

SB 861

Senate Bill No. 861  
As Amended

SENATE BILL NO. 861 - By: Schulz of the Senate and Richardson of the House.

[ crimes and punishments - trespassing - hunting or fishing  
- 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~~ this title, the following provisions apply to private land that is primarily devoted to farming, or ranching, ~~or forestry~~ purposes:

1. Except as provided in this section, whoever willfully enters private land of another that is primarily devoted to farming, or 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 Two Hundred Fifty Dollars (\$250.00)~~ less than Five Hundred Dollars (\$500.00) and in addition, the court shall order restitution for actual damages incurred. Persons convicted of a second or

1 subsequent offense under this paragraph shall be guilty of a  
2 misdemeanor and shall be punished by a fine in any sum not less than  
3 ~~Five Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00)  
4 nor more than ~~One Thousand Dollars (\$1,000.00)~~ 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 incurred, and if the person has  
9 a hunting or fishing license, the court may, in its discretion,  
10 require that the person forfeit such license for a period not to  
11 exceed one (1) year;

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)~~ Two Hundred Fifty Dollars (\$250.00) nor more than Five  
23 Hundred Dollars (\$500.00), or by confinement in the county jail for

1 not less than thirty (30) days nor more than six (6) months, or both  
2 such fine and imprisonment, 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 ~~Seven Hundred Dollars (\$700.00)~~ Seven Hundred Fifty Dollars  
7 (\$750.00) nor more than One Thousand Five Hundred Dollars  
8 (\$1,500.00), or by confinement in the county jail for not less than  
9 thirty (30) days nor more than six (6) months, or by both such fine  
10 and imprisonment, and in addition, the court shall order restitution  
11 for actual damages.

12 B. ~~This section shall not be construed to prohibit acts that~~  
13 ~~are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the~~  
14 ~~Oklahoma Statutes~~ Hunting or fishing without permission is hereby  
15 prohibited on land that is primarily devoted to farming or ranching  
16 purposes without the requirement to post such land.

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 2-19-09  
23 - DO PASS, As Amended and Coauthored.