



Testimony in Support of Assembly Bill 746
Assembly Committee on Criminal Justice and Public Safety
January 22, 2020

Chairman Spiros, Vice-Chair Sortwell, and members of the committee, I appreciate this opportunity to testify on Assembly Bill 746. Last year, Amherst Fire Department Assistant Chief Brian Swan, who will be testifying today as well, brought me and Senator Testin to the station to talk about roadside safety for first responders after a reckless driver crashed into one of his team's fire trucks as they were responding to an incident. Since then, I've worked with Assistant Chief Swan, Chief Victor Voss, and a multitude of fire departments from around the state, from Endeavor to Lake Delton, to craft and introduce this bill, as I've heard more and more stories which underscore its urgency.

Let me start by saying the Move Over or Slow Down law is good for education, but we can do more. Under current law, we have seen multiple cases in which a first responder has been killed or seriously injured and the driver at fault walked away with a mere citation for inattentive driving. In one case in Endeavor, a 34-year veteran firefighter was struck and killed while responding to an accident site, and a car did not move over and struck him. The driver walked away with a citation for inattentive driving. In another case, a Delton firefighter was struck by a driver who also walked away with just a citation. *It is simply unacceptable that the men and women who put their lives on the line to keep us safe every single day are risking their lives when they respond to an incident on the roadside.* To address this, we designed AB 746 with three main components in mind: prevention, enforcement, and education.

First and foremost, the bill creates an emergency response area, which mirrors the law related to work zones, in which first responders and TIMS teams can help to prevent these incidents from occurring by reducing the speed limit to slow down traffic where appropriate. In an emergency response area, just like a work zone, fines would double for speeding, reckless driving, and other traffic citations, and folks are prohibited from using their cell phones while driving, with the same penalties applying. This is the prevention component.

Secondly, the bill creates new penalties for drivers who injure or kill a worker on the side of the road. This component of the bill applies to construction, maintenance, utility, tow truck, and emergency workers. If a driver causes bodily harm to workers engaged in highway maintenance, construction, utility work, emergency response, or roadside response, they may be fined up to \$10,000 or jailed for 9 months, or both. Additionally, a court may also order 100-200 hours of community service and mandatory traffic school. These stiffened penalties will serve as a deterrent, and to ensure everyone is aware of the stiff penalties for harming a roadside worker, education is key to prevention.

Finally, the bill requires an advertising campaign from DOT to educate the public and ensure that folks are aware of the hazards and penalties associated with traffic violations in highway construction, maintenance, utility, and emergency or roadside response areas, in hopes that it will lead to heightened awareness and caution among drivers. Drivers should take their responsibility seriously and understand that reckless behavior is putting our first responders and workers on or near the roadway at risk. It is my hope that this bill will create a push for all of us to do better and own our driving as a grave responsibility.

Over the last year as I've worked on this legislation, I have heard from first responders from all over the state who say they would much rather run into a burning building than handle an accident on the side of the road. Their families have told us they worry most when their loved ones have to respond to a highway incident. In fact, Nicole Lannyk, whose husband was injured while responding to a roadside incident, shared the following with me to be read as a part of today's public hearing:

"As a fireman's wife, I know when the pager goes off that it is his duty to help those in need, it is my duty to support that. He runs out of the house and I say I love you, be careful. I try to not think about the danger he is in when he's gone. For years I thought that running into burning buildings was the most dangerous part of the job. I was wrong. Being on the side of the road at an accident scene is more dangerous than them fighting fires at least in my opinion. They have gear to protect them from the fire. They have no 'gear' to help them when a car hits them going 75 miles an hour which is what happened to my husband that hot summer July Sunday night while attending to an accident on the highway. The only gear they have to help protect them on the side of the road is this bill, this bill is the only thing that will help keep them safe.

I can tell you that since that incident my daughter says 'dad, please don't go' when she hears the pager and hears that it's a 1050 accident call. I reluctantly tell him to go but be careful and don't exhale until he's home. Passing this bill means saving lives, there is nothing to debate. This bill needs to be passed."

It's simple: we can do more to protect our first responders, and we can do more to protect all workers who are responding to an incident on the roadside or roadway. We also can do more to take responsibility as drivers. This bill accomplishes all three.

By creating this emergency response area with the same protections as work zones and adding penalties for injuring or killing a worker on a roadway or roadside, we are protecting first responders and educating folks about the urgent need to drive carefully, especially near a worker responding to an incident. The bill enjoys broad bipartisan support and has been crafted with the input of many organizations across the state, and I encourage the members of this committee to support it and please prioritize it to ensure that the bill continues to move forward through the legislature this session.

