

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 15<sup>th</sup>, 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.