

Bill as Introduced

SB 530 - AS AMENDED BY THE SENATE

02/19/04 0430s

2004 SESSION

04-3262
06/10

SENATE BILL **530**

AN ACT relative to the duties of public safety responders and the expeditious clearance of a roadway.

SPONSORS: Sen. Kenney, Dist 3; Sen. Morse, Dist 22; Sen. Below, Dist 5; Sen. Flanders, Dist 7; Sen. Martel, Dist 18; Rep. Packard, Rock 75; Rep. Letourneau, Rock 77

COMMITTEE: Transportation

ANALYSIS

This bill:

- I. Provides authority for the prompt clearance of roadways in emergencies.
- II. Establishes the duties of a motorist approaching a highway emergency or blockage.
- III. Requires motorists to avoid blocking roadways whenever possible.
- IV. Requires drivers of vehicles involved in an accident to move the vehicle to an untraveled portion of the highway if possible.

This bill is a request of the department of safety.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Four

AN ACT relative to the duties of public safety responders and the expeditious clearance of a roadway.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Firefighters and Fire Hazards; Expeditious Clearance of Roadways. Amend RSA
2 154 by inserting after section 7-a the following new section:

3 154:7-b Expeditious Clearance of Roadways. Subject to the authority and limitations granted in
4 RSA 154:7, I(c) with respect to a propelled vehicle accident, natural disaster, or special event
5 occurring in or immediately adjacent to a state highway, the fire officer in charge, or if the incident is
6 not within the purview of the fire department, the police officer in charge and all public safety
7 responders shall coordinate their efforts to maintain incident area safety and security, including
8 protection of responders to the incident, protection of roadway users and others at the incident site,
9 movement of road users safely past, around, or away from the incident, reduction of the likelihood of
10 secondary crashes, and expeditious clearance of the roadway.

11 I. The fire chief, or in the fire chief's absence the engineer or fire officer in charge, or if the
12 incident is not within the purview of the fire department, the police officer in charge, shall as early
13 as practicable in the response, seek the assistance of law enforcement, emergency medical services,
14 towing and recovery services, the department of transportation, and if applicable, the department of
15 environmental services and the department of health and human services, to effectuate the purposes
16 of this section, and such agencies and individuals may provide such assistance as requested.

17 II. Police officers at the scene may treat any vehicle that is obstructing traffic as abandoned
18 for the purposes of RSA 262:31 through RSA 262:40-c, and may order its immediate removal, with or
19 without the consent of the owner or operator. Any spilled cargo or other property obstructing traffic
20 may be treated as a vehicle for the purposes of RSA 262:32 through RSA 262:37, and may be subject
21 to immediate removal with or without the consent of the owner or carrier.

22 III. Government agencies responding to such incident, including but not limited to law
23 enforcement, firefighting, emergency medical services, hazardous materials teams, transportation
24 agencies, environmental agencies, and other emergency government responders and their agents
25 exercising the incident clearance functions described in this section, shall be exempt from liability for
26 damages resulting from such actions taken pursuant to incident clearance, including those resulting
27 from incident detection and verification, area security and protection, rescue of persons from vehicles
28 and hazardous environments, emergency medical transportation and care, hazardous materials
29 response and containment, fire suppression and elimination, transportation of vehicle occupants,

1 traffic direction and management including the establishment and operation of alternate routes and
2 detours, crash investigation, dissemination of traveler information, temporary roadway repair and
3 facilities restoration, removal of vehicles and cargo, provided such actions are taken without willful
4 or wanton disregard or gross negligence, and occur at the direction of the fire or police officer in
5 charge.

6 IV. Notwithstanding other provisions of law to the contrary, any agency, person or
7 organization incurring the cost of removing vehicles or cargo, or both, at such an incident, if such
8 removal is authorized by the fire or police officer in charge, shall have the right to compensation for
9 the cost of such removal from the owner or owners of the vehicles.

10 2 New Sections; Motorist Duties When Approaching Highway Emergencies or Blockages and
11 Avoidance of Lane Blockage. Amend RSA 265 by inserting after section 37 the following new
12 sections:

13 265:37-a Motorist Duties When Approaching Highway Emergencies. When in or approaching an
14 incident involving a fire, collision, disaster, or other emergency resulting in partial or complete
15 blockage of a highway, or a location where a police officer has made a traffic stop, every driver other
16 than the driver of an emergency response vehicle, shall:

17 I. Maintain a reduced speed.

18 II. Obey the directions of any authorized person directing traffic and of all applicable
19 emergency signals and traffic control devices.

