

2023 SENATE AGRICULTURE AND VETERANS AFFAIRS

SB 2189

2023 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2189
1/19/2023

Relating to entering a closed road; and to provide a penalty

8:58 AM Chairman Luick opened the meeting.

Members present: Chairman Luick, Vice Chairman Myrdal, Senator Lemm, Senator Weber, Senator Weston, Senator Hogan.

Discussion Topics:

- Closed roads
- Fines

8:59 AM Senator Weber introduced SB 2189 and testified in favor. (verbal)

9:03 AM Bryan Niewind, Southeast Region Commander, ND Highway Patrol, testified in favor of SB 2189. #14313

9:16 AM Wayde Swenson, Office of Operations Director, ND Department of Transportation, testified, Neutral on SB 2189. #14347

9:19 AM Senator Hogan moved Do Pass SB 2189.

9:19 Senator Lemm seconded the motion.

Roll Call vote:

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Kathy Hogan	Y
Senator Randy D. Lemm	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed. Vote 6-0-0
Senator Weber will carry.

9:30 AM Chairman Luick closed the meeting.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2189: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2189 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE TRANSPORTATION

SB 2189

2023 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Room JW327E, State Capitol

SB 2189
3/3/2023

A bill relating to entering a closed road.

Chairman Ruby opened the hearing at 10:04AM.

Members present: Chairman Ruby, Vice Chairman Grueneich, Representatives Anderson, Christensen, Dyk, Frelich, Hauck, Murphy, Timmons, Wagner, Weisz, Dakane.
Members absent: Representative Koppelman and Dobervich.

Discussion Topics:

- Gated and closed roads
- Closed road violations
- Public closed road notifications

Senator Weber verbally introduced the bill in support.

Bryan Niewind, Southeast Region Commander for the North Dakota Highway Patrol, testified in support (#21765 and 21764).

Wayde Swenson, Director of the Office of Operations for the North Dakota Department of Transportation, testified in support (#21792).

Bryan Niewind, Southeast Region Commander for the North Dakota Highway Patrol, answered questions from the committee.

Chairman D. Ruby closed the hearing at 10:40AM.

Representative K. Anderson moved a Do Pass.

Representative Dakane seconded the motion.

Roll call vote:

Representatives	Vote
Representative Dan Ruby	N
Representative Jim Grueneich	Y
Representative Karen A. Anderson	Y
Representative Cole Christensen	Y
Representative Hamida Dakane	Y
Representative Gretchen Dobervich	AB
Representative Scott Dyk	Y
Representative Kathy Frelich	N
Representative Dori Hauck	Y

Representative Ben Koppelman	AB
Representative Eric James Murphy	Y
Representative Kelby Timmons	N
Representative Scott Wagner	Y
Representative Robin Weisz	N

Motion carried 8-4-2

Representative K. Anderson is the bill carrier.

Meeting adjourned at 10:44AM.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2189: Transportation Committee (Rep. D. Ruby, Chairman) recommends **DO PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). SB 2189 was placed on the Fourteenth order on the calendar.

2023 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Room JW327E, State Capitol

SB 2189
3/24/2023
Subcommittee

A bill relating to entering a closed road.

Chairman Koppelman opened the subcommittee meeting at 9:00 AM.

Members present: Chairman Koppelman, Representative Christensen, Representative Timmons.

Discussion Topics:

- Weather related road conditions
- Interstates and state highway barricades

Committee discussion.

Chairman Koppelman adjourned at 9:09 AM.

Mary Brucker, Committee Clerk

TESTIMONY

SB 2189



68th Legislative Assembly

Testimony in Support of

Senate Bill No. 2189

Senate Ag and Veterans Affairs Committee

January 19, 2023

TESTIMONY OF

Captain Bryan Niewind, SE Region Commander

Good morning Chairman Luick and members of the committee. My name is Bryan Niewind and I serve as the southeast region commander for the North Dakota Highway Patrol. I am here to provide testimony in support of Senate Bill 2189.

This bill addresses a concern that our officers face each winter on our roadways. The concern has been amplified in recent years as we have seen large numbers of drivers ignore road closures and have chosen to put lives at risk during severe winter storms. When a road is closed, the closure is for safety reasons, and chances are the road is completely impassable. If a driver becomes stranded on the roadway, they are forced to call 911, at which point law enforcement, and at times ND Department of Transportation snowplows, are dispatched to help rescue them. Each winter, our troopers spend hundreds of hours responding to these calls and rescuing motorists from closed roadways.

