

December 23, 2005

TO: Richard Platkin, Counsel to the Governor
FROM: Steven J. Hewitt, Director, Office of Governmental Affairs
SUBJECT: 2006 DOT Legislative Proposal #02-06

1. **Purpose:**

This proposal would improve safety and facilitate the mobility of the traveling public by providing for more rapid movement of vehicles and debris from the roadways. Under this proposal, a broader range of responders would be allowed to cause the removal of vehicles, cargo, and debris from the roadway to aid in "Quick Clearance" of the traffic lanes. In addition, the proposal would make provisions for drivers, when the vehicle is involved in a minor accident or becomes disabled, to move the vehicle from the roadway. This portion of the bill is referred to as "move it".

2. **Summary of provisions:**

Section 1 of this proposal would amend the Highway law to expand the categories of responders who can cause the removal of a vehicle left unattended for more than 24 hours within the right of way of any state highway or any other public property. This section would also amend the Highway law to expand the categories of responders to a traffic accident who are allowed to cause the immediate removal of vehicles, cargo, and debris from the roadway

Section 2 would provide that a driver of an automobile is not considered to have left the scene of an accident when that driver causes the removal of a vehicle involved in an accident from the roadway to avoid obstructing traffic, provided the driver remains in the general vicinity of the accident.

Section 3 would instruct the driver of a vehicle that is in a traffic accident or becomes disabled to move the vehicle from the roadway, provided there is no serious injury or death, and that doing so does not cause additional risk or injury. Moving of the vehicle would not imply that there were no injuries and would not cause the driver to be considered liable or at fault solely by reason of the vehicle being moved. Moving a vehicle as required in this section would not relieve the investigating officer from filing any reports otherwise required.

3. **Existing law:**

§ 15 of the Highway Law grants the commissioner of transportation the power to cause the removal and disposition of any vehicle left unattended for more than 24 hours within

the right of way of a state highway or any other public property under his jurisdiction. The commissioner of transportation also has the power to cause the immediate removal, from the right of way of any state highway, any vehicle that obstructs or interferes with the use of such highway; or which interferes with the removal of snow or ice, construction, reconstruction, maintenance of the highway. This section also applies in the event of a public emergency.

§600 of the Vehicle & Traffic Law requires drivers involved in an accident causing injury or damage to real property to stop, and sets out minimum requirements for drivers involved in a motor vehicle accident such as exhibiting of drivers license and insurance information. This section requires that vehicle operators report these accidents to the police either at the scene or as soon as physically possible. Finally, this section provides for punishment for failure to meet those requirements.

§ 1200 of the Vehicle & Traffic Law establishes basic rules for stopping, standing, and parking.

4. **Legislative history:**

5. **Statement in support:**

This proposal would maintain a safe roadway for the traveling public and lessen the negative economic impacts of traffic incidents to motorists and shippers not directly involved in the incident.

The longer an incident remains on the roadway, the more likely there is to be a secondary incident, increasing the risk of death or serious personal injury to the public and emergency responders. In addition, other users of the highway system lose time and money sitting in back ups, with the cost of these losses ultimately passed on to all consumers. Quick clearance and move-it actions go hand in hand to assist in overall incident management. By clarifying the legal role of incident responders, it is more likely that the necessary steps will be taken at an incident scene to clear the road in a safe and timely manner.

Removal of a vehicle from the roadway is an important step drivers themselves can take to avoid secondary incidents and congestion, but they must be empowered by law to do so.

Nearly half of the states in the nation have enacted "move-it" laws that encourage or require drivers to move their vehicles out of the roadway if involved in a non-injury crash. This is because moving/clearing vehicles involved in such crashes saves lives, reduces congestion, and improves travel.

The National Highway Traffic Safety Administration (NHTSA) reports that of the 6.3 million highway crashes in 2002, 4.3 million were property damage only, 1.9 million were personal injury crashes, and 38,491 crashes resulted in one or more fatalities. In other words, for as many as two thirds of the nation's auto crashes, it is possible that vehicles could be immediately moved out of the travel lanes onto the shoulder, preventing secondary accidents, and reducing the duration and extent of traffic congestion caused by the crash. Estimates vary from 15% to over 30% of the crashes on freeways are secondary to other incidents that may be minor. This is why it is essential to move minor incidents—even minor crashes—from the roadway as quickly as possible to reduce the possibility of secondary incidents.

As is current practice, the Department would continue to work closely with the State Police on all issues associated with vehicle accidents and highway safety.

6. **Possible objections:**

Commercial vehicle operators may object to the removal of their cargo from the roadway. The insurance industry may have concerns about moving vehicles from the scene of an accident before the arrival of police.

7. **Other State agencies interested:**

State Police, Thruway Authority, Department of Environmental Conservation, Department of Agriculture and Markets, Port Authority of New York & New Jersey, MTA Bridges & Tunnels, Bridge Authority

8. **Known position of others:**

9. **Budget implications:**

This proposal has the potential to produce savings from reduced congestion and fewer secondary accidents.

There will be some expense associated with the education of the public regarding these changes.