

**2015 SENATE TRANSPORTATION**

**SB 2352**

# 2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee  
Lewis and Clark Room, State Capitol

SB 2352

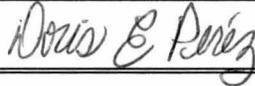
2/6/2015

Recording job number 23369

Subcommittee

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

To amend and reenact section 39-10-47 of the North Dakota Century Code, relating to vehicles obstructing highways; and to amend and reenact section 39-10-48 of the North Dakota Century Code, relating to vehicles illegally parked on highways.

## Minutes:

Attachments:

**Chairman Oehlke** opened the hearing on SB 2352, all committee members were present. He cosponsored this bill and submitted a proposed amendment, see attachment #1, he explained the amendment. The reason you don't let tow truck operators off the hook is because they have a responsibility to use due diligence and do their job properly. (1:00-6:37)

**Pat Ward:** Association of North Dakota insurers, as amended we support this bill it will prevent accidents

**Captain Eldon Mehrer**, commander, North Dakota Highway Patrol, motor carrier division, in favor of this bill, it will allow law enforcement officers to safely remove a vehicle left on a roadway if the vehicle is blocking or impeding traffic thus creating a safety hazard. See attachment #2 which explains what Traffic Incident Management is (2-1) and mortality rates for emergency safety responders (2-2). He explained the modifications that are made to police cars, push bumpers, to handle these situations. (9:00-15:00)

**Wayde Swenson**, Director, Office of Operations, North Dakota Department of Transportation, in support of this bill and the amendments, It will allow police officers to direct the DOT or others to remove vehicles or property from highways. They will not be held liable for civil damages for loss or damage to the vehicles or personal property. See attachment #3 (15:07-15:50)

**Arik Spencer**, North Dakota Motor Carriers Association, in favor of this bill as amended.

No additional testimony in favor, opposition or neutral. **Chairman Oehlke** closed the hearing.

**Senator Rust moved: do pass on the amendment**

Senate Transportation Committee  
SB 2352  
2/06/2015  
Page 2

**Senator Sinner seconded the motion**

**Voice vote: all in favor**

**Senator Sinner moved do pass amended bill**

**Senator Axness: seconded**

**Roll call vote was taken: Yes 6 No 0 Absent 0**

**Carrier: Senator Rust**

February 6, 2015

2/6/15  
ge

PROPOSED AMENDMENTS TO SENATE BILL NO. 2352

Page 1, line 17, overstrike "This" and insert immediately thereafter "Unless the vehicle is blocking the highway or is otherwise endangering public safety, this"

Page 2, line 3, replace "A" with "If reasonable care is used in the removal process, a"

Page 2, line 5, remove ", and"

Page 2, line 6, remove "any tow truck operator or towing company authorized by a police officer"

Page 3, line 16, remove ", and"

Page 3, line 17, remove "any tow truck operator or towing company authorized by a police officer"

Page 3, line 19, after "section" insert ", so long as reasonable care is used in the removal process"

Re-number accordingly

**2015 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 SB BILL NO. 2352**

Senate \_\_\_\_\_ **TRANSPORTATION** \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:     Adopt Amendment  
                            Do Pass     Do Not Pass     Without Committee Recommendation  
                            As Amended                             Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:         Reconsider                             \_\_\_\_\_

Motion Made By Senator Rust                            Seconded By Senator Sinner

Senators	Yes	No	Senators	Yes	No
Chairman Oehlke			Senator Axness		
Vice Chairman Casper			Senator Sinner		
Senator Campbell					
Senator Rust					
<b>VOICE VOTE ALL IN FAVOR</b>					

Total    (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

NOT TO EXEMPT TOW TRUCK OPERATORS FROM LIABILITY



**REPORT OF STANDING COMMITTEE**

**SB 2352: Transportation Committee (Sen. Oehlke, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2352 was placed on the Sixth order on the calendar.**

Page 1, line 17, overstrike "This" and insert immediately thereafter "Unless the vehicle is blocking the highway or is otherwise endangering public safety, this"

Page 2, line 3, replace "A" with "If reasonable care is used in the removal process, a"

