

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2356

By: Kouplén, Vaughan and  
Shoemaker of the House

and

Fields of the Senate

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10                                   COMMITTEE SUBSTITUTE

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

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

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

20                   Section 1835.2 A. Notwithstanding the provisions of Section  
21 1835 of this title, the following provisions apply to private land  
22 that is primarily devoted to farming, ranching, or forestry  
23 purposes:

1        1. Except as provided in this section, whoever willfully enters  
2 private land of another that is primarily devoted to farming,  
3 ranching, or forestry purposes without permission by the surface  
4 owner, surface lessee, hunting lessee, or lawful occupant thereof  
5 shall be deemed guilty of trespass and, upon conviction thereof,  
6 shall be fined in any sum not less than Five Hundred Dollars  
7 (\$500.00) nor more than One Thousand Five Hundred Dollars  
8 (\$1,500.00), and in addition, the court shall order restitution for  
9 actual damages incurred. Persons convicted of a second or  
10 subsequent offense under this paragraph shall be guilty of a  
11 misdemeanor and shall be punished by a fine in any sum not less than  
12 One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two  
13 Thousand Five Hundred Dollars (\$2,500.00), or by confinement in the  
14 county jail for not less than thirty (30) days nor more than six (6)  
15 months, or by both such fine and imprisonment, and in addition, the  
16 court shall order restitution for actual damages incurred;

17        2. This provision shall not apply to peace officers as defined  
18 in Section 99 of this title or any federal, state, or local  
19 government employees engaged in the performance of their duties, or  
20 to any firefighters, emergency medical personnel, or public utility  
21 employees engaged in addressing an emergency that presents an  
22 imminent danger to health, safety, or the environment in the  
23 performance of their duties, or to parties engaged in oil and gas

1 operations, which shall include, without limitation, exploration,  
2 drilling, production and sales activities, under authority of  
3 mineral ownership, an oil and gas lease, seismic agreement or  
4 permit, gas gathering, purchase, transportation, or treating  
5 contracts, Corporation Commission order, or other lawful authority  
6 from persons entitled to give the same. The provisions of this  
7 section shall not prohibit railroad employees and emergency  
8 equipment from entering such land to restore rail service following  
9 an accident, derailment or natural disaster; nor the entrance of  
10 utility employees or contractors while acting in the scope of their  
11 employment; nor employees or contractors of valid easement or  
12 license holders while acting in the scope of their employment;

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

1 of a candidate for political office, or who otherwise have a  
2 legitimate reason for entering and who, immediately upon entering,  
3 seek to conduct such business; and

4 4. Anyone who willfully or maliciously enters any such land of  
5 another and therein commits or attempts to commit waste, theft, or  
6 damage shall be deemed guilty of a misdemeanor and, upon conviction  
7 thereof, shall be fined in any sum not less than Two Hundred Fifty  
8 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or  
9 by confinement in the county jail for not less than thirty (30) days  
10 nor more than six (6) months, or by both such fine and imprisonment,  
11 and in addition, the court shall order restitution for actual  
12 damages incurred. Persons convicted of a second or subsequent  
13 offense under this paragraph shall be guilty of a misdemeanor and  
14 shall be punished by a fine in any sum not less than Seven Hundred  
15 Dollars (\$700.00) nor more than One Thousand Five Hundred Dollars  
16 (\$1,500.00), or by confinement in the county jail for not less than  
17 thirty (30) days nor more than six (6) months, or by both such fine  
18 and imprisonment, and in addition, the court shall order restitution  
19 for actual damages.

20 B. This section shall not be construed to prohibit acts that  
21 are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the  
22 Oklahoma Statutes.

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

5 2. If an accused reasonably believed he or she was upon  
6 property for which they had permission to be upon, it shall be an  
7 affirmative defense to prosecution under paragraph 1 of subsection A  
8 of this section that the accused had with him or her, on his or her  
9 person, written permission from the surface owner, surface lessee,  
10 hunting lessee, or lawful occupant to be upon such person's land  
11 while the accused was upon any adjoining property. This defense  
12 shall not be available to the accused if:

13 a. the accused has previously pled guilty, nolo  
14 contendere, or has been convicted of any act of  
15 trespass or has been found civilly liable of any act  
16 of trespass, or

17 b. the accused, while the accused was upon the adjoining  
18 property, does not have with him or her, on his or her  
19 person, the written permission specified in this  
20 paragraph.

21 SECTION 2. This act shall become effective November 1, 2012.  
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23 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, WILDLIFE AND  
24 ENVIRONMENT, dated 02/15/2012 - DO PASS, As Amended and Coauthored.