COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2859 _____ Of the printed Bill

Page _____ Section _____ Lines _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Sean Roberts

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2859 By: Roberts (Sean)

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to game and fish; amending 29 O.S. 2011, Section 5-202, as amended by Section 1, Chapter 200, O.S.L. 2012 (29 O.S. Supp. 2015, Section 5-202), which relates to consent of landowner to hunt or fish; prohibiting game warden from entering private property under certain circumstances; 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, as amended by Section 1, Chapter 200, O.S.L. 2012 (29 O.S. Supp. 2015, Section 5-202), is amended to read as follows:

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

B. For purposes of this section, consent shall be presumed to be valid for not more than one (1) year, unless the owner, lessee,

or occupant specifically grants consent for a specified period of time.

C. Excluding land primarily devoted to farming, ranching, or forestry purposes as set forth in Section 1835.2 of Title 21 of the Oklahoma Statutes, areas exempt from the provisions of subsection A of this section are lands belonging to this state which are not leased and occupied by a resident, excluding school land.

D. Any game warden investigating a hunter in the field has the duty to inform the hunter that it is necessary to obtain the consent of the landowner, lessee or occupant to hunt or take on the particular property. Prosecution for violations of the provisions of this section may be commenced only upon written complaint of such owner, lessee or occupant filed before any court authorized to punish such violation, or upon written complaint to any game warden or officer authorized to make arrest for such offenses. <u>A game warden shall not enter private property for the purpose of enforcing the provisions of the Oklahoma Wildlife Conservation Code based solely on the discharge of a firearm.</u>

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

F. The consent of any owner, lessee or occupant of land authorizing a person to hunt, take, fish or engage in any recreational activity upon the land of any such owner, lessee or

occupant shall not be construed to create any additional duty of care or impose any additional liability other than specified by Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

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

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

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

a. the accused has previously pled guilty~~,~~ or nolo contendere to, or has been convicted of, any act of

trespass or has been found civilly liable of any act of trespass, or

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

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

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

SECTION 2. This act shall become effective November 1, 2016.

55-2-9183 AMM 02/17/16