Page 2, line 5, remove ", and"

Page 2, line 6, remove "any tow truck operator or towing company authorized by a police officer"

Page 3, line 16, remove ", and"

Page 3, line 17, remove "any tow truck operator or towing company authorized by a police officer"

Page 3, line 19, after "section" insert ", so long as reasonable care is used in the removal process"

Renumber accordingly

**2015 HOUSE TRANSPORTATION**

**SB 2352**

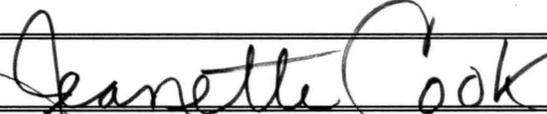
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Fort Totten Room, State Capitol

SB 2352  
3/13/2015  
#24815

Subcommittee  
Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to vehicles obstructing highways; and relating to vehicles illegally parked on highways.

## Minutes:

Attachments #1-3

**Chairman Dan Ruby** opened the hearing on SB 2352.

**Captain Eldon Mehrer, commander of the North Dakota Highway Patrol motor carrier division**, spoke in support of SB 2352. Written testimony was provided. See attachment #1. An amendment was also provided. See attachment #2.

**Chairman Dan Ruby:** What change will result from the struck language that says, "upon any highway outside a business or residence district"?

**Captain Eldon Mehrer:** I will defer to Tag from the Risk Management Office.

**Tag Anderson, Director of Risk Management Division of OMB**, explained that the amendments were for clarification purposes. The original bill provided that there was immunity for the actions of removing property or a vehicle. The amendments were offered to clarify that the immunity wasn't absolute; there would be no liability for the state for anything that happened. There is liability if they fail to exercise due care in certain aspects in the removal of a vehicle from the side of the road, for example. Nothing in that language is designed to modify the principles in the Tort Claims Act for state employees, 32-12.2. Most important is the discretionary function immunity that is provided in there. That really goes to the manner and method that you are going to remove a vehicle, as opposed to the actions that follow in actually doing it and executing it, which could potentially result in liability. The other language actually clarifies that the Public Necessity Doctrine is not being modified by this language. In other words, there are times when you need to get a vehicle off the road immediately in an emergency situation, and the only way to do so is to literally ram it and push it off. That would result, essentially, in intentional damage to a vehicle, but yet that immunity would be provided under the Public Necessity Doctrine, because it was necessary to preserve the safety of the traveling public. That would be a very narrow exception. We checked with Pat Ward, and he was comfortable with these changes.

**Vice Chairman Lisa Meier:** When a tow truck removes the vehicle at an accident, does the cost fall on the insurance of the vehicle or the political subdivision in which the accident occurs?

**Captain Eldon Mehrer:** The cost will fall on the insurance companies of the drivers involved.

**Chairman Dan Ruby:** Does this allow anything in the moving of a vehicle? It is very broad and the potential to NOT take reasonable care is there.

**Captain Eldon Mehrer:** We looked at the same concerns as you have. We will offer training to our troopers, so the moving of vehicles is done in the most prudent manner that will cause as little damage as possible. Sometimes we need to open up the road in the interest of safety, so that secondary crashes aren't happening, and then there could be some incidental damage that occurs. This legislation would help hold those officers and the department of the state harmless for any type of additional damage that could occur, when acting in the best interest and the safety of the people at the scene and the motoring public.

**Chairman Dan Ruby:** Have you had issues with the removal of personal property at the scene of an accident, like things spilling out of a pick-up at an accident?

**Captain Eldon Mehrer:** Those types of instances happen quite frequently. There might be personal property, and we do remove that. I can't think of instances where we caused damage to people's property, and they tried to come back on the state.

**Chairman Dan Ruby:** How much sooner do you think you will be able to clear a road than you currently do now?

**Captain Eldon Mehrer:** It is dependent on the scene. The training that we recently went to, showed us that even if we save 10-20 minutes off of the time that you are spending tying up a scene, there is a ripple effect down the road that is incremental in actually improving the flow of traffic, especially in high traffic areas. In 15 minutes you can tie up miles of traffic on the interstate, so cutting the time by 15 minutes could make a big difference. We can see, especially in inclement weather, a significant number of secondary crashes that occur in some cases.

