AN ACT

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, defining "governmental incident responder," "incident," "incident area," "incident clearance," "responder" and "response personnel"; further providing for accidents involving damage to attended vehicle or property; providing for vehicles involved in accidents and spilled cargo on freeway or limited access highway, for immediate custody and removal of vehicle constituting hazard, for road user duties approaching incidents, for avoidance of lane blockage and expedited removal of vehicles and for liability for authorized incident clearance functions; and establishing the Incident Management Committee and providing for its composition and duties.

The General Assembly finds and declares as follows:

Incident management involves the rapid application of traffic control measures in areas affected by an incident. Incident management authority authorized by this act commences whenever a responder arrives at an incident area. The primary purposes of temporary traffic control at an incident area are maintenance of incident area safety and security, including:

(1) Protection of responders to an incident site.

(2) Protection of roadway users and others at an incident area.
(3) Movement of road users safely past, around or away from the incident area.

(4) Reduction of the likelihood of secondary crashes.

(5) Expeditious clearance of the roadway.

(6) Protection of vehicles and cargo at the incident area.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 102 of Title 75 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Governmental incident responder." Any governmental agency or its designated representatives with authority to provide services at an incident, including, but not limited to, law enforcement, fire department, emergency medical services, hazardous materials and transportation agency personnel.

* * *

"Incident." An emergency road user occurrence, a natural disaster or other special event.

"Incident area." An area of a highway where authorized officials impose a temporary traffic control zone in response to an incident.

"Incident clearance." The process of highway crash clearance and the removing of wreckage, debris or any other matter that...
disrupts the normal flow of traffic and restoring the roadway capacity to its preincident condition. The term includes temporary repair to infrastructure.

"Responder." Any law enforcement, fire department, emergency medical services, hazardous materials, highway or transportation, towing and recovery or other entity authorized by law, governmental regulation or local practice to respond to an incident.

"Response personnel." Includes law enforcement, fire department, emergency medical services, towing and recovery and other personnel authorized by law or local practice to respond to an incident.

Section 2. Section 3743 of Title 75 is amended to read:

§ 3743. Accidents involving damage to attended vehicle or property.

(a) General rule.--

(1) The driver of any vehicle involved in an accident resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 3744 (relating to duty to give information and render aid). Every stop shall be made without obstructing traffic more than is necessary.

(2) The driver shall remove the vehicle from the immediate confines of the roadway into a safe refuge on the shoulder, emergency lane or median or to a place otherwise
removed from the roadway whenever, in the judgment of the
driver, such moving of a vehicle may be done safely and the
vehicle is capable of being normally and safely driven, does
not require towing and may be operated under its own power in
its customary manner without further damage or hazard to
itself, to the traffic elements or to the roadway.

(b) Penalty.--Any person violating [this section] subsection
(a)(1) commits a misdemeanor of the third degree, punishable by
a fine of $2,500 or imprisonment for not more than one year, or
both. Any person violating subsection (a)(2) commits a summary
offense, punishable by a fine of $50.

Section 3. Title 75 is amended by adding sections to read:
§ 3743.2. Vehicles involved in accidents and spilled cargo on
freeway or limited access highway.

(a) Policy statement.--The removal of vehicle collision
debris and cargo for the purpose of opening traffic lanes is a
higher priority than attempting to salvage portions of the
cargo.

(b) Applicability.--Notwithstanding any provision of law to
the contrary, this section applies to any vehicle traffic
accident which occurs on a freeway or limited access highway in
this Commonwealth.

(c) Removal of vehicle and cargo.--Immediately following an
accident, a police officer may remove or direct removal of any
vehicle involved in the accident and any spilled cargo from any
roadway to a location off the roadway where the vehicle or
spilled cargo does not interfere with or obstruct traffic.

(d) Salvage operations.--Salvage operations when possible
should be scheduled during nonpeak hours of travel.

(e) Storage of cargo.--When in the opinion of a police
officer it is necessary to protect the contents, load or spilled
cargo of a wrecked vehicle from the elements, spoilage or theft,
the police officer may remove or direct the removal of the
contents, load or spilled cargo and have the same stored, at the
expense of the owner, at the nearest practical place of storage.

