

Cherokee Nation Code Annotated

Title 47: Motor Vehicles

Chapter 11: Rules of the Road

Article XIII. Maintenance, Construction and Safety Zones

§ 11-1302. Maintenance and construction zones

Cite as: 47 CNCA § 11-1302

A. The Department of Transportation, Oklahoma Turnpike Authority and any county or city within the jurisdiction of the Cherokee Nation are hereby authorized to close any highway or section thereof, within their respective jurisdiction, to traffic while the highway is flooded, under repair, maintenance or construction and, in exercising such authority, shall erect or cause to be erected traffic-control devices and barricades to warn and notify the public that said highway has been closed to traffic.

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

C. Whenever construction, repair and maintenance of any highway is being performed under traffic, the governing body having jurisdiction over said highway shall erect, or cause to be erected, traffic-control devices to warn and guide the public, and every person using such highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area. As used in this subsection, "construction or maintenance area" means any area upon or around any highway that is visibly marked as an area where construction, repair, and maintenance is temporarily occurring. The construction or maintenance area also includes the lanes of highway leading up to the area upon which an activity described in this section is being performed, beginning at the point where properly posted traffic-control devices start to warn and guide the public into and through the construction or maintenance including, but not limited to, instructions to merge from one lane into another lane, to reduce speed, or to follow directions of flagmen.

D. The "Merge Now" traffic-control device that is used to warn and guide the public using the highway to merge shall be located in advance of the highway construction or

maintenance area in accordance with the standards set forth in the most current edition of the Federal Highway Administration's Manual on Uniform Traffic Control Devices.

Whenever any traffic-control device requires traffic to merge due to the closure of a section or lane of highway, the merge shall be completed:

1. As soon as practicable after passing the traffic-control device; and
2. Without passing any other traffic proceeding in the same direction.

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

F. Nothing in this section shall relieve the Nation, the state, or respectively, any of its contractors, agents, servants or employees from liability for failure to perform any of the duties imposed herein.

G. Any person who violates any provision of this article shall be guilty of a crime and upon conviction thereof shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment for a term not to exceed thirty (30) days, or both such fine and imprisonment, and shall be liable for any damage to property, or injury to or death to persons caused by such violations. In addition, the court may order restitution in an amount equal to the actual costs of the emergency response and repair or replacement of any damaged or lost emergency equipment.

H. When any section of a highway, turnpike, county road or city street has been closed to traffic due to flooding that is ongoing and traffic-control devices or barricades have been erected by law enforcement or other government officials with authority over traffic control, it shall be unlawful for any person to tear down, damage or remove any traffic-control devices or barricades or drive any vehicle through, under, over or around the traffic-control devices or barricades, or otherwise to enter the closed area. Any person who violates the provisions of this subsection shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00). The person shall be guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00) and imprisonment in the county jail for not more than one (1) year if the operator of the motor vehicle was transporting a person eighteen (18) years of age or younger at the time of the violation.

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

Historical Data

LA 2-91, eff. February 9, 1991. Amended LA 02-21, eff. January 11, 2021.