

# Bill as Introduced

SB 530 - AS INTRODUCED

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

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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.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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,  
30 traffic direction and management including the establishment and operation of alternate routes and

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

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

9 2 New Sections; Motorist Duties When Approaching Highway Emergencies or Blockages and  
10 Avoidance of Lane Blockage. Amend RSA 265 by inserting after section 37 the following new  
11 sections:

12 267:37-a Motorist Duties When Approaching Highway Emergencies. When in or approaching an  
13 incident involving a fire, collision, disaster, or other emergency resulting in partial or complete  
14 blockage of a highway, or a location where a police officer has made a traffic stop, every driver other  
15 than the driver of an emergency response vehicle, shall:

16 I. Maintain a reduced speed.

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

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

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

22 267:37-b Avoidance of Lane Blockage.

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

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

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

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

34 3 New Section; Expedited Clearance of Roadways at Accident Scenes. Amend RSA 264 by  
35 inserting after section 25 the following new section:

36 264:25-a Expedited Clearance of Roadways at Accident Scenes. Notwithstanding the  
37 requirements imposed by RSA 264:25, the driver of a vehicle who has been involved in an accident

**SB 530 - AS INTRODUCED**

**- Page 3 -**

1 on the traveled portion of the roadway, shall move such vehicle from the traveled portion to an  
2 untraveled area if it is possible to move such vehicle without risk of further damage to property or  
3 injury to persons.

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

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

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9 movement of road users safely past, around, or away from the incident, reduction of the likelihood of  
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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,  
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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  
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1 traffic direction and management including the establishment and operation of alternate routes and  
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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:

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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  
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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  
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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:



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.

SB 530 - FINAL VERSION

02/19/04 0430s  
29Apr2004... 1136h  
05/06/04 1567eba

2004 SESSION

04-3262  
06/10

SENATE BILL **530**

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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

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

9           2 New Section; Firefighters and Fire Hazards; Expeditious Clearance of Roadways. Amend RSA  
10 154 by inserting after section 7-a the following new section:

11           154:7-b Expeditious Clearance of Roadways. Subject to the authority and limitations granted in  
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24 of this section, and such agencies and individuals may provide such assistance as requested.

25           II. Police officers at the scene may treat any non-emergency vehicle that is obstructing  
26 traffic as abandoned for the purposes of RSA 262:31 through RSA 262:40-c, and may order its  
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27 I. Maintain a reduced speed.

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29 emergency signals and traffic control devices.

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

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32 any persons in the roadway.

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35 the use of the roadway by others except to avoid a collision, at the direction of an authorized official,  
36 or in the event of a mechanical breakdown.

37 II. In the event of a mechanical breakdown, the hazard flashers of such vehicle shall be

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

5 IV. A law enforcement officer or the incident commander at an incident involving a fire,  
6 collision, or other emergency may order the removal of a vehicle that is impeding emergency  
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12 on the traveled portion of the roadway, shall move such vehicle from the traveled portion to an  
13 untraveled area if it is possible to move such vehicle without risk of further damage to property or  
14 injury to persons.

15 5 Effective Date. This act shall take effect January 1, 2005.

# Amendments

Amendment to SB 530

1 Amend the bill by replacing section 2 with the following:

2

3 2 New Sections; Motorist Duties When Approaching Highway Emergencies or Blockages and  
4 Avoidance of Lane Blockage. Amend RSA 265 by inserting after section 37 the following new  
5 sections:

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26 collision, or other emergency may order the removal of a vehicle that is impeding emergency  
27 operations or impeding expedited restoration of traffic flow at the owner's expense.

# Committee Minutes



# Transportation Committee

## Hearing Report

**To:** Members of the Senate

**From:** Liz Ignacio  
*Legislative Aide*

**Re:** **SB 530** – *AN ACT relative to the duties of public safety responders and the expeditious clearance of a roadway.*

**Hearing date:** February 11, 2004

**Members present:** Sen. Kenney, Sen. Morse, Sen. Below, Sen. Martel

**Members absent:** Sen. Flanders

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**Sponsor(s):** 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

**What the bill does:** This bill:

- I. Provides authority for the prompt clearance of roadways in emergencies.
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- 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

**Who supports the bill:** Sen. Kenney, Sen. Martel, Earl Sweeney: Assistant Commissioner of the Department of Safety

**Who opposes the bill:** No one spoke in opposition.

**Summary of testimony:**

- The Department of Safety requested SB 530 because in recent years they have seen an increasing number of problems with clearing the road at the scene of a car accident and with the safe passage of vehicles around police cars during routine traffic stops.
- The U.S. Department of Transportation's Federal Highway Administration has made it a national priority to enact legislation in every state addressing policies and procedures for rapid clearance following an accident.
- SB 530 was modeled after national model legislation.
- According to Earl Sweeney, this 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. Police officers at the scene of an accident are

responsible for directing traffic and investigating any law violation that may have caused the incident.

