

1 STATE OF OKLAHOMA

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

3 SENATE BILL 861

By: Schulz

4
5 AS INTRODUCED

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

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

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

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

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

1 ~~Hundred Fifty Dollars (\$250.00)~~ less than Five Hundred Dollars
2 (\$500.00) and in addition, the court shall order restitution for
3 actual damages incurred. Persons convicted of a second or
4 subsequent offense under this paragraph shall be guilty of a
5 misdemeanor and shall be punished by a fine in any sum not less than
6 ~~Five Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00)
7 nor more than ~~One Thousand Dollars (\$1,000.00)~~ One Thousand Five
8 Hundred Dollars (\$1,500.00), or by confinement in the county jail
9 for not less than thirty (30) days nor more than six (6) months, or
10 by both such fine and imprisonment, and in addition, the court shall
11 order restitution for actual damages incurred, and if the person has
12 a hunting or fishing license, the court may, in its discretion,
13 require that the person forfeit such license for a period not to
14 exceed one (1) year;

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

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

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

20 4. Anyone who willfully or maliciously enters any such land of
21 another and therein commits or attempts to commit waste, theft, or
22 damage shall be deemed guilty of a misdemeanor and, upon conviction
23 thereof, shall be fined in any sum not less than ~~Fifty Dollars~~
24 ~~(\$50.00)~~ Two Hundred Fifty Dollars (\$250.00) nor more than Five

1 Hundred Dollars (\$500.00), or by confinement in the county jail for
2 not less than thirty (30) days nor more than six (6) months, or both
3 such fine and imprisonment, and in addition, the court shall order
4 restitution for actual damages incurred. Persons convicted of a
5 second or subsequent offense under this paragraph shall be guilty of
6 a misdemeanor and shall be punished by a fine in any sum not less
7 than ~~Seven Hundred Dollars (\$700.00)~~ Seven Hundred Fifty Dollars
8 (\$750.00) nor more than One Thousand Five Hundred Dollars
9 (\$1,500.00), or by confinement in the county jail for not less than
10 thirty (30) days nor more than six (6) months, or by both such fine
11 and imprisonment, and in addition, the court shall order restitution
12 for actual damages.

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

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

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

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