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February 27, 2018

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1343

By: Sparks and Boggs

An Act relating to trespassing; amending 21 O.S. 2011, Section 1835.2, as amended by Section 3, Chapter 11, O.S.L. 2012 (21 O.S. Supp. 2017, Section 1835.2), which relates to trespassing upon private land primarily devoted to farming, ranching or forestry; modifying permissive entities; and providing an effective date.

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

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

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

1. Except as provided in this section, whoever willfully enters 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

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

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

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

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

17 4. Anyone who willfully or maliciously enters any such land of
18 another and therein commits or attempts to commit waste, theft, or
19 damage shall be deemed guilty of a misdemeanor and, upon conviction
20 thereof, shall be fined in any sum not less than Two Hundred Fifty
21 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
22 by confinement in the county jail for not less than thirty (30) days
23 nor more than six (6) months, or by both such fine and imprisonment,
24 and in addition, the court shall order restitution for actual

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

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

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

16 2. If an accused reasonably believed he or she was upon
17 property for which they had permission to be upon, it shall be an
18 affirmative defense to prosecution under paragraph 1 of subsection A
19 of this section that the accused had with him or her, on his or her
20 person, written permission from the surface owner, surface lessee,
21 hunting lessee, or lawful occupant to be upon such person's land
22 while the accused was upon any adjoining property. This defense
23 shall not be available to the accused if:
24

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
11 February 27, 2018 - DO PASS AS AMENDED
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