

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1873

By: Hickman

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5  
6 AS INTRODUCED

7 An Act relating to trespass; amending Section 4,  
8 Chapter 268, O.S.L. 2006, as amended by Section 1,  
9 Chapter 85, O.S.L. 2008 (21 O.S. Supp. 2008, Section  
10 1835.2), which relates to trespass on lands primarily  
11 devoted to farming, ranching or forestry purposes;  
12 modifying penalty for first offense; amending Section  
13 2, Chapter 63, O.S.L. 2008 (29 O.S. Supp. 2008,  
14 Section 7-209), which relates to trespass on lands  
15 licensed pursuant to the Oklahoma Farmed Cervidae Act  
16 or commercial hunting areas; modifying penalty for  
17 first offense; and providing an effective date.

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

19 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L.  
20 2006, as amended by Section 1, Chapter 85, O.S.L. 2008 (21 O.S.  
21 Supp. 2008, Section 1835.2), is amended to read as follows:

22 Section 1835.2 A. Notwithstanding the provisions of Section  
23 1835 of Title 21 of the Oklahoma Statutes, the following provisions  
24 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,

1 ranching, or forestry purposes without permission by the owner or  
2 lawful occupant thereof shall be deemed guilty of trespass and, upon  
3 conviction thereof, shall be fined in any sum not ~~to exceed~~ less  
4 than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred  
5 Dollars (\$500.00), and in addition, the court shall order  
6 restitution for actual damages incurred. Persons convicted of a  
7 second or subsequent offense under this paragraph shall be guilty of  
8 a misdemeanor and shall be punished by a fine in any sum not less  
9 than Five Hundred Dollars (\$500.00) nor more than One Thousand  
10 Dollars (\$1,000.00), or by confinement in the county jail for not  
11 less than thirty (30) days nor more than six (6) months, or by both  
12 such fine and imprisonment, and in addition, the court shall order  
13 restitution for actual damages incurred;

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

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

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

19 4. Anyone who willfully or maliciously enters any such land of  
20 another and therein commits or attempts to commit waste, theft, or  
21 damage shall be deemed guilty of a misdemeanor and, upon conviction  
22 thereof, shall be fined in any sum not less than Fifty Dollars  
23 (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by  
24 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. AMENDATORY Section 2, Chapter 63, O.S.L. 2008  
19 (29 O.S. Supp. 2008, Section 7-209), is amended to read as follows:

20 Section 7-209. A. Any person who willfully enters a facility  
21 licensed pursuant to the Oklahoma Farmed Cervidae Act or a  
22 commercial hunting area licensed pursuant to Section 4-106 of Title  
23 29 of the Oklahoma Statutes without permission by the owner shall be  
24 deemed guilty of trespass and, upon conviction thereof, shall be

1 fined in any sum not ~~to exceed~~ less than Two Hundred Fifty Dollars  
2 (\$250.00) nor more than Five Hundred Dollars (\$500.00).

3 B. Any person who willfully enters a facility licensed pursuant  
4 to the Oklahoma Farmed Cervidae Act or a big game commercial hunting  
5 area licensed pursuant to Section 4-106 of Title 29 of the Oklahoma  
6 Statutes and hunts, takes or attempts to take a cervidae or wildlife  
7 without permission by the owner shall be deemed guilty of a  
8 misdemeanor and, upon conviction thereof, shall be punished by a  
9 fine of not less than One Thousand Five Hundred Dollars (\$1,500.00)  
10 nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment  
11 in the county jail not to exceed sixty (60) days, or by both such  
12 fine and imprisonment, and in addition, the court shall order  
13 restitution for actual damages incurred.

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

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