

SHORT TITLE: Roads, bridges and ferries; authorizing the Department of Transportation to remove certain obstructions from highway right-of-ways at the expense of the owner of the obstructions; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 211

By: Stipe

AS INTRODUCED

An Act relating to roads, bridges and ferries;  
amending 69 O.S. 1991, Sections 1209, 1210, 1211,  
and 1213, as amended by Section 4, Chapter 127,  
O.S.L. 1993 (69 O.S. Supp. 1996, Section 1213),  
which relate to right-of-ways; authorizing removal  
of certain obstructions at owners expense; deleting  
obsolete language; placing certain liability on  
certain persons; declaring certain act a public  
nuisance; prohibiting certain damage to highway  
right-of-ways; requiring the Department of Public  
Safety to send certain notification; removing time  
limit on removal of obstructions; increasing  
certain penalty; and declaring an emergency.

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

SECTION 1. AMENDATORY 69 O.S. 1991, Section 1209, is  
amended to read as follows:

Section 1209. The Transportation Commission, ~~its~~ the Department  
of Transportation and their officers, agents, ~~servants~~ and employees  
shall have authority to physically remove, at the owner's expense,  
any ~~such~~ sign, post, thing or structure, gasoline pump, driveway  
canopy, fence, signpost ~~and, pipeline or building; and if the~~ either  
temporary or permanent from a highway right-of-way. If the owner of  
any such driveway canopy, gasoline pump, or building, thing or

structure fails to remove the same within a reasonable time after written demand for the removal thereof has been made ~~upon him~~ by registered mail or personal service, the Commission, ~~its~~ Department and their officers, agents, ~~servants~~ and employees may physically tear down and remove such building, canopy, or pump, and for such purpose may enter upon private property to the extent necessary to accomplish the removal. Neither the state nor the Commission, the Department or ~~its~~ their agents, ~~servants~~, officers and employees shall be liable for any damage caused or sustained by reason of the abatement and removal of any such nuisance. Any person who places, constructs or causes to be maintained any encroachment on a highway right-of-way shall be solely and exclusively liable for any damages to the right-of-way or to the traveling public resulting from the presence of the encroachment.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 1210, is amended to read as follows:

Section 1210. Sections 1208 through 1211 of this title shall not prevent the construction or maintenance of any culvert or driveway as a means of ingress and egress to private property, or prevent the placing of mailboxes or fences to stock-passes on any highway right-of-way. The Transportation Commission and the Department of Transportation may regulate the design, location, construction and maintenance of such culverts, driveways, fences to stock-passes, and mailboxes with due regard to the safety of the traveling public and proper maintenance of the highway. No culvert, fence, driveway, fence to stock-pass, or mailbox shall be constructed or maintained on the right-of-way of any designated state or federal highway by any person without the prior approval of the Commission, and the Commission Department of Transportation. Any construction of culverts, driveways, fences, fences to stock-passes, or mailboxes without prior approval of the Department of Transportation shall constitute a public nuisance.

Any person constructing or maintaining any culvert, driveway, fence, fence to stock-pass, or mailbox on a right-of-way without prior approval of the Department shall be solely and exclusively liable for any damage to the right-of-way or traveling public resulting from the presence of the culvert, driveway, fence, fence to stock-pass, or mailbox. The Department may remove or cause to be removed without notice any such culvert, driveway, fence, fence to stock-pass, or mailbox constructed or maintained ~~without first obtaining such approval~~ when in its judgment such culvert, driveway, fence, fence to stock-pass, or mailbox is dangerous to the traveling public or interferes with proper drainage or maintenance of the highway.

SECTION 3. AMENDATORY 69 O.S. 1991, Section 1211, is amended to read as follows:

Section 1211. (a) Every person who shall construct, maintain, or operate any gasoline pump, driveway canopy, building, sign, fence, post, or any other thing or structure except such as may be specifically authorized by law upon the right-of-way of any designated state or federal highway, or upon any street designated as a part of any state or federal highway, shall be guilty of a misdemeanor, punishable in accordance with Section 10 of Title 21 of the Oklahoma Statutes, and each day such violation continues shall be a separate offense.

(b) Every person who, by threats, physical violence, or in any manner, prevents, obstructs or hinders the abatement of any such nuisance by the Commission, ~~its~~ the Department or their agents, ~~servants~~ or employees shall be guilty of a misdemeanor punishable in accordance with Section 10 of Title 21 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 69 O.S. 1991, Section 1213, as amended by Section 4, Chapter 127, O.S.L. 1993 (69 O.S. Supp. 1996, Section 1213), is amended to read as follows:

Section 1213. (a) Any person or persons who shall willfully or knowingly obstruct or damage any public road or highway by obstructing the side or cross drain or ditches thereof, or by turning water upon such road or highway or right-of-way, or by throwing or depositing brush, trees, stumps, logs, or any refuse or debris whatsoever in the road or highway, or on the sides or in the ditches thereof, or by fencing across or upon the right-of-way of the same, or by planting any hedge within the lines established for such road or highway, or by changing the location thereof, or by cutting, damaging or destroying any trees or plantings within the right-of-way or shall obstruct said road, highway or drains in any other manner whatsoever, or, except as provided in subsection (b) of this section, any person or persons who shall willfully or knowingly deface, damage, destroy or remove any traffic-control device, road sign, signboard, guide sign or signpost shall be deemed guilty of a misdemeanor punishable in accordance with Section 10 of Title 21 of the Oklahoma Statutes.

(b) If any person or persons willfully or knowingly defaces, damages, destroys or removes any traffic-control device, road sign, signboard, guide sign or signpost and such action results in personal injury to or death of any person, the person or persons responsible for such action shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than two (2) years, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. Notice of this provision shall be placed in the manual provided by the Department of Public Safety which manual is issued for purpose of passing driving privilege.

(c) The Department or governing body who finds any road or highway obstructed as above specified shall, with reasonable diligence, attempt to notify the person violating the provisions of this section, verbally or in writing, to immediately remove such

obstruction ~~forthwith, and if such.~~ If the person does not remove  
the obstruction ~~within ten (10) days~~ after being notified, ~~he~~ the  
person shall ~~pay the sum of Five Dollars (\$5.00) for each and every~~  
~~day after the tenth day such obstruction is maintained or permitted~~  
~~to remain, such fine~~ be subject to a civil assessment of Five  
Hundred Dollars (\$500.00) per day for each day the obstruction is  
maintained, to be recovered by suit brought by the governing body in  
any court of competent jurisdiction.

SECTION 5. It being immediately necessary for the preservation  
of the public peace, health and safety, an emergency is hereby  
declared to exist, by reason whereof this act shall take effect and  
be in full force from and after its passage and approval.

46-1-0369

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