

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 3370

By: Wallace

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2011, Section 1835.2, as amended by Section
10 3, Chapter 11, O.S.L. 2012 (21 O.S. Supp. 2017,
11 Section 1835.2), which relates to penalties for
12 trespassing on certain property; increasing certain
monetary penalties; and providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1835.2, as
15 amended by Section 3, Chapter 11, O.S.L. 2012 (21 O.S. Supp. 2017,
16 Section 1835.2), is amended to read as follows:

17 Section 1835.2 A. Notwithstanding the provisions of Section
18 1835 of this title, the following provisions apply to private land
19 that is primarily devoted to farming, ranching, or forestry
20 purposes:

21 1. Except as provided in this section, whoever willfully enters
22 private land of another that is primarily devoted to farming,
23 ranching, or forestry purposes without permission by the surface
24 owner, surface lessee, hunting lessee, or lawful occupant thereof

1 shall be deemed guilty of trespass and, upon conviction thereof,
2 shall be fined in any sum not less than ~~Five Hundred Dollars~~
3 ~~(\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00) nor more than ~~One~~
4 ~~Thousand Five Hundred Dollars (\$1,500.00)~~ Two Thousand Dollars
5 (\$2,000.00), and in addition, the court shall order restitution for
6 actual damages incurred. Persons convicted of a second or
7 subsequent offense under this paragraph shall be guilty of a
8 misdemeanor and shall be punished by a fine in any sum not less than
9 One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two
10 Thousand Five Hundred Dollars (\$2,500.00), or by confinement in the
11 county jail for not less than thirty (30) days nor more than six (6)
12 months, or by both such fine and imprisonment, and in addition, the
13 court shall order restitution for actual damages incurred;

14 2. ~~This provision~~ The provisions of paragraph 1 of this section
15 shall not apply to peace officers as defined in Section 99 of this
16 title or any federal, state, or local government employees engaged
17 in the performance of their duties, or to any firefighters,
18 emergency medical personnel, or public utility employees engaged in
19 addressing an emergency that presents an imminent danger to health,
20 safety, or the environment in the performance of their duties, or to
21 parties engaged in oil and gas operations, which shall include,
22 without limitation, exploration, drilling, production and sales
23 activities, under authority of mineral ownership, an oil and gas
24 lease, seismic agreement or permit, gas gathering, purchase,

1 transportation, or treating contracts, Corporation Commission order,
2 or other lawful authority from persons entitled to give the same.
3 The provisions of paragraph 1 of this section shall not prohibit
4 railroad employees and emergency equipment from entering such land
5 to restore rail service following an accident, derailment or natural
6 disaster; nor the entrance of utility employees or contractors while
7 acting in the scope of their employment; nor employees or
8 contractors of valid easement or license holders while acting in the
9 scope of their employment;

10 3. The following persons may enter such land of another unless
11 forbidden to do so, either orally or in writing, by the owner or
12 lawful occupier thereof: registered land surveyors and registered
13 professional engineers for the purpose of land surveying in the
14 performance of their professional services, persons making a
15 delivery, selling a product or service, conducting a survey or poll,
16 working on behalf of a candidate for political office, or who
17 otherwise have a legitimate reason for entering and who, immediately
18 upon entering, seek to conduct such business; and

19 4. Anyone who willfully or maliciously enters any such land of
20 another and therein commits or attempts to commit waste, theft, or
21 damage shall be deemed guilty of a misdemeanor and, upon conviction
22 thereof, shall be fined ~~in any sum~~ not less than ~~Two Hundred Fifty~~
23 ~~Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00)~~ One
24 Thousand Dollars (\$1,000.00), or by confinement in the county jail

1 for not less than thirty (30) days nor more than six (6) months, or
2 by both such fine and imprisonment, and in addition, the court shall
3 order restitution for actual damages incurred. Persons convicted of
4 a second or subsequent offense under this paragraph shall be guilty
5 of a misdemeanor and shall be punished by a fine ~~in any sum of~~ not
6 ~~less than Seven Hundred Dollars (\$700.00) nor more than One Thousand~~
7 ~~Five Hundred Dollars (\$1,500.00)~~ Two Thousand Five Hundred Dollars
8 (\$2,500.00), or by confinement in the county jail for not less than
9 thirty (30) days nor more than six (6) months, or by both such fine
10 and imprisonment, and in addition, the court shall order restitution
11 for actual damages.

12 B. This section shall not be construed to prohibit acts that
13 are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the
14 Oklahoma Statutes.

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

19 2. If an accused reasonably believed he or she was upon
20 property for which they had permission to be upon, it shall be an
21 affirmative defense to prosecution under paragraph 1 of subsection A
22 of this section that the accused had with him or her, on his or her
23 person, written permission from the surface owner, surface lessee,
24 hunting lessee, or lawful occupant to be upon such person's land

1 while the accused was upon any adjoining property. This defense
2 shall not be available to the accused if:

3 a. the accused has previously pled guilty, nolo
4 contendere, or has been convicted of any act of
5 trespass or has been found civilly liable of any act
6 of trespass, or

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

11 SECTION 2. This act shall become effective November 1, 2018.

12

13 56-2-9847 AMM 02/20/18

14

15

16

17

18

19

20

21

22

23

24