

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2356

By: Kouplen

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2011, Section 1835.2, which relates to
10 property rights; requiring notification of county
11 sheriff prior to retrieving loose animals; directing
12 county sheriff to record notification; and providing
13 an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1835.2, is
16 amended to read as follows:

17 Section 1835.2 A. Notwithstanding the provisions of Section
18 1835 of this title, the following provisions apply to private land
19 that is primarily devoted to farming, ranching, or forestry
20 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 surface
24 owner, surface lessee, hunting lessee, or lawful occupant thereof
shall be deemed guilty of trespass and, upon conviction thereof,

1 shall be fined in any sum not less than Five Hundred Dollars
2 (\$500.00) nor more than One Thousand Five Hundred Dollars
3 (\$1,500.00), and in addition, the court shall order restitution for
4 actual damages incurred. Persons convicted of a second or
5 subsequent offense under this paragraph shall be guilty of a
6 misdemeanor and shall be punished by a fine in any sum not less than
7 One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two
8 Thousand Five Hundred Dollars (\$2,500.00), 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 this title or any federal, state, or local
14 government employees engaged in the performance of their duties, or
15 to any firefighters, emergency medical personnel, or public utility
16 employees engaged in addressing an emergency that presents an
17 imminent danger to health, safety, or the environment in the
18 performance of their duties, or to parties engaged in oil and gas
19 operations, which shall include, without limitation, exploration,
20 drilling, production and sales activities, under authority of
21 mineral ownership, an oil and gas lease, seismic agreement or
22 permit, gas gathering, purchase, transportation, or treating
23 contracts, Corporation Commission order, or other lawful authority
24 from persons entitled to give the same. The provisions of this

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

7 3. The following persons may enter such land of another unless
8 forbidden to do so, either orally or in writing, by the owner or
9 lawful occupier thereof: registered land surveyors and registered
10 professional engineers for the purpose of land surveying in the
11 performance of their professional services; persons ~~in the sole~~
12 ~~process of retrieving their domestic livestock or other animals~~ who
13 are unable to contact the owner or if the owner is unknown, for the
14 purpose of recovering their animal if, prior to entry, they notify
15 the county sheriff who shall record the name, driver license number,
16 and location given by the person; persons making a delivery, selling
17 a product or service, conducting a survey or poll, working on behalf
18 of a candidate for political office, or who otherwise have a
19 legitimate reason for entering and who, immediately upon entering,
20 seek to conduct such business; and

21 4. Anyone who willfully or maliciously enters any such land of
22 another and therein commits or attempts to commit waste, theft, or
23 damage shall be deemed guilty of a misdemeanor and, upon conviction
24 thereof, shall be fined in any sum not less than Two Hundred Fifty

1 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
2 by confinement in the county jail for not less than thirty (30) days
3 nor more than six (6) months, or by both such fine and imprisonment,
4 and in addition, the court shall order restitution for actual
5 damages incurred. Persons convicted of a second or subsequent
6 offense under this paragraph shall be guilty of a misdemeanor and
7 shall be punished by a fine in any sum not less than Seven Hundred
8 Dollars (\$700.00) 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.

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

20 2. If an accused reasonably believed he or she was upon
21 property for which they had permission to be upon, it shall be an
22 affirmative defense to prosecution under paragraph 1 of subsection A
23 of this section that the accused had with him or her, on his or her
24 person, written permission from the surface owner, surface lessee,

1 hunting lessee, or lawful occupant to be upon such person's land
2 while the accused was upon any adjoining property. This defense
3 shall not be available to the accused if:

4 a. the accused has previously pled guilty, nolo
5 contendere, or has been convicted of any act of
6 trespass or has been found civilly liable of any act
7 of trespass, or

8 b. the accused, while the accused was upon the adjoining
9 property, does not have with him or her, on his or her
10 person, the written permission specified in this
11 paragraph.

12 SECTION 2. This act shall become effective November 1, 2012.

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