20 III. Vacate as soon as possible any lane wholly or partially blocked.

21 IV. Give a wide berth without endangering oncoming traffic, to public safety personnel and
22 any persons in the roadway.

23 265:37-b Avoidance of Lane Blockage.

24 I. No person shall stop or park a vehicle in such manner as to impede or render dangerous
25 the use of the roadway by others, except to avoid a collision, or at the direction of an authorized
26 official, or in the event of a mechanical breakdown.

27 II. In the event of a mechanical breakdown, the hazard flashers of such vehicle shall be
28 activated if so equipped and in working order.

29 III. If a vehicle stopped in the roadway is movable and its driver is capable of moving it, the
30 driver shall immediately move the vehicle to the shoulder or to another safe area off of the traveled
31 portion of the roadway.

32 IV. A law enforcement officer or the incident commander at an incident involving a fire,
33 collision, or other emergency may order the removal of a vehicle that is impeding emergency
34 operations or impeding expedited restoration of traffic flow at the owner's expense.

35 3 New Section; Expedited Clearance of Roadways at Accident Scenes. Amend RSA 264 by
36 inserting after section 25 the following new section:

SB 530 - AS AMENDED BY THE SENATE

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1 264:25-a Expedited Clearance of Roadways at Accident Scenes. Notwithstanding the
2 requirements imposed by RSA 264:25, the driver of a vehicle who has been involved in an accident
3 on the traveled portion of the roadway, shall move such vehicle from the traveled portion to an
4 untraveled area if it is possible to move such vehicle without risk of further damage to property or
5 injury to persons.

6 4 Effective Date. This act shall take effect January 1, 2005.

Amendments

Rep. Letourneau, Rock 77
April 12, 2004
2004-1136h
06/09

Amendment to SB 530

1 Amend the bill by inserting after the enacting clause the following and renumbering the original
2 sections 1-4 to read as 2-5, respectively:

3

4 1 Statement of Intent. It is the intent of the legislature to facilitate, as rapidly as practical,
5 clearance of roadways during traffic collisions, natural disasters, special events, and other
6 emergencies, to the extent that this may be accomplished without endangering emergency
7 responders or the public and without destroying criminal evidence. The legislature finds that
8 roadway clearance will be improved through the use of principles of the national interagency
9 incident command system and by fostering coordination, cooperation, and the use of a unified
10 command among police agencies, fire departments, emergency medical response units, departments
11 of transportation and other public and private entities that respond to such situations.

12

13 Amend RSA 154:7-b, II as inserted by section 2 of the bill by replacing it with the following:

14

15 II. Police officers at the scene may treat any non-emergency vehicle that is obstructing
16 traffic as abandoned for the purposes of RSA 262:31 through RSA 262:40-c, and may order its
17 immediate removal, with or without the consent of the owner or operator. Any spilled cargo or other
18 property obstructing traffic may be treated as a vehicle for the purposes of RSA 262:32 through RSA
19 262:37, and may be subject to immediate removal with or without the consent of the owner or
20 carrier.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON TRANSPORTATION

PUBLIC HEARING ON SB 530

BILL TITLE: relative to the duties of public safety responders and the expeditious clearance of a roadway.

DATE: March 10, 2004

LOB ROOM: 203 **Time Public Hearing Called to Order:** 10:55 A.M.

Time Adjourned: 11:20 A.M.

(please circle if present)

Committee Members: Reps. Packard, J. Flanders, Bergeron, G. Katsakiores, Bartlett, Kobel, Letourneau, Artz, Dewhirst, Moshe, M. Allen, Hollinger, Scanlon, J. Sullivan, P. Cote, Haley, Ferland, Casey, Creteau and Rollo.

Bill Sponsors: Sen. Kenney, Morse, Below, Flanders, Martel, Rep. Packard and Letourneau

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Letourneau – introduced SB 530 and spoke about a change on line 20, two words were removed “as possible”.

Assistant Commissioner Earl Sweeney of Department of Safety – testified in support of SB 530 and read testimony to the committee and talked about putting a Sub Committee together.

