



U.S. Department
of Transportation
**Federal Highway
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

February 9, 2005

Refer to: HOTO-1

Mr. Chad Dornsife
Founding Director
Best Highway Safety Practices Institute
25 Northwest 23rd Place, Suite 6
Portland, OR 97210-5599

Dear Mr. Dornsife:

Thank you for your January 21 email requesting an official interpretation of the Manual on Uniform Traffic Control Devices (MUTCD).

The first question in your email asked, "Is it true that any traffic control device that is posted on a public highway that causes traffic to change lanes and or brake is subject to the MUTCD: mandates for approval first, then uniformity in appearance and application? If not why?" The answer to this question is yes based on the following references:

The first standard statement in the Introduction to the MUTCD states that the MUTCD is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F, and that the MUTCD shall be recognized as the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices are described in 23 CFR 655, Subpart F. The issue of uniformity in appearance is further addressed in our response to your second question (see below). It is also important to note that 23 CFR, Part 655.603(b) allows for conformance with other State and Federal MUTCDs that have been approved as being in substantial conformance with the national MUTCD.

The second question in your letter asked if the Move Over Sign is an approved regulatory device?

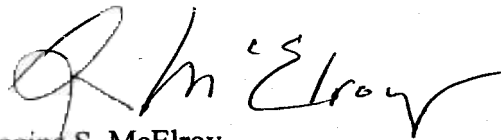
Although this regulatory sign is not included or directly addressed in the MUTCD, Section 2B.54 of the Manual gives the State and local highway agencies the option of developing special word message signs other than those specified in the MUTCD. Additionally, Section 2A.06 explains that there might be situations where word message signs other than those shown in the MUTCD are necessary. In those situations the



MUTCD states that the signs shall be the same shape and color as standard signs of the same functional type. As long as the shape, color, and legend size for the Move Over Sign is consistent with the requirements of the MUTCD for regulatory signs, then it can be considered in substantial conformance with the MUTCD.

We appreciate the opportunity to provide the clarification. We have assigned the following official ruling number and title to your request for interpretation: 2-558(I)–Move Over Sign. Please refer to this number in future correspondence. If you need further assistance, please contact Mr. Fred Ranck of my staff at 708 283-3545.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. S. McElroy". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Regina S. McElroy
Director, Office of Transportation
Operations

cc: Mr. Jim Baron, ATSSA

Brown, Linda L.

From: Chad Dornsife [cdornsife@bhspi.org]
Sent: Friday, January 21, 2005 11:42 AM
To: Ranck, Fred
Cc: Ernie.Huckaby@fhwa.dot.gov
Subject: SIGNS: Move Over Law - severe unintended consequences

Mr. Ranck,

I would like an interpretation, please send it to my email address

Is it true that any traffic control device that is posted on a public highway that causes traffic to change lanes and or brake is subject to the MUTCD: mandates for approval first, then uniformity in appearance and application? If not why?

MUTCD in its very name demands a uniform application and expectation on all roadways open to public travel using only vetted devices that have shown to improve safety. These diverse Move Over laws and posting should not be allowed until they have been proven to be safer practice, and if approved, that they have the same meaning and expectation. As it stands now neither is true, yet more and more states are posting them, each with their own definition and expectation.

The Wyoming data they pulled from their website documented an 8 times increase in accidents. A number that is now disputed, regardless it doesn't change the fact that whatever the number turns out to be, even if it is just a 20 percent increase, does this make these devices any less egregious.

Question is a Move Over sign an approved device? It is a regulatory sign, compelling movement, causing traffic to change lanes and or slow down in an ad hoc manner! If so how can it be approved with being properly vetted first, with different expectations for each jurisdiction within the uniform traffic control mandate in Title 23?

Respectfully,
Chad Dornsife, Founding Director
Best Highway Safety Practices Institute
[www,bhspi.org](http://www.bhspi.org)

Begin forwarded message:

From: Chad Dornsife <cdornsife@bhspi.org>
Date: January 20, 2005 12:21:23 PM PST
To: "Richard J. Ashton" <ashtonr@theiacp.org>
Subject: **Re: Move Over Law - severe unintended consequences**

Mr. Ashton,

My report repeating the Wyoming data posted on their website has created quite a firestorm. They have pulled all the Move Over releases from their site.

2/2/2005

I have asked for the actual accident reports for all before and after incidents: 5 years prior and all since. If what I get are culled reports then a factual finding will be impossible. Of more interest would be what data was used originally and who supplied it, what was the criteria. was it factual and how could it be so wrong, if it was?

They are now claiming there are new numbers and they removed those vehicle that were on shoulder that got hit when their flashing lights were off, because they claim the law doesn't apply then.

Do the motorists know this, don't think so, if the residual effect from the law affects the motorists actions and an incident occurs, it counts in my opinion.

We know for sure than chaos and friction increases accidents and the law in effect compels chaos and friction at or near where the officer is standing.

Therefore there has to be an incremental increase.

Regardless this needs further research to either prove or disprove the unintended consequences. Which should have been done before these laws were widely adopted and more importantly we need to verify their affect before they are further expanded.

Chad Dornsife, Founding Director
Best Highway Safety Practices Institute

On Jan 18, 2005, at 7:17 AM, Richard J. Ashton wrote:

Good morning, Mr. Dornsife,

Thanks for your information. I'll forward it to the members of the Law Enforcement Stops and Safety Subcommittee (LESSS). This is an issue in which we are quite interested, and I'm certain that your data will get their attention.

I hope you will keep me up-to-date on your efforts.

Dick Ashton
Grant/Technical Management Manager
International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
Phone: (800) 843-4227 x276
Fax: (703) 519-8721

-----Original Message-----

From: Chad Dornsife [mailto:cdornsife@highwaysafety.us]
Sent: Thursday, January 13, 2005 4:03 PM
To: Richard J. Ashton

Subject: Move Over Law - severe unintended consequences

To whom it may concern,

You need to be aware of the field data.... please forward to those that need to see this too.

In short greater than 8 times increase in number patrol vehicle being hit after law.