

1 **SENATE FLOOR VERSION**

2 March 29, 2012

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 2573

6 By: Ownbey and Vaughan of the  
7 House

8 and

9 Simpson of the Senate

10 An Act relating to game and fish; amending 29 O.S.  
11 2011, Section 5-202, which relates to the Oklahoma  
12 Wildlife Conservation Code; prohibiting catching upon  
13 land of another; classifying offense for certain  
14 violations as a misdemeanor; providing for  
15 affirmative defense; providing penalties; mandating  
16 revocation of hunting or fishing license after  
17 certain poaching convictions; permitting court to set  
18 period of revocation within certain time; providing  
19 default revocation period; prohibiting Department of  
20 Wildlife Conservation from issuing license during  
21 revocation; requiring surrender of license to court  
22 upon conviction; directing court to send Department  
23 surrendered license and copy of judgment of  
24 conviction; defining term; providing for  
codification; and providing an effective date.

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

SECTION 1. AMENDATORY 29 O.S. 2011, Section 5-202, is  
amended to read as follows:

Section 5-202. A. Except as otherwise provided, no person may  
hunt or catch by any means or method upon the land of another  
without the consent of the owner, lessee or occupant of such land.

1 B. For purposes of this section, consent shall be presumed to  
2 be valid for not more than one (1) year, unless the owner, lessee,  
3 or occupant specifically grants consent for a specified period of  
4 time.

5 C. Excluding land primarily devoted to farming, ranching, or  
6 forestry purposes as set forth in Section 1835.2 of Title 21 of the  
7 Oklahoma Statutes, areas exempt from the provisions of subsection A  
8 of this section are:

9 ~~1. Lands not occupied by a resident thereon, unless notice of~~  
10 ~~objection is conspicuously posted upon the premises by the owner or~~  
11 ~~an agent of the owner; and~~

12 ~~2. Land~~ lands belonging to this state which ~~is~~ are not leased  
13 and occupied by a resident, excluding school land.

14 D. Any game warden investigating a hunter in the field has the  
15 duty to inform the hunter that it is necessary to obtain the consent  
16 of the landowner, lessee or occupant to hunt or catch on the  
17 particular property. Prosecution for violations of the provisions  
18 of this section may be commenced only upon written complaint of such  
19 owner, lessee or occupant filed before any court authorized to  
20 punish such violation, or upon written complaint to any game warden  
21 or officer authorized to make arrest for such offenses.

22 E. No person shall operate a motor-driven conveyance on lands  
23 that are fenced and posted or are in cultivation without permission  
24 of the landowner, lessee or occupant.

1 F. The consent of any owner, lessee or occupant of land  
2 authorizing a person to hunt, catch, fish or engage in any  
3 recreational activity upon the land of any such owner, lessee or  
4 occupant shall not be construed to create any additional duty of  
5 care or impose any additional liability other than specified by  
6 Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

7 G. The obtaining of consent from any owner, lessee or occupant  
8 of land authorizing a person to hunt, catch, fish or engage in any  
9 recreational activity shall not relieve the authorized person using  
10 the land from any obligation which the person may have in the  
11 absence of obtaining such consent to exercise care in the use of  
12 such land and in activities thereon, or from the legal consequences  
13 of failure to employ such care.

14 H. 1. It shall be an affirmative defense to prosecution under  
15 subsection A of this section that the accused had express or implied  
16 permission or legal authority to be on the property.

17 2. If an accused reasonably believed he or she was upon  
18 property for which they had permission to be upon, it shall be an  
19 affirmative defense to prosecution under subsection A of this  
20 section that the accused had with him or her, on his or her person,  
21 written permission from the surface owner, surface lessee, hunting  
22 lessee, or lawful occupant to be upon such person's land while the  
23 accused was upon any adjoining property. This defense shall not be  
24 available to the accused if:

1           a. the accused has previously pled guilty, nolo  
2           contendere, or has been convicted of any act of  
3           trespass or has been found civilly liable of any act  
4           of trespass, or

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

9           I. Any person convicted for the first time of violating any  
10          provisions of this section shall be guilty of a misdemeanor and  
11          punished by the imposition of a fine of not less than ~~Fifty Dollars~~  
12          ~~(\$50.00)~~ Five Hundred Dollars (\$500.00) nor more than ~~Five Hundred~~  
13          ~~Dollars (\$500.00)~~ One Thousand Five Hundred Dollars (\$1,500.00), or  
14          by imprisonment in the county jail for thirty (30) days, or by both  
15          said fine and imprisonment.

16          J. Any person convicted for the second or subsequent time of  
17          violating any provisions of this section shall be guilty of a  
18          misdemeanor and punished by the imposition of a fine of not less  
19          than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two  
20          Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in the  
21          county jail for not less than six (6) months, or by both fine and  
22          imprisonment.

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5-202.1 of Title 29, unless  
3 there is created a duplication in numbering, reads as follows:

4           A. Any hunting or fishing license issued to a person by the  
5 Department of Wildlife Conservation shall be automatically revoked  
6 on final conviction of the person of an offense under subsection I  
7 of Section 5-202 of Title 29 of the Oklahoma Statutes. The  
8 revocation shall be for a period set by the court of not less than  
9 one (1) year or more than ten (10) years. If the court does not set  
10 a period, the revocation shall be for one (1) year from the date the  
11 conviction becomes final. During this period of revocation, the  
12 Department shall not issue that person a hunting or fishing license.  
13 If the court does not set a period, the Department shall not issue  
14 that person a license before the first anniversary of the date the  
15 conviction becomes final.

16           B. A person who has a license or permit revoked under this  
17 section shall surrender the revoked license or permit to the court.  
18 The court shall send the Department of Wildlife Conservation the  
19 revoked license and a copy of the judgment of conviction.

20           C. For purposes of this section, "final conviction" shall  
21 include a plea of guilty or nolo contendere to or the imposition of  
22 deferred adjudication for an offense.

23           SECTION 3. This act shall become effective November 1, 2012.  
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1 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 3-27-12  
- DO PASS, As Amended.

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