

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3370

By: Wallace

4
5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2011, Section 1835.2, as amended by Section
9 3, Chapter 11, O.S.L. 2012 (21 O.S. Supp. 2017,
10 Section 1835.2), which relates to penalties for
11 trespassing on certain property; increasing certain
12 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
shall be deemed guilty of trespass and, upon conviction thereof,

1 shall be fined ~~in any sum not less than Five Hundred Dollars~~
2 ~~(\$500.00) nor more~~ not less than ~~One Thousand Five Hundred Dollars~~
3 ~~(\$1,500.00)~~ One Thousand Dollars (\$1,000.00), and in addition, the
4 court shall order restitution for actual damages incurred. Persons
5 convicted of a second or subsequent offense under this paragraph
6 shall be guilty of a misdemeanor and shall be punished by a fine ~~in~~
7 ~~any sum~~ of not less than ~~One Thousand Five Hundred Dollars~~
8 ~~(\$1,500.00) nor more than~~ 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 incurred;

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

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

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

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

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

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

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

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

- 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
11 56-2-9154 GRS 01/04/18
12
13
14
15
16
17
18
19
20
21
22
23
24