

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1142

By: Dahm

AS INTRODUCED

An Act relating to game wardens; 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 the permission to hunt, take, fish or engage in recreational activity upon land of another; prohibiting certain actions by game wardens; 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.

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

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

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

21 F. The consent of any owner, lessee or occupant of land
22 authorizing a person to hunt, take, fish or engage in any
23 recreational activity upon the land of any such owner, lessee or
24 occupant shall not be construed to create any additional duty of

1 care or impose any additional liability other than specified by
2 Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

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

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

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

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

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

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

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

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

19
20 55-2-2271 BH 2/18/2016 6:51:48 PM
21
22
23
24