Thank you for your consideration, and I welcome any questions you may have.

Support for Assembly Bill 746

Thomas Earl Bray

Deputy Chief/AEMT

Amherst Fire District, PO Box 38, 4585 Fairgrounds Road, Amherst, WI, 54406

Home: 338 Pond Street, Amherst, WI 54406

1/23/2020

Representative Spiros and the members of the Committee on Criminal Justice and Public Safety,

I am addressing this committee to express my support for Assembly Bill 746. Amherst Fire District has a long history of involvement in the area of traffic incident management. Our department spearheaded the use of the FHWA temporary traffic control zone standards detailed in the Manual on Uniform Traffic Control Devices (MUTCD) and 23 CFR Part 634 (worker visibility, now found in the MUTCD) in the early 2000's. The reason for this initiative was to protect our members while working on or near the roadways after a series of close calls. The principles are to warn traffic well in advance of the scene, transition traffic into the lanes we need it in using a taper line of cones, directly controlling the flow of traffic with flaggers (if necessary), and placing vehicles in strategic locations to protect our members working on the actual scene.

When the State of Wisconsin adopted the Traffic Incident Management (TIM) principles and training, we immediately sent one of our on-staff instructors (DC Bray) to be qualified as a state instructor and required all of our members to complete the TIM training. We have since hosted many classes on TIM, conduct annual refresher training on TIM, and DC Bray has taught classes all over the State of Wisconsin. To say our department is passionate about trying to protect our members working on the roadways would be an understatement.

While conducting TIM training, the topic of how drivers behave while operating in our TIM areas inevitably comes up. All departments (police and law enforcement) have multiple near misses they share. This always leads to the inevitable question, and that is, "What is being done to get drivers to pay more attention and behave in our TIM areas?" Part of this discussion involves the "Move Over or Slow Down" law. Thank you for that, it has made a difference. It reinforced a safe practice that good drivers already exercised, and made more people aware of what they need to do to keep us (emergency responders and others that work on the roadways) safe. However, it did not go far enough.

To get the attention of drivers and change behavior, there needs to be known consequences attached to actions or inaction. This bill provides those consequences, especially when combined with an educational effort and public service announcements. Once this bill is in place, the goal would be to educate the public on the consequences (fines double, \$10,000 for injuring a worker on the roadway). This will in turn raise awareness on the need to operate safely in highway maintenance and construction areas, utility work areas, and emergency or roadside response areas and change behavior in many drivers. Of course, the bill would also provide law enforcement and district attorneys an additional tool to use to punish drivers that refuse to drive safely through a work or emergency zone. This is necessary because the educational efforts will not be enough to change the behavior of all drivers.

Thank you for allowing me the opportunity to address this committee, and thank you for your time and effort on this important topic.

Thomas Bray

Good Morning committee members and all of those in the room

My name is Mike Bourdeau, I currently serve as the Fire Chief of the Endeavor/Moundville Fire Department in Marquette County. I have 16 years experience working at incidents on our roadways especially Interstate 39, Highway 82 and Highway 23.

The issue of responders and roadway workers being struck or nearly struck working on our roadways is beginning to approach I believe epidemic levels.

If you watch the news on a regular basis, you continually see videos and stories of responders struck on roadways and very close calls in which tragedy almost happened.

Marquette County, being one of the smaller and less populated counties in the state has unfortunately had numerous close calls and 2 tragic deaths due to incidents on our roadways. In 1997 the Westfield Fire Department along with other agencies responded to a reported vehicle crash in the area called the gore which is between the interstate and the on ramp. While responders were attending to the scene and 2nd vehicle traveling on I-39 lost control and went down into the crash scene striking responders and killing Assistant Chief Greg Quinn.

Following that incident the decision was area wide to focus more on better accident scene setup, an county wide education program was set up which involved better vehicle blocking, responding with more large vehicle to use to protect responders working in the hot zone. Over the years a nation wide program called Traffic Incident Management or TIM has been established to train all highway responders which is the best program out there. Tens of thousand of responders and highway workers across Wisconsin have been trained in this program and it is the primary set up and protocol for most agencies in Wisconsin.

However as many times as we train on it, improve lighting, add more vehicles to block scenes, mobile signs with digital readouts the responder struck by incidents continue to happen at a tremendous rate and that's because of the human element, the vehicle drivers who don't pay attention and do not care about slowing down because they need to get where they are going as fast as possible and everyone needs to get out of their way.

