

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2859

By: Roberts (Sean)

AS INTRODUCED

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 law enforcement 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

1 Oklahoma Statutes, areas exempt from the provisions of subsection A
2 of this section are lands belonging to this state which are not
3 leased and occupied by a resident, excluding school land.

4 D. Any game warden investigating a hunter in the field has the
5 duty to inform the hunter that it is necessary to obtain the consent
6 of the landowner, lessee or occupant to hunt or take on the
7 particular property. Prosecution for violations of the provisions
8 of this section may be commenced only upon written complaint of such
9 owner, lessee or occupant filed before any court authorized to
10 punish such violation, or upon written complaint to any game warden
11 or officer authorized to make arrest for such offenses. A law
12 enforcement officer shall not enter private property, and probable
13 cause to enter private property shall not exist, based on the mere
14 possession or discharge of a firearm or bow.

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

18 F. The consent of any owner, lessee or occupant of land
19 authorizing a person to hunt, take, fish or engage in any
20 recreational activity upon the land of any such owner, lessee or
21 occupant shall not be construed to create any additional duty of
22 care or impose any additional liability other than specified by
23 Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

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

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

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

19 a. the accused has previously pled guilty, or nolo
20 contendere to, or has been convicted of, any act of
21 trespass or has been found civilly liable of any act
22 of trespass, or

23 b. the accused, while the accused was upon the adjoining
24 property, does not have with him or her, on his or her

1 person, the written permission specified in this
2 paragraph.

3 I. Any person convicted for the first time of violating any
4 provisions of this section shall be guilty of a misdemeanor and
5 punished by the imposition of a fine of not less than Five Hundred
6 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
7 (\$1,500.00), or by imprisonment in the county jail for thirty (30)
8 days, or by both fine and imprisonment.

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

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

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