

Incident Responders' Safety Model Law

The purpose of section 1(a) is to establish the somewhat conflicting aims of incident management: protection of people and property at the scene and maintenance of traffic flow. (Note: if traffic flow is not maintained, traffic queues quickly occur, which often lead to secondary and tertiary crashes.) Subsection (b) mandates incident management planning and suggests agencies to be involved in such planning.

Incident Management Traffic Control Purposes and Planning

Section 1.

(a) The primary purposes of temporary traffic control at an incident area are maintenance of incident area safety and security, including:

Protection of responders to the incident;

Protection of roadway users and others at incident site;

Movement of road users safely past, around or away from the incident;

Reduction of the likelihood of secondary crashes;

Expeditious clearance of the roadway;

Protection of vehicles and cargo at the incident. (b) In order to reduce incident management response time, highway, public safety and other involved agencies should plan for effective management of temporary traffic control in incident areas. Effective **incident management is the** planned and coordinated multi-agency program to detect and remove incidents, and to restore traffic capacity as quickly and safely as possible. The major partners in an incident management program are transportation agencies (state and local), law enforcement agencies (state and local), firefighting departments, emergency medical services, and the towing and recovery industry. Other groups such as environmental and public health agencies also may be involved, depending on the nature of the incident. Current and accurate traveler information is another important element of an incident management program.

The purpose of section 2 is to provide ultimate authority and responsibility to the incident commander identified pursuant to statute, regulation, or local established practice, and to require the incident commander to use a unified command system.

Section 2. Incident Commander

Incident management shall be the responsibility and authority of the incident commander. Identification of the incident commander shall be done according to statute, regulation or local practice. In exercising his or her authority, the incident commander shall use a unified command system.

Section 3 authorizes but does not require the establishment of an ongoing incident Management Committee to recommend additional operational rules and guidelines for handling emergency incidents. Jurisdictions that do not wish to establish such a committee should delete this section.

Section 3. Incident Management Committee

(a) A Incident Management Committee may be established by the () to maintain and enhance the effectiveness of managed resources involved in responses to incidents, and as needed to recommend operational rules or guidelines for mitigating the impacts of such incidents.

(b) The Committee shall consist of but is not limited to one or more representatives of the following:

The state police, highway patrol or a local law enforcement agency.

The state and county departments of transportation (or Highways);

A firefighting agency;

An emergency medical services agency;

The state and county departments of environmental control;

The towing and recovery industry;

Section 4 defines incident management authority established by this model and defines when it begins and terminates.

Section 4. Incident Management Authority

Incident management involves the rapid application of traffic control measures in areas affected by an incident. Incident management authority authorized by this Act commences whenever a responder arrives at the incident. It terminates whenever the incident commander declares the incident terminated.

Section 5 provides liability protection to responding agencies and their personnel when incident clearance functions authorized by section 5 are exercised with reasonable care at the direction of the incident commander.

Section 5 Liability Protection for Authorized Incident Clearance Functions

Governmental agencies responding to incidents, including but not limited to law enforcement, firefighting, emergency medical services, hazardous materials, transportation agencies and other emergency governmental responders are authorized to exercise the incident clearance functions enumerated in this section. If such functions are exercised with reasonable care and at the direction of the incident commander, those governmental agencies and their personnel and other designated representatives are insulated from liability resulting from such actions taken pursuant to incident clearance, including:

Incident detection and verification;

Incident 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, and establishment and operation of alternate routes, including but not limited to traffic detours and/or diversion;

Crash investigation;

Dissemination of traveler information;

Incident clearance, including removal of debris, coordination of clearance and repair resources, and temporary roadway repair and facilities restoration;

Removal of vehicles and cargo;

Any other actions reasonably necessary.

(b) When directed by the incident commander, towing and recovery service providers are authorized to perform the following enumerated functions, and any other actions reasonably necessary to perform those enumerated functions;

Removal of vehicles from the incident area;

Protection of property and vehicles:

Removal of debris from the roadway;

Transportation of persons or cargo.

Section 6 provides that the owner (or owners) of vehicles removed from an incident site at the direction of the incident commander (or the owner or owners of vehicles whose cargo was removed from the incident site at the direction of the incident commander), shall be liable for such removal costs.

Section 6. Compensation for Incident Removal Costs

Notwithstanding any other law or regulation, any agency, person or organization incurring the cost of removing vehicles and/or cargo at an incident, if such removal is authorized by the traffic incident commander, shall have the unqualified right to compensation for the cost of such removal from the owner (or owners) of:

The vehicles removed; and/or

The vehicles whose cargo was removed in whole or in part.

Section 7 established the duties of the driver when approaching an incident (which is an emergency road user occurrence, a natural disaster, or a special event.) Subsection (a) requires drivers approaching an incident to maintain a speed no greater than reasonable or prudent under the conditions, including actual and potential hazards then existing. Subsection (b) requires every driver approaching an incident area (which is an area of highway where authorized officials impose a temporary traffic control zone in response to a road user incident, natural disaster or special event) to obey the directions of any authorized official directing traffic and all applicable traffic control devices. Subsection (c) requires drivers approaching an incident area to slow down and vacate any lane wholly or partially blocked. Subsection (d) provides for a mandatory license suspension for a violation of section 7.

Section 7. Road User Duties Approaching Incidents

When in or approaching an incident, every driver shall maintain a speed no greater than is reasonable and prudent under the conditions, including actual and potential hazards then existing.

When in or approaching an incident area, every driver shall obey the directions of any authorized official directing traffic and all applicable traffic control devices.

Except for emergency vehicles in the incident area, when in or approaching an incident area every driver shall reduce speed and vacate any lane wholly or partially blocked.