2. The bill clarifies that whichever person is in charge, Fire or Police, must call in necessary assistance of other emergency responders as quickly as possible to minimize the delay in response.
  3. It allows the police to tow any vehicle or cargo at the scene that is obstructing traffic.
  4. The bill provides an exemption from liability for any government agency or agent that respond to the scene of a highway emergency when participating in clearance functions.
  5. Tow truck operators and others that remove vehicles or cargo from the scene of an accident can collect the cost of removal from the owner of the vehicle.
  6. The bill prohibits any person from stopping in a manner or place that impedes or makes dangerous the use of the highway for others. Therefore any person involved in a minor accident, where their vehicle is still driveable, must pull their car off to the side of the road while waiting for assistance.
- SB 530 is a great step forward in preventing chain reaction collisions and in restoring traffic flow as quickly as possible following an accident.
  - Senator Below suggested two changes to clarify the intent of the bill. On page 2 lines 12 and 22 within Section 2 (a) and (b) the RSA must read 265 rather than 267:37-a. Senator Below also suggested changing Section 2 (a) IV to read "Give a wide berth..." vs. "Give as wide a berth as possible..."

**Funding:** No fiscal impact.

**Action:** The committee voted SB 530 Ought to Pass with Amendment 4-0. Senator Kenney will take the bill to the floor. The adopted Transportation Committee Amendment is #0430s.

ei  
[file: SB 530 report]  
Date: Feb. 13, 2004

dm

Date: February 11, 2004  
Time: 3:04 p.m.  
Room: Room 104, LOB

The Senate Committee on Transportation held a hearing on the following:

SB 530 relative to the duties of public safety responders and the expeditious clearance of a roadway.

Members of Committee present: Senator Kenney  
Senator Martel  
Senator Below  
Senator Morse

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The Chair, Senator Chuck Morse, opened the hearing and invited the prime sponsor, Senator Joseph Kenney.

Senator Joseph D. Kenney, D. 3: Thank you Mr. Chairman. For the record I'm Senator Joe Kenney of Senate District 3, representing 17 towns in Carroll County and Northern Strafford County.

Today I'm speaking before the Transportation Committee in support of SB 530, which is basically to outline the duties of public safety responders and the expeditious clearance of roadways. I think this is the time of year that most of us can appreciate better roadways because of the ice, snow and other factors. In the case of accidents that there's a lot of interruptions.

What this bill is really trying to clarify is the appropriateness of how someone would clear the roadways in the case of emergencies. Basically it's saying that whoever the motorist is when you're approaching a highway emergency or blockage area, how they should respond to that situation. It also requires motorists to avoid blocking roadways whenever possible. That might sound like it's common sense, but sometimes we have to put common sense into law.

It additionally requires drivers so that vehicles involved in an accident to then travel a portion of the highway if possible. A lot of times and this time of year it is not possible, but other times of the year it is.

*dm*

This bill is really introduced on behalf of the Department of Safety and with that I'll end here. I know that the Department of Safety is here and they can probably speak better to it. . . .

Senator Chuck Morse, D. 22: . . . Any questions for Senator Kenney?

Senator Joseph D. Kenney, D. 3: Thank you.

Senator Chuck Morse, D. 22: Mr. Sweeney.

Earl Sweeney: Thank you sir. For the record, Earl Sweeney, Assistant Commissioner of Safety representing Commissioner Flynn. We have been working with the Department of Transportation on this particular piece of legislation. I'm sure you've all had the experience of going down the road at a good clip and then all of a sudden everybody is stopped in front of you and it's a big parking lot and you're looking far enough ahead that you're able to stop. Then you look in your mirror and your heart's in your mouth because you see trucks and cars coming up behind you and just hope there isn't going to be a chain-reaction collision. You sit there sometimes for a long period of time and eventually the traffic inches ahead. You get down the road and keep wondering what held up traffic, but whatever it was is gone.

