

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H1/22/99 S2/11/99 S3/15/99

A Bill

HOUSE BILL 1067

5 By: Representative Milum
6 By: Senators Hunter, Fitch, Scott, Hill, Walters, Bearden
7

For An Act To Be Entitled

10 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
11 PERTAINING TO THE POSTING AND TRESPASS LAWS; AND FOR
12 OTHER PURPOSES."

Subtitle

15 "AN ACT TO AMEND VARIOUS SECTIONS OF THE
16 ARKANSAS CODE PERTAINING TO THE POSTING AND
17 TRESPASS LAWS."
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code 5-39-301 is amended to read as follows:

23 "~~5-39-301. Riding, ranging, or hunting in~~ Leaving open enclosure of
24 another.

25 ~~If any person shall ride, range, or hunt in the enclosed grounds or~~
26 ~~posted farmlands of another without the previous consent of the owner or shall~~
27 ~~pull down or break the fence or~~ leave open the gate ~~open the gate and fail to~~
28 close the gate of the farm, plantation, or other enclosed ground of another,
29 the offending party shall be guilty of a Class A misdemeanor."
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31 SECTION 2. Arkansas Code 5-39-302 is amended to read as follows:

32 "~~5-39-302. Enclosing and posting livestock grazing lands - Unlawful~~
33 ~~entry.~~ Unlawful entry.

34 ~~(a) Any person owning or operating any livestock grazing lands may~~
35 ~~provide for the posting of the lands by enclosing the lands and by causing~~
36 ~~signs to be placed on poles or trees along the boundary of the lands and upon~~

1 ~~all gates, gaps, and cattle guards on or around the land, which signs shall be~~
2 ~~not more than one hundred yards (100 yds.) apart and shall contain the word~~
3 ~~'POSTED' in letters not less than four inches (4") high.~~

4 ~~(b) It shall be unlawful for any person to enter upon any lands posted~~
5 ~~under the provisions of subsection (a) of this section without the consent of~~
6 ~~the owner or operator of the lands.~~

7 ~~(c)(a) It shall also be unlawful for any person to enter upon any of~~
8 ~~the enclosed grazing land except by way of a gate, gap, or other opening.~~

9 ~~(d)(b) Any person so entering shall be guilty of a misdemeanor and~~
10 ~~shall be punished by a fine of not less than one hundred dollars (\$100) for~~
11 ~~the first offense or not less than two hundred fifty dollars (\$250) for the~~
12 ~~second offense."~~

13
14 SECTION 3. Arkansas Code 5-39-303 is repealed.

15 ~~5-39-303. Posting of pastures, farms, reservoirs, etc.~~

16 ~~(a) Any person owning any pasture lands, cultivated farmlands,~~
17 ~~reservoirs, fruit orchards, or pecan groves in this state may post the same by~~
18 ~~causing signs to be placed at the entry point at each access road to the lands~~
19 ~~and by publishing a notice in a newspaper of general circulation in the county~~
20 ~~in which the lands lie stating that the lands are posted.~~

21 ~~(b) The signs at the entry point of the access roads to lands shall~~
22 ~~bear the words 'NO TRESPASSING' in letters at least four inches (4") high and~~
23 ~~shall be so placed as to be readily visible to any person approaching the~~
24 ~~posted lands upon the access road.~~

25 ~~(c) Any person who shall enter upon lands posted in the manner provided~~
26 ~~in this section, for any purpose, without the consent of the owner shall be~~
27 ~~guilty of a misdemeanor and upon conviction shall be subject to a fine of not~~
28 ~~less than one hundred dollars (\$100) nor more than five hundred dollars~~
29 ~~(\$500), and each violation shall constitute a separate offense.~~

30
31 SECTION 4. Arkansas Code 5-39-305 is amended to read as follows:

32 "5-39-305. Criminal trespass on land.

