, or to parties engaged in oil and gas
19 operations, which shall include, without limitation, exploration,
20 drilling, production and sales activities, under authority of
21 mineral ownership, an oil and gas lease, seismic agreement or
22 permit, gas gathering, purchase, transportation, or treating
23 contracts, Corporation Commission order, or other lawful authority
24 from persons entitled to give the same. The provisions of this

1 section shall not prohibit railroad employees and emergency
2 equipment from entering such land to restore rail service following
3 an accident, derailment or natural disaster; nor the entrance of
4 utility employees or contractors while acting in the scope of their
5 employment; nor employees or contractors of valid easement or
6 license holders while acting in the scope of their employment;

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

17 4. Anyone who willfully or maliciously enters any such land of
18 another and therein commits or attempts to commit waste, theft, or
19 damage shall be deemed guilty of a misdemeanor and, upon conviction
20 thereof, shall be fined in any sum not less than Two Hundred Fifty
21 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
22 by confinement in the county jail for not less than thirty (30) days
23 nor more than six (6) months, or by both such fine and imprisonment,
24 and in addition, the court shall order restitution for actual

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

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

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

16 2. If an accused reasonably believed he or she was upon
17 property for which they had permission to be upon, it shall be an
18 affirmative defense to prosecution under paragraph 1 of subsection A
19 of this section that the accused had with him or her, on his or her
20 person, written permission from the owner or lawful occupant to be
21 upon such person's land while the accused was upon any adjoining
22 property. This defense shall not be available to the accused if:

23 a. the accused has previously pled guilty, nolo
24 contendere, or has been convicted of any act of

1 trespass or has been found civilly liable of any act
2 of trespass, or

3 b. the accused, while the accused was upon the adjoining
4 property, does not have with him or her, on his or her
5 person, the written permission specified in this
6 paragraph.

7 SECTION 2. AMENDATORY Section 2, Chapter 63, O.S.L.

8 2008, as amended by Section 1, Chapter 266, O.S.L. 2009 (29 O.S.
9 Supp. 2009, Section 7-209), is amended to read as follows:

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

16 B. Any person who willfully enters a facility licensed pursuant
17 to the Oklahoma Farmed Cervidae Act or a big game commercial hunting
18 area licensed pursuant to Section 4-106 of this title or willfully
19 shoots from or across a public road or highway onto the facility or
20 big game commercial hunting area and hunts, takes or attempts to
21 take a cervidae or wildlife without permission by the owner shall be
22 deemed guilty of a misdemeanor and, upon conviction thereof, shall
23 be punished by a fine of not less than Two Thousand Five Hundred
24 Dollars (\$2,500.00) nor more than Ten Thousand Dollars (\$10,000.00)

1 or by imprisonment in the county jail not to exceed sixty (60) days,
2 or by both such fine and imprisonment, and in addition, the court
3 shall order restitution for actual damages incurred. For purposes
4 of this subsection, "actual damages" includes, but is not limited
5 to, damages to real or personal property wherein the person
6 willfully entering a licensed facility hunts, shoots, shoots at,
7 kills, attempts to kill, disturbs, hazes, takes, or attempts to take
8 any personal property of the owner without permission from the
9 owner.

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

11 Passed the Senate the 4th day of March, 2010.

12
13 _____
14 Presiding Officer of the Senate

15 Passed the House of Representatives the ____ day of _____,
16 2010.

17
18 _____
19 Presiding Officer of the House
20 of Representatives
21
22
23
24