

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2249

By: Renegar and Shoemake of the
House

7
8 Dossett of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to motor vehicles; amending 47 O.S.
12 2011, Section 11-1302, which relates to maintenance
13 and construction zones; updating language; making
 certain acts unlawful; providing penalties; and
 declaring an emergency.

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

17 SECTION 1. AMENDATORY 47 O.S. 2011, Section 11-1302, is
18 amended to read as follows:

19 Section 11-1302. A. The Department of Transportation, Oklahoma
20 Turnpike Authority and any county or city in this state ~~through~~
21 ~~their respective governing bodies are~~ is hereby authorized to close
22 any highway or section thereof, within their respective
23 jurisdiction, to traffic while the highway is flooded or under
24 repair, maintenance or construction and, in exercising the

1 authority, shall erect or cause to be erected traffic-control
2 devices and barricades to warn and notify the public that the
3 highway has been closed to traffic.

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

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

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

10 D. The "Merge Now" traffic-control device that is used to warn
11 and guide the public using the highway to merge, shall be located no
12 greater than one (1) mile nor less than one thousand five hundred
13 (1,500) feet in advance of the highway construction or maintenance
14 area. Whenever any traffic-control device requires traffic to merge
15 due to the closure of a section or lane of highway, the merge shall
16 be completed:

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

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

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

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

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

16 H. When any section of a highway, turnpike, county road or city
17 street has been closed to traffic due to flooding and traffic-
18 control devices or barricades have been erected, it shall be
19 unlawful for any person to tear down, damage or remove any traffic-
20 control devices or barricades or drive any vehicle through, under,
21 over or around the traffic-control devices or barricades, or
22 otherwise to enter the closed area. Any person who violates the
23 provisions of this subsection shall, upon conviction, be guilty of a
24 misdemeanor punishable by a fine of not less than One Thousand

1 Dollars (\$1,000.00). The person shall be guilty of a misdemeanor
2 punishable by a fine of not less than Two Thousand Five Hundred
3 Dollars (\$2,500.00) and imprisonment in the county jail for not more
4 than one (1) year if the operator of the motor vehicle was
5 transporting a person eighteen (18) years of age or younger at the
6 time of the violation.

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

13 SECTION 2. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/22/2016 -
19 DO PASS, As Amended and Coauthored.

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