33 (a)(1) A person shall not, without written permission of the owner or
34 lessee, enter upon another person's property located outside the boundaries of
35 any city or town if that land is either:

- 1 (A) Lawfully posted; or
2 (B) Crop land; or
3 (C) ~~Fenced pasture~~ Enclosed with a fence sufficient under
4 Arkansas Code Title 2, Chapter 39.

5 (2) The posting of land is not a requirement under this section.

6 (b)(1) Any person who violates this section shall be deemed guilty of a
7 violation and shall be subject to a fine not to exceed one hundred dollars
8 (\$100).

9 (2) However, a violation of this section shall be a Class B
10 misdemeanor if the property was posted pursuant to the laws of this state.

11 (c) It is an affirmative defense to a prosecution that:

12 (1) The person did not knowingly enter upon another person's
13 property;

14 (2) The person was a guest or invitee;

15 (3) The person was required to enter upon the premises of another
16 for business reasons or for health and safety reasons;

17 (4) The person was authorized by law to enter upon the land; or

18 (5) The privately owned land was made open to the public.

19 (d)(1) This section shall not apply to public land.

20 (2) This section shall not apply to a law enforcement officer in
21 the line of duty.

22 (e) Nothing in this section shall repeal any law concerning posting of
23 land or trespass."

24

25 SECTION 5. Arkansas Code 15-43-101 is repealed.

26 ~~15-43-101. Authority to post lands.~~

27 ~~Any person owning or operating any of the following described lands may~~
28 ~~provide for posting of the land in the manner provided in § 15-43-102 hereof:~~

29 ~~(1) Cultivated farm lands, excluding forest lands;~~

30 ~~(2) Commercial fish farms;~~

31 ~~(3) Private man-made water storage reservoirs;~~

32 ~~(4) Fruit orchards or pecan groves; or~~

33 ~~(5) Fenced or enclosed lands.~~

34

35 SECTION 6. Arkansas Code 15-43-102 is repealed.

1 ~~15-43-102. Posting procedure.~~

2 ~~(a) Any person owning or operating any of the lands described in § 15-~~
3 ~~43-101 may provide for the posting of the lands by causing publication of~~
4 ~~notice of the posting of the lands, together with a legal description of the~~
5 ~~lands to be posted, once each week for two (2) consecutive weeks in a~~
6 ~~newspaper of general circulation in the county in which the lands are situated~~
7 ~~and by causing signs to be placed at the entry point at each access road to~~
8 ~~the lands.~~

9 ~~(b) The signs at the entry point of the access roads to the lands shall~~
10 ~~bear the words 'NO TRESPASSING' in letters at least four inches (4") high and~~
11 ~~shall be so placed as to be readily visible to any person approaching the~~
12 ~~posted lands upon the access road.~~

13
14 SECTION 7. Arkansas Code 15-43-103 is repealed.

15 ~~15-43-103. Prohibition on entering posted lands.~~

16 ~~(a) It shall be unlawful for any person to ride, range, hunt, fish,~~
17 ~~enter upon, or trespass upon the posted lands described in §§ 15-43-101 and~~
18 ~~15-43-102.~~

19 ~~(b) Any person violating the provisions of §§ 15-43-101, 15-43-102, and~~
20 ~~this section shall be guilty of a misdemeanor and shall be punished by a fine~~
21 ~~of not less than five hundred dollars (\$500) for a first offense or not less~~
22 ~~than one thousand five hundred dollars (\$1,500) for a second or subsequent~~
23 ~~offense.~~

24
25 SECTION 8. Arkansas Code 18-11-403 is amended to read as follows:

26 "18-11-403. Unlawful entry upon land - Penalty.

27 (a)(1) No person shall enter for recreational purposes upon real
28 property posted pursuant to this subchapter without written permission of the
29 owner or lessee of the real property.

30 (2) It shall be unlawful for any person to enter upon any real
31 property posted under the provisions of this subchapter without the written
32 consent of the owner or lessee of the real property.