Q: Rep. Bartlett – about the other sates with signage.

A: If this bill passes we will look at that.

Q: Rep. Ferland – for clarification.

A: To clear the roadway to prevent second accident, or more.

Q: Rep. Katsakiores – about liability?

A: That’s correct.

Q: About towers?

A: There are other sections in the bill to cover your concerns.

Q: About driving into scene and be told to move and get into another accident.

A: We could look into that in Sub Committee.

Q: Rep. Bartlett – about marking vehicles and about the courts?

A: It depends on the court and the courts do get invited to classes on these types of issues.

Russ McCleery of the N. H. Towing Association – testified in favor of SB 530.

Q: Rep. Bartlett – about towers getting to the scene early and having to wait.

A: He will bring it up with the President of Towing Association.

Q: Rep. Katsakiores – Are towns that have agreements with towers exempt from liability?

A: It depends on the town.

Respectfully Submitted:


Jean-Guy J. Bergeron, Clerk

HOUSE COMMITTEE ON TRANSPORTATION

PUBLIC HEARING ON SB 530

BILL TITLE: relative to the duties of public safety responders and the expeditious clearance of a roadway.

DATE: 3-10-2004

LOB ROOM: 203

Time Public Hearing Called to Order: 10:55

Time Adjourned: 11:20

(please circle if present)

Committee Members: Reps. Packard, J. Flanders, Bergeron, G. Katsakiores, Bartlett, Kobel, Letourneau, Artz, Dewhirst, Mosher, M. Allen, Hollinger, Scanlon, J. Sullivan, P. Cote, Haley, Ferland, Casey, Creteau and Rollo.

Bill Sponsors: Sen. Kennedy, Morse, Below, Flanders, Martel, Rep. Packard and Letourneau

Kennedy

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

called to order 10:55

Time adjourned 11:20

SB 530 Sen Kenney, Morse, Below, Flankon, Martel, Rep Packard
Letourneau

Rep Letourneau introduced SB 530 and spoke about a change on line 20 two words were removed "as possible". Assistant Commissioner Carl Sweeney of Dept. of Safety testified in support of SB 530 and read testimony to the committee; and talk about putting a sub Committee together.

Rep Bartlett Q about other states with signage Q if this bill passes we will look at that.

Rep Petland for clarification Q to clear the roadway, to prevent 2nd accident or more.

Rep Katsakores Q about liability Q that's correct Q about towers Q there are other sections in the bill to cover your concerns. Q about driving into seen and be told to move and get into another accident. Q We could look into that in sub committee.

Rep Bartlett Q about marking vehicles and about the courts Q it depends on the court and the courts do get invited to cases on these types of issues. Russ McCleery of the N.H. Rowing association testified in favor of SB 530.

Rep Bartlett Q about towers getting to the seen early and having to wait. Q We will bring it up with the President of Rowing association.

Rep Katsakores Q are towns that have agreements with towers exempt from liability Q It depends on the town.

Testimony



New Hampshire Department of Safety
Legislative Position Paper
 Submitted in behalf of Commissioner Richard M. Flynn

Bill Number and Subject: SB 530 – Expedited Clearance of Roadways

In favor () Opposed () Opposed in its present form ()
 Suggesting amendment () Amendment attached ()

A major problem has arisen in recent years, given the increased congestion on our highways, with clearing the road at the scene of wrecks and car fires, and with the safe passage of vehicles around police cars and motorists when the police make a traffic stop. This has risen to the level that the United States Department of Transportation's Federal Highway Administration has made it a national priority to enact legislation in every state to assist with rapid clearance, and to work with state and local police and fire departments, rescue squads and towing and recovery operators, to adopt policies and procedures to facilitate this.

Altogether too often these days, we find people stuck for hours in lines of traffic because the road is tied up with police cars, fire trucks, wreckers and other equipment investigating a wreck, handling a fuel spill or a spilt load on the road. Sometimes this leads to rear-end collisions way downstream from the incident, because vehicles driving at highway speeds suddenly come upon a line of stopped traffic.

