

1 ENGROSSED SENATE
2 BILL NO. 1142

By: Dahm of the Senate

3 and

4 Roberts (Sean) and Bennett
5 of the House

6 [game wardens - permission - effective date]
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9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

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

21 G. The obtaining of consent from any owner, lessee or occupant
22 of land authorizing a person to hunt, take, fish or engage in any
23 recreational activity shall not relieve the authorized person using
24 the land from any obligation which the person may have in the

1 absence of obtaining such consent to exercise care in the use of
2 such land and in activities thereon, or from the legal consequences
3 of failure to employ such care.

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

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

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

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

23 I. Any person convicted for the first time of violating any
24 provisions of this section shall be guilty of a misdemeanor and

1 punished by the imposition of a fine of not less than Five Hundred
2 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
3 (\$1,500.00), or by imprisonment in the county jail for thirty (30)
4 days, or by both fine and imprisonment.

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

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

13 Passed the Senate the 10th day of March, 2016.

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Presiding Officer of the Senate

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17 Passed the House of Representatives the ____ day of _____,

18 2016.

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Presiding Officer of the House
of Representatives

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