
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2903 Session of
2004

INTRODUCED BY MCGILL, HARPER, BUNT, FICHTER, ROSS, LEACH,
MARSICO, WILT AND GEIST, OCTOBER 7, 2004

REFERRED TO COMMITTEE ON TRANSPORTATION, OCTOBER 7, 2004

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, defining "incident," "incident area," "incident
3 clearance," "responder" and "response personnel"; further
4 providing for accidents involving damage to attended vehicle
5 or property; providing for vehicles involved in accidents and
6 spilled cargo, for accident scene clearance, for immediate
7 custody and removal of vehicle constituting hazard, for road
8 user duties approaching incidents, for avoidance of lane
9 blockage and expedited removal of vehicles, for compensation
10 for incident removal costs and for liability for authorized
11 incident clearance functions; further providing for removal
12 of vehicles and spilled cargo from roadway; and establishing
13 the Incident Management Committee and providing for its
14 composition and duties.

15 The General Assembly finds and declares as follows:

16 Incident management involves the rapid application of traffic
17 control measures in areas affected by an incident, including an
18 emergency road user occurrence, natural disaster or other
19 special event. Incident management authority authorized by this
20 act commences whenever law enforcement, fire department,
21 emergency medical services or other authorized personnel arrive
22 at an incident area. The primary purposes of temporary traffic
23 control at an incident area are maintenance of incident area

safety and security, including:

(1) Protection of responders to the incident area.

(2) Protection of roadway users and others at incident site.

(3) Movement of road users safely past, around or away from the incident area.

(4) Reduction of the likelihood of secondary crashes.

(5) Expeditionary clearance of the roadway.

(6) Protection of vehicles and cargo at the incident area.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 102 of Title 75 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:
§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Incident." An emergency road user occurrence, a natural disaster or other special event.

"Incident area." An area of a highway where authorized officials impose a temporary traffic control zone in response to an incident.

"Incident clearance." The process of highway crash clearance and the removing of wreckage, debris or any other matter that disrupts the normal flow of traffic and restoring the roadway capacity to its preincident condition. The term includes

1 temporary repair to infrastructure.

2 * * *

3 "Responder." Any law enforcement, fire department, emergency
4 medical services, hazardous materials response team, highway or
5 transportation department, towing and recovery or any other
6 entity authorized by law, governmental regulation or local
7 practice to respond to an incident.

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

12 * * *

13 Section 2. Section 3743 of Title 75 is amended to read:

14 § 3743. Accidents involving damage to attended vehicle or
15 property.

16 (a) General rule.--

17 (1) The driver of any vehicle involved in an accident
18 resulting only in damage to a vehicle or other property which
19 is driven or attended by any person shall immediately stop
20 the vehicle at the scene of the accident or as close thereto
21 as possible but shall forthwith return to and in every event
22 shall remain at the scene of the accident until he has
23 fulfilled the requirements of section 3744 (relating to duty
24 to give information and render aid). Every stop shall be made
25 without obstructing traffic more than is necessary.

26 (2) The driver shall remove the vehicle from the
27 immediate confines of the roadway into a safe refuge on the
28 shoulder, emergency lane or median or to a place otherwise
29 removed from the roadway whenever, in the judgment of the
30 driver, such moving of a vehicle may be done safely and the

1 vehicle is capable of being normally and safely driven, does
2 not require towing and may be operated under its own power in
3 its customary manner without further damage or hazard to
4 itself, to the traffic elements or to the roadway.

5 (b) Penalty.--Any person violating [this section] subsection
6 (a)(1) commits a misdemeanor of the third degree, punishable by
7 a fine of \$2,500 or imprisonment for not more than one year, or
8 both. Any person violating subsection (a)(2) commits a summary
9 offense, punishable by a fine of \$50.

10 Section 3. Title 75 is amended by adding sections to read:
11 § 3743.1. Vehicles involved in accidents and spilled cargo.

12 (a) Policy statement.--The removal of vehicle collision
13 debris and cargo for the purpose of opening traffic lanes is a
14 higher priority than attempting to salvage portions of the
15 cargo.

