

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1948

By: Jordan

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8 COMMITTEE SUBSTITUTE

9 An Act relating to public roads, highways and rights-
10 of-way; authorizing certain use of roads, highways,
11 rights-of-way and easements; authorizing certain
12 placement of temporary pipes and supporting
13 equipment; requiring certain consents prior to such
14 placement; authorizing right grants to lay certain
15 infrastructure in certain locations; deeming certain
16 use of public roads and highways temporary; placing
17 certain requirements on certain temporary pipe;
18 providing abutting landowner consent unnecessary in
19 certain instances; requiring certain repair and
20 replacement under certain conditions; providing for
21 forfeiture of right under certain condition;
22 providing for certain legal construction; amending 69
23 O.S. 2011, Section 1208, which relates to Department
24 of Transportation acquired rights-of-way; providing
 exception for certain use; providing for
 codification; and providing an effective date.

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

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

1 A. Any person or entity lawfully operating and in the course of
2 doing business in this state may use the public roads and highways,
3 including the right-of-way and all easements pertaining thereto, as
4 authorized in this section.

5 B. The use of the public roads and highways by any business or
6 entity may be used for the purpose of placing temporary pipe and
7 supporting equipment for the transportation and disposal of waste
8 water used in the process of oil production.

9 C. All temporary pipe and supporting equipment shall be erected,
10 placed, adjusted or laid and maintained only after obtaining the
11 consent pursuant to the rules promulgated by the Department of
12 Transportation as to the state highway system, and the boards of
13 county commissioners of the various counties as to roads and
14 highways under their jurisdiction, and/or the private property
15 owners.

16 D. Provided further, that the boards of county commissioners may
17 grant to any person or entity the right to lay pipes and conduits
18 under the surface of any road or highway under their jurisdiction,
19 subject to such rules, regulations and conditions as shall be
20 prescribed by the board of county commissioners.

21 E. The use of the public roads and highways by any person or
22 company pursuant to the provisions of this section shall be deemed
23 to be temporary when such use is not anticipated to exist and does
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1 not exist for longer than one (1) year from the date permission for
2 such use is granted.

3 F. All temporary pipe shall be erected, placed, adjusted, laid,
4 constructed and maintained so as not to inconvenience or endanger
5 the public in the use of its roads and highways.

6 G. When the use of the public roads and highways by any person
7 or entity as authorized by this section is deemed to be temporary, a
8 grant of permission by the Department of Transportation or a board
9 of county commissioners shall not require consent of, or
10 compensation to, the abutted landowner; provided, that such use
11 serves the safety and interest of the public by reducing or
12 eliminating another burden on the public road or highway.

13 H. Any person or entity utilizing the public roads and highways
14 pursuant to this section shall completely repair or replace any
15 damage, injury or other change to public roads or highways or
16 rights-of-way of this state or any county or municipality that would
17 inconvenience or endanger the public and is caused by the erection,
18 placement, adjustment, laying, construction and maintenance of the
19 temporary pipe pursuant to this section. Further, when the
20 temporary pipe is removed it shall be the responsibility of the
21 placing business or entity to repair any damage made by the
22 erection, placement, adjustment, laying, construction and
23 maintenance of the temporary pipe and to replace any structure so as
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1 to leave the property as found prior to the use of the temporary
2 pipe.

3 I. The failure of such person or entity to construct or maintain
4 temporary pipe in full compliance with the rules promulgated by the
5 Department of Transportation or the board of county commissioners
6 shall forfeit the right of the public citizen to use the public
7 roads or highways for such use, and the private citizen may
8 thereupon be ousted from the use of the public road or highway.

9 J. Nothing in this section shall be construed to limit any
10 rights otherwise granted by law.

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

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

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

3 ~~(e)~~ C. This section shall not apply to the lawful use of such
4 rights-of-way for the erection and operation of facilities of a
5 public utility, or to any person or entity authorized to use such
6 rights-of-way pursuant to Section 1 of this act.

7 SECTION 3. This act shall become effective November 1, 2017.

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9 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2017 - DO PASS,
10 As Amended.
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