The issue never struck home as much as it did on December 11th 2015, that Friday evening around dusk, the Endeavor/Moundville Fire Department and local Marquette County Ambulance were dispatched to a reported vehicle accident in which a subject had driven off the road in the median by result of a medical issue just south of the I-39 bridge at MM 100, the Endeavor exit.

As taught in Traffic Incident management, the Fire Department began to set up a traffic taper using cones to close 1 lane and create a safe work zone. 34 year veteran firefighter Larry Millard was operating a water tender at the beginning of the taper, a vehicle equipped with emergency lighting and a large arrow stick to advise vehicles to move over. While working at the back of the tender, a passenger car traveling southbound, distracted in the vehicle. Did not see the tender until the last second jerked the car off road and struck Firefighter Larry Millard who later died of his injuries at 56 years old. The driver of the vehicle in the end was only issued a Small Traffic Citation.

What kind of message are we sending out there that if you strike and kill a emergency responder that your poor decision will only be punished by a small ticket. As others that will testify today will tell you that they have experienced the same situation in which the driver that caused the incident only received a slap on the hand, and that is not law enforcement or a DA's fault it is because the current law is weak and hopefully we can fix this with this legislation and make people think twice when approaching our scenes.

We continue to see people taking pictures of us while driving, speeding, not moving over and even striking our cones with there car and making obscene gestures. It's a battle zone out there and its scary out on the roadways. I want to go home to my family at the end of the call and today you have the chance to make a difference.

Thank you



COLUMBIA COUNTY SHERIFF'S OFFICE

Roger L. Brandner, Sheriff

Wisconsin Assembly Bill 746

Hello, my name is Todd Horn. I have been employed with the Columbia County Sheriff's Office for the last 23 years as a sworn law enforcement officer. I currently serve my community as a Patrol Lieutenant and I am heavily involved with my agencies attempts to improve traffic safety within Columbia County. I have held the position of Chairman for the Columbia County Traffic Safety Commission for the past 4 years. During that time, I have had the opportunity to serve alongside many community partners and professional acquaintances to provide a positive and effective influence upon traffic safety.

I humbly and respectfully address this panel in order to express my personal support for Wisconsin Assembly Bill 746. The Columbia County Sheriff's Office and the Columbia County Traffic Safety Commission also vigorously support Bill 746. After carefully studying the proposed legislation, we interpret this undertaking as a logical first step forwards communicating a positive message of support to Wisconsin's emergency responders in the hopes of improving overall traffic safety in Wisconsin.

The State of Wisconsin has already established, and for good reason laws that protect people who are working within a highway maintenance or construction zone. Laws that allow for the doubling of fines for motorists who violate speed restrictions, disobey traffic signs, or simply place workers in danger through carelessness is a logical protection to afford Wisconsin's emergency responders.

Education efforts to inform and influence the motoring public as to the dangers to emergency responders as they are deployed along roadways laboring to save lives can be far-reaching. Emergency responders deal with speeding traffic only feet from their work areas on a daily basis. Giving Law Enforcement the ability to influence the behavior of motorists that choose to be careless with another person's safety would be a significant improvement. Rather than voice frustrations in vain about motorists speeding by crash scenes in an unsafe manner, Law Enforcement could help effect change.

One of the most dangerous situations for emergency responders involve crashes that result in road blockage with snowy or icy conditions. Vehicle crashes involving road blockage and the subsequent scene congestion causes a strong likely hood of additional crashes. Allowing emergency responders, the ability to temporarily post reduced speed limits would be significant in providing safety for emergency responders as well as the motoring public.

I want to thank this panel for taking the time to listen to my statement of support for Wisconsin Assembly Bill 746. Advocacy for Wisconsin's emergency responders will undoubtedly be appreciated and held in high regard by the men and women who serve within the state of Wisconsin on a daily basis.

Thank you!

Lieutenant Todd Horn



Wisconsin Towing Association

A Division of the Wisconsin Motor Carriers Association

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Schmidt's Auto

FIRST VICE CHAIR
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Dan Johnson
WMCA/WTA

Testimony in Support of Assembly Bill 746

Assembly Committee on Criminal Justice and Public Safety

Thursday, January 23, 2020

Good morning Mr. Chairman and Committee Members,

My name is Dan Johnson and I am the Vice President of the Wisconsin Motor Carriers Association as well as the Division Administrator for the Wisconsin Towing Association. I'd like to thank you for taking time to hear testimony on Assembly 746, which the Association strongly supports. I would also like to thank Representative Shankland and Senator Testin for authoring this much-needed legislation and the many individuals from various responder organizations that have lent their expertise and advice.

