STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1812 By: Marlatt of the Senate

and

Jackson of the House

COMMITTEE SUBSTITUTE

An Act relating to use of roads, highways and rights-of-way; authorizing the use of state and county roads, highways and rights-of-way for certain purposes; requiring persons or entities to obtain permission from certain entities to utilize roads, highways and rights-of-way; authorizing Department of Transportation and boards of county commissioners to set conditions for use; requiring certain standards; defining certain term; requiring repair of damages; providing for forfeiture of rights; amending 69 O.S. 2011, Section 1208, which relates to rights-of-way; providing exception for certain use; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1450 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. Any person or entity lawfully operating and in the course of doing business in this state shall have the right to use the public

roads and highways, including the rights-of-way and all easements pertaining thereto, as authorized in this section.

B. The use of the public roads and highways by any person or entity may be for the purpose of erecting poles and posts, attaching equipment, wires and fixtures thereto and laying pipes and conduits over or on the surface thereof. All poles, posts, fixtures, equipment, wires, pipes, and conduits shall be erected, placed, adjusted or laid and maintained only after obtaining the consent pursuant to rules promulgated by the Department of Transportation as to the state highway system, and the boards of county commissioners of the various counties as to roads and highways under their jurisdiction. Provided, further, that the boards of county commissioners may grant to any person or entity the right to lay pipes and conduits under the surface of any road or highway under their jurisdiction, subject to such rules, regulations and conditions as shall be prescribed by the board of county commissioners. Nothing in this section shall be construed to limit any rights otherwise granted by law. All poles, posts, fixtures, equipment, wires, pipes, and conduits shall be erected, placed, adjusted, laid, constructed and maintained so as not to inconvenience or endanger the public in the use of its roads and highways and shall conform to all applicable provisions of the National Electrical Safety Code approved by the American National

Standards Institute, in effect at the time of such erection, placement, adjustment, or construction.

C. When the use of the public roads and highways by any person or entity as authorized by this section is deemed to be temporary, a grant of permission by the Department of Transportation or a board of county commissioners shall not require consent of or compensation to the abutting landowner, provided that such use serves the safety and interest of the public by reducing or eliminating another burden on the public road or highway. The use of the public roads and highways by any person or company pursuant to the provisions of this section shall be deemed to be temporary when such use is not anticipated to exist and does not exist for longer than one (1) year from the date permission for such use is granted.

D. Any person or entity utilizing the public roads and highways pursuant to this section shall completely repair or replace any damage, injury or other change to public roads or highways or rights-of-way of this state or any county or municipality which would inconvenience or endanger the public which are caused by the erection, placement, adjustment, construction or maintenance of poles, posts, fixtures, equipment, wires, pipes, and conduits pursuant to this section.

E. The failure of such person or entity to construct or maintain its poles, wires, conduits, pipe lines and equipment upon or under such public highways in full compliance with the rules

promulgated by the Department of Transportation or the board of county commissioners, including placement of its poles, wires, conduits, pipe lines and equipment, shall forfeit the right of said public citizen to use the public road or highways for such use, and the private citizen may thereupon be ousted from the use of the public road or highway.

SECTION 2. AMENDATORY 69 O.S. 2011, Section 1208, is amended to read as follows:

Section 1208. (a) The rights-of-way acquired by the Department shall be held inviolate for state highway and departmental purposes, and no physical or functional encroachments or uses shall be permitted within such rights-of-way.

(b) It shall be unlawful for any person to construct, maintain or operate any gasoline pump, driveway canopy, building, sign, fence, post, or any thing or structure on or overhanging any right-of-way, or upon or overhanging any street occupied by a designated state or federal highway, and the construction or maintaining of any such thing or structure on or overhanging any federal or state highway shall constitute a public nuisance, which may be summarily abated by the Commission or its officers, agents, servants and employees in the manner provided in this article.

(c) This section shall not apply to the lawful use of such rights-of-way for the erection and operation of facilities of a

public utility, or any person or entity authorized to use such rights-of-way pursuant to Section 1 of this act.

SECTION 3. This act shall become effective November 1, 2014.

54-2-3424 MJM 2/24/2014 9:14:49 AM