This bill has been carefully crafted to help alleviate these situations, at the same time respecting the "turf" and responsibilities of the myriad of agencies and responders that must work together in these situations. Here is what the bill does:

1. It recognizes the authority and responsibility of the Fire Chief or ranking firefighter in charge at the scene of an incident to which the Fire Department has been called, as already spelled out in RSA 154:7 in any matter that is within the purview of the Fire Department, such as the rescue and rendering of emergency medical assistance to vehicle occupants, handling a spill of flammable or other hazardous materials, or a vehicle on fire. Police officers at the scene of such an incident are made responsible by RSA 154:7 to direct and control traffic and investigate any law violation that may have caused the incident. If the incident is not within the purview of the Fire Department, this bill puts the ranking Police Officer at the scene in charge.

2. It makes it clear that whichever person is in charge, Police or Fire, must as early as possible seek whatever other assistance he or she may need and get them rolling toward the scene, whether it be a tow truck, a backhoe or loader, the Department of Transportation, Environmental Services, an ambulance, or whatever other assistance is needed, so there will be minimal delay in getting them to the scene.

3. It allows police at the scene to tow any vehicle at the scene that is obstructing traffic, by treating it the same as an abandoned vehicle, and allows them to order its immediate removal if it is a hazard, with or without the owner's consent.
4. In the case of spilt cargo, it allows the police to treat the cargo just like a "vehicle" and obtain its removal if it is a hazard, without or without permission of the owner or carrier of the cargo.
5. It provides an exemption from liability for any government agency responding to the scene of a highway emergency, when exercising these clearance functions. It also exempts their "agents" which I believe is broad enough to cover, for example, a tow truck operator or someone called in with a backhoe to help clean up an incident scene, as long as their actions are taken without willful or wanton disregard or gross negligence, and occur at the direction of the fire officer or police officer in charge at the scene.
6. Tow truck operators and others who remove vehicles or cargo from the scene to clear an incident, can collect the cost of removal from the owner of the vehicle.
7. The bill also provides that any motorist when approaching a highway emergency scene or the scene of a police traffic stop resulting in partial or complete blockage of the highway, must drive at a reduced speed, obey the directions of any authorized persons directing traffic there and any emergency signal devices, get out of the blocked lane as soon as possible, and give as wide a berth as possible to any persons in the roadway.
8. The bill prohibits any person from stopping in a manner or place that impedes or makes dangerous the use of the highway for others, unless forced to do so by a breakdown or to avoid a collision; requires the use of four-way flashers on any vehicle that is broken down on the highway; requires any vehicle stopped in the roadway that is movable to be moved immediately to the shoulder or another safe area off the road; and allows the fire or police incident commander at the scene to order such a vehicle removed at the owner's expense if it is impeding emergency operations or restoration of traffic flow. This would require you, if you are involved in a minor accident and your vehicle is drivable, to pull the vehicle off the road while you are awaiting the police or other assistance, if you are able to do so without risk of further damage to property or injury to persons.

This bill was modeled after national model legislation and that from other states. It is a great step forward in preventing chain reaction collisions and in restoring traffic flow as soon as possible, and we recommend its passage.

Voting Sheets

HOUSE COMMITTEE ON TRANSPORTATION

EXECUTIVE SESSION on SB 530

BILL TITLE: relative to the duties of public safety responders and the expeditious clearance of a roadway.

DATE: April 15, 2004

LOB ROOM: 203

Amendments:

Sponsor: Rep. Letourneau OLS Document #: 2004 1136h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Letourneau

Seconded by Rep. Flanders

Vote: 12-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Letourneau

Seconded by Rep. Flanders

Vote: 12-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 12-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jean-Guy J. Bergeron, Clerk

HOUSE COMMITTEE ON TRANSPORTATION

EXECUTIVE SESSION on SB 530

BILL TITLE: relative to the duties of public safety responders and the expeditious clearance of a roadway.

