



TODD NOVAK

STATE REPRESENTATIVE • 51ST ASSEMBLY DISTRICT

(608) 266-7502
Toll-Free: (888) 534-0051
Rep.Novak@legis.wi.gov

P.O. Box 8953
Madison, WI 53708-8953

DATE: Tuesday, August 31st, 2021
RE: Testimony on Assembly Bill 445
TO: Assembly Committee on Transportation
FROM: State Representative Todd Novak

Thank you, Chairman Plumer, and members of the Assembly Committee on Transportation for holding this public hearing on Assembly Bill 445 (AB445), which clarifies an exception for operating an unregistered vehicle during declared states of emergency.

Current law provides that vehicles must be registered with the state Department of Transportation if they're to be operated on a highway. However, there is a broad exception that applies during declared states of emergency. This bill seeks to clarify and refine that exception to apply only in instances where someone is in an actual and imminent emergency trying to escape harm.

The nonpartisan Legislative Reference Bureau (LRB) noted in a publication that data from 1965 until present reflected that some Governors declared as few as 16 emergencies during their term whereas others declared as many as 42 during a four year period. A state of emergency can be narrowly tailored to impact a specific area affected by a storm or in the case of the recent pandemic response can be written to include the entire state of Wisconsin.

Over the past two years, there have been several different states of emergency declared and a significant number of calendar days spent in states of emergency. As the law is currently written, law enforcement is limited from taking action against individuals driving an unregistered vehicle during any declared state of emergency, irrespective of whether the state of emergency is remotely related to the reason the vehicle is being driven. Under the proposed change, the law would allow for unregistered vehicles to be driven only if the action was connected to avoiding harm by fleeing an actual emergency caused by natural physical forces.

This legislative proposal stems from a request made by Green County District Attorney Craig Nolen seeking to clarify the existing law.

Thank you for your consideration of AB445.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

August 31, 2021

Assembly Committee on Transportation Testimony on Assembly Bill 445

Thank you Chairman Plumer and committee members for hearing Assembly Bill (AB) 445, which would clarify current law regarding the use and operation of unregistered vehicles. Thank you Vice-Chair Spiros and Representative Callahan for co-authoring this important piece of legislation.

This bill clarifies that all vehicles operated on a road must be registered, unless the operator of the vehicle believes he/she is in imminent danger of “death or great bodily harm”. Under the bill, a driver could still operate an unregistered vehicle if they were, for example, attempting to escape from an actual emergency, such as a wildfire. Thank you to Green County District Attorney Craig Nolen for bringing this issue to my attention.

Since 2019, there have been 19 State of Emergency declarations by the Governor that have applied to at least some part of the state under Wisconsin Statutes Chapter 323. These declarations have covered more than 701 of the last 973 days, or about 72% of the time. In addition, there have been countless local emergency declarations.

These State of Emergency declarations have ranged from closing state office buildings due to cold weather, to preparing an emergency management response due to elevated wildfire conditions, to COVID-19 related measures. While some of these declarations are only necessary for a few days, under state law, emergency declarations last 60 days, unless revoked by the governor via an executive order or by the legislature by joint resolution.

Under current law, a driver cannot operate an unregistered motor vehicle. However, there is an exception, “during a state of emergency proclaimed under ch. 323”. This makes sense during an actual and imminent emergency as it allows someone to drive to escape imminent harm. However, with so many State of Emergency declarations over the past few years, it is inhibiting law enforcement from doing its job.

Current law not only prohibits law enforcement from writing a citation, it also prohibits law enforcement from stopping a vehicle that is unregistered. As an example, all law enforcement officers were prohibited from stopping or ticketing an unregistered vehicle anywhere in Wisconsin from April 5, 2021 through June 3, 2021 because of “elevated wildfire risk”.

A special thank you to Green County District Attorney Craig Nolen who brought me the idea for this commonsense legislation. Thank you again to the committee for hearing this proposal, and your timely action on the bill.