(f) Liability for damage or loss.--In carrying out the
provisions of this section, no liability shall attach to the
police officer or, absent a showing of gross negligence, to any
person acting under the direction of a police officer for damage
to any vehicle or damage to or loss of any portion of the
contents, load or spilled cargo.

§ 3745.2. Immediate custody and removal of vehicle constituting
hazard.

(a) General rule.--Notwithstanding any other provision of
law to the contrary, a police officer may immediately take
custody of a vehicle that is disabled, parked or left standing
unattended on a road or highway right-of-way and that is in such
a location as to constitute a hazard or obstruction to motor
vehicle traffic using the road or highway.

(b) Definition.--As used in this section, the term "hazard
or obstruction":

(1) Includes, but is not limited to:

(i) Any vehicle that is parked so that any part of
the vehicle extends within the paved portion of the
travel lane.

(ii) Any vehicle that is parked so that any part of
the vehicle extends within the highway shoulder or
bicycle lane of:

(A) A freeway within the limits of any county of
the first, second or third class in this Commonwealth
during the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.

(B) A freeway within 1,000 feet of the area where a freeway exit or entrance ramp meets the freeway.

(C) A highway during or into the period between sunset and sunrise if the vehicle presents a clear danger.

(2) Does not include parking in a designated parking area along any highway or, except as described in paragraph (1), parking temporarily on the shoulder of the highway as indicated by a short passage of time and by the operation of the hazard lights of the vehicle, the raised hood of the vehicle or advance warning with emergency flares or emergency signs.

§ 3758. Road user duties approaching incidents.

(a) General rule.--When in or approaching an incident area, a driver shall maintain a speed no greater than is reasonable and prudent under the conditions, including actual and potential hazards then existing.

(b) Direction by official or traffic control device.--When in or approaching an incident area, a driver shall obey the directions of any authorized official directing traffic and all applicable traffic control devices.

(c) Speed.--Except for emergency vehicles, when in or approaching an incident area, a driver shall reduce speed and vacate any lane wholly or partially blocked.

(d) Penalty.--If a violation of this section results in a serious injury or death to another person, in addition to any other penalty imposed by law, the violator's driver's license
shall be suspended for a period of at least 180 days and not more than two years.


(a) General rule.--No person shall stop or park a vehicle in such manner as to impede or render dangerous the use of the roadway by others, except to avoid collision, at the direction of an authorized official, or in the case of a crash or mechanical breakdown.

(b) Emergency flashing lights.--In the event of a crash or mechanical breakdown, the emergency flashing lights of a vehicle shall be activated if the vehicle is equipped with such lights and such lights are in working order.

(c) Driver.--If a vehicle stopped in the roadway is movable and its driver is capable of moving it, the driver shall immediately move the vehicle to the shoulder or to a designated area off the highway.

(d) Responder.--A responder to an incident may move a vehicle remaining on the roadway or require the driver or other person in charge of the vehicle to move it to the shoulder or to a designated area off the highway.

(e) Police officer.--A police officer may order the removal of any vehicle remaining on the highway at the owner's expense. The vehicle's location shall be reported to the nearest law enforcement agency as soon as practicable.

§ 3760. Liability for authorized incident clearance functions.

(a) General rule.--Governmental incident responders are authorized to exercise the incident clearance functions enumerated in this section. If the functions are exercised with reasonable care and at the direction of a police officer, the
governmental incident responders and their designated representatives are not liable on any cause of action arising out of or based upon actions taken pursuant to incident clearance, including:

(1) Incident detection and verification.
(2) Incident area security and protection.
(3) Rescue of persons from vehicles and hazardous environments.
(4) Emergency medical transportation and care.
(5) Hazardous materials response and containment.
(6) Fire suppression and elimination.
(7) Transportation of vehicle occupants.
(8) Traffic direction and management and establishment and operation of alternate routes, including, but not limited to, traffic detours and/or diversion.
(9) Crash investigation.
(10) Dissemination of traveler information.
(11) Incident clearance, including removal of debris, coordination of clearance and repair resources and temporary roadway repair and facilities restoration.
(12) Removal of vehicles and cargo.
(13) Any other action reasonably necessary.