It's been a major problem in recent years with increased congestion on the highways to clear the road at the scene of a wreck or car fire and make sure there is a safe passage of vehicles around the police cars and motorists when the police make a traffic stop. There is a number of police officers been killed and motorists been killed at the scene; the traffic stops where cars run into the rear end of the stopped police car and push it into the vehicle that's stopped.

The U.S. Department of Transportation's Federal Highway Administration made it a national priority to try to get legislation in every state that would assist with rapid clearance of these road congestions. Also to work with the state and local police and fire departments, rescue squads and towing and recovery operators to adopt policies and procedures that would make it possible to do this. We find people stuck for hours in lines of traffic tied up with police cars and fire trucks, wreckers and other equipment investigating a wreck or handling a fuel spill or a spilt load on the road. Again this leads to rear-end collisions way downstream from the accident because people going the highway speed suddenly come upon the stopped traffic.

We put the bill together carefully to alleviate these situations at the same time respecting the turf and responsibilities of the agencies and responders

*dm*

that have to work together in these situations. It recognizes the authority and responsibility of the Fire Chief or the ranking firefighter in charge at the scene of an incident to which the fire department has been called because this is spelled out in RSA 154:7. Any matter that is within the purview of the Fire Department such as rescue and rendering of emergency assistance to occupants and their spill of flammable hazardous materials or a vehicle on fire. The police officers are responsible to direct and control traffic and investigate any law violation that might have caused the incident. The incident is not within the authority of the fire department. It puts the ranking Police Officer at the scene in charge.

It makes it clear that whichever person is in charge, Police or Fire, has to as early as possible seek whatever assistance they may need and get them rolling toward the scene. Whether it's a tow truck, backhoe, loader, the Department of Transportation, Environmental Services, an ambulance, whatever assistance is needed. Get them started right away so there will be a minimal delay getting them to the scene.

It allows the police to tow any vehicle at the scene that is obstructing traffic by treating it the same as it would an abandoned vehicle. It allows them to order its immediate removal if it is a hazard without the owner's consent.

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, with or without permission of the owner or carrier of the cargo.

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 they occur at the directions of the fire or police officer in charge at the scene.

It provides a tow truck operator and others who remove vehicles or cargo from the scene to clear an incident to collect the cost of removal from the owner of the vehicle or cargo.

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 has to 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 people who are in the roadway.

dm

It prohibits any person from stopping in a manner or place that impedes or makes dangerous the use of the highway for others, unless they're forced to do so by a breakdown or to avoid a collision. It requires the use of four-way flashers on any vehicle that is broken down on the highway. It requires any vehicle stopped in the roadway that is movable to be moved immediately to the shoulder or other safe area of the road and allows the fire or police incident commander at the scene to order the vehicle removed at the owner's expense if it is impeding emergency operations or restoration of traffic flow.

This would require me, for example, if I'm involved in a minor collision and my vehicle is drivable, to pull the vehicle off the road while I'm awaiting the police or other assistance if I can do it without risking further damage to property or injury to persons. It isn't necessary anymore to sit right there in the middle of the road for fender-bender accidents. The police can investigate it and determine what happened just as easily if the vehicle was moved off the road so the traffic can move.

This bill was pretty much modeled after the national model legislation and that from other states. We think it is a step forward in preventing chain reaction collisions and in restoring traffic flow as soon as possible and we do recommend that it be passed.

I'd be glad to answer any questions.

Senator Joseph D. Kenney, D. 3: Senator Martel?

Senator Andre Martel, D. 18: Thank you Mr. Chairman. I understand the hardships they go through and also having traffic back up on highways and the extreme danger of having that situation. In this day and age though where insurance companies are just looking for an out from paying a certain amount of damages, let's say for damages at an incident. How could the people who have had the accident then claim the responsibility and the damage if they move their vehicles out of the mainstream to the side of the road. Do they still cover that incident?

Mr. Sweeney: That's a question I can't answer Senator. I can try to find out. I can talk to the Insurance Commissioner and let's see if I can get an answer for you, but I don't know the answer.

Senator Andre Martel, D. 18: I didn't mean to be so long-winded, but as long as you understand...

dm

Mr. Sweeney: I understand the question, but I don't want to guess at the answer. I'd rather find out and get back to you.

Senator Andre Martel, D. 18: Thank you. I have a follow-up. That's not just considering traffic, motor vehicle accidents, but also it could be damage that is done because of let's say equipment that falls off a truck or out of a car?

Mr. Sweeney: Absolutely and more likely a spilled cargo, which usually occurs because of an accident. The cargo falls off and you got a load of sand or hazardous cargo or oil or something like that on the road that has to be cleaned up as soon as possible.