If a violation of this section results in a serious injury or death to another person, in addition to any other penalty imposed by law, the violator's driver's license shall be suspended for a period of at least (180) days and not more than (2) years.

Section 8 contains provisions intended to avoid dangerous situations that could create incident-causing crashes or intensify traffic problems resulting from already-existing incidents. Subsection (a) prohibits dangerous stops; subsection (b) requires the emergency flashing lights to be activated when crashes or mechanical breakdowns occur; subsection (c) requires immediate removal of vehicles from the roadway, if possible; subsection (d) provides responders with authority to move or order the removal of a vehicle from the roadway; and subsection (e) provides authority to a law-enforcement officer or the incident commander to remove vehicles from the highway at the owner's expense.

Section 8. Avoidance of Lane Blockage -- Expedited Removal of Vehicles

(a) 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 collision, at the direction of an authorized official, or in the case of a crash or mechanical breakdown.

(b) In the event of a crash or mechanical breakdown, the emergency flashing lights of such vehicle shall be activated if the vehicle is equipped with such lights and such lights are in working order.

(c) 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 a designated area off the highway.

(d) A responder to an incident may move a vehicle remaining on the roadway, or require the driver or other person in charge of the vehicle to move it to the shoulder or a designated area off the highway.

(e) A law-enforcement officer or the incident commander may order the removal of any vehicle remaining on the highway at the owner's expense. The vehicle's location shall be reported to the nearest law-enforcement agency as soon as practicable.

Section 9 provides provide additional clearance guidelines covering incidents, including: subsection (a) -- guidance and control of road users through the incident area;

subsection (b) -- where possible, the use of traffic control devices to redirect the normal path of the road users; subsection (c) -- where possible, avoidance of queuing at highway-rail grade crossings; subsection (d)-- removal of temporary traffic control devices when the incident is over; and subsection (e) -- possible special rules for big trucks and hazardous carriers when traffic diversions or detours are required.

Section 9. Additional Incident Clearance Guidelines

An essential part of the management of incidents is the proper guidance and control of road users through the incident area.

When redirection of the road users' normal path is required, whenever practical traffic control devices shall be used to direct vehicles from the normal path to a new path.

When highway-rail grade crossings exist either within or in the vicinity of incident, lane restrictions or other measures taken should avoid conditions where vehicles may be forced to stop on the railroad tracks. If the queuing of vehicles across the tracks cannot be avoided, a law enforcement officer or other authorized official shall be provided at the crossing to prevent vehicles from stopping on the tracks, even if automatic warning devices are in place.

All temporary traffic control devices should be removed as soon as practical when the incident has been resolved.

If a incident requires establishment of a traffic diversion or detour, large trucks and vehicles carrying hazardous cargo may be required to follow a different route from other vehicles; or they may be required to park at a designated area off the highway until the roadway is open, until an escort can be provided, or until the incident commander otherwise directs.

Section 10 defines technical terms used in the model law.

Section 10. Definitions Section

"Authorized official" means any person authorized to direct traffic by a statute, a law enforcement officer or an incident commander.

"Designated area off the highway" means a crossroad, parking lot, or other area designated to park in until arrival of an investigating law enforcement officer.

"Detour" means a temporary rerouting of road users onto an existing highway in order to avoid a temporary traffic control zone.

"Diversion" means a temporary rerouting of road users onto a temporary highway or alignment placed around an incident area.

"Driver's license means any license to operate a motor vehicle issued under the laws of this state.

"Emergency vehicle" means any ambulance, fire, rescue or police vehicle or any other vehicle authorized by law, governmental regulation or local practice to respond to an emergency road user occurrence.

"Governmental incident responder" means any governmental agency or its designated representatives with authority to provide services at a incident, including but not limited to law enforcement, fire department, emergency medical services, hazardous materials and transportation agency personnel.

"Gross weight rating" means the combined weight of a vehicle and its maximum legal load.

Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Incident" means an emergency road user occurrence, a natural disaster, or a special event.

"Incident area" means an area of a highway where authorized officials impose a temporary traffic control zone in response to a road user incident, natural disaster or special event.

"Incident clearance" means the process of highway crash clearance and the removing of wreckage, debris, or any other matter that disrupts the normal flow of traffic, and the restoring the roadway capacity to its pre-incident condition. This process also may include temporary repair to the infrastructure.

"Incident commander" means an incident commander or the incident commander's designated representative.

"Large trucks means any truck with a gross weight rating in excess of 26,000 pounds.

"Responder" means any law enforcement, fire department, emergency medical services, hazardous materials, highway or transportation department, towing and recovery or any other organization authorized by law, governmental regulation, or local practice to respond to an incident.

"Response personnel" means law enforcement, fire department, emergency medical services, towing and recovery, and any other personnel authorized by law or local practice to respond to an incident.

"Roadway" means that portion of a highway improved, designed or ordinarily used for vehicle travel, exclusive of the sidewalk, berm, or shoulder even though such sidewalk, berm or shoulder is used by persons riding bicycles or other human-powered vehicles. In the event that a highway includes two or more separate roadways the term 'roadway' means any such roadway separately but not to all such roadways collectively.

"Security" means the protection of people and property in the incident area.

"Temporary traffic control zone" means an area of a highway where road user conditions are changed because of a work zone or an incident through the use of temporary traffic control devices, police, or other authorized officials.

"Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

"Vehicle" means every device in, upon, or by which any person or property can be transported or drawn upon a highway, except trains and light rail transit operating in exclusive or semi-exclusive alignments. Light rail transit operating in a mixed-use alignment, to which other traffic is not required to yield the right-of-way by law, is a vehicle.