

CHAPTER 193

SB 530 – FINAL VERSION

02/19/04 0430s

29Apr2004... 1136h

05/06/04 1567eba

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.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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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:*

193:1 Statement of Intent. It is the intent of the legislature to facilitate, as rapidly as practical, clearance of roadways during traffic collisions, natural disasters, special events, and other emergencies, to the extent that this may be accomplished without endangering emergency responders or the public and without destroying criminal evidence. The legislature finds that roadway clearance will be improved through the use of principles of the national interagency incident command system and by fostering coordination, cooperation, and the use of a unified command among police agencies, fire departments, emergency medical response units, departments of transportation and other public and private entities that respond to such situations.

193:2 New Section; Firefighters and Fire Hazards; Expeditious Clearance of Roadways. Amend RSA 154 by inserting after section 7-a the following new section:

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

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

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

III. Government agencies responding to such incident, including but not limited to law enforcement, firefighting, emergency medical services, hazardous materials teams, transportation agencies, environmental agencies, and other emergency government responders and their agents exercising the incident clearance functions described in this section, shall be exempt from liability for

damages resulting from such actions taken pursuant to incident clearance, including those resulting from incident detection and verification, area security and protection, rescue of persons from vehicles and hazardous environments, emergency medical transportation and care, hazardous materials response and containment, fire suppression and elimination, transportation of vehicle occupants, traffic direction and management including the establishment and operation of alternate routes and detours, crash investigation, dissemination of traveler information, temporary roadway repair and facilities restoration, and removal of vehicles and cargo, provided such actions are taken without willful or wanton disregard or gross negligence, and occur at the direction of the fire or police officer in charge.

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

193:3 New Sections; Motorist Duties When Approaching Highway Emergencies or Blockages and Avoidance of Lane Blockage. Amend RSA 265 by inserting after section 37 the following new sections:

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

I. Maintain a reduced speed.

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

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

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

265:37-b Avoidance of Lane Blockage.

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

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

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

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

193:4 New Section; Expedited Clearance of Roadways at Accident Scenes. Amend RSA 264 by inserting after section 25 the following new section:

264:25-a Expedited Clearance of Roadways at Accident Scenes. Notwithstanding the

requirements imposed by RSA 264:25, the driver of a vehicle who has been involved in an accident on the traveled portion of the roadway, shall move such vehicle from the traveled portion to an untraveled area if it is possible to move such vehicle without risk of further damage to property or injury to persons.

193:5 Effective Date. This act shall take effect January 1, 2005.

(Approved: June 1, 2004)

(Effective Date: January 1, 2005)