

1 ENGROSSED HOUSE
2 BILL NO. 1607

By: Sherrer and Hoskin of the
House

3 and

4 Bass of the Senate
5

6
7 An Act relating to activities on or near public
8 roads; creating the Oklahoma Highway, Right-of-Way,
9 and Adjoining Property Safety, Protection and
10 Beautification Act; prohibiting adult cabarets in
11 certain locations; defining terms; amending 2 O.S.
12 2011, Section 3-220, which relates to eradication of
13 noxious weeds; requiring the Department of
14 Transportation to prevent certain plants from going
15 to seed; amending 47 O.S. 2011, Section 751, which
relates to implied consent to breath or blood test;
directing law enforcement to provide certain
notification; providing for codification; providing
for noncodification; and providing an effective date.

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

17 SECTION 1. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 This act shall be known and may be cited as the "Oklahoma
20 Highway, Right-of-Way, and Adjoining Property Safety, Protection and
21 Beautification Act".

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 865.71 of Title 19, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The location of any adult cabaret in an unincorporated area,
2 not subject to countywide zoning, is specifically prohibited within
3 two thousand (2,000) feet from the public entrance of the adult
4 cabaret to:

5 1. Any public highway;

6 2. Any building primarily and regularly used for worship
7 services and religious activities; or

8 3. Any land used for residential purposes.

9 B. For purposes of this section:

10 1. "Adult cabaret" means a nightclub, bar, restaurant or
11 similar establishment in which persons appear in a state of nudity
12 in the performance of their duties; and

13 2. "State of nudity" means the showing of the human male or
14 female genitals or pubic area with less than a fully opaque
15 covering, or the female breast with less than a fully opaque
16 covering or any part of the nipple.

17 SECTION 3. AMENDATORY 2 O.S. 2011, Section 3-220, is
18 amended to read as follows:

19 Section 3-220. A. 1. The plants musk thistle (*Carduus nutans*
20 L.), Scotch thistle (~~*Onopordum*~~ *Onopordum* *acanthium* L.), and Canada
21 thistle (*Cirsium arvense*) are designated as noxious weeds. The
22 Legislature finds that these thistles are a public nuisance in all
23 counties across this state.
24

1 2. It shall be the duty of every landowner in each county to
2 treat, control, or eradicate all Canada, musk, or Scotch thistles
3 growing on the landowner's land every year as shall be sufficient to
4 prevent these thistles from going to seed.

5 3. The Department of Transportation, the boards of county
6 commissioners, and any other public, private, or corporate entity
7 who shall maintain rights-of-way in the State of Oklahoma shall be
8 responsible for preventing musk, Canada, or Scotch thistles from
9 going to seed and for removing any thistle infestation that occurs
10 within their jurisdiction.

11 4. Failure of the landowner to treat, eradicate, or control all
12 musk, Canada, or Scotch thistle may result in a fine not to exceed
13 One Thousand Dollars (\$1,000.00) for each violation per day.

14 5. Upon written complaint, the ~~State~~ Oklahoma Department of
15 Agriculture, Food, and Forestry shall inspect the type of thistle
16 infestation, assess the nature and extent of the thistle infestation
17 on the property of the landowner and determine the most appropriate
18 thistle treatment, control, or eradication method available for the
19 type of thistle and location of the property.

20 B. The Board shall:

21 1. Promulgate rules setting categories or degrees of
22 infestation which would require specified treatment, control, or
23 eradication;
24

1 2. Include musk, Scotch, and Canada thistles as prohibited
2 noxious weed and weed seed pursuant to the Department's authority
3 and responsibility under Article 8 of the Oklahoma Agricultural
4 Code;

5 3. By November 1, 2000, and annually thereafter prior to the
6 growing season of musk, Scotch, and Canada thistles, complete an
7 annual survey detailing the degree of infestation of these thistles
8 across the state. The results of these surveys shall be reported to
9 Oklahoma State University; and

10 4. In all counties of this state, provide information to
11 newspapers of general circulation stating that musk, Scotch, and
12 Canada thistles are a public nuisance and that it is the duty of
13 every public, private, or corporate landowner to treat, control, or
14 eradicate these thistles growing on any property owned by the
15 landowner. The information shall be provided at the beginning of
16 the cycle of growth of the musk, Scotch, and Canada thistles and at
17 other times as necessary to inform landowners of the provisions of
18 this subsection. The information material shall also include:

- 19 a. information detailing the process by which an
20 interested landowner may receive assistance pursuant
21 to this subsection for the removal of thistles from
22 infested property,
23 b. the telephone number of the Department, and
24

1 c. a statement informing the landowner that failure to
2 remove musk, Scotch, and Canada thistles may subject
3 the landowner to legal action requiring the treatment,
4 control, or eradication of these thistles.

5 C. Upon request of the landowner or the Department, the
6 designated Oklahoma State University extension agent for a
7 particular county shall evaluate or, if there is no extension agent
8 for a particular county, the Department shall inspect the type of
9 thistle infestation, assess the nature and extent of the thistle
10 infestation on the property of the landowner, and determine the most
11 appropriate thistle treatment, control, or eradication method
12 available for the type of thistle and location of the property.

