

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2731

6 By: Lockhart

7 COMMITTEE SUBSTITUTE

8 An Act relating to motor vehicles; defining terms;  
9 making certain acts unlawful; providing penalties;  
10 providing an exception; amending 47 O.S. 2011,  
11 Section 11-1302, which relates to maintenance and  
12 construction zones; making certain acts unlawful;  
13 providing penalties; providing for codification; and  
14 providing an effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 11-1304 of Title 47, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. As used in this section:

20 1. "Active emergency" means any incident occurring on a public  
21 road, highway, street or turnpike that requires emergency services  
22 from any emergency responder;

23 2. "Active emergency zone" means any area upon or around any  
24 public road, highway, street or turnpike which is visibly marked by  
emergency responders performing work for the purpose of emergency

1 response and where an active emergency or incident removal is  
2 temporarily occurring. This area includes the lanes of public  
3 roads, highways, streets or turnpikes leading up to an active  
4 emergency or incident removal, beginning within three hundred (300)  
5 feet of visual sighting of:

- 6 a. appropriate signs or traffic control devices posted or  
7 placed by emergency responders, or
- 8 b. an authorized emergency vehicle displaying active  
9 emergency lights or signals; and

10 3. "Emergency responder" means any law enforcement officer,  
11 paid or volunteer firefighter, first responder, emergency medical  
12 worker, other emergency personnel or private citizen responding to  
13 an emergency on a public road, highway, street or turnpike.

14 B. A person shall be guilty of the offense of endangerment of  
15 an emergency responder if the person commits any of the following  
16 offenses when the offense occurs within an active emergency zone:

17 1. Exceeding the posted speed limit by fifteen (15) miles per  
18 hour or more;

19 2. Passing or overtaking another motor vehicle within an active  
20 emergency zone;

21 3. Failing to stop for an active emergency zone flagman or  
22 emergency responder or failing to obey traffic control devices  
23 erected for purposes of warning or guiding the public into and  
24 through the active emergency zone;

1 4. Driving through or around an active emergency zone by any  
2 lane not clearly designated to motorists for the flow of traffic  
3 through or around the active emergency zone; or

4 5. Intentionally striking, moving or altering barrels,  
5 barriers, signs or other devices erected to control the flow of  
6 traffic to protect emergency responders and motorists in the active  
7 emergency zone for a reason other than avoidance of an obstacle, an  
8 emergency or to protect the health and safety of an occupant of the  
9 motor vehicle or of another person.

10 C. Upon conviction for committing the offense of endangerment  
11 of an emergency responder pursuant to the provisions of subsection B  
12 of this section, if no injury or death of an emergency responder  
13 resulted from the offense, in addition to any other penalty  
14 authorized by law the person shall be subject to a fine of not more  
15 than One Thousand Dollars (\$1,000.00).

16 D. A person shall be deemed to commit the offense of aggravated  
17 endangerment of an emergency responder upon conviction for any  
18 offense pursuant to subsection B of this section when such offense  
19 occurs in an active emergency zone and results in the injury or  
20 death of an emergency responder. Upon conviction for committing the  
21 offense of aggravated endangerment of an emergency responder, in  
22 addition to any other penalty authorized by law, the person shall be  
23 subject to a fine of not more than Five Thousand Dollars (\$5,000.00)  
24 if the offense resulted in injury to an emergency responder and not

1 more than Ten Thousand Dollars (\$10,000.00) if the offense resulted  
2 in the death of an emergency responder.

3 E. No person shall be cited or convicted for endangerment of an  
4 emergency responder or aggravated endangerment of an emergency  
5 responder, for any act or omission otherwise constituting an offense  
6 under subsection B of this section, if such act or omission  
7 resulted, in whole or in part, from mechanical failure of the  
8 vehicle of the person or from the negligence of another person or an  
9 emergency responder.

10 SECTION 2. AMENDATORY 47 O.S. 2011, Section 11-1302, is  
11 amended to read as follows:

12 Section 11-1302. A. The Department of Transportation and any  
13 county or city in this state ~~through their respective governing~~  
14 ~~bodies are~~ is hereby authorized to close any highway or section  
15 thereof, within their respective jurisdiction, to traffic while the  
16 highway is flooded or under repair, maintenance or construction and,  
17 in exercising the authority, shall erect or cause to be erected  
18 traffic-control devices and barricades to warn and notify the public  
19 that the highway has been closed to traffic.

