

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2731

By: Lockhart

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; defining terms;
8 making certain acts unlawful; providing penalties;
9 providing an exception; amending 47 O.S. 2011,
10 Section 11-1302, which relates to maintenance and
11 construction zones; making certain acts unlawful;
12 providing penalties; providing for codification; and
13 providing an effective date.

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 11-1304 of Title 47, unless
17 there is created a duplication in numbering, reads as follows:

18 A. As used in this section:

19 1. "Active emergency" means any incident occurring on a public
20 road, highway, street or turnpike that requires emergency services
21 from any emergency responder;

22 2. "Active emergency zone" means any area upon or around any
23 public road, highway, street or turnpike which is visibly marked by
24 emergency responders performing work for the purpose of emergency
response and where an active emergency or incident removal is

1 temporarily occurring. This area includes the lanes of public
2 roads, highways, streets or turnpikes leading up to an active
3 emergency or incident removal, beginning within three hundred (300)
4 feet of visual sighting of:

- 5 a. appropriate signs or traffic control devices posted or
6 placed by emergency responders, or
- 7 b. an authorized emergency vehicle displaying active
8 emergency lights or signals; and

9 3. "Emergency responder" means any law enforcement officer,
10 paid or volunteer firefighter, first responder, emergency medical
11 worker or other emergency personnel responding to an emergency on a
12 public road, highway, street or turnpike.

13 B. A person shall be guilty of the offense of endangerment of
14 an emergency responder if the person commits any of the following
15 offenses when the offense occurs within an active emergency zone:

- 16 1. Exceeding the posted speed limit by fifteen (15) miles per
17 hour or more;
- 18 2. Passing or overtaking another motor vehicle within an active
19 emergency zone;
- 20 3. Failing to stop for an active emergency zone flagman or
21 emergency responder or failing to obey traffic control devices
22 erected for purposes of warning or guiding the public into and
23 through the active emergency zone;

1 4. Driving through or around an active emergency zone by any
2 lane not clearly designated to motorists for the flow of traffic
3 through or around the active emergency zone; or

4 5. Intentionally striking, moving or altering barrels,
5 barriers, signs or other devices erected to control the flow of
6 traffic to protect emergency responders and motorists in the active
7 emergency zone for a reason other than avoidance of an obstacle, an
8 emergency or to protect the health and safety of an occupant of the
9 motor vehicle or of another person.

10 C. Upon conviction for committing the offense of endangerment
11 of an emergency responder pursuant to the provisions of subsection B
12 of this section, if no injury or death of an emergency responder
13 resulted from the offense, in addition to any other penalty
14 authorized by law the person shall be subject to a fine of not more
15 than One Thousand Dollars (\$1,000.00).

16 D. A person shall be deemed to commit the offense of aggravated
17 endangerment of an emergency responder upon conviction for any
18 offense pursuant to subsection B of this section when such offense
19 occurs in an active emergency zone and results in the injury or
20 death of an emergency responder. Upon conviction for committing the
21 offense of aggravated endangerment of an emergency responder, in
22 addition to any other penalty authorized by law, the person shall be
23 subject to a fine of not more than Five Thousand Dollars (\$5,000.00)
24 if the offense resulted in injury to an emergency responder and not

1 more than Ten Thousand Dollars (\$10,000.00) if the offense resulted
2 in the death of an emergency responder.

3 E. No person shall be cited or convicted for endangerment of an
4 emergency responder or aggravated endangerment of an emergency
5 responder, for any act or omission otherwise constituting an offense
6 under subsection B of this section, if such act or omission
7 resulted, in whole or in part, from mechanical failure of the
8 vehicle of the person or from the negligence of another person or an
9 emergency responder.