Currently, this section of law has been interpreted that a violation occurs only when the driver enters the roadway at the "point of entry" where the roadway was officially closed and that point of entry is marked with an appropriate traffic control device. For example, if a driver informs law enforcement that they traveled east of Bismarck on Old Highway 10, and then entered the interstate at Exit 170, they technically did not enter at a "point of entry" with a traffic control device, as not all exits on the interstate system are equipped with gates and traffic control devices.

Just this winter, two motorists were northbound on Interstate 29 and came upon a road closure at Exit 69 north of Fargo. I-29 was closed from Fargo to Grand Forks, both directions and had been for some time and the road was blocked. A trooper was posted at the closure point in a marked patrol car with emergency lights flashing. The motorists exited off I-29, traveled east to Co. Rd. 81, drove north on Co. Rd. 81 and re-entered I-29 north of the closure point. Where they re-entered, no road closure gate was present. One of our sergeants stopped them and cited them for driving around a road closure gate, as they admitted they exited off I-29 at the closure point, re-entering at a point further north.

Both were found not guilty by a judge in Cass County. His rationale was that the motorists didn't enter the closure after going around a gate, even though they circumvented the gate location at Exit 69 to re-enter I-29. The judge also asked how a motorist would know that the entire stretch of road is closed, that maybe only the short portion north of the gate location was closed. The defendants also claimed they didn't know the road was closed, so they didn't "knowingly" enter the closed road, even though they admitted they saw the gate at Exit 69 and circumvented it by

driving another road to re-enter I-29.

The updated language of the bill is simple and clear and removes the burden of “knowingly”. Road closures most times follow no travel advisories, which is the first warning for people to know the weather and roads are bad. Travel advisories and road closures are announced on social media and sent to traditional media as well. Closure points are established, and the road closures are posted to the 511 travel system. The NDDOT’s travel information map is consistently updated to changing travel conditions and has a plethora of information for the traveling public. In addition, at the closure points, signs identify the road is closed and dynamic message boards are turned on prior to the closure point identifying the closure and the locations it is closed. Dynamic message boards in surrounding states are turned on identifying road closures in North Dakota as well, to notify the public traveling to North Dakota of the road conditions. Most of the time, we post a trooper at the road closure gates with their emergency lights activated. There is ample warning out there for people to “know” about the closure.

The bill changes the wording in subsection 2, “If a road closure under subsection 1 has been announced to the public, an individual may not drive on the road.” This still requires a notification to be made to the public letting them know which roadways are closed. The NDDOT travel information map is widely used by North Dakota citizens and is immediately updated when road closures are put on. Road closures are not just a spur of the moment decision. It is done after all other measures have been exhausted and the roadways are just too dangerous to travel. By this point, the motoring public is well aware of the weather, and the dangers posed by being out on the roadways.

This change makes it clear that you are not to be driving on a roadway that has been closed and removes the loophole allowing for motorists to circumvent the law.

This concludes my testimony. I am happy to answer any questions you may have.

**Senate Bill No. 2189****Senate Agriculture and Veterans Affairs**

Fort Union | January 19, 2021, 9 a.m.

Wayde Swenson, Office of Operations

Mr. Chairman and members of the committee - I'm Wayde Swenson, Director of the Office of Operations for the North Dakota Department of Transportation (NDDOT). I'm here to offer neutral testimony on Senate Bill 2189.

During inclement weather, the NDDOT works with law enforcement to decide whether to close a road. There are multiple ways the NDDOT provides notice to the public on a road closure, including:

- Posting the closure on our travel information map.
 - Individuals signed up GovDelivery, our messaging tool, will automatically get a text or an email on the road closure depending on the preferences they've selected.
- Providing a news release to media outlets.
- Updating our social media accounts.
- Updating digital message boards on major roadways with road closure information.

We believe these ways the NDDOT gives notice to the public would meet the intent of announcing to the public that the road is closed.

This concludes my testimony. Thank you.











68th Legislative Assembly

Testimony in Support of

Senate Bill No. 2189

House Transportation Committee

March 3, 2023

TESTIMONY OF

Captain Bryan Niewind, SE Region Commander

Good morning Chairman Ruby and members of the committee. My name is Bryan Niewind and I serve as the southeast region commander for the North Dakota Highway Patrol. I am here to provide testimony in support of Senate Bill 2189.