VILLAGE OF MONTICELLO

238 N MAIN STREET
P.O. BOX 147
MONTICELLO, WISCONSIN 53570-0147
PHONE: 608-938-4320



Date: August 31, 2021
RE: Testimony on Assembly Bill 445
TO: Committee on Transportation
From: Szvon Conway, Chief of Police

Good morning esteemed members of this great State of Wisconsin,

I am Szvon Conway, the Chief of Police for the Monticello Police Department.

It should be noted that we cannot pull over registration violations during a State of Emergency.

Currently the State Statute for registration violations during a State Emergency is written so broadly it poses a significant obstacle to law enforcement on the ground. We're often left wondering, the one day, we missed a state of emergency, will the police traffic stop of a registration violation that lead to a criminal arrest stand up to the scrutiny of a court or is it considered the fruits of the poisonous tree?

We have been contacted by Milwaukee Police Department and Johnson County Sheriff's Office in the State of Iowa to conduct follow-up on felony crimes only to find out the front license plates were stolen off our resident's vehicles and used in a commission of a crime in their jurisdiction.

At the end of the day we're trying to faithfully execute the law and provide for the public's safety.

Thank you for your consideration and thank you for what you do as you all are appreciated!

GREEN COUNTY DISTRICT ATTORNEY'S OFFICE

Green County Justice Center
2841 6th Street
Monroe, Wisconsin 53566
Phone: 608/328-9424
Fax: 608/328-9546

DISTRICT ATTORNEY
Craig R. Nolen
Assistant District Attorneys
Laura M. Kohl
Corinne L. Frutiger

Legal Staff
Susan L. Leistikow
Nicole M. Cummings

Victim/Witness Services
Teffanie J. Duffy

DATE: 08/31/2021

RE: Testimony on Assembly Bill 445

FROM: Green County District Attorney Craig R. Nolen

TO: Assembly Committee on Transportation

Thank you Chairman Plumer, members of the Committee on Transportation, and Representative Novak for inviting me here to testify on Assembly Bill 445, particularly as it relates to Wis. Stat. § 341.04 and its inapplicability during a State of Emergency declared under Ch. 323.

Today is the 243rd day of 2021, however Wis. Stat. § 341.04 has been operative only a total of 59 days during this calendar year as a result of State of Emergencies declared under Chapter 323. As a District Attorney, I first learned of the State of Emergency provision of Wis. Stat. § 341.04 on March 25, 2020 after receiving an email from the Attorney General's office.

I am concerned as a prosecutor, a taxpayer, and the owner of multiple registered motor vehicles, that as a result of one line of text within a statute, that an entire registration framework enacted by the State becomes inoperable merely by the declaration of a State of Emergency. Motor Vehicle Registration is a logical and necessary framework adopted by our State and serves as an important investigatory tool for law enforcement. There are many crimes committed by individuals who swap registration plates to avoid detection, such as motor vehicle thefts and other offenses, which as a result of the language in the preamble to Wis. Stat. § 341.04 becomes wholly inoperable. As a result of such statute being inoperable, any provision relating to offenses for improper registration or improper display of license plates cannot be acted on by law enforcement. If law enforcement acts on a registration violation, such evidence will be suppressed by a Court, because the entirety of Wisconsin's motor vehicle registration framework is not in effect during a State of Emergency.

Logically, we can understand the rational for an emergency exception for the operation of a motor vehicle that is not registered; what is not logical, however, is the 60 day perpetuity that exists when a State of Emergency is declared. At present, we are under a State of Emergency, courtesy of Executive Order 128, which will expire on September 20, 2021, unless the legislature acts to revoke the Executive Order. As a result, I reached out to Senator Marklein and Representative Novak and suggested Sections 1 and 7 of Assembly Bill 445 to ensure that Wisconsin's motor vehicle registration framework is upheld.

Assembly Bill 445, if adopted by this committee and passed as an act, will allow for emergency usage of a non-registered motor vehicle in appropriate circumstances, which are not otherwise covered as the law stands today.



