

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1232

By: Sherrer

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2001, Section 11-1302, as last amended by Section 1,
9 Chapter 59, O.S.L. 2007 (47 O.S. Supp. 2010, Section
10 11-1302), which relates to temporary highway
11 closings; authorizing closing based on flooding;
12 allowing courts to order restitution reimbursing
13 emergency responders; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 47 O.S. 2001, Section 11-1302, as
16 last amended by Section 1, Chapter 59, O.S.L. 2007 (47 O.S. Supp.
17 2010, Section 11-1302), is amended to read as follows:

18 Section 11-1302. A. The Department of Transportation and any
19 county or city in this state through their respective governing
20 bodies are hereby authorized to close any highway or section
21 thereof, within their respective jurisdiction, to traffic while the
22 highway is flooded or under repair, maintenance or construction and,
23 in exercising the authority, shall erect or cause to be erected
24 traffic-control devices and barricades to warn and notify the public
that the highway has been closed to traffic.

1 B. When any highway has been closed to traffic under the
2 provisions of subsection A of this section and traffic-control
3 devices or barricades have been erected, it shall be unlawful for
4 any person to drive any vehicle through, under, over, or around the
5 traffic-control devices or barricades, or otherwise to enter the
6 closed area. The provisions of this subsection shall not apply to
7 persons while engaged in the construction, maintenance and repair of
8 the highway or to persons entering therein for the protection of
9 lives or property; provided, that persons having their places of
10 residence or places of business within the closed area may travel,
11 when possible to do so, through the area at their own risk.

12 C. Whenever construction, repair and maintenance of any highway
13 is being performed under traffic, the governing body having
14 jurisdiction over the highway shall erect, or cause to be erected,
15 traffic-control devices to warn and guide the public. Each person
16 using the highway shall obey all signs, signals, markings, flagmen
17 or other traffic-control devices which are placed to regulate,
18 control, and guide traffic through the construction or maintenance
19 area. As used in this subsection, "construction or maintenance
20 area" means any area upon or around any highway that is visibly
21 marked as an area where construction, repair, and maintenance is
22 temporarily occurring. The construction or maintenance area also
23 includes the lanes of highway leading up to the area upon which an
24 activity described in this section is being performed, beginning at

1 the point where properly posted traffic-control devices start to
2 warn and guide the public into and through the construction or
3 maintenance including, but not limited to, instructions to merge
4 from one lane into another lane, to reduce speed, or to follow
5 directions of flagmen.

6 D. The "Merge Now" traffic-control device that is used to warn
7 and guide the public using the highway to merge, shall be located no
8 greater than one (1) mile nor less than one thousand five hundred
9 (1,500) feet in advance of the highway construction or maintenance
10 area. Whenever any traffic-control device requires traffic to merge
11 due to the closure of a section or lane of highway, the merge shall
12 be completed:

13 1. As soon as practicable after passing the traffic-control
14 device; and

15 2. Without passing any other traffic proceeding in the same
16 direction.

17 E. No person shall remove, change, modify, deface or alter any
18 traffic-control device or barricade which has been erected on any
19 highway under the provisions of this article.

20 F. Nothing in this article shall relieve the state or any of
21 its subdivisions or their contractors, agents, servants or employees
22 from liability for failure to perform any of the duties imposed
23 herein.

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1 G. Any person who violates any provision of this article shall
2 be guilty of a misdemeanor and upon conviction thereof shall be
3 subject to a fine of not less than One Hundred Dollars (\$100.00) nor
4 more than One Thousand Dollars (\$1,000.00) or imprisonment in the
5 county jail not to exceed thirty (30) days, or both such fine and
6 imprisonment, and shall be liable for any damage to property, or
7 injury to or death to persons caused by the violations. In
8 addition, the court may order restitution in an amount equal to the
9 actual costs of the emergency response and repair or replacement of
10 any damaged or lost emergency equipment.

11 SECTION 2. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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