Senator Andre Martel, D. 18: Such as that piston that I went over this morning. Thank you very much.

Senator Joseph D. Kenney, D. 3: Senator Below?

Senator Clifton Below, D. 5: Thank you Mr. Chairman. Good afternoon Mr. Sweeney. Although I signed off on this bill I didn't pick up on it at the time. On Line 10 it says, amid RSA 265, and then at Line 12 and 22 it says 267. I think that is a typo. We are trying to amend 265.

Mr. Sweeney: Line 12? Yes definitely, it's a typo. I should have noticed that.

Senator Clifton Below, D. 5: That's one little question. The next is on Line 15 it refers to the driver of an emergency response vehicle. Just because I was working on some other legislation, in looking at definitions, I noticed emergency vehicle is a defined term in this statute, but emergency response vehicle is not. I'm wondering if either we should change it to emergency vehicle so it coincides with something that's defined in the statutes or if you'd care to elaborate on what the intent is of emergency response vehicle. If it's different than the statutory definition.

Mr. Sweeney: Yes, I would say it would be because an emergency vehicle is generally police, fire, ambulance, but the Highway Department might be part of the help to clear the blockage in which case they'd be the emergency response vehicle. Or the Department of Environmental Services might be there to clean up an oil spill or something like that in which case they would also be an emergency response vehicle. So we could insert in RSA 259 somewhere a definition of emergency response vehicle, but our intention was that any vehicle that responded there to help clear the scene at the request of the police or fire, whether it be a wrecker or it might even be Clean Harbors, the company that comes and cleans oil spills.

Senator Clifton Below, D. 5: That's helpful. So the intent is probably to include what's meant by emergency vehicles, which is all vehicles of fire departments, police departments, ambulances and emergency vehicles of municipal departments or public service corporations as authorized by the Director. Also other vehicles that might have come in an official capacity to respond to it, which could be a private vendor such as a tow company or somebody to clear power lines or, like you said, environmental clean-up or any number of things as long as it's a vehicle that's there to respond to the emergency in some kind of official capacity or in response to an official's request.

Mr. Sweeney: Exactly.

Senator Clifton Below, D. 5: That's helpful. My last question if I may, Mr. Chairman is Line 20 gave me a slight pause. It says "Give as wide a berth as possible without endangering oncoming traffic." I had this experience when I came up over a rise on 89 on a snowy day. I was going just a little under the speed limit, but I have good snow tires. There was an accident that occurred so there was emergency vehicles on the highway. I hit my brakes pretty hard to get down to a slow speed as I approached and the left lane was clear so they were putting traffic in the left lane, but there were people in the right lane and the right shoulder lane. I was debating in my mind whether to keep pulling over crossing the rumble strip, which would be a wide as possible. I could have crossed the rumble strip and put my left wheels near the edge or pavement or stay in the lane.

My thought was with the snowy conditions, it's safer to stay in the lane and go at a slow rate of speed than go as wide as possible. So I was just wondering if that because a violation of this will become a violation of the rules of the law or road if there's, perhaps, any reason to moderate "as wide as possible" and perhaps say "as wide as reasonably possible" or "as wide as possible and is reasonable" because I don't think you want to create a new danger by going wider than is really necessary.

Mr. Sweeney: Or you might just want to say "a wide berth without endangering oncoming traffic".

Senator Clifton Below, D. 5: Yeah, a wide berth. Yeah that's...

Mr. Sweeney: It's a common sense interpretation because I would agree with you. The intent is just to make sure. There have been instances where, for example, on the interstates you have people engaged in what they call



dusting; they try to drive so close to a trooper that they'll... the wind will knock his hat off and there's been troopers killed in different parts of the country by that. So what we want them to do is just give us as much room as they can because we're going to be standing outside the vehicle in the blocked lane or we might have a citizen who stopped to help direct traffic, which often happens. I would say probably if you just changed that to read "a wide berth without endangering the on-coming traffic". That would make it clear that you don't have to pull off into a gully or something.

Senator Clifton Below, D. 5: Okay, thank you.

Senator Joseph D. Kenney, D. 3: Thank you. Is there a law on the books against rubbernecking?

Mr. Sweeney: I'm afraid there isn't.

Senator Joseph D. Kenney, D. 3: That seems to me half the problem.

Senator Clifton Below, D. 5: That's sort of sixteen. Maintain a reduced speed as opposed to coming to a complete stop to watch what's going on.