OFFICE OF THE GOVERNOR

EXECUTIVE ORDER #110

**Relating to Declaring a State of Emergency in Response to Elevated
Wildfire Conditions**

WHEREAS, Wisconsin has entered a period of high wildfire occurrence;

WHEREAS, based upon weather predictions from the National Weather Service, Wisconsin will experience a period of warmer temperatures, lower humidity, and high winds that can quickly ignite wildland and create rapidly spreading fires;

WHEREAS, these wildfires and the ongoing and heightened statewide threat of wildfires will affect the safety of persons and property;

WHEREAS, Wisconsin's landscape contains widespread areas of extremely hazardous fuel loads that resulted from the damaging windstorms of July 2019;

WHEREAS, in 2020, Wisconsin Department of Natural Resources reported a total of 782 wildfires that burned 1,630.13 acres; and so far in 2021, approximately 322 wildfires have already occurred, burning 1,527.92 acres;

WHEREAS, additional personnel and resources are needed to adequately respond to these fires and expedite the response and recovery operations in affected areas;

WHEREAS, the COVID-19 pandemic has increased operational difficulty in performing critical fire suppression management and response capabilities, ultimately making it more challenging for firefighting agencies across the state; and

WHEREAS, the Wisconsin Department of Natural Resources has requested wildfire suppression support from the Wisconsin National Guard to include the pre-positioning of firefighting assets in critical locations throughout Wisconsin.

NOW THEREFORE, I, TONY EVERS, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and Laws of this State, specifically Sections 321.39(1)(a), 323.10, and 323.12 of the Wisconsin Statutes, do hereby:

1. Proclaim that a State of Emergency exists in the State of Wisconsin.
2. Direct all state agencies of the State of Wisconsin to assist as appropriate in wildfire prevention, response, and recovery efforts.

3. Call to state active duty such elements of the Wisconsin National Guard as the Adjutant General deems necessary to assist Wisconsin Emergency Management and the Department of Natural Resources in providing wildfire suppression, prevention, response, recovery, and other essential services.
4. Authorize the Adjutant General to use personnel called to state active duty pursuant to this order in emergency status.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this fifth day of April in the year of two thousand twenty-one.

Tony Evers

TONY EVERS
Governor

By the Governor:

Douglas La Follette

DOUGLAS LA FOLLETTE
Secretary of State



OFFICE OF THE GOVERNOR

EXECUTIVE ORDER #128

Relating to a Proclamation Declaring a State of Emergency Due to Severe Weather

WHEREAS, beginning on July 28, 2021, several Wisconsin counties experienced extreme weather, including heavy rainfall, large hail, straight-line damaging winds, and reported tornadoes;

WHEREAS, this extreme weather has created an emergency situation by endangering lives and property throughout the state;

WHEREAS, emergency responders from fire, law enforcement, and emergency medical services must respond as a result of this disaster, including staff from Wisconsin Emergency Management, the Wisconsin Department of Health Services, the Wisconsin Department of Natural Resources, the Wisconsin State Patrol, and the Wisconsin National Guard; and

WHEREAS, additional personnel and resources are needed to expedite and enhance the response and recovery operations in the affected areas.

NOW, THEREFORE, I, Tony Evers, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the Laws of the State, and specifically by Sections 321.39(1)(a), 323.10, and 323.12(4) of the Wisconsin Statutes, do hereby:

1. Proclaim that there is a State of Emergency in Wisconsin.
2. Direct all state agencies of the State of Wisconsin to assist affected counties as appropriate in a response and recovery effort.
3. Call to state active duty such elements of the Wisconsin National Guard as the Adjutant General deems necessary to assist civil authorities for purposes of assisting in response and recovery efforts as well as providing security and other essential services.
4. Authorize the Adjutant General to utilize personnel called to state active duty pursuant to this order in emergency status.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this twenty-ninth day of July in the year of two thousand twenty-one.

Tony Evers

TONY EVERS
Governor

By the Governor:

Douglas La Follette

DOUGLAS LA FOLLETTE
Secretary of State