

AS INTRODUCED

The Oklahoma Rights-Of-Way Preservation Act Of 2017

An Act allowing discontinuance of railroad operation; requiring the preservation of railroad rights-of-way; permitting interim use for recreation; protecting owners from liability; specifying permitted uses; protection of landowner rights; 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 2-67 of Title 66, unless there is created a duplication in numbering, reads as follows:

(1) Consistent with national policy to preserve railroad rights-of-way for future rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, railroad operators in the State Of Oklahoma may discontinue service and permit interim recreation use of any established railroad rights-of-way, if such interim use is subject to restoration or reconstruction for railroad purposes, and such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. (Reference 16 US Code § 1247)

(2) To maintain continuity of rail transportation corridors the Oklahoma Department Of Transportation (ODOT), Oklahoma Department Of Tourism And Recreation (ODTR), municipalities, political subdivisions, metropolitan planning organizations (MPO), for-profit and not-for-profit corporations, and private landowners may enter into agreements creating the managing entity for the purposes of receiving, constructing, managing and maintaining rights-of-way across jurisdictions for interim recreation use. ODOT Rail Programs Division shall establish rules for interim recreation use and act as administrator of any agreement. (Reference OS 66 § 2-66)

(3) Rights-of-way used for interim recreation free of charge to users shall be exempt from property taxes for the duration of such use.

(4) Railroads and managing entities who make rights-of-way available to the public free of charge for recreation use are not liable for injury or loss to users. Adjacent landowners are

not liable for injury or loss to users leaving the rights-of-way and going upon adjacent land, and shall not be required to post no trespassing notices. (References OS 76 § 10.1 and OS 76 § 50.3, Missouri Revised Statutes Section 258.100.1, Maine Revised Statutes Title 14, 7§159-A)

(5) Railroads permitting interim recreation use of rights-of-way shall remove crossing signals, rails, ties, and other property required for the operation of a railroad; however bridges, trestles, tunnels, causeways and other improvements required to maintain the continuity of the rights-of-way shall be left in place.

(6) Entities acquiring rights-of-way for interim recreation use shall not alter grade or route, except as necessary to facilitate recreation use. All recreation use improvements shall be subject to approval by ODOT Rail Programs Division. Cost of improvements and ongoing maintenance shall be the responsibility of the managing entity.

(7) All costs for interim recreation use improvements and maintenance shall be the responsibility of the managing entity. At such time as a railroad company regains use of rights-of-way for rail operations, the railroad company shall not be liable for the value of improvements made for interim recreation use.

(8) Permitted recreation uses shall be limited to walking, running, hiking, cycling, skating, and equestrian. Motorized vehicles are prohibited except for maintenance by the managing entity, inspection by the railroad company and ODOT, and law enforcement. Hunting and fishing on or from rights-of-way is prohibited.

(9) Railroad companies may permit recreation use along active rights-of-way. Such use will be at the users own risk and liability, provided the railroad has posted notices and made available educational material warning users of potential danger. (Reference OS 66 § 3-93)

(10) Nothing in this act shall negate an adjacent landowner's right to purchase abandoned rights-of-way. (Reference OS 66 § 2-65)

SECTION 2. This act shall become effective November 1, 2017.

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