**Representative Lois Delmore:** Has this training already started for you?

**Captain Eldon Mehrer:** Yes, three months ago, we had a Train the Trainer course. Last week Captain Peterson and I were up in the northwest part of the state offering this training to local agencies. We also were at the North Dakota Firefighters in Minot and presented on overall picture of the course to North Dakota firefighter chiefs. We also offered it to the troopers at the North Dakota Training Academy. We are getting it out into the field.

**Representative Lois Delmore:** This is open to a lot of people. If they hadn't had the training, will they then be liable?

**Captain Eldon Mehrer:** I don't believe that they would be liable, as long as they are working in the best interest of protecting the scene and doing it in a way to minimize any damage and not doing it in a reckless manner.

**Representative Lois Delmore:** There doesn't seem to be a clear provision in here about negligence. There could be an individual that might take advantage of this.

**Captain Eldon Mehrer:** I suppose that could always happen, but the entire philosophy of the TIM's Training is that the people who are managing the scene are operating as a cohesive team. They take into account the different responsibilities that each one of the different entities has at the scene. They are operating to clear the scene as quickly as they can, so that it minimizes the secondary crashes and the risk to the emergency responders.

**Representative Lois Delmore:** Could there be a case in which you felt that you had to act quickly, but it did damage to an evidence link that you might need to cite a driver?

**Captain Eldon Mehrer:** Clearing the scene as quickly as possible will not take precedence over completing a thorough investigation, tending to the injured or fatalities, or making sure that the scene is stabilized before any type of evidence is moved. We want to make sure that all of the entities involved at the scene have accomplished the task that they need to in order to complete their job.

**Representative Marvin Nelson:** This says "motor vehicle" in the amendment. Shouldn't we really just be saying that if **anything** is blocking the highway, you should have the ability to move it for safety purposes without undue liability?

**Captain Eldon Mehrer:** We are saying that officers are going to act in the best interest of safety. We want to have the ability to clear that road as quickly as we possibly can in the interest of safety of the motoring public. We are going to take every precaution necessary to minimize any additional damage that could occur in that situation. I think we recognize that if you take a tipped over van full of cargo, for example, that is blocking 1 ½ lanes of the interstate, and within a reasonable amount of time, you could hook onto the corner of the van and drag it into the ditch opening two lanes, that would minimize the risk to the emergency responders on scene and to the motoring public. That should take precedence to any minor damage to that van.

**Representative Marvin Nelson:** It seems like you are thinking of a particular thing, like an automobile accident. What if it were a hay bale on the road?

**Captain Eldon Mehrer:** I would see the automobiles as the primary way this will be implemented. If it is a hay bale, we anticipate having the patrol cars equipped with a large push bumper. We will provide our troopers training in how to use the bumper. In this situation they need to line up the bumper with a large hay bale and push it off the roadway. If they break the bale open, and the farmer comes back and says he wants compensation for the damage to his hay bale, then that would be an instance where this would benefit the state and overall safety of the public.

**Representative Marvin Nelson:** Is there a corresponding Good Samaritan law for people or bystanders who move things out of the way of traffic?

**Captain Eldon Meher:** If moving something to a safer location, outweighs the risk of leaving it on the scene, we need to shift our approach as to how we investigate those crashes. That is also part of the training. Many times in minor crashes, the evidence is not compromised by moving things a few hundred yards down the road to a safer place.

**Chairman Dan Ruby:** I have seen county deputies push things off the road with their car because it was a hazard. There is existing language that allows the officers to keep the roads clear. Other than some of the protection of the liability, what else in this bill gives you something that you can't already do?

**Captain Eldon Mehrer:** I think that the bill with the quick clear and the harmless legislation just provides another layer of protection for the state's agencies and officers that chose to make a decision to open up a roadway and some additional damage may occur.

**Representative Lois Delmore:** If there is additional damage done to a vehicle caused by moving it, is the insurance company going to refuse to pay some of that, and will it come back to the driver?

**Captain Eldon Meher:** I haven't heard of anything. Making the insurance companies aware is certainly something we can do. We have a short overview program that we could offer to the insurance industry, so they have a good understanding as to what this program is. I would offer it to the committee if there is time in an evening that you want to come in and get a good overview of the TIMs program.

**Tag Anderson:** Again, the purposes of the amendments are for clarification purposes only. I think the Discretionary Immunity Doctrine would exist regardless, as would the Public Necessity Doctrine in the narrow circumstances where it arises. To put it in perspective, perhaps the best way is an example. The Highway Patrol comes over a hill, and there is a vehicle on the side of the road. It is a stalled vehicle, and the owner is even there. The Highway Patrol makes the decision that the vehicle is too much on the highway, is a risk to the traveling public, and that it needs to be immediately moved. They decide to put their bumper against the vehicle and push it off the road. The discretionary decisions that they make, those are the type of decisions that we don't want the public to be able to say that they are faulty. When they make the decision to move the vehicle, and they hit it at 10 mph to get it off the road, obviously that is not exercising reasonable care. Then there should be liability for that. There should not be liability for someone to argue that the vehicle was far enough off the road, and the Highway Patrol had no business moving it. That would be a discretionary decision that law enforcement had to make, and the amendment clarifies that nothing in this bill changes that.

**Chairman Dan Ruby:** Where is the protection language that is already in the law?

**Tag Anderson:** The Tort Claims Act in North Dakota Century Code Chapter 32-12.2.

**Arik Spenser, North Dakota Motor Carriers Association**, stood to support SB 2352. He stated that they are generally supportive of this concept as an industry that relies on a safe and efficient transportation network. They think that providing the Highway Patrol and law enforcement some additional tools to get roads open more quickly and add to safety is a good idea.

**Wayde Swenson, Director of Operations for North Dakota Department of Transportation**, spoke to support SB 2352. Written testimony was provided. See attachment #3.

**Chairman Dan Ruby:** Has this been an issue for the department at all in the past as far as liability issues?

**Wayde Swenson:** I'm not aware of any instances where we have moved a vehicle, and it has come back liability wise. When we are plowing snow, and if the snow were to hit something and cause damage, we would not be liable on that.

**Representative Robin Weisz:** If a vehicle is stuck in the snow, and a snowplow can't get around it, will you move it? What is the policy on that?

**Wayde Swenson:** I don't know if we really have a policy on that if a vehicle is stopped and causing a problem. We have moved vehicles.

**Representative Robin Weisz:** I was in a situation where the road was blocked, and I was following a snowplow. We came to a car that was blocking the road, and the driver told me that according to policy he could NOT move the car. I moved the vehicle, so they could open the road, and we could get home.

**Wayde Swenson:** The operator was probably acting as he should have. He was acting so the department wouldn't be liable for any damages.

**Representative Lois Delmore:** What do you use to move a semi without a tow truck?

**Wayde Swenson:** I would think that a plow truck could move a semi with a tow hook by pulling it. We might not be able to move it.

**Representative Marvin Nelson:** (Question to HP) "If a police officer finds a vehicle stopped in a dangerous location or in violation of any official traffic control device prohibited or restricting the stopping, standing, or parking of any vehicle on state property. The officer shall write a warning..." We have been talking about safety, and then in this section it says if a vehicle is in a dangerous location the officer should just write a warning the first time. That doesn't work for me.

**Captain Eldon Mehrer:** In this particular section it is trying to address a completely different circumstance than the TIMs philosophy is trying to address with the Quick Clear legislation. Section 4 is really in existence now as far as parking, standing, and that sort of thing. It provides some additional clarity. This doesn't change anything as far the practice that is in place right now.

**Representative Marvin Nelson:** So, if a vehicle is parked dangerously on state property, you write a warning, and you go away?

**Captain Eldon Mehrer:** I think the officers will assess the danger, and make a decision from there.

**Representative Marvin Nelson:** Aren't the highways state property too?

**Captain Eldon Mehrer:** Yes, they are.

There was no further support for support for SB 2352.  
There was no opposition to SB 2352.

The hearing was closed on SB 2352.

**Representative Marvin Nelson moved the amendment with the change of excluding the word "motor" every time. It would just say vehicle.**

**Representative Kathy Hawken seconded the motion.**

**Chairman Dan Ruby:** What is the intent of removing the word "motor"? Is it so it could include bikes and such?

**Representative Marvin Nelson:** Mostly to include snowmobiles. A snowmobile is specifically by definition NOT a motor vehicle. This would make it broader, and make this part consistent with the rest of the language in the Section. Vehicle is defined.

**A roll call vote was taken: Aye 11 Nay 2 Absent 1  
The motion carried.**

**Representative Lois Delmore moved a DO PASS as amended on SB 2352.  
Vice Chairman Lisa Meier seconded the motion.**

**A roll call vote was taken: Aye 12 Nay 1 Absent 1  
The motion carried.**

**Representative Gary Paur will carry SB 2352.**

SK  
3/17/15

March 17, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2352

Page 1, line1, replace "section" with "sections"

Page 1, line1, after "39-10-47" insert "and 39-10-48"

Page 1, line 2, remove the semicolon

Page 1, line 2, remove "to amend and reenact section 39-10-48 of the"

Page 1, line 3, remove "North Dakota Century Code, relating to"

Page 2, after line 9, insert:

"5. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section."

Page 3, after line 19, insert:

"6. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section."

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES**  
 BILL/RESOLUTION NO. "Enter Bill/Resolution No." SB  
2352

House Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Nelson    Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	X		Rep. Lois Delmore	X	
Vice Chair. Lisa Meier	X		Ben Hanson	X	
Rick C. Becker		X	Marvin E. Nelson	X	
Robert Frantsvog	A				
Kathy Hawken	X				
Christopher D. Olson	X				
Mark S. Owens	X				
Gary Paur	X				
Mike Schatz	X				
Gary R. Sukat	X				
Robin Weisz		X			

Total (Yes) 11    No 2

Absent 1

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent: Attachment #2.  
Exclude the word "motor" from amendment.

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. "Enter Bill/Resolution No." SB2352**

House Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Delmore    Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	X		Rep. Lois Delmore	X	
Vice Chair. Lisa Meier	X		Ben Hanson	X	
Rick C. Becker	X		Marvin E. Nelson	X	
Robert Frantsvog	A				
Kathy Hawken	X				
Christopher D. Olson	X				
Mark S. Owens	X				
Gary Paur	X				
Mike Schatz	X				
Gary R. Sukat	X				
Robin Weisz		X			

Total (Yes) 12    No 1

Absent 1

Floor Assignment Paur

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2352, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2352 was placed on the Sixth order on the calendar.

Page 1, line1, replace "section" with "sections"

Page 1, line1, after "39-10-47" insert "and 39-10-48"

Page 1, line 2, remove the semicolon

Page 1, line 2, remove "to amend and reenact section 39-10-48 of the"

Page 1, line 3, remove "North Dakota Century Code, relating to"

Page 2, after line 9, insert:

"5. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section."

Page 3, after line 19, insert:

"6. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section."

Renumber accordingly

**2015 TESTIMONY**

**SB 2352**

#1  
2/06/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2352

Page 1, line 20, after "unavoidable" insert ", unless the vehicle is blocking the highway or is otherwise endangering public safety"

Page 2, line 5, remove ", and"

Page 2, line 6, remove "any tow truck operator or towing company authorized by a police officer"

Page 2, line 9, after "section" insert "so long as reasonable care is used in the removal process"

Page 3, line 16, remove ", and"

Page 3, line 17, remove "any tow truck operator or towing company authorized by a police officer"

Page 3, line 19, after "section" insert "so long as reasonable care is used in the removal process"

RENUMBER ACCORDINGLY

**Senate Bill 2352**  
**Senate Transportation Committee**  
**Senator Dave Oehlke, Chairman**  
**February 6, 2015**

Mr. Chairman and members of the Senate Transportation Committee, my name is Captain Eldon Mehrer, commander of the North Dakota Highway Patrol motor carrier division. I am here to testify in support of Senate Bill 2352.

In 2013, one traffic crash occurred every 27 minutes, potentially putting incident responders in harm's way. Congestion from these incidents can generate secondary crashes, increasing traveler delay and frustration. The longer responders remain at the scene, the greater the risk they, and the traveling public, face.

Traffic Incident Management (TIM) is a multi-disciplinary training program available for all emergency responders and those supporting traffic incident management operations. The training brings together police, firefighters, state and local departments of transportation, towing, medical personnel, and other incident responders, leading to a safer, faster integrated responder team. A critical piece to the TIM's approach involves the passing of "Quick Clear" legislation.

This bill would allow law enforcement officers to safely remove a vehicle left on a roadway if the vehicle is blocking traffic or otherwise impeding traffic resulting in a safety hazard. "Quick Clear" is part of Traffic Incident Management, which focuses on keeping traffic flowing by quickly and safely removing temporary obstructions – including disabled or wrecked vehicles, debris, and spilled cargo. By clearing the roadway in a timely manner, the safety of incident responders is enhanced by minimizing their exposure to adjacent passing traffic, reducing the probability of secondary incidents, and relieving overall congestion levels and delays.

The bill also enhances the safety of the motoring public. For example, during a winter storm, roads can become blocked due to motor vehicle crashes. Wrecker services are very busy during winter events, often dealing with pending calls. Once law enforcement finishes their on-scene investigation, this bill would allow them to move the damaged vehicles from the road prior to the wrecker arriving on scene, minimizing the occurrence of secondary crashes.

Nationally, a police officer is 18 times more likely to die from being struck by a vehicle than being struck by a bullet. Please see attachments included in my testimony.

This law would benefit many parties, including law enforcement officers, EMS and fire personnel, wreckers and the motoring public. Public safety is the Highway Patrol's first and most important responsibility. The quality of life in North Dakota depends on the free movement of people, vehicles and commerce. When coupled with an effective public information campaign, "Quick Clear" laws can enhance the safety of responders and motorists and dramatically reduce incident-related congestion and delay.

Mr. Chairman, members of the committee, this concludes my testimony. I would be happy to answer any questions.

# Quantifying the Issue – Responder Safety

A police officer is **18 times** more likely to die from being hit by a vehicle than being struck by a bullet. Mortality rates are staggering:

- 6 – 8 die each year:  
Fire/Rescue, EMS
- 10-12 die each year:  
Law Enforcement
- 50 die each year: Towing
- 100 die each year + 20,000 injured: Highway Personnel



Source: Emergency Responder Safety Institute, AAA

9B2352  
2/6/15  
2-2



**SENATE, TRANSPORTATION COMMITTEE**  
**February 6, 2015 ~ 10:30 a.m. ~ Lewis and Clark Room**

**North Dakota Department of Transportation**  
**Wayde Swenson, Director, Office of operations**

**SB 2352**

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Mr. Chairman and members of the committee, my name is Wayde Swenson, Director, Office of Operations, for the North Dakota Department of Transportation (DOT). I'm here today in support of SB 2352 and the amendments. This bill amends language in Section 39-10-47 and Section 39-10-48 relating to allowing the quick clearance of vehicles or property from highways.

This bill allows a Police Officer to direct the DOT or others to remove vehicles or property from highways. They are not to be held liable for any civil damages for loss or damage to the vehicles or any personal property.

It is recognized, that in some cases, not all of the injuries occur in the original crash. Injuries occur during secondary crashes at the scene. Therefore, the quick clearance of the crash has the potential to save lives and property damage. The extent of this problem is hard to quantify because it is not tracked in the Department's Fatal Analyst Reporting System.(FARS)

This bill would facilitate timely snow and ice control operations. There are times, when a semi overturns on a state highway and blocks the entire roadway. It would be advantageous to partially move the vehicle to allow snow plows and the public to get by negating the need for a lengthy detour.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have.

SB2352  
3-13-15  
#1

**Senate Bill 2352**  
**House Transportation Committee**  
**Representative Dan Ruby, Chairman**  
**March 13, 2015**

Mr. Chairman and members of the House Transportation Committee, my name is Captain Eldon Mehrer, commander of the North Dakota Highway Patrol motor carrier division. I am here to testify in support of Senate Bill 2352.

