

Sen. Marklein: Unintended consequences of emergency declarations

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I recently authored Senate Bill (SB) 437 with Representative Todd Novak (R-Dodgeville). This bill clarifies current law regarding the use and operation of unregistered vehicles during a state of emergency. The idea was brought to us by Green County District Attorney Craig Nolen and is supported by law enforcement throughout Wisconsin.

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. I believe this is an unintended consequence of current law.

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 everywhere in Wisconsin from April 5, 2021 through June 3, 2021 because of “elevated wildfire risk”.

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 710 of the last 982 days, or more than 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.

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.

Again, if this bill becomes law, law enforcement will be able to stop and ticket unregistered vehicles throughout the year, even if there is a declared state of emergency in effect. However, the law will continue to allow a driver to operate an unregistered vehicle to flee a true emergency situation.

A special thank you to Green County District Attorney, Craig Nolen who brought me the idea for this commonsense legislation. I also appreciate Darlington Police Chief Jason King and Monticello Police Chief, Szvon Conway for testifying in favor of this legislation. The bill is also supported by the Badger State Sheriffs’ Association, City of Milwaukee, Wisconsin Chiefs of Police Association, Inc., Wisconsin Grocers Association, Wisconsin Professional Police Association, and Wisconsin Sheriffs and Deputy Sheriffs Association.