13 SECTION 4. AMENDATORY 47 O.S. 2011, Section 751, is
14 amended to read as follows:

15 Section 751. A. 1. Any person who operates a motor vehicle
16 upon the public roads, highways, streets, turnpikes or other public
17 place or upon any private road, street, alley or lane which provides
18 access to one or more single or multifamily dwellings within this
19 state shall be deemed to have given consent to a test or tests of
20 such person's blood or breath, for the purpose of determining the
21 alcohol concentration as defined in Section 756 of this title, and
22 such person's blood, saliva or urine for determining the presence or
23 concentration of any other intoxicating substance therein as defined
24 in this section, if arrested for any offense arising out of acts

1 alleged to have been committed while the person was operating or in
2 actual physical control of a motor vehicle upon the public roads,
3 highways, streets, turnpikes or other public place or upon any
4 private road, street, alley or lane which provides access to one or
5 more single or multifamily dwellings while under the influence of
6 alcohol or other intoxicating substance, or the combined influence
7 of alcohol and any other intoxicating substance, or if the person is
8 involved in a traffic accident that resulted in the immediate death
9 or serious injury of any person and is removed from the scene of the
10 accident to a hospital or other health care facility outside the
11 State of Oklahoma before a law enforcement officer can effect an
12 arrest.

13 2. A law enforcement officer, having reasonable grounds to
14 believe that such person was operating or in actual physical control
15 of a motor vehicle while under the influence may direct the
16 administration of or administer the test or tests.

17 3. Before a test or tests are administered, the person shall be
18 given oral notice that:

19 a. Oklahoma law requires the person to submit to and
20 complete one or more tests of breath, blood or urine
21 to determine if the person is under the influence of
22 alcohol, any other intoxicating substance, or the
23 combined influence of alcohol and any other
24 intoxicating substance, and

1 b. if the person refuses to submit to and complete any
2 test of breath, blood or urine as requested by the law
3 enforcement officer, the driving privileges of the
4 person will be automatically revoked and the person
5 will be required to have an ignition interlock device
6 installed on the motor vehicle of the person for not
7 less than eighteen (18) months following the mandatory
8 period of revocation.

9 As used in this title, the term "other intoxicating substance"
10 shall mean any controlled dangerous substance as defined in the
11 Uniform Controlled Dangerous Substances Act and any other substance,
12 other than alcohol, which is capable of being ingested, inhaled,
13 injected or absorbed into the human body and is capable of adversely
14 affecting the central nervous system, vision, hearing or other
15 sensory or motor functions.

16 B. The law enforcement agency by which the arresting officer is
17 employed may designate, in accordance with the rules of the Board of
18 Tests for Alcohol and Drug Influence, hereinafter referred to as the
19 Board, whether blood or breath is to be tested for the alcohol
20 concentration thereof, and whether blood, saliva or urine is to be
21 tested for the presence or concentration of any other intoxicating
22 substance therein.

23 In the event the law enforcement agency does not designate the
24 test to be administered, breath shall be the substance tested for

1 alcohol concentration. Blood may also be tested to determine the
2 alcohol concentration thereof in the event that breath cannot be
3 tested to determine the alcohol concentration thereof because of the
4 lack of an approved device or qualified person to administer a
5 breath test or because such breath test for any other reason cannot
6 be administered in accordance with the rules of the Board.

7 In the event the law enforcement agency does not designate the
8 test to be administered, blood, saliva or urine shall be the
9 substance tested for the presence or concentration of any other
10 intoxicating substance or the combination of alcohol and any other
11 intoxicating substance.

12 C. In the event the person is incapable of submitting to and
13 successfully completing, by reason of illness or injury or other
14 physical disability, the test to be administered, an alternate test
15 may be administered in accordance with the rules of the Board.

16 D. Any person who is unconscious or otherwise incapable of
17 refusing to submit to a test of such person's blood or breath to
18 determine the alcohol concentration thereof, or to a test of such
19 person's blood, saliva or urine to determine the presence or
20 concentration of any other intoxicating substance therein, shall be
21 deemed not to have withdrawn the consent provided by subsection A of
22 this section, and such test may be administered as provided herein.

23 An unconscious person who has been issued a citation by a law
24 enforcement officer for one of the offenses listed in subsection A

1 of this section is arrested for purposes of this section. The
2 arresting officer must leave a copy of the citation with the
3 arrested person which may be accomplished by handing it to the
4 arrested person, or by leaving it with the personal effects of the
5 arrested party, so as to inform the unconscious person of the
6 arrest.

7 Any person who has been arrested for one of the offenses listed
8 in subsection A of this section who is unconscious or injured and
9 who requires immediate medical treatment as determined by a treating
10 physician may be released on the person's own recognizance for
11 medical reasons by the arresting officer. The arresting officer who
12 releases an arrested person on the person's own recognizance must
13 indicate the release on the face of the citation. Any person
14 released on his or her own recognizance for medical reasons shall
15 remain at liberty pending the filing of charges.

16 E. In addition to any test designated by the arresting officer,
17 the arrested person may also designate any additional test to be
18 administered to determine the concentration of alcohol, or the
19 presence or concentration of any other intoxicating substance or the
20 combination of alcohol and any other intoxicating substance. The
21 cost of such additional test shall be at the expense of the arrested
22 person.

23 A sufficient quantity of any specimen obtained at the
24 designation of the arrested person shall be available to the law

enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the rules applicable to the specimens obtained by an arresting officer.

F. When a law enforcement officer has determined that the blood alcohol content of an individual is to be tested for the presence or concentration of alcohol, other intoxicating substance, or the combination of alcohol and any other intoxicating substance, the law enforcement officer shall inform the individual to be tested that the withdrawal of blood shall only be performed by certain medical personnel as provided for in Section 752 of this title.

SECTION 5. This act shall become effective November 1, 2015.

Passed the House of Representatives the 11th day of March, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2015.

Presiding Officer of the Senate