10 SECTION 2. AMENDATORY 47 O.S. 2011, Section 11-1302, is
11 amended to read as follows:

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

20 B. When any highway has been closed to traffic under the
21 provisions of subsection A of this section and traffic-control
22 devices or barricades have been erected, it shall be unlawful for
23 any person to drive any vehicle through, under, over, or around the
24 traffic-control devices or barricades, or otherwise to enter the

1 closed area. The provisions of this subsection shall not apply to
2 persons while engaged in the construction, maintenance and repair of
3 the highway or to persons entering therein for the protection of
4 lives or property; provided, that persons having their places of
5 residence or places of business within the closed area may travel,
6 when possible to do so, through the area at their own risk.

7 C. Whenever construction, repair and maintenance of any highway
8 is being performed under traffic, the governing body having
9 jurisdiction over the highway shall erect, or cause to be erected,
10 traffic-control devices to warn and guide the public. Each person
11 using the highway shall obey all signs, signals, markings, flagmen
12 or other traffic-control devices which are placed to regulate,
13 control, and guide traffic through the construction or maintenance
14 area. As used in this subsection, "construction or maintenance
15 area" means any area upon or around any highway that is visibly
16 marked as an area where construction, repair, and maintenance is
17 temporarily occurring. The construction or maintenance area also
18 includes the lanes of highway leading up to the area upon which an
19 activity described in this section is being performed, beginning at
20 the point where properly posted traffic-control devices start to
21 warn and guide the public into and through the construction or
22 maintenance including, but not limited to, instructions to merge
23 from one lane into another lane, to reduce speed, or to follow
24 directions of flagmen.

1 D. The "Merge Now" traffic-control device that is used to warn
2 and guide the public using the highway to merge, shall be located no
3 greater than one (1) mile nor less than one thousand five hundred
4 (1,500) feet in advance of the highway construction or maintenance
5 area. Whenever any traffic-control device requires traffic to merge
6 due to the closure of a section or lane of highway, the merge shall
7 be completed:

8 1. As soon as practicable after passing the traffic-control
9 device; and

10 2. Without passing any other traffic proceeding in the same
11 direction.

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

15 F. Nothing in this article shall relieve the state or any of
16 its subdivisions or their contractors, agents, servants or employees
17 from liability for failure to perform any of the duties imposed
18 herein.

19 G. Any Except as provided in subsection H of this section, any
20 person who violates any provision of this article shall be guilty of
21 a misdemeanor and upon conviction thereof shall be subject to a fine
22 of not less than One Hundred Dollars (\$100.00) nor more than One
23 Thousand Dollars (\$1,000.00) or imprisonment in the county jail not
24 to exceed thirty (30) days, or both such fine and imprisonment, and

1 shall be liable for any damage to property, or injury to or death to
2 persons caused by the violations. In addition, the court may order
3 restitution in an amount equal to the actual costs of the emergency
4 response and repair or replacement of any damaged or lost emergency
5 equipment.

6 H. 1. When any highway or county road has been closed to
7 traffic due to flooding and traffic-control devices or barricades
8 have been erected, it shall be unlawful for any person to tear down,
9 damage or remove any traffic-control devices or barricades or drive
10 any vehicle through, under, over or around the traffic-control
11 devices or barricades, or otherwise to enter the closed area. Any
12 person who violates the provisions of this subsection shall, upon
13 conviction, be guilty of a misdemeanor punishable by a fine of not
14 less than One Thousand Dollars (\$1,000.00). The person shall be
15 guilty of a misdemeanor punishable by a fine of not less than Two
16 Thousand Five Hundred Dollars (\$2,500.00) and imprisonment in the
17 county jail for not more than one (1) year if the operator of the
18 vehicle was transporting a person eighteen (18) years of age or
19 younger at the time of the violation.

20 2. Persons convicted pursuant to the provisions of this
21 subsection shall be ordered to pay restitution in an amount equal to
22 the actual costs of the emergency response and repair or replacement
23 of any damaged or lost emergency equipment. In addition, the person
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1 shall be liable for any damage to property or injury or death to
2 persons caused by the violation.

3 3. Persons convicted pursuant to the provisions of this
4 subsection shall be subject to suspension of driving privilege.

5 SECTION 3. This act shall become effective November 1, 2016.

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