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THE STATE SENATE  
Thursday, March 26, 2009

ENGROSSED  
House Bill No. 1873  
As Amended

ENGROSSED HOUSE BILL NO. 1873 - By: Sears, Hickman, McMullen and  
Faught 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; and  
providing an effective date.

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

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

1. Except as provided in this section, whoever willfully enters  
private land of another that is primarily devoted to farming,  
ranching, or forestry purposes without permission by the owner or  
lawful occupant thereof shall be deemed guilty of trespass and, upon  
conviction thereof, shall be fined in any sum not ~~to exceed~~ less

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

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

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

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

18 4. Anyone who willfully or maliciously enters any such land of  
19 another and therein commits or attempts to commit waste, theft, or  
20 damage shall be deemed guilty of a misdemeanor and, upon conviction  
21 thereof, shall be fined in any sum not less than Fifty Dollars  
22 (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by  
23 confinement in the county jail for not less than thirty (30) days

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

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

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

18 SECTION 2. This act shall become effective November 1, 2009.

19 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,  
20 dated 3-23-09 - DO PASS, As Amended.