

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR

SENATE BILL 1142

By: Dahm of the Senate

5 and

6 Roberts (Sean) of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to game wardens; amending 29 O.S.
11 2011, Section 5-202, as amended by Section 1, Chapter
12 200, O.S.L. 2012 (29 O.S. Supp. 2015, Section 5-202),
13 which relates to the permission to hunt, take, fish
14 or engage in recreational activity upon land of
15 another; prohibiting certain actions by game wardens;
16 and providing an effective date.

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

18 SECTION 1. AMENDATORY 29 O.S. 2011, Section 5-202, as
19 amended by Section 1, Chapter 200, O.S.L. 2012 (29 O.S. Supp. 2015,
20 Section 5-202), is amended to read as follows:

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

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

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

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

8 D. Any game warden investigating a hunter in the field has the
9 duty to inform the hunter that it is necessary to obtain the consent
10 of the landowner, lessee or occupant to hunt or take on the
11 particular property. Prosecution for violations of the provisions
12 of this section may be commenced only upon written complaint of such
13 owner, lessee or occupant filed before any court authorized to
14 punish such violation, or upon written complaint to any game warden
15 or officer authorized to make arrest for such offenses. A game
16 warden shall not enter a private property for the purpose of
17 enforcing wildlife conservation laws, based solely on the discharge
18 of a firearm.

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

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

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

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

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

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

- 22 a. the accused has previously pled guilty, nolo
23 contendere, or has been convicted of any act of
24

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

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

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

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

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

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