

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3578

By: Martinez

AS INTRODUCED

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

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

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

A. Any person or entity lawfully operating and in the course of doing business in this state may use the public roads and highways,

1 including the right-of-way and all easements pertaining thereto, as
2 authorized in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 3. This act shall become effective November 1, 2018.

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