You have the bill before you and others have spoke to the particulars of it, so I will not be repetitive. But I would like to share a couple of points which do bear repeating. First, each year in the United States, more than one tow truck operator is killed each week while performing his or her duties assisting those in need. These individuals who have lost their lives due to the negligence of others are professionally trained operators who take great care to protect themselves, and more importantly, the people they help along the side of the road.

Unfortunately, even with the most due care and attention to detail, distracted and inattentive drivers who either do not understand the rules of road when passing an emergency scene - or simply disregard them - can create havoc within a matter of seconds. There have been countless near-misses, numerous vehicle strikes, serious bodily injury, and sadly, hundreds of lives lost along our roads and highways. We need to do more to stop these senseless tragedies.

Second, Wisconsin's Move Over-Slow Down law has been on the books since 2001 and while that law has probably prevented many of these incidents, it's still not enough. Education is the key for the Move Over law to work as intended, but the message is not getting out soon enough or often enough. Thus, we believe adding a new "emergency response area" to state law will bolster educational efforts for Wisconsin's Move Over law. We believe both initiatives working in tandem will serve as continuing reminder to motorists that human lives are at stake and people who simply wish to help others also simply wish to go home.

The men and women of the Wisconsin Towing Association work side by side with many professional responders in fire, EMS, law enforcement and highway departments and we stand shoulder to shoulder with them today in support of Assembly 746.

Again, thank you for your attention to this critical issue and I'm happy to answer any questions you may have.

Respectfully submitted,

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January 23, 2020

Chairman Spiros, Representative Shankland and members of the Committee. As the President of the Wisconsin State Fire Chiefs Association, I want to thank you on behalf of our state's fire and emergency services leaders for allowing us the opportunity to speak, and provide some insight on the increasingly volatile hazards that our state's first responders face when responding to emergencies on Wisconsin's roads.

Wisconsin's emergency services personnel are called upon to respond to emergency scenes on our state's roadways on a daily basis. The very nature of the incidents they respond to – vehicle accidents, fires, hazardous materials spills, and medical emergencies bring with them an element of danger and unknowns. We rely on these responders to rise to the occasion, providing swift and decisive action with laser-like focus amidst the chaos that accompanies these incidents. While these challenges in and of themselves seem insurmountable to most, they represent only a portion of the risk that these responders expose themselves to while operating on our roads and highways.

One might think that these emergency services personnel face the greatest peril while extinguishing house fires, performing a complicated rope rescues, or responding to violent incidents. While these types of situations certainly involve an unquestionably significant level of risk to Wisconsin's responders, it is often the things we do most frequently and "routinely" which result in tragedy. I'm saddened to support this notion in submitting that in the first 23 days of 2020, our nation has experienced the loss of four first responders, and three tow operators as a result of being struck by other vehicles during roadway scene operations. With that, it's likely that at least one member of the Wisconsin fire and emergency services community will lose their life serving the public on our roadways this year.

I'm certain you all recognize that there are substantial financial implications which accompany an accident, or worse, a fatality involving a first responder as a result of one of these incidents. Those coming in the form of insurance settlements, disability payments, legal fees, equipment replacement costs, and countless other unconsidered, yet significant expenditures which will be borne by the grief-stricken municipality. This fiscal impact could very well lead to a reduction in plow operators, road maintenance funds, or even first responders resulting in an even higher level of risk for the responders left reeling in the wake of loss.

I could expound at great length on these "costs", but I'll choose to leave you with this final thought as I close my testimony. In the fire and emergency services business, we make split-second decisions in some of the harshest environments imaginable based what we refer to as "risk versus benefit" analyses. We stand ready to risk our lives in order to save the lives of others. In closing, I would ask if the State of Wisconsin is willing to face the repercussions which may

come with the increased penalties for drivers who put our responders in danger in order to save the life of just one of those responders? Is this "risk" worth the "benefit"? I believe the answer is a resounding YES!

I thank you all again for your willingness to hear our thoughts on this matter, and close by requesting that you carefully consider the benefits of this piece of legislation as they relate to Wisconsin's emergency responders, their families and loved ones, as well as our communities.

Yours in Public Service,

A handwritten signature in black ink, appearing to read "Timothy Bantes". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Timothy Bantes, WSFCA President