

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3370

By: Wallace

7
8 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

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

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

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

1 Thousand Dollars (\$1,000.00), or by confinement in the county jail
2 for not less than thirty (30) days nor more than six (6) months, or
3 by both such fine and imprisonment, and in addition, the court shall
4 order restitution for actual damages incurred. Persons convicted of
5 a second or subsequent offense under this paragraph shall be guilty
6 of a misdemeanor and shall be punished by a fine ~~in any sum of~~ not
7 less than ~~Seven Hundred Dollars (\$700.00) nor more than One Thousand~~
8 ~~Five Hundred Dollars (\$1,500.00)~~ Two Thousand Five Hundred Dollars
9 (\$2,500.00), or by confinement in the county jail for not less than
10 thirty (30) days nor more than six (6) months, or by both such fine
11 and imprisonment, and in addition, the court shall order restitution
12 for actual damages.

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

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

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

1 hunting lessee, or lawful occupant to be upon such person's land
2 while the accused was upon any adjoining property. This defense
3 shall not be available to the accused if:

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

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

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

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14 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
15 dated 02/26/2018 - DO PASS, As Amended.
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