

1 **SENATE FLOOR VERSION**

2 February 24, 2014

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1812

By: Marlatt of the Senate

and

Jackson of the House

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

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 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 or endanger the public in the use of its roads and
22 highways and shall conform to all applicable provisions of the
23 National Electrical Safety Code approved by the American National

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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. The use of the public roads and
10 highways by any person or entity pursuant to the provisions of this
11 section shall be deemed to be temporary when such use is not
12 anticipated to exist and does not exist for longer than one (1) year
13 from the date permission for such use is granted.

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

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

1 promulgated by the Department of Transportation or the board of
2 county commissioners, including placement of its poles, wires,
3 conduits, pipe lines and equipment, shall forfeit the right of the
4 person or entity to use the public road or highways for such use,
5 and the person or entity may thereupon be ousted from the use of the
6 public road or highway.

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

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

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

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

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

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
5 February 24, 2014 - DO PASS AS AMENDED
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