20 B. When any highway has been closed to traffic under the  
21 provisions of subsection A of this section and traffic-control  
22 devices or barricades have been erected, it shall be unlawful for  
23 any person to drive any vehicle through, under, over, or around the  
24 traffic-control devices or barricades, or otherwise to enter the

1 closed area. The provisions of this subsection shall not apply to  
2 persons while engaged in the construction, maintenance and repair of  
3 the highway or to persons entering therein for the protection of  
4 lives or property; provided, that persons having their places of  
5 residence or places of business within the closed area may travel,  
6 when possible to do so, through the area at their own risk.

7 C. Whenever construction, repair and maintenance of any highway  
8 is being performed under traffic, the ~~governing body~~ Department of  
9 Transportation, county or city having jurisdiction over the highway  
10 shall erect, or cause to be erected, traffic-control devices to warn  
11 and guide the public. Each person using the highway shall obey all  
12 signs, signals, markings, flagmen or other traffic-control devices  
13 which are placed to regulate, control, and guide traffic through the  
14 construction or maintenance area. As used in this subsection,  
15 "construction or maintenance area" means any area upon or around any  
16 highway that is visibly marked as an area where construction,  
17 repair, and maintenance is temporarily occurring. The construction  
18 or maintenance area also includes the lanes of highway leading up to  
19 the area upon which an activity described in this section is being  
20 performed, beginning at the point where properly posted traffic-  
21 control devices start to warn and guide the public into and through  
22 the construction or maintenance including, but not limited to,  
23 instructions to merge from one lane into another lane, to reduce  
24 speed, or to follow directions of flagmen.

1 D. The "Merge Now" traffic-control device that is used to warn  
2 and guide the public using the highway to merge, shall be located no  
3 greater than one (1) mile nor less than one thousand five hundred  
4 (1,500) feet in advance of the highway construction or maintenance  
5 area. Whenever any traffic-control device requires traffic to merge  
6 due to the closure of a section or lane of highway, the merge shall  
7 be completed:

8 1. As soon as practicable after passing the traffic-control  
9 device; and

10 2. Without passing any other traffic proceeding in the same  
11 direction.

12 E. No person shall remove, change, modify, deface or alter any  
13 traffic-control device or barricade which has been erected on any  
14 highway under the provisions of this article.

15 F. Nothing in this article shall relieve the state or any of  
16 its subdivisions or their contractors, agents, servants or employees  
17 from liability for failure to perform any of the duties imposed  
18 herein.

19 G. Any Except as provided in subsection H of this section, any  
20 person who violates any provision of this article shall be guilty of  
21 a misdemeanor and upon conviction thereof shall be subject to a fine  
22 of not less than One Hundred Dollars (\$100.00) nor more than One  
23 Thousand Dollars (\$1,000.00) or imprisonment in the county jail not  
24 to exceed thirty (30) days, or both such fine and imprisonment, and

1 shall be liable for any damage to property, or injury to or death to  
2 persons caused by the violations. In addition, the court may order  
3 restitution in an amount equal to the actual costs of the emergency  
4 response and repair or replacement of any damaged or lost emergency  
5 equipment.

6 H. 1. When any highway, turnpike, city street or county road  
7 has been closed to traffic due to flooding and traffic-control  
8 devices or barricades have been erected, it shall be unlawful for  
9 any person to tear down, damage or remove any traffic-control  
10 devices or barricades or drive any vehicle through, under, over or  
11 around the traffic-control devices or barricades, or otherwise to  
12 enter the closed area. Any person who violates the provisions of  
13 this subsection shall, upon conviction, be guilty of a misdemeanor  
14 punishable by a fine of not less than One Thousand Dollars  
15 (\$1,000.00). The person shall be guilty of a misdemeanor punishable  
16 by a fine of not less than Two Thousand Five Hundred Dollars  
17 (\$2,500.00) and imprisonment in the county jail for not more than  
18 one (1) year if the operator of the vehicle was transporting a  
19 person eighteen (18) years of age or younger at the time of the  
20 violation.

21 2. Persons convicted pursuant to the provisions of this  
22 subsection shall be ordered to pay restitution in an amount equal to  
23 the actual costs of the emergency response and repair or replacement  
24 of any damaged or lost emergency equipment. In addition, the person

1 shall be liable for any damage to property or injury or death to  
2 persons caused by the violation.

3 3. Persons convicted pursuant to the provisions of this  
4 subsection shall be subject to suspension of driving privilege.

5 SECTION 3. This act shall become effective November 1, 2016.

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