(b) Towing and recovery.--When directed by a police officer, towing and recovery providers are authorized to perform the following enumerated functions and any other actions reasonably necessary to perform those enumerated functions:

(1) Removal of vehicles from the incident area.
(2) Protection of property and vehicles.
(3) Removal of debris from the roadway.
(4) Transportation of persons or cargo.
§ 7313. Incident Management Committee.

(a) Declaration of policy.--The General Assembly finds and declares as follows:

(1) In order to reduce incident management response time, highway, public safety and other agencies must plan for effective management of temporary traffic control in incident areas.

(2) Effective incident management is the planned and coordinated multiagency program to detect and remove incidents and to restore traffic capacity as quickly and safely as possible.

(3) The major partners in an incident management program are State and local transportation agencies, State and local law enforcement agencies, firefighting departments, emergency medical services and the towing and recovery industry.

(4) Groups such as environmental and public health agencies also may be involved in incident management, depending on the nature of the incident.

(5) Current and accurate traveler information is an important element of an incident management program.

(6) It is the policy of the Commonwealth to clear highways of damaged vehicles, spilled cargo and debris as soon as it is safe to do so.

(7) It is understood that damage to vehicles or cargo may result from clearing the roadway on an urgent basis.

(8) While reasonable attempts to avoid damage shall be taken, the highest priority of incident management is restoring traffic to normal conditions.

(b) Committee established.--There is hereby established an Incident Management Committee to maintain and enhance the
effectiveness of managed resources involved in responses to incidents and as deemed necessary to recommend operational rules or guidelines for mitigating the impacts of incidents. The committee shall develop an interagency memorandum of understanding to facilitate joint efforts to alleviate the growing problems associated with incidents on this Commonwealth's highways by emphasizing urgent and safe clearance of highway incidents.

(c) Composition.--The committee is comprised of, but is not limited to, one or more representatives of the following appointed by the secretary:

(1) The department.
(2) The Pennsylvania State Police and one local police department representing each of this Commonwealth's planning regions.
(3) The Pennsylvania State Fire Commissioner.
(4) One fire department representing each of this Commonwealth's planning regions.
(5) One emergency medical services agency representing each of this Commonwealth's planning regions.
(6) The Department of Environmental Protection.
(7) The towing and recovery industry.
(8) A hazardous material response team.
(10) The Director of Homeland Security.

(d) Guidelines.--The committee shall establish guidelines to facilitate the proper guidance and control of road users through an incident area. The guidelines shall include, but are not limited to:

(1) Recommendations relating to the proper guidance and
control of road users through an incident area.

(2) If redirection of the road users' normal path is required, when temporary traffic control devices should be used to direct vehicles from the normal path to a new path.

(3) The removal of temporary traffic control devices as soon as practical when the incident has been resolved.

(4) When highway-rail grade crossings exist either within or in the vicinity of an incident, lane restrictions or other measures to be taken to avoid conditions where vehicles may be forced to stop on railroad tracks. If queuing of vehicles across the tracks cannot be avoided, a law enforcement officer or other authorized official should be provided at the crossing to prevent vehicles from stopping on the tracks, even if automatic warning devices are in place.

(5) If an incident requires establishment of a traffic diversion or detour, when large trucks and vehicles carrying hazardous cargo should follow a different route from other vehicles or park at a designated area off the highway until the roadway is open, until an escort is provided or until the incident commander otherwise directs.

(e) Costs and expenses.--Expenses and costs associated with the committee shall be the responsibility of the department.

(f) Report.--The committee shall submit a report with its findings and recommendations to the Transportation Committee of the Senate and the Transportation Committee of the House of Representatives within ten months of the effective date of this section.

(g) Expiration.--This section shall expire one year following the effective date of this section.

(h) Definition.--As used in this section, the term
"committee" means the Incident Management Committee established in this section.

Section 4. This act shall take effect in 90 days.