

THE HOUSE OF REPRESENTATIVES
Wednesday, April 7, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 2093

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 2093 - By:
SPARKS of the Senate and SANDERS of the House.

An Act relating to trespassing; amending Section 4, Chapter 268, O.S.L. 2006, as last amended by Section 2, Chapter 458, O.S.L. 2009 (21 O.S. Supp. 2009, Section 1835.2), which relates to trespassing on land devoted to agriculture; making shooting from a public road, highway or railroad right-of-way onto the land of another a trespass; amending Section 2, Chapter 63, O.S.L. 2008, as amended by Section 1, Chapter 266, O.S.L. 2009 (29 O.S. Supp. 2009, 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.

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

- 1 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L. 2006, as last
2 amended by Section 2, Chapter 458, O.S.L. 2009 (21 O.S. Supp. 2009, Section 1835.2), is
3 amended to read as follows:
- 4 Section 1835.2 A. Notwithstanding the provisions of Section 1835 of this title, the
5 following provisions apply to private land that is primarily devoted to farming, ranching,
6 or forestry purposes:
- 7 1. Except as provided in this section, whoever willfully enters private land of
8 another or who willfully shoots from or across a public road, highway or railroad right-of-

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

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

1 employees and emergency equipment from entering such land to restore rail service
2 following an accident, derailment or natural disaster; nor the entrance of utility
3 employees or contractors while acting in the scope of their employment; nor employees or
4 contractors of valid easement or license holders while acting in the scope of their
5 employment;

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

14 4. Anyone who willfully or maliciously enters any such land of another and therein
15 commits or attempts to commit waste, theft, or damage shall be deemed guilty of a
16 misdemeanor and, upon conviction thereof, shall be fined in any sum not less than Two
17 Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by
18 confinement in the county jail for not less than thirty (30) days nor more than six (6)
19 months, or by both such fine and imprisonment, and in addition, the court shall order
20 restitution for actual damages incurred. Persons convicted of a second or subsequent
21 offense under this paragraph shall be guilty of a misdemeanor and shall be punished by a
22 fine in any sum not less than Seven Hundred Dollars (\$700.00) nor more than One

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Thousand Five Hundred Dollars (\$1,500.00), or by confinement in the county jail for not
2 less than thirty (30) days nor more than six (6) months, or by both such fine and
3 imprisonment, and in addition, the court shall order restitution for actual damages.

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

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

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

- 15 a. the accused has previously pled guilty, nolo contendere, or has been
16 convicted of any act of trespass or has been found civilly liable of any
17 act of trespass, or
- 18 b. the accused, while the accused was upon the adjoining property, does
19 not have with him or her, on his or her person, the written permission
20 specified in this paragraph.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

1 SECTION 3. This act shall become effective November 1, 2010.
2 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-06-10 - DO PASS,
3 As Amended.