

3 Senate Bill No. 1035

4 SENATE BILL NO. 1035 - By: Sparks of the Senate and Armes of the
5 House.

6 An Act relating to crimes and punishments; amending Section
7 4, Chapter 268, O.S.L. 2006, as amended by Section 1,
8 Chapter 85, O.S.L. 2008 (21 O.S. Supp. 2008, Section
9 1835.2), which relates to trespass upon private land;
10 modifying penalties for trespass on certain lands; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L.
14 2006, as amended by Section 1, Chapter 85, O.S.L. 2008 (21 O.S.
15 Supp. 2008, Section 1835.2), is amended to read as follows:

16 Section 1835.2 A. Notwithstanding the provisions of Section
17 1835 of ~~Title 21 of the Oklahoma Statutes~~ this title, the following
18 provisions apply to private land that is primarily devoted to
19 farming, ranching, or forestry purposes:

20 1. Except as provided in this section, whoever willfully enters
21 private land of another that is primarily devoted to farming,
22 ranching, or forestry purposes without permission by the owner or
23 lawful occupant thereof shall be deemed guilty of trespass and, upon
24 conviction thereof, shall be fined in any sum not to exceed ~~Two~~
25 ~~Hundred Fifty Dollars (\$250.00)~~ One Thousand Five Hundred Dollars
26 (\$1,500.00), and in addition, the court shall order restitution for

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

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

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

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

16 4. Anyone who willfully or maliciously enters any such land of
17 another and therein commits or attempts to commit waste, theft, or
18 damage shall be deemed guilty of a misdemeanor and, upon conviction
19 thereof, shall be fined in any sum not less than ~~Fifty Dollars~~
20 ~~(\$50.00)~~ Two Hundred Fifty Dollars (\$250.00) nor more than Five
21 Hundred Dollars (\$500.00), or by confinement in the county jail for
22 not less than thirty (30) days nor more than six (6) months, or both
23 such fine and imprisonment, and in addition, the court shall order

1 restitution for actual damages incurred. Persons convicted of a
2 second or subsequent offense under this paragraph shall be guilty of
3 a misdemeanor and shall be punished by a fine in any sum not less
4 than Seven Hundred Dollars (\$700.00) nor more than One Thousand Five
5 Hundred Dollars (\$1,500.00), or by confinement in the county jail
6 for not less than thirty (30) days nor more than six (6) months, or
7 by both such fine and imprisonment, and in addition, the court shall
8 order restitution 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. 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 SECTION 2. This act shall become effective November 1, 2009.

17 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
18 dated 2-16-09 - DO PASS, As Coauthored.