

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1791

By: Dahm

AS INTRODUCED

An Act relating to the Oklahoma Wildlife Conservation Code; amending 29 O.S. 2021, Section 5-202, which relates to recreational activity upon the land of another; assigning a duty for a game warden to inform a person only when requested to do so; prohibiting game warden from entering a private property under certain circumstances unless requested; stating that suspicion of possession of a firearm or discharge of a weapon shall not itself constitute sufficient probable cause to authorize entry to private property; and providing an effective date.

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

SECTION 1. AMENDATORY 29 O.S. 2021, 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 does not have a duty, unless the landowner, lessee, or occupant has
8 requested a game warden to do so, to inform the hunter that it is
9 necessary to obtain the consent of the landowner, lessee, or
10 occupant to hunt or take on the particular property. Prosecution
11 for violations of the provisions of this section may be commenced
12 only upon written complaint of such owner, lessee, or occupant filed
13 before any court authorized to punish such violation, or upon
14 written complaint to any game warden or officer authorized to make
15 arrest for such offenses.

16 E. Unless otherwise requested by a property owner, lessee, or
17 tenant, a game warden shall not be authorized to enter private
18 property on the suspicion of the possible possession or discharge of
19 a firearm or bow.

20 F. Suspicion of the possible possession or discharge of a
21 firearm or bow shall not itself constitute sufficient probable cause
22 for authorizing a game warden to enter private property.
23
24
25

1 G. No person shall operate a motor-driven conveyance on lands
2 that are fenced and posted or are in cultivation without permission
3 of the landowner, lessee, or occupant.

4 ~~F.~~ H. The consent of any owner, lessee, or occupant of land
5 authorizing a person to hunt, take, fish or engage in any
6 recreational activity upon the land of any such owner, lessee, or
7 occupant shall not be construed to create any additional duty of
8 care or impose any additional liability other than specified by
9 Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

10 ~~G.~~ I. The obtaining of consent from any owner, lessee, or
11 occupant of land authorizing a person to hunt, take, fish or engage
12 in any recreational activity shall not relieve the authorized person
13 using the land from any obligation which the person may have in the
14 absence of obtaining such consent to exercise care in the use of
15 such land and in activities thereon, or from the legal consequences
16 of failure to employ such care.

17 ~~H.~~ J. 1. It shall be an affirmative defense to prosecution
18 under subsection A of this section that the accused had express or
19 implied permission or legal authority to be on the 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 subsection A of this
23 section that the accused had with him or her, on his or her person,
24 written permission from the surface owner, surface lessee, hunting

1 lessee, or lawful occupant to be upon such person's land while the
2 accused was upon any adjoining property. This defense shall not be
3 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 ~~F.~~ K. Any person convicted for the first time of violating any
13 provisions of this section shall be guilty of a misdemeanor and
14 punished by the imposition of a fine ~~of~~ not less than Five Hundred
15 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
16 (\$1,500.00), or by imprisonment in the county jail for thirty (30)
17 days, or by both fine and imprisonment.

18 ~~F.~~ L. Any person convicted for the second or subsequent time of
19 violating any provisions of this section shall be guilty of a
20 misdemeanor and punished by the imposition of a fine ~~of~~ not less
21 than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two
22 Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in the
23 county jail for not less than six (6) months, or by both fine and
24 imprisonment.

SECTION 2. This act shall become effective November 1, 2022.

58-2-3234 MR 1/20/2022 7:19:15 PM