DATE: 4-15-04

LOB ROOM: 203

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Letourneau*

Seconded by Rep. *Flanahan*

Vote: 12-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Letourneau*

Seconded by Rep. *Flanahan*

Vote: 12-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 12-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jean-Guy J. Bergeron, Clerk

TRANSPORTATION

Bill #: SB 530 Title: relative to the duties of public safety ^{Consent} responders and the expeditious clearance of a roadway.
 PH Date: 3 / 10 / 04 Exec Session Date: 4 / 15 / 04
 Motion: OTPA Letourneau & Flanders Amendment #: Flanders, 113 Cote

MEMBER	A	YEAS	A	NAYS
✓ Packard, Sherman A, Chairman	✓		✓	
- Flanders, John W, V Chairman	✓		✓	
Katsakiores, George N				
Bartlett, Gordon E				
- Kobel, Rudolph J	✓		✓	
- Letourneau, Robert J	✓		✓	
- Artz, Lawrence A	✓		✓	
- Bergeron, Jean-Guy J, Clerk	✓		✓	
Dewhirst, Glenn E				
- Mosher, William E	✓		✓	
- Allen, Mary M	✓		✓	
Hollinger, Jeffrey D				
Scanlon, Michael J				
Sullivan, Jeffrey A				
- Cote, Peter R	✓		✓	
Haley, Robert J				
- Ferland, Brenda L	✓		✓	
Casey, Kimberley S				
- Creteau, Irene T	✓		✓	
- Rollo, Deanna S	✓		✓	
	12		12	0

Committee Report

COMMITTEE REPORT

COMMITTEE: **Transportation**

BILL NUMBER: **SB 530**

TITLE: relative to the duties of public safety responders and the expeditious clearance of a roadway.

DATE: April 15, 2004

CONSENT CALENDAR YES NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT (Include Committee Vote)

This establishes the duties of a motorist approaching a highway emergency, or blockage and adds the requirement of motorists to avoid blocking highways whenever possible. Additionally, SB 530 requires drivers of vehicles involved in an accident to move the vehicle to an unraveled portion of the highway if possible. The amendment only adds two words to the statute, *non-emergency*, at the request of the fire chiefs to be clear that only non-emergency vehicles are subject to removal.

Vote 12-0.

Rep. Robert J. Letourneau
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

CONSENT CALENDAR

Transportation

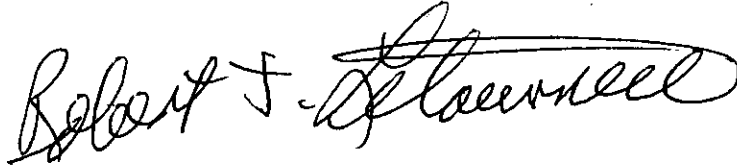
SB 530, relative to the duties of public safety responders and the expeditious clearance of a roadway.
OUGHT TO PASS WITH AMENDMENT

Rep. Robert J. Letourneau for Transportation: This establishes the duties of a motorist approaching a highway emergency, or blockage and adds the requirement of motorists to avoid blocking highways whenever possible. Additionally, SB 530 requires drivers of vehicles involved in an accident to move the vehicle to an unraveled portion of the highway -if possible. The amendment only adds two words to the statute, non-emergency, at the request of the fire chiefs to be clear that only non-emergency vehicles are subject to removal. **Vote 12-0.**

SB 530 provides authority for the prompt clearance of the roadway in emergencies. This establishes the duties of a motorist approaching a highway emergency or blockage and adds the requirement of motorists to avoid blocking highways whenever possible. Additionally SB 530 requires drivers of vehicles involved in an accident to move the vehicle to an unraveled portion of the highway if possible. The amendment only adds two words to the statute, *non-emergency*, at the request of the fire chiefs to be clear that only non-emergency vehicles are subject to removal.

Ought to pass as amended

Rep Robert J. Letourneau, for the committee

A handwritten signature in cursive script, appearing to read "Robert J. Letourneau". The signature is written in black ink and is positioned above the second signature.A handwritten signature in cursive script, appearing to read "S. J. P. [unclear]". The signature is written in black ink and is positioned below the first signature.

COMMITTEE REPORT

COMMITTEE: **Transportation**

BILL NUMBER: **SB 530**

TITLE: relative to the duties of public safety responders and the expeditious clearance of a roadway.

DATE: April 15, 2004

CONSENT CALENDAR YES NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT (Include Committee Vote)

This establishes the duties of a motorist approaching a highway emergency, or blockage and adds the requirement of motorists to avoid blocking highways whenever possible. Additionally, SB 530 requires drivers of vehicles involved in an accident to move the vehicle to an unraveled portion of the highway if possible. The amendment only adds two words to the statute, *non-emergency*, at the request of the fire chiefs to be clear that only non-emergency vehicles are subject to removal.

Vote 12-0.

Rep. Robert J. Letourneau
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT