

Minnesota Department of Transportation
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To: Operations Management Group
Maintenance Superintendents
Sub-area Supervisors
District Traffic Engineers

From: Mark Wikelius *Mark Wikelius*
State Maintenance Engineer

Subject: Guidelines for Procedure to Implement the Rescue Law
Mn. Statute 1998 Amendment to section 160.27, added subd. 8.
Trunk Highway Closure; Authority, Notice, Civil Penalty

Background

In response to requests from Mn/DOT operating units that have had experience dealing with unnecessary rescues during winter blizzards, the above amendment to law was passed. It reads as such:

- (a) The commissioner may restrict the use of, or close, any state trunk highway for the protection and safety of the public or for the protection of the highway from damage during and after storms if there is danger of the road becoming impassable or if visibility is so limited that safe travel is unlikely.
- (b) To notify the public that a trunk highway is closed or its use restricted, the commissioner shall give notice by one or more of the following methods:
 - (1) erect suitable barriers or obstructions on the highway;
 - (2) post warnings or notices of the closing or restricting of a trunk highway;
 - (3) place signs to warn, detour, direct, or otherwise control traffic on the highway, or;
 - (4) place personnel to warn, detour, direct, or otherwise control traffic on the highway.
- (c) A person is civilly liable for rescue costs if the person (1) fails to obey the direction or instruction of the authorized personnel at the location of the closed highway, or (2) drives over, through, or around a barricade, fence, or obstruction erected to prevent traffic from passing over a portion of highway closed to public travel. "Civilly liable for rescue costs" means that the person is liable to a state agency or political subdivision for the costs incurred for the purpose of rescuing the person, and passengers, or the vehicle. Civil liability may be imposed under this subdivision in the addition to the misdemeanor penalty imposed under subdivision 5. However, civil liability must not exceed \$10,000. A fine paid by a defendant in a misdemeanor action that arose from the same violation may not be applied toward payment of the civil liability imposed under this subdivision.

(d) A state agency or political subdivision that incurs costs as described in paragraph (c) may bring an action to recover the civil liability and related legal, administrative, and court costs. A civil action may be commenced as is any civil action.

Purpose

The purpose behind this law is to discourage and deter drivers from entering onto a road that has been deemed unsafe for travel. Results of actions to enforce this law are meant to alert the public that they will be held responsible for their actions that can jeopardize the safety and cause others to incur unnecessary costs.

Applicability

These guidelines apply for rescues on State trunk highways when:

- the road is closed or restricted as specified above or closed due to Spring flooding, and
- an authority rescues a person, passengers, or a vehicle and incurs identifiable and documented costs while doing so, and
- it can be reasonably determined that the person was responsible for failing to obey the direction or instruction of the authorized personnel or for driving over, through, or around a barricade, fence or obstruction erected to prevent traffic from passing over a portion of a highway closed to public travel. This is most easily done on controlled access roads like the Interstate; however, visual sighting of a vehicle violating the legal notice of closure should provide sufficient evidence to warrant civil action to recover the costs incurred on any state highway. It should be noted that guilt cannot be presumed, but conversations during the rescue and other knowledge may create a preponderance of evidence to indicate the person violated the law. The evidence need not be beyond a reasonable doubt in civil actions.
- applies to true costs incurred including all overheads.
- applies to all costs per incident including those of Mn/DOT and other political subdivisions or State agencies.

Procedure

Operating units should continue to operate under current Mn/DOT guidelines established by Mn/DOT Policy Position Statement highways No. 83-2, and

- on Interstate highways with gates, a record should be kept of all the closing and opening times and dates by individual gate location. If roadway sweeps can be performed after the closing, the results of these should also be recorded. Individuals recording the information should record the source of the information (radio call numbers) and their own initials (example form attached). Dispatch logs recording associated information should also be retained. These records should be maintained for use during civil or misdemeanor actions, if necessary.

-when law enforcement and operating personnel agree a rescue is covered under this law, records of costs should be kept by each jurisdiction or agency(example form attached) and submitted within a week to the local operating business office of Mn/DOT for beginning collection actions. The record should include all material, equipment and personnel costs incurred rounded to the nearest half hour increment. These costs must be identified along with the name of the party(s) responsible, license plate number and state of registration of the vehicle(s), location on roadway by nearest roadway mile point tenth and any dialog heard that adds value.

-costs incurred during the opening of a road by operating units to free(rescue) a vehicle(s) that violated the law are covered and can also be collected through similar documentation.

-when the rescue involves more than one vehicle, a reasonable division of the total costs should be made by field staff(officers and plow drivers)and assessed fairly to each one.

-the Mn/DOT operating unit business office should keep each State agency bill separate from others for the same vehicle/person incident and include all costs including overheads on each of them. Local jurisdiction or others(such as National Guard) can be treated as being hired by Mn/DOT or other state agency to help during the emergency. Mn/DOT or the state agency could pay their bill locally and then include the costs in their bill. Standing contracts for these services should be obtained. All bills should be stapled together so the totals indicate the combined costs per incident per vehicle/person. This billing shall be submitted to the Mn/DOT Office of Financial Management in the same manner that infrastructure damage bills are currently submitted. Depending on the volume of collections, Mn/DOT Office of Financial Management may in the future work with other agencies and political subdivisions to transfer monies as appropriate.

-the Office of Financial Management will process the billing and turn over unsuccessful attempts to the Minnesota Collection Enterprise(M.C.E.),Department of Revenue for collection or action to bring judgement.

-in some cases, M.C.E. may need help from the local operating unit when the collection moves to conciliation court.. In these cases, the local operating unit may have to represent the State in local conciliation court to seek the judgement.

Restrictions

A road authority cannot just "broadcast" a message indicating a road is closed, but must notify the public of the closure or restriction according to the law if there is intent to use the provisions of collection according to this rescue law. This means there needs to be an authorized person at the closure location giving instruction to drivers and/or there needs to be a barricade, gate, or obstruction erected at the closure location, all of which give notice of closure.

Effective Date July 1, 1998

Contacts

Questions should be directed to Bob Vasek, Maintenance Operations Support Engineer, at 651-297-5113.

GATE CLOSURE RESCUE CLAIM REPORT

To Be Completed by Mn/DOT:
 District Reference # _____ District Name _____ District Number _____

ICR # _____ Date of Rescue _____ Time _____
 Yellow Tag # _____ Vehicle License _____
Party Reporting Rescue:
 Officer _____ Driver of Vehicle _____
 Agency _____ Address _____

 _____ Driver _____
 _____ Address _____

Location:
 Trunk Highway _____ NB SB WB EB Median MilePost _____ County _____
 At ramp to/from _____
 At intersection with _____

Description	Unit	Rate	Line Sub Total
Labor			
Material			
Equipment			
Total			

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