This bill addresses a concern that our officers face each winter on our roadways. The concern has been amplified in recent years as we have seen large numbers of drivers ignore road closures and have chosen to put lives at risk during severe winter storms. When a road is closed, the closure is for safety reasons, and chances are the road is completely impassable. If a driver becomes stranded on the roadway, they are forced to call 911, at which point law enforcement, and at times ND Department of Transportation snowplows, are dispatched to help rescue them. Each winter, our troopers spend hundreds of hours responding to these calls and rescuing motorists from closed roadways.

Currently, this section of law has been interpreted that a violation occurs only when the driver enters the roadway at the "point of entry" where the roadway was officially closed and that point of entry is marked with an appropriate traffic control device. For example, if a driver informs law enforcement that they traveled east of Bismarck on Old Highway 10, and then entered the interstate at Exit 170, they technically did not enter at a "point of entry" with a traffic control device, as not all exits on the interstate system are equipped or can be equipped with gates and traffic control devices.

Just this winter, two motorists were northbound on Interstate 29 and came upon a road closure at Exit 69 north of Fargo. I-29 was closed from Fargo to Grand Forks, both directions and had been for some time and the road was blocked. A trooper was posted at the closure point in a marked patrol car with emergency lights flashing. The motorists exited off I-29, traveled east to Co. Rd. 81, drove north on Co. Rd. 81 and re-entered I-29 north of the closure point. Where they re-entered, no road closure gate was present. One of our sergeants stopped them and cited them for driving around a road closure gate, as they admitted they exited off I-29 at the closure point, re-entering at a point further north.

Both were found not guilty by a judge in Cass County. His rationale was that the motorists didn't enter the closure after going around a "traffic control device", even though they circumvented the gate location at Exit 69 to re-enter I-29. The judge also asked how a motorist would know that the entire stretch of road is closed, that maybe only the short portion north of the gate location was closed. The defendants also claimed they didn't know the road was closed, so they didn't "knowingly" enter the closed road, even though they admitted they saw the gate at Exit 69 and

circumvented it by driving another road to re-enter I-29.

On February 15th, while supporting NDDOT road clearing operations that included several snow plows and three blowers, a NDHP patrol vehicle was struck on I-29 at Exit 85 by a motorist that was traveling on the closed road. I-29 had closed the previous evening and NDHP units were assisting NDDOT with route clearing operations, as so many motorists were traveling on the closed road it was slowing down DOT operations. The NDHP trooper was having people exit I-29 at Exit 85. He was parked with his emergency lights flashing and was rear ended by a motorist. Luckily, neither were injured (see attached pictures).

The updated language of the bill is simple and clear and removes the burden of "knowingly". Road closures most times follow no travel advisories, which is the first warning for people to know the weather and roads are bad. Travel advisories and road closures are announced on social media and sent to traditional media as well. Closure points are well established in populated areas, and the road closures are posted to the 511 travel system. The NDDOT's travel information map is consistently updated to show changing travel and weather conditions, and has a plethora of information for the traveling public. In addition, at the closure points, signs identify the road is closed and dynamic message boards are turned on prior to the closure point identifying the closure and the locations the road is closed from and to. Dynamic message boards in surrounding states are turned on identifying the road closures in North Dakota as well, to notify the public traveling to North Dakota of the road conditions. Most times, we post a trooper at the road closure gates with their emergency lights activated. There is ample warning out there for people to "know" about the closure.

The bill changes the wording in subsection 2, "If a road closure under subsection 1 has been announced to the public, an individual may not drive on the road." This still requires a notification to be made to the public letting them know which roadways are closed. The NDDOT travel information map is widely used by North Dakota citizens and is immediately updated when road closures are put on. Road closures are not just a spur of the moment decision. It is done after all other measures have been exhausted and the roadways are just too dangerous to travel. By this point, the motoring public is well aware of the weather, and the dangers posed by being out on the roadways.

This change makes it clear that you are not to be driving on a roadway that has been closed and removes the loophole allowing for motorists to circumvent the law.

This concludes my testimony. I am happy to answer any questions you may have.

**Senate Bill No. 2189****House Transportation**

327 E | March 3, 2023, 10 a.m.

Wayde Swenson, Office of Operations

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 - Individuals signed up GovDelivery, our messaging tool, will automatically get a text or an email on the road closure depending on the preferences they've selected.
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- ND 511 Information – telephone service.
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This concludes my testimony. Thank you.