

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 563 By: Crain of the Senate  
3 and  
4 Derby of the House  
5  
6

7 [ use of roads, highways and rights-of-way -  
8 Department of Transportation and boards of county  
9 commissioners - repair of damages - codification -  
10 effective date ]

11 AUTHORS: Add the following House Coauthors: Newell, Kirby,  
12 Cockroft, Billy and McPeak

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
14 entire bill and insert

15  
16 "An Act relating to roads and bridges; amending 69  
17 O.S. 2011, Section 1401, which relates to use of  
18 right-of-way by public utilities; modifying  
19 definition of certain terms; and providing an  
20 effective date.

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

22 SECTION 1. AMENDATORY 69 O.S. 2011, Section 1401, is  
23 amended to read as follows:  
24

1 Section 1401. A. Any public utility, or cable television  
2 system, not otherwise authorized to do so, lawfully operating or  
3 doing business in the State of Oklahoma shall have the right to use  
4 the public roads and highways of this state, including the right-of-  
5 way and all easements pertaining thereto, as provided for in this  
6 section.

7 B. The use of the public roads and highways by such public  
8 utility or cable television system shall be for the purpose of  
9 erecting poles and posts, attaching equipment, wires and fixtures  
10 thereto and laying pipes and conduits under the surface thereof.  
11 All poles, wires, fixtures, pipes and conduits shall be erected,  
12 placed, adjusted or laid and maintained only after obtaining the  
13 consent pursuant to rules promulgated by the Department of  
14 Transportation as to the state highway system, and the boards of  
15 county commissioners of the various counties as to roads and  
16 highways under their jurisdiction. Provided, however, in the event  
17 a utility or cable television system which has facilities located on  
18 private easements is included within the public right-of-way as a  
19 result of construction, reconstruction, improvement or other  
20 modification, it shall be granted prior rights, as defined below.  
21 Such utility or cable television system, which complies with the  
22 Underground Damage Prevention Act shall not be liable for damages to  
23 any other utility, which locates facilities within the area  
24 encompassed, to the extent practicable without interfering with or

1 endangering the public in the use of its roads and highways, by the  
2 private easements of the public utility or cable television system  
3 included within the public right-of-way, as a result of the  
4 operation, maintenance or repair of such utility's or cable  
5 television system's facilities. The term "prior rights" as used in  
6 this section refers to a situation involving a utility company that  
7 was located on private easements which are later encompassed by the  
8 state's right-of-way. When a utility company is in private  
9 easements which are acquired or encompassed by the right-of-way of  
10 the Department, it is given a choice of relocating their conflicting  
11 facilities into a public right-of-way or acquiring a new private  
12 easement and relocating onto it. Either of said relocations shall  
13 be at the expense of the Department. Whenever a utility company  
14 relocates into a public right-of-way, the utility company shall have  
15 prior rights. If a subsequent relocation is required by the  
16 Department, the utility company shall be given a choice to relocate  
17 onto public easements or to relocate into a private right-of-way,  
18 and both will be at the expense of the Department. The utility  
19 shall have prior rights for any subsequent relocation requested by  
20 the Department. If a public utility or cable television system  
21 elects to relocate its facilities to a newly acquired private right-  
22 of-way, the utility shall forfeit all rights and claims in its  
23 easements to the extent such easements are now contained in the  
24 public right-of-way as a result of construction, reconstruction,

1 improvement, or other modification. Nothing in this section shall  
2 be construed to grant the right to use the streets or other places  
3 of any municipality of this state without the consent of the  
4 municipality. Provided, further, that the boards of county  
5 commissioners may grant to any citizen the right to lay pipes and  
6 conduits under the surface of any road or highway under their  
7 jurisdiction, subject to such rules, regulations and conditions as  
8 shall be prescribed by the board of county commissioners. Nothing  
9 in this section shall be construed to limit any rights granted by  
10 other provisions of law. All poles, wires, posts, conduits and  
11 equipment shall be erected, placed, adjusted, laid, constructed and  
12 maintained so as not to inconvenience or endanger the public in the  
13 use of its roads and highways and shall conform to all applicable  
14 provisions of the National Electrical Safety Code approved by the  
15 American National Standards Institute, in effect at the time of such  
16 erection, placement, adjustment, or construction.

17 Public utilities or cable television systems shall completely  
18 repair or replace any damage, injury or other change to public roads  
19 or highways or rights-of-way of this state or any county or  
20 municipality which would inconvenience or endanger the public which  
21 are caused by the erection, placement, adjustment, construction or  
22 maintenance of any public utility or cable television system poles,  
23 wires, posts, conduits or other equipment. Nothing in this act  
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1 shall be interpreted to impair the right of recovery against any  
2 third party for such damage or injury.