16 (b) Applicability.--Notwithstanding any provision of law to
17 the contrary, this section applies to any vehicle traffic
18 accident which occurs on a freeway, limited access highway,
19 Pennsylvania Turnpike or toll bridge of this Commonwealth.

20 (c) Removal of vehicle and cargo.--Immediately following an
21 accident, a police officer may remove or direct removal of any
22 vehicle involved in the accident and any spilled cargo from any
23 roadway to a location off the roadway where the vehicle or
24 spilled cargo does not interfere with or obstruct traffic.

25 (d) Salvage operations.--Salvage operations when possible
26 should be scheduled during nonpeak hours of travel.

27 (e) Storage of cargo.--When in the opinion of a police
28 officer it is necessary to protect the contents, load or spilled
29 cargo of a wrecked vehicle from the elements, spoilage or theft,
30 the police officer may remove or direct the removal of the

contents or load or spilled cargo and have the same stored, at the expense of the owner, at the nearest practical place of storage.

(f) Liability for damage or loss.--In carrying out the provisions of this section, no liability shall attach to the police officer or, absent a showing of gross negligence, to any person acting under the direction of the police officer for damage to any vehicle or vehicles or damage to or loss of any portion of the contents or load or spilled cargo.

§ 3745.1. Accident scene clearance.

(a) General rule.--Notwithstanding any other provision of law to the contrary, the driver of any vehicle in an accident that does not result in apparent serious injury or death shall immediately remove the vehicle from the roadway to a safe refuge on the shoulder, emergency lane or median or to a place otherwise removed from the roadway whenever, in the judgment of the driver:

(1) The motor vehicle does not require towing and can be normally and safely driven under its own power in its customary manner without further damage or hazard to the motor vehicle, traffic elements or the roadway.

(2) The motor vehicle can be moved safely.

(b) Driver request.--The driver of a motor vehicle involved in a traffic accident may request any individual who possesses a valid driver's license to remove the vehicle from the roadway in order to comply with this section. The individual is not required to comply with the request and shall not be subject to any liability, either civil or criminal, for refusing the request.

(c) Police officer.--A police officer may immediately remove

1 or direct removal of a wrecked vehicle if the owner or operator
2 cannot remove the wrecked vehicle or refuses or fails to have
3 the vehicle removed as required under this section. In carrying
4 out the provisions of this subsection, no liability shall attach
5 to the police officer or, absent a showing of gross negligence,
6 to any person acting under the direction of the police officer
7 for damage to any vehicle or damage to or loss of any portion of
8 the contents of the vehicle.

9 (d) Liability.--The driver or any other person who has
10 removed a vehicle from the roadway as provided in this section
11 before the arrival of a law enforcement officer shall not be
12 considered liable or at fault regarding the cause of the
13 accident solely by reason of moving the vehicle pursuant to this
14 section.

15 (e) Other driver duties.--Compliance with this section shall
16 not affect a driver's duty to comply with any of the following:

17 Section 3742 (relating to accidents involving death or
18 personal injury).

19 Section 3743 (relating to accidents involving damage to
20 attended vehicle or property).

21 Section 3744 (relating to duty to give information and render
22 aid).

23 Section 3745 (relating to accidents involving damage to
24 unattended vehicle or property).

25 Section 3746 (relating to immediate notice of accident to
26 police department).

27 Section 3747 (relating to written report of accident by
28 driver or owner).

29 (f) Other police duties.--This section shall not relieve any
30 law enforcement officer of an investigating police department,

1 including the Pennsylvania State Police, from complying with
2 section 3746 or 3751 (relating to reports by police).

3 (g) Penalty.--Any person who violates this section commits a
4 summary offense and shall, upon conviction, be sentenced to pay
5 a fine of not more than \$300.

6 § 3745.2. Immediate custody and removal of vehicle constituting
7 hazard.