33 (3) If land posted pursuant to this subchapter becomes flooded
34 above the ordinary high watermark but the signs or paint marks are still
35 visible, it is unlawful for any person to enter within the boundaries of the

1 posted area without the written consent of the owner or lessee of the real
2 property. For purposes of this subdivision (a)(3), "ordinary high watermark"
3 means the line delimiting the bed of a stream from its bank, that line at
4 which the presence of water is continued for such length of time as to mark
5 upon the soil and vegetation a distinct character.

6 (4) Provided, however, it shall be an affirmative defense to
7 prosecution under this subchapter that:

8 (A) ~~consent~~ Consent was given by a person holding himself
9 out to be the owner, lessee, or agent of the owner or lessee, of the
10 property;

11 (B) The person was a guest or invitee;

12 (C) The person was required to enter upon the premises for
13 business reasons or for health or safety reasons;

14 (D) The person was authorized by law to enter upon land;

15 (b) This section shall not apply to a law enforcement officer in the
16 line of duty.

17 (b) (c) Any person who knowingly enters such real property without
18 written consent shall be guilty of a Class B misdemeanor."

19
20 SECTION 9. Arkansas Code 18-11-404 is amended to read as follows:

21 "18-11-404. Methods of posting - Forest lands.

22 The owner or lessee of any forest land, may post the same by ~~either~~ any
23 of the following methods:

24 (1) By placing signs around the boundaries of the property at points no
25 more than one hundred feet (100') apart and at each point of entry. The signs
26 shall bear the words 'Posted' or 'No Trespassing' or both, in letters at least
27 four inches (4") high and shall be so placed as to be readily visible to any
28 person approaching the property; or

29 (2) By placing identifying paint marks on trees or posts around the
30 area to be posted.

31 (A) Each paint mark shall be a vertical line of at least eight
32 inches (8") in length, and the bottom of the mark shall be no less than three
33 feet (3') nor more than five feet (5') high.

34 (B) Such paint marks shall be placed no more than one hundred
35 feet (100') apart and shall be readily visible to any person approaching the

1 property.

2 (C)(i) The type and color of the paint to be used for posting
3 shall be prescribed by regulation by the State Forestry Commission.

4 (ii) The commission shall not select a color that is
5 presently being used by the timber industry in Arkansas to mark land lines or
6 property lines; or

7 (3) By enclosing the property with a fence sufficient under Arkansas
8 Code Title 2, Chapter 39."

9

10 SECTION 10. Arkansas Code 18-11-405 is amended to read as follows:

11 "18-11-405. Methods of posting - Property other than forest.

12 The owner or lessee of any real property other than forest land,
13 including cultivated land, orchards, pasture land, impoundments, or other real
14 property, may post such real property by ~~either~~ any of the following methods:

15 (1) By placing signs around the ~~boundries~~ boundaries of the property at
16 points no more than one thousand feet (1,000') apart and at each point of
17 entry. The signs shall bear the words "Posted" or "No Trespassing" or both in
18 letters at least four inches (4") high and shall be so placed as to be readily
19 visible to any person approaching the property; or

20 (2) By placing identifying paint marks on posts around the area to be
21 posted.

22 (A) Each paint mark shall be a vertical line of at least eight
23 inches (8") inches in length, and the bottom of the mark shall be no less than
24 three feet (3') nor more than five feet (5') high.

25 (B) Such paint marks shall be placed no more than one thousand
26 feet (1,000') apart and at each point of entry and shall be readily visible to
27 any person approaching the property.

28 (C)(i) The type and color of the paint to be used for posting
29 shall be prescribed by regulation by the State Forestry Commission.

30 (ii) The commission shall not select a color that is
31 presently being used by the timber industry in Arkansas to mark land lines or
32 property lines; or

33 (3) By enclosing the property with a fence sufficient under Arkansas
34 Code Title 2, Chapter 39."

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SECTION 11. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 13. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Milum

