

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1142

By: Dahm

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6 AS INTRODUCED

7 An Act relating to game wardens; amending 29 O.S.  
8 2011, Section 5-202, as amended by Section 1, Chapter  
9 200, O.S.L. 2012 (29 O.S. Supp. 2015, Section 5-202),  
10 which relates to the permission to hunt, take, fish  
or engage in recreational activity upon land of  
another; prohibiting certain actions by game wardens;  
and providing an effective date.

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

14 SECTION 1. AMENDATORY 29 O.S. 2011, Section 5-202, as  
15 amended by Section 1, Chapter 200, O.S.L. 2012 (29 O.S. Supp. 2015,  
16 Section 5-202), is amended to read as follows:

17 Section 5-202. A. Except as otherwise provided, no person may  
18 hunt or take by any means or method upon the land of another without  
19 the consent of the owner, lessee or occupant of such land.

20 B. For purposes of this section, consent shall be presumed to  
21 be valid for not more than one (1) year, unless the owner, lessee,  
22 or occupant specifically grants consent for a specified period of  
23 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 duty to inform the hunter that it is necessary to obtain the consent  
8 of the landowner, lessee or occupant to hunt or take on the  
9 particular property. Prosecution for violations of the provisions  
10 of this section may be commenced only upon written complaint of such  
11 owner, lessee or occupant filed before any court authorized to  
12 punish such violation, or upon written complaint to any game warden  
13 or officer authorized to make arrest for such offenses. A game  
14 warden shall not enter a private property on the mere suspicion of  
15 the possible possession or discharge of a firearm or bow and shall  
16 not constitute probable cause for a game warden to enter said  
17 private property.

18 E. No person shall operate a motor-driven conveyance on lands  
19 that are fenced and posted or are in cultivation without permission  
20 of the landowner, lessee or occupant.

21 F. The consent of any owner, lessee or occupant of land  
22 authorizing a person to hunt, take, fish or engage in any  
23 recreational activity upon the land of any such owner, lessee or  
24 occupant shall not be construed to create any additional duty of

1 care or impose any additional liability other than specified by  
2 Sections 16-71.2 and 16-71.3 of Title 2 of the Oklahoma Statutes.

3 G. The obtaining of consent from any owner, lessee or occupant  
4 of land authorizing a person to hunt, take, fish or engage in any  
5 recreational activity shall not relieve the authorized person using  
6 the land from any obligation which the person may have in the  
7 absence of obtaining such consent to exercise care in the use of  
8 such land and in activities thereon, or from the legal consequences  
9 of failure to employ such care.

10 H. 1. It shall be an affirmative defense to prosecution under  
11 subsection A of this section that the accused had express or implied  
12 permission or legal authority to be on the property.

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

21 a. the accused has previously pled guilty, nolo  
22 contendere, or has been convicted of any act of  
23 trespass or has been found civilly liable of any act  
24 of trespass, or

1           b.    the accused, while the accused was upon the adjoining  
2                   property, does not have with him or her, on his or her  
3                   person, the written permission specified in this  
4                   paragraph.

5           I.    Any person convicted for the first time of violating any  
6 provisions of this section shall be guilty of a misdemeanor and  
7 punished by the imposition of a fine of not less than Five Hundred  
8 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars  
9 (\$1,500.00), or by imprisonment in the county jail for thirty (30)  
10 days, or by both fine and imprisonment.

11           J.    Any person convicted for the second or subsequent time of  
12 violating any provisions of this section shall be guilty of a  
13 misdemeanor and punished by the imposition of a fine of not less  
14 than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two  
15 Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in the  
16 county jail for not less than six (6) months, or by both fine and  
17 imprisonment.

18           SECTION 2.   This act shall become effective November 1, 2016.  
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