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March 27, 2018

ENGROSSED HOUSE
BILL NO. 2650

By: Vaughan of the House

and

Rader and Pederson of the
Senate

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 11-1302, as amended by Section 1, Chapter 344, O.S.L. 2016 (47 O.S. Supp. 2017, Section 11-1302), which relates to maintenance and construction zones; modifying standards related to Merge Now traffic-control devices; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 11-1302, as amended by Section 1, Chapter 344, O.S.L. 2016 (47 O.S. Supp. 2017, Section 11-1302), is amended to read as follows:

Section 11-1302. A. The Department of Transportation, Oklahoma Turnpike Authority and any county or city in this state are hereby authorized to close any highway or section thereof, within their respective jurisdiction, to traffic while the highway is flooded or under repair, maintenance or construction and, in exercising the authority, shall erect or cause to be erected traffic-control

1 devices and barricades to warn and notify the public that the
2 highway has been closed to traffic.

3 B. When any highway has been closed to traffic under the
4 provisions of subsection A of this section and traffic-control
5 devices or barricades have been erected, it shall be unlawful for
6 any person to drive any vehicle through, under, over, or around the
7 traffic-control devices or barricades, or otherwise to enter the
8 closed area. The provisions of this subsection shall not apply to
9 persons while engaged in the construction, maintenance and repair of
10 the highway or to persons entering therein for the protection of
11 lives or property; provided, that persons having their places of
12 residence or places of business within the closed area may travel,
13 when possible to do so, through the area at their own risk.

14 C. Whenever construction, repair and maintenance of any highway
15 is being performed under traffic, the Oklahoma Turnpike Authority,
16 Department of Transportation, county or city having jurisdiction
17 over the highway shall erect, or cause to be erected, traffic-
18 control devices to warn and guide the public. Each person using the
19 highway shall obey all signs, signals, markings, flagmen or other
20 traffic-control devices which are placed to regulate, control, and
21 guide traffic through the construction or maintenance area. As used
22 in this subsection, "construction or maintenance area" means any
23 area upon or around any highway that is visibly marked as an area
24 where construction, repair, and maintenance is temporarily

1 occurring. The construction or maintenance area also includes the
2 lanes of highway leading up to the area upon which an activity
3 described in this section is being performed, beginning at the point
4 where properly posted traffic-control devices start to warn and
5 guide the public into and through the construction or maintenance
6 including, but not limited to, instructions to merge from one lane
7 into another lane, to reduce speed, or to follow directions of
8 flagmen.

9 D. The "Merge Now" traffic-control device that is used to warn
10 and guide the public using the highway to merge, shall be located ~~no~~
11 ~~greater than one (1) mile nor less than one thousand five hundred~~
12 ~~(1,500) feet~~ in advance of the highway construction or maintenance
13 area in accordance with the standards set forth in the most current
14 edition of the Federal Highway Administration's Manual on Uniform
15 Traffic Control Devices. Whenever any traffic-control device
16 requires traffic to merge due to the closure of a section or lane of
17 highway, the merge shall be completed:

18 1. As soon as practicable after passing the traffic-control
19 device; and

20 2. Without passing any other traffic proceeding in the same
21 direction.

22 E. No person shall remove, change, modify, deface or alter any
23 traffic-control device or barricade which has been erected on any
24 highway under the provisions of this section.

1 F. Nothing in this section shall relieve the state or any of
2 its subdivisions or their contractors, agents, servants or employees
3 from liability for failure to perform any of the duties imposed
4 herein.

5 G. Except as provided in subsection H of this section, any
6 person who violates any provision of this section shall, upon
7 conviction, be guilty of a misdemeanor punishable by a fine of not
8 less than One Hundred Dollars (\$100.00) nor more than One Thousand
9 Dollars (\$1,000.00) or imprisonment in the county jail not to exceed
10 thirty (30) days, or both such fine and imprisonment, and shall be
11 liable for any damage to property, or injury to or death to persons
12 caused by the violations. In addition, the court may order
13 restitution in an amount equal to the actual costs of the emergency
14 response and repair or replacement of any damaged or lost emergency
15 equipment.

16 H. When any section of a highway, turnpike, county road or city
17 street has been closed to traffic due to flooding that is ongoing
18 and traffic-control devices or barricades have been erected by law
19 enforcement or other government officials with authority over
20 traffic control, it shall be unlawful for any person to tear down,
21 damage or remove any traffic-control devices or barricades or drive
22 any vehicle through, under, over or around the traffic-control
23 devices or barricades, or otherwise to enter the closed area. Any
24 person who violates the provisions of this subsection shall, upon

1 conviction, be guilty of a misdemeanor punishable by a fine of not
2 less than One Hundred Dollars (\$100.00) nor more than One Thousand
3 Dollars (\$1,000.00). The person shall be guilty of a misdemeanor
4 punishable by a fine of not less than One Hundred Dollars (\$100.00)
5 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) and
6 imprisonment in the county jail for not more than one (1) year if
7 the operator of the motor vehicle was transporting a person eighteen
8 (18) years of age or younger at the time of the violation.

9 Persons convicted pursuant to the provisions of this subsection
10 shall be ordered to pay restitution in an amount equal to the actual
11 costs of the emergency response and repair or replacement of any
12 damaged or lost emergency equipment. In addition, the person shall
13 be liable for any damage to property or injury or death to persons
14 caused by the violation.

15 SECTION 2. This act shall become effective November 1, 2018.

16 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION
17 March 27, 2018 - DO PASS
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