In 2013, one traffic crash occurred every 27 minutes, potentially putting incident responders in harm's way. Congestion from these incidents can generate secondary crashes, increasing traveler delay and frustration. The longer responders remain at the scene, the greater the risk they, and the traveling public, face.

Traffic Incident Management (TIM) is a multi-disciplinary training program available for all emergency responders and those supporting traffic incident management operations. The training brings together police, firefighters, state and local departments of transportation, towing, medical personnel, and other incident responders, leading to a safer, faster integrated responder team. A critical piece to the TIM's approach involves the passing of "Quick Clear" legislation.

This bill would allow law enforcement officers to safely remove a vehicle left on a roadway if the vehicle is blocking traffic or otherwise impeding traffic resulting in a safety hazard. "Quick Clear" is part of Traffic Incident Management, which focuses on keeping traffic flowing by quickly and safely removing temporary obstructions – including disabled or wrecked vehicles, debris, and spilled cargo. By clearing the roadway in a timely manner, the safety of incident responders is enhanced by minimizing their exposure to adjacent passing traffic, reducing the probability of secondary incidents, and relieving overall congestion levels and delays.

The bill also enhances the safety of the motoring public. For example, during a winter storm, roads can become blocked due to motor vehicle crashes. Wrecker services are very busy during winter events, often dealing with pending calls. Once law enforcement finishes their on-scene investigation, this bill would allow them to move the damaged vehicles from the road prior to the wrecker arriving on scene, minimizing the occurrence of secondary crashes.

Nationally, a police officer is 18 times more likely to die from being struck by a vehicle than being struck by a bullet. Please see attachments included in my testimony.

This law would benefit many parties, including law enforcement officers, EMS and fire personnel, wreckers and the motoring public. Public safety is the Highway Patrol's first and most important responsibility. The quality of life in North Dakota depends on the free movement of people, vehicles and commerce. When coupled with an effective public information campaign, "Quick Clear" laws can enhance the safety of responders and motorists and dramatically reduce incident-related congestion and delay.

Mr. Chairman, members of the committee, this concludes my testimony. I would be happy to answer any questions.



# Quantifying the Issue – Responder Safety

A police officer is **18 times** more likely to die from being hit by a vehicle than being struck by a bullet. Mortality rates are staggering:

- 6 – 8 die each year:  
Fire/Rescue, EMS
- 10-12 die each year:  
Law Enforcement
- 50 die each year: Towing
- 100 die each year + 20,000 injured: Highway Personnel



SB 2352  
3-13-15  
#2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2352

Page 2, after line 9, insert:

5. The decision and method used to remove a motor vehicle or any personal property, or cause a motor vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take actions that may damage a vehicle or property removed under this section.

Page 3, after line 19, insert:

6. The decision and method used to remove a motor vehicle or any personal property, or cause a motor vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take actions that may damage a vehicle or property removed under this section.

Renumber accordingly

SB 2352  
3-13-15  
#3

**HOUSE, TRANSPORTATION COMMITTEE**  
**March 13, 2015 ~ 9:00 a.m. ~ Fort Totten Room**

**North Dakota Department of Transportation**  
**Wayde Swenson, Director, Office of operations**

**SB 2352**

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Mr. Chairman and members of the committee, my name is Wayde Swenson, Director, Office of Operations, for the North Dakota Department of Transportation (DOT). I'm here today in support of SB 2352. This bill amends language in Section 39-10-47 and Section 39-10-48 relating to allowing the quick clearance of vehicles or property from highways.

This bill allows a Police Officer to direct the DOT or others to remove vehicles or property from highways. They are not to be held liable for any civil damages for loss or damage to the vehicles or any personal property.

It is recognized, that in some cases, not all of the injuries occur in the original crash. Injuries occur during secondary crashes at the scene. Therefore, the quick clearance of the crash has the potential to save lives and property damage. The extent of this problem is hard to quantify because it is not tracked in the Department's Fatal Analyst Reporting System. (FARS)

This bill would facilitate timely snow and ice control operations. There are times, when a semi overturns on the interstate and blocks the entire roadway. It would be advantageous to partially move the vehicle to allow snow plows and the public to get by negating the need for a lengthy detour.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have.