3 C. The failure of any public utility or cable television system  
4 to construct or maintain its poles, wires, conduits, pipe lines and  
5 equipment upon or under such public highways in full compliance with  
6 the rules promulgated by the Department of Transportation or the  
7 board of county commissioners, including placement of its poles,  
8 wires, conduits, pipe lines and equipment, shall forfeit the right  
9 of the utility or cable television system to use the public highway  
10 or highways, and the utility or cable television system may  
11 thereupon be ousted from the use of the highway.

12 D. "Public utility" and "cable television systems" as used in  
13 this section and in Sections 1402 and 1403 of this title shall be  
14 defined as a person, corporation, association, limited liability  
15 company or partnership, company, ~~or~~ any other form of entity  
16 organized and existing or domesticated under the laws of this state  
17 or a tribally owned or tribally operated utility, and whose users  
18 lie within the State of Oklahoma. Such terms as used in this  
19 section and Sections 1402 and 1403 of this title specifically shall  
20 not apply to persons, corporations, associations, limited liability  
21 companies or partnerships, companies, or any other form of entity  
22 which obtains status through the Corporation Commission as a public  
23 utility, but whose end users are not within the State of Oklahoma.

24 SECTION 2. This act shall become effective November 1, 2015."



1 ENGROSSED SENATE  
2 BILL NO. 563

By: Crain of the Senate

3 and

4 Derby of the House

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6 [ use of roads, highways and rights-of-way -  
7 Department of Transportation and boards of county  
8 commissioners - repair of damages - codification -  
9 effective date ]

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

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

14 A. Any person or entity lawfully operating and in the course of  
15 doing business in this state may use the public roads and highways,  
16 including the rights-of-way and all easements pertaining thereto, as  
17 authorized in this section.

18 B. The use of the public roads and highways by any person or  
19 entity may be for the purpose of erecting poles and posts, attaching  
20 equipment, wires and fixtures thereto and laying pipes and conduits  
21 over or on the surface thereof. All poles, posts, fixtures,  
22 equipment, wires, pipes, and conduits shall be erected, placed,  
23 adjusted or laid and maintained only after obtaining the consent  
24 pursuant to rules promulgated by the Department of Transportation as

1 to the state highway system, and the boards of county commissioners  
2 of the various counties as to roads and highways under their  
3 jurisdiction. Provided, further, that the boards of county  
4 commissioners may grant to any person or entity the right to lay  
5 pipes and conduits under the surface of any road or highway under  
6 their jurisdiction, subject to such rules, regulations and  
7 conditions as shall be prescribed by the board of county  
8 commissioners. Nothing in this section shall be construed to limit  
9 any rights otherwise granted by law. All poles, posts, fixtures,  
10 equipment, wires, pipes, and conduits shall be erected, placed,  
11 adjusted, laid, constructed and maintained so as not to  
12 inconvenience or endanger the public in the use of its roads and  
13 highways and shall conform to all applicable provisions of the  
14 National Electrical Safety Code approved by the American National  
15 Standards Institute, in effect at the time of such erection,  
16 placement, adjustment or construction.

17 C. When the use of the public roads and highways by any person  
18 or entity as authorized by this section is deemed to be temporary, a  
19 grant of permission by the Department of Transportation or a board  
20 of county commissioners shall not require consent of or compensation  
21 to the abutting landowner, provided that such use serves the safety  
22 and interest of the public by reducing or eliminating another burden  
23 on the public road or highway. The use of the public roads and  
24 highways by any person or company pursuant to the provisions of this

1 section shall be deemed to be temporary when such use is not  
2 anticipated to exist and does not exist for longer than one (1) year  
3 from the date permission for such use is granted.

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

12 E. The failure of such person or entity to construct or  
13 maintain its poles, wires, conduits, pipelines, and equipment upon  
14 or under such public highways in full compliance with the rules  
15 promulgated by the Department of Transportation or the board of  
16 county commissioners, including placement of its poles, wires,  
17 conduits, pipelines, and equipment, shall forfeit the right of the  
18 public citizen to use the public road or highways for such use, and  
19 the private citizen may thereupon be ousted from the use of the  
20 public road or highway.

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

23 Section 1208. ~~(a)~~ A. The rights-of-way acquired by the  
24 Department shall be held inviolate for state highway and

1 departmental purposes, and no physical or functional encroachments  
2 or uses shall be permitted within such rights-of-way.

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

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

16 SECTION 3. This act shall become effective November 1, 2015.  
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