

# SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

## FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1812, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

\_\_\_\_\_  
Senator Marlatt

Marlatt-MJM-FS-Req#3528  
3/12/2014 6:20 PM

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 FLOOR SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1812

6 By: Marlatt of the Senate

7 and

8 Jackson of the House

9 FLOOR SUBSTITUTE

10 An Act relating to use of roads, highways and rights-  
11 of-way; authorizing the use of state and county  
12 roads, highways and rights-of-way for certain  
13 purposes; requiring persons or entities to obtain  
14 permission from certain entities to utilize roads,  
15 highways and rights-of-way; authorizing Department of  
16 Transportation and boards of county commissioners to  
17 set conditions for use; requiring certain standards;  
18 defining certain term; requiring repair of damages or  
19 compensation; providing for forfeiture of rights;  
20 amending 69 O.S. 2011, Section 1208, which relates to  
21 rights-of-way; providing exception for certain use;  
22 providing for codification; and providing an  
23 effective date.

24 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 may use the public roads and highways,

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

3 B. The use of the public roads and highways by any person or  
4 entity may be for the purpose of erecting poles and posts, attaching  
5 equipment, wires and fixtures thereto and laying pipes and conduits  
6 over or on the surface thereof. All poles, posts, fixtures,  
7 equipment, wires, pipes, and conduits shall be erected, placed,  
8 adjusted or laid and maintained only after obtaining the consent  
9 pursuant to rules promulgated by the Department of Transportation as  
10 to the state highway system, and the boards of county commissioners  
11 of the various counties as to roads and highways under their  
12 jurisdiction. Provided, further, that the boards of county  
13 commissioners may grant to any person or entity the right to lay  
14 pipes and conduits under the surface of any road or highway under  
15 their jurisdiction, subject to such rules, regulations and  
16 conditions as shall be prescribed by the board of county  
17 commissioners. Nothing in this section shall be construed to limit  
18 any rights otherwise granted by law. All poles, posts, fixtures,  
19 equipment, wires, pipes, and conduits shall be erected, placed,  
20 adjusted, laid, constructed and maintained so as not to  
21 inconvenience, limit access to or hinder use of abutting landowners  
22 in any way, or endanger the public in the use of its roads and  
23 highways and shall conform to all applicable provisions of the  
24 National Electrical Safety Code approved by the American National

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

3 C. When the use of the public roads and highways by any person  
4 or entity as authorized by this section is deemed to be temporary, a  
5 grant of permission by the Department of Transportation or a board  
6 of county commissioners shall not require consent of or compensation  
7 to the abutting landowner, provided that such use serves the safety  
8 and interest of the public by reducing or eliminating another burden  
9 on the public road or highway and that abutting landowner access is  
10 not limited or use hindered in any way. The use of the public roads  
11 and highways by any person or entity pursuant to the provisions of  
12 this section shall be deemed to be temporary when such use is not  
13 anticipated to exist and does not exist for longer than six (6)  
14 months from the date permission for such use is granted.

15 D. Any person or entity utilizing the public roads and highways  
16 pursuant to this section shall completely repair, replace or provide  
17 compensation for any damage, injury or other change to abutting  
18 landowner property or to public roads or highways or rights-of-way  
19 of this state or any county or municipality which would  
20 inconvenience or endanger the public or abutting landowner which are  
21 caused by the erection, placement, adjustment, construction or  
22 maintenance of poles, posts, fixtures, equipment, wires, pipes, and  
23 conduits pursuant to this section.

24

1 E. The failure of such person or entity to construct or  
2 maintain its poles, wires, conduits, pipe lines and equipment upon  
3 or under such public highways in full compliance with the rules  
4 promulgated by the Department of Transportation or the board of  
5 county commissioners, including placement of its poles, wires,  
6 conduits, pipe lines and equipment, shall forfeit the right of the  
7 person or entity to use the public road or highways for such use,  
8 and the person or entity may thereupon be ousted from the use of the  
9 public road or highway.

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

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

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

1 (c) This section shall not apply to the lawful use of such  
2 rights-of-way for the erection and operation of facilities of a  
3 public utility, or any person or entity authorized to use such  
4 rights-of-way pursuant to Section 1 of this act.

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

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7 54-2-3528 MJM 3/12/2014 6:20:15 PM

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