

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 563

By: Crain

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5
6 AS INTRODUCED

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

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

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

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

28 B. The use of the public roads and highways by any person or
29 entity may be for the purpose of erecting poles and posts, attaching

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

22 C. When the use of the public roads and highways by any person
23 or entity as authorized by this section is deemed to be temporary, a
24 grant of permission by the Department of Transportation or a board

1 of county commissioners shall not require consent of or compensation
2 to the abutting landowner, provided that such use serves the safety
3 and interest of the public by reducing or eliminating another burden
4 on the public road or highway. The use of the public roads and
5 highways by any person or company pursuant to the provisions of this
6 section shall be deemed to be temporary when such use is not
7 anticipated to exist and does not exist for longer than one (1) year
8 from the date permission for such use is granted.

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

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

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

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

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

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

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