8 (a) General rule.--Notwithstanding any other provision of
9 law to the contrary, a police officer may immediately take
10 custody of a vehicle that is wrecked, disabled, abandoned,
11 parked or left standing unattended on a road or highway right-
12 of-way and that is in such a location as to constitute a hazard
13 or obstruction to motor vehicle traffic using the road or
14 highway.

15 (b) Definition.--As used in this section, the term "hazard
16 or obstruction":

17 (1) Includes, but is not limited to:

18 (i) Any vehicle that is parked so that any part of
19 the vehicle extends within the paved portion of the
20 travel lane.

21 (ii) Any vehicle that is parked so that any part of
22 the vehicle extends within the highway shoulder or
23 bicycle lane of:

24 (A) A freeway, limited access highway or
25 Pennsylvania Turnpike within the city limits of any
26 city in this Commonwealth during the hours of 7 a.m.
27 to 9 a.m. and 4 p.m. to 6 p.m.

28 (B) A freeway, limited access highway or
29 Pennsylvania Turnpike within 1,000 feet of the area
30 where a freeway, limited access highway or a

1 Pennsylvania Turnpike exit or entrance ramp meets the
2 freeway, limited access highway or Pennsylvania
3 Turnpike.

4 (C) A highway during or into the period between
5 sunset and sunrise if the vehicle presents a clear
6 danger.

7 (2) Does not include parking in a designated parking
8 area along any highway or, except as described in paragraph
9 (1), parking temporarily on the shoulder of the highway as
10 indicated by a short passage of time and by the operation of
11 the hazard lights of the vehicle, the raised hood of the
12 vehicle or advance warning with emergency flares or emergency
13 signs.

14 § 3757. Road user duties approaching incidents.

15 (a) General rule.--When in or approaching an incident area
16 where a responder or response personnel are located, a driver
17 shall maintain a speed no greater than is reasonable and prudent
18 under the conditions, including actual and potential hazards
19 then existing.

20 (b) Direction by official or traffic control device.--When
21 in or approaching an incident area, a driver shall obey the
22 directions of any authorized official directing traffic and all
23 applicable traffic control devices.

24 (c) Speed.--Except for emergency vehicles, when in or
25 approaching an incident area, a driver shall reduce speed and
26 vacate any lane wholly or partially blocked.

27 (d) Penalty.--If a violation of this section results in a
28 serious injury or death to another person, in addition to any
29 other penalty imposed by law, the violator's driver's license
30 shall be suspended for a period of at least 180 days and not

1 more than two years.

2 § 3758. Avoidance of lane blockage and expedited removal of
3 vehicles.

4 (a) General rule.--No person shall stop or park a vehicle in
5 such manner as to impede or render dangerous the use of the
6 roadway by others, except to avoid collision, at the direction
7 of an authorized official, or in the case of a crash or
8 mechanical breakdown.

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

13 (c) Driver.--If a vehicle stopped in the roadway is movable
14 and its driver is capable of moving it, the driver shall
15 immediately move the vehicle to the shoulder or to a designated
16 area off the highway.

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

21 (e) Police officer.--A police officer may order the removal
22 of any vehicle remaining on the highway at the owner's expense.
23 The vehicle's location shall be reported to the nearest law
24 enforcement agency as soon as practicable.

25 § 3759. Compensation for incident removal costs.

26 (a) General rule.--Notwithstanding any other law or
27 regulation, any agency, person, towing and recovery responder or
28 organization incurring the cost of removing a vehicle or cargo
29 at an incident, if the removal is authorized by a police
30 officer, shall have the unqualified right to compensation for

the cost of removal and cargo storage and cleanup from the owner
of:

(1) A vehicle removed.

(2) A vehicle the cargo of which was removed in whole or
in part.

(b) Right to information.--The towing company shall have the
unqualified right to any information relevant to vehicle
ownership and information affecting compensation, including, but
not limited to, insurance information.

§ 3760. Liability for authorized incident clearance functions.

(a) General rule.--Governmental responders are authorized to
exercise the incident clearance functions enumerated in this
section. If the functions are exercised with reasonable care and
at the direction of a police officer, the governmental
responders and their personnel and other designated
representatives are not liable on any cause of action arising
out of or based upon actions taken pursuant to incident
clearance, including:

(1) Incident detection and verification.

