

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

Committee Substitute for
House Bill No. 1873

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1873 - By: SEARS AND HICKMAN of the House and JUSTICE of the Senate.

An Act relating to trespass; amending Section 4, Chapter 268, O.S.L. 2006, as amended by Section 1, Chapter 85, O.S.L. 2008 (21 O.S. Supp. 2008, Section 1835.2), which relates to trespass on lands primarily devoted to farming, ranching or forestry purposes; modifying penalties; amending Section 2, Chapter 63, O.S.L. 2008 (29 O.S. Supp. 2008, Section 7-209), which relates to trespass on lands licensed pursuant to the Oklahoma Farmed Cervidae Act or commercial hunting areas; modifying penalty for first offense; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L. 2006, as amended
2 by Section 1, Chapter 85, O.S.L. 2008 (21 O.S. Supp. 2008, Section 1835.2), is amended to
3 read as follows:

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

7 1. Except as provided in this section, whoever willfully enters private land of
8 another that is primarily devoted to farming, ranching, or forestry purposes without
9 permission by the owner or lawful occupant thereof shall be deemed guilty of trespass

1 and, upon conviction thereof, shall be fined in any sum not ~~to exceed~~ less than Two
2 Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), and in
3 addition, the court shall order restitution for actual damages incurred. Persons convicted
4 of a second or subsequent offense under this paragraph shall be guilty of a misdemeanor
5 and shall be punished by a fine in any sum not less than ~~Five Hundred Dollars (\$500.00)~~
6 Seven Hundred Fifty Dollars (\$750.00) nor more than ~~One Thousand Dollars (\$1,000.00)~~
7 One Thousand Five Hundred Dollars (\$1,500.00), or by confinement in the county jail for
8 not less than thirty (30) days nor more than six (6) months, or by both such fine and
9 imprisonment, and in addition, the court shall order restitution for actual damages
10 incurred;

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

1 utility employees or contractors while acting in the scope of their employment; nor
2 employees or contractors of valid easement or license holders while acting in the scope of
3 their employment;

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

12 4. Anyone who willfully or maliciously enters any such land of another and therein
13 commits or attempts to commit waste, theft, or damage shall be deemed guilty of a
14 misdemeanor and, upon conviction thereof, shall be fined in any sum not less than Fifty
15 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by confinement in the
16 county jail for not less than thirty (30) days nor more than six (6) months, or both such
17 fine and imprisonment, and in addition, the court shall order restitution for actual
18 damages incurred. Persons convicted of a second or subsequent offense under this
19 paragraph shall be guilty of a misdemeanor and shall be punished by a fine in any sum
20 not less than Seven Hundred Dollars (\$700.00) nor more than One Thousand Five
21 Hundred Dollars (\$1,500.00), or by confinement in the county jail for not less than thirty

1 (30) days nor more than six (6) months, or by both such fine and imprisonment, and in
2 addition, the court shall order restitution for actual damages.

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

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

8 SECTION 2. AMENDATORY Section 2, Chapter 63, O.S.L. 2008 (29 O.S.
9 Supp. 2008, Section 7-209), is amended to read as follows:

10 Section 7-209. A. Any person who willfully enters a facility licensed pursuant to
11 the Oklahoma Farmed Cervidae Act or a commercial hunting area licensed pursuant to
12 Section 4-106 of Title 29 of the Oklahoma Statutes without permission by the owner shall
13 be deemed guilty of trespass and, upon conviction thereof, shall be fined in any sum not
14 ~~to exceed~~ less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred
15 Dollars (\$500.00).

16 B. Any person who willfully enters a facility licensed pursuant to the Oklahoma
17 Farmed Cervidae Act or a big game commercial hunting area licensed pursuant to
18 Section 4-106 of Title 29 of the Oklahoma Statutes and hunts, takes or attempts to take a
19 cervidae or wildlife without permission by the owner shall be deemed guilty of a
20 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than
21 One Thousand Five Hundred Dollars (\$1,500.00) nor more than Five Thousand Dollars
22 (\$5,000.00) or by imprisonment in the county jail not to exceed sixty (60) days, or by both

1 such fine and imprisonment, and in addition, the court shall order restitution for actual
2 damages incurred.

3 SECTION 3. This act shall become effective November 1, 2009.

4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL
5 DEVELOPMENT, dated 02-26-09 - DO PASS, As Amended and Coauthored.