Mr. Sweeney: If there were laws, Senator, I pray that my wife would make a citizen's arrest of me.


Senator Andre Martel, D. 18: The notation that Senator Below just made on RSA 265 on Line 10. You'd also want to replace, correct, what's on Line 12 and what's on Line 22 as well.

Senator Clifton Below, D. 5: 265 is the right RSA so Line 12 and 22 are what needs to be corrected.

Senator Andre Martel, D. 18: Thank you.

Senator Joseph D. Kenney, D. 3: Right, got it. Okay, thank you very much for your testimony, Deputy Commissioner. Is there anyone else who wishes to speak? If not, we'll go ahead and close the hearing on SB 530.

Hearing concluded at 3:30 p.m.

Respectfully submitted,  
  
 Dorothy McDonnell  
 Senate Secretary  
 May 6, 2004

# Speakers



# 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 ( x ) Opposed ( ) Opposed in its present form ( )  
Suggesting amendment ( ) Amendment attached ( )

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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 spill 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

# Senate Transportation Committee

## EXECUTIVE SESSION

Bill # 530

Hearing date: 2-11-04

Room: LOB 104

Executive session date: 2-11-04

Motion of: OTPIA

VOTE: 4-0

Made by Kenney   
Senator: Morse   
Below   
Flanders   
Martel

Seconded Kenney   
by Senator: Morse   
Below   
Flanders   
Martel

Committee Member

Present

Reported out by

Senator Kenney, Chairman

Senator Morse, Vice Chair

Senator Below

Senator Flanders

Senator Martel

*Sen Kenney*

\*Amendments:

NOTES:



# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: February 12, 2004

THE COMMITTEE ON Transportation

to which was referred Senate Bill 530

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

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS WITH THE FOLLOWING AMENDMENT**

BY A VOTE OF:    4-0

AMENDMENT # 2004-0430s

Senator Joseph D. Kenney  
For the Committee

[Home](#)[Bill Status](#) ◆[Members](#) ◆[Calendars/Journals](#) ◆[Miscellaneous](#) ◆

# SB530 Docket

[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)

**Bill Title:** relative to the duties of public safety responders and the expeditious clearance of a roadway.

<u>Date</u>	<u>Body</u>	<u>Description</u>
1/29/2004	S	Introduced and Referred to Transportation; SJ 3, Pg.54
2/5/2004	S	Hearing; February 11, 2004, Room 104, LOB, 3:00 p.m.; SC6
2/12/2004	S	Committee Report; Ought to Pass with Amendment{0430} [02/19/04]; SC7, Pg.18-19
2/19/2004	S	Committee Amendment{0430}, AA, VV; SJ 6, Pg.107
2/19/2004	S	Ought to Pass as Amended{0430}, MA, VV; OT3rdg; SJ 6, Pg.107
2/19/2004	S	Passed by 3rd Reading Resolution; SJ 6, Pg.108
2/19/2004	H	Introduced and ref to Transportation; HJ 20, p 855
3/3/2004	H	Hearing Mar 10 10:45 RM203,LOB
4/15/2004	H	Maj Report OTP/AM for Apr 29 (vote 12-0;CC)
4/15/2004	H	Prop Comm Am{1136}; HC 30, p 1220
4/29/2004	H	Passed with Am; HJ 33, p 1357 + 1383
5/6/2004	S	Sen. Kenney Moved to Concur with House Amendment{1136}, MA, VV; SJ 15, Pg.444
5/13/2004	H	Enrolled Am{1567}, Adopted; HJ 39, p 1555
5/19/2004	S	Enrolled Bill Amendment{1567}, Adopted [05/06/04]
5/21/2004	S	Enrolled [05/06/04]

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[Docket Abbreviations](#)

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# COMMITTEE REPORT FILE INVENTORY

SB530 ORIGINAL REFERRAL

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- HEARING TRANSCRIPT (Verbatim transcript of hearing)  
List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: \_\_\_\_\_
- SIGN-UP SHEET

**ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:**

- AMENDMENT # 04305                      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_\_ - AMENDMENT # \_\_\_\_\_                      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

**ALL AVAILABLE VERSIONS OF THE BILL:**

- AS INTRODUCED                      \_\_\_\_\_ AS AMENDED BY THE HOUSE  
 FINAL VERSION                       AS AMENDED BY THE SENATE

- PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: a, \_\_\_\_\_

- EXECUTIVE SESSION REPORT

\_\_\_\_\_ OTHER (Anything else deemed important but not listed above):

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COMMITTEE SECRETARY