(2) Incident area security and protection.

(3) Rescue of persons from vehicles and hazardous
environments.

(4) Emergency medical transportation and care.

(5) Hazardous materials response and containment.

(6) Fire suppression and elimination.

(7) Transportation of vehicle occupants.

(8) Traffic direction and management and establishment
and operation of alternate routes, including, but not limited
to, traffic detours and/or diversion.

(9) Crash investigation.

1 (10) Dissemination of traveler information.

2 (11) Incident clearance, including removal of debris,
3 coordination of clearance and repair resources and temporary
4 roadway repair and facilities restoration.

5 (12) Removal of vehicles and cargo.

6 (13) Any other action reasonably necessary.

7 (b) Towing and recovery.--When directed by a police officer,
8 towing and recovery responders are authorized to perform the
9 following enumerated functions and any other actions reasonably
10 necessary to perform those enumerated functions:

11 (1) Removal of vehicles from the incident area.

12 (2) Security and protection of property and vehicles.

13 (3) Removal of debris from the roadway.

14 (4) Transportation of persons or cargo.

15 Section 4. Section 7310 of Title 75 is amended to read:

16 § 7310. Removal of vehicles and spilled cargo from roadway.

17 (a) General rule.--Police officers may immediately remove or
18 direct removal of [abandoned or wrecked vehicles and spilled
19 cargo] any vehicle abandoned or presumed to be abandoned from
20 any roadway, including the roadway's berm or shoulder, to the
21 nearest point off the roadway where the vehicle [or spilled
22 cargo] will not interfere with or obstruct traffic. [Immediately
23 following an accident, the wrecked vehicle or spilled cargo
24 shall be removed or directed to be removed from the roadway by a
25 police officer if the owner or operator cannot remove the
26 wrecked vehicle or refuses or fails to have the vehicle removed
27 within a reasonable time.

28 (b) Storage of cargo.--When, in the opinion of a police
29 officer, it is deemed necessary for the protection of the
30 contents or load of a wrecked vehicle or spilled cargo from the

1 elements, spoilage or theft, the police officer may remove or
2 direct to be removed and have stored at the expense of the owner
3 the contents or load or spilled cargo at the nearest practical
4 place of storage.]

5 (c) Liability for damage or loss.--In carrying out the
6 provisions of this section, no liability shall attach to the
7 police officer or, absent a showing of gross negligence, to any
8 person acting under the direction of the police officer for
9 damage to a presumed abandoned vehicle or damage to or loss of
10 any portion of the contents [or load or spilled cargo] of the
11 vehicle.

12 (d) Removal from Pennsylvania Turnpike System.--
13 Notwithstanding the other provisions of this section, any
14 vehicle on the Pennsylvania Turnpike System presumed to be
15 abandoned as defined in section 102 (relating to definitions)
16 shall immediately be removed by or at the direction of the
17 Pennsylvania State Police to the contract garage providing
18 service for that area. In all cases, the Pennsylvania State
19 Police shall remove or direct the removal of any such vehicle
20 within 24 hours of the time of the vehicle's presumption of
21 abandonment.

22 Section 5. Title 75 is amended by adding a section to read:
23 § 7313. Incident Management Committee.

24 (a) Declaration of policy.--The General Assembly finds and
25 declares as follows:

26 (1) In order to reduce incident management response
27 time, highway, public safety and other agencies must plan for
28 effective management of temporary traffic control in incident
29 areas.

30 (2) Effective incident management is the planned and

1 coordinated multiagency program to detect and remove
2 incidents and to restore traffic capacity as quickly and
3 safely as possible.

4 (3) The major partners in an incident management program
5 are State and local transportation agencies, State and local
6 law enforcement agencies, firefighting departments, emergency
7 medical services and the towing and recovery industry.

8 (4) Groups such as environmental and public health
9 agencies also may be involved in incident management,
10 depending on the nature of the incident.

11 (5) Current and accurate traveler information is an
12 important element of an incident management program.

13 (6) It is the policy of the Commonwealth to clear
14 highways of damaged vehicles, spilled cargo and debris as
15 soon as it is safe to do so.

16 (7) It is understood that damage to vehicles or cargo
17 may result from clearing the roadway on an urgent basis.

18 (8) While reasonable attempts to avoid damage shall be
19 taken, the highest priority of incident management is
20 restoring traffic to normal conditions.

21 (b) Committee established.--There is hereby established an
22 Incident Management Committee to enhance the effectiveness of
23 managed resources involved in responses to incidents and to
24 recommend operational rules or guidelines for mitigating the
25 impacts of incidents. The committee shall develop an interagency
26 memorandum of understanding to facilitate joint efforts to
27 alleviate the growing problems associated with incidents on this
28 Commonwealth's highways by emphasizing urgent and safe clearance
29 of highway incidents. Upon adoption of the memorandum of
30 understanding, the committee shall publish notice thereof in the

1 Pennsylvania Bulletin.

2 (c) Composition.--The committee is comprised of, but is not
3 limited to, one or more representatives of the following
4 appointed by the secretary:

5 (1) The Pennsylvania State Police and one local police
6 department representing each of this Commonwealth's planning
7 regions.

8 (2) The Pennsylvania State Fire Commissioner.

9 (3) One fire department representing each of this
10 Commonwealth's planning regions.

11 (4) One emergency medical services agency representing
12 each of this Commonwealth's planning regions.

13 (5) The Department of Environmental Protection.

14 (6) The towing and recovery industry.

15 (7) A hazardous material response team.

16 (8) The Pennsylvania Emergency Management Agency.

17 (9) The Director of Homeland Security.

18 (10) The Pennsylvania Turnpike Commission.

19 (11) The Delaware River Port Authority.

20 (12) The Delaware River Joint Toll Bridge Commission.

21 (13) A coroner or medical examiner.

22 (14) Pennsylvania AAA Federation.

23 (15) Pennsylvania Motor Truck Association.

24 (d) Chairperson.--The secretary shall serve as chairperson
25 of the committee.

26 (e) Guidelines.--The committee shall establish guidelines to
27 be included in the memorandum of understanding. The guidelines
28 shall include, but are not limited to:

29 (1) Recommendations relating to the proper guidance and
30 control of road users through an incident area.

1 (2) Time frames for incident clearance.

2 (3) If redirection of the road users' normal path is
3 required, when temporary traffic control devices should be
4 used to direct vehicles from the normal path to a new path.

5 (4) The removal of temporary traffic control devices as
6 soon as practical when the incident has been resolved.

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

16 (6) If an incident requires establishment of a traffic
17 diversion or detour, when large trucks and vehicles carrying
18 hazardous cargo should follow a different route from other
19 vehicles or park at a designated area off the highway until
20 the roadway is open, until an escort is provided or until the
21 incident commander otherwise directs.

22 (f) Review.--The committee shall establish criteria for a
23 review process for use in each department engineering district
24 to evaluate an incident when the length of time for incident
25 clearance exceeds the time frame established by guideline in the
26 memorandum of understanding.

27 (g) Costs and expenses.--Expenses and costs associated with
28 the committee shall be the responsibility of the Department of
29 Transportation.

30 (h) Report.--The committee shall submit a report with its

1 findings and recommendations to the Transportation Committee of
2 the Senate and the Transportation Committee of the House of
3 Representatives within ten months of the effective date of this
4 section.

5 (i) Recommendations.--The committee shall make
6 recommendations to the Governor and the General Assembly as to
7 the potential to prequalify towing and recovery responders.

8 (j) Expiration.--This section shall expire upon publication
9 of the notice under subsection (b).

10 (k) Definition.--As used in this section the term
11 "committee" means the Incident Management Committee established
12 in this section.

13 Section 6. This act shall take effect as follows:

14 (1) This section shall take effect immediately.

15 (2) The addition of 75 Pa.C.S. § 7313 shall take effect
16 immediately.

17 (3) The remainder of this act shall take effect in 180
18 days.