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States That Have Enacted Laws Penalizing Unsecured Loads

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You asked for information on states with laws that allow criminal charges to be filed against individuals who are charged with operating vehicles on a public highway with unsecured loads.

Whether it be a pickup truck filled to overflowing or a mattress tied loosely to the top of car, unsecured loads are potential road hazards that can lead to serious injuries, property damage, and fatalities. In an analysis of motor vehicle crash data from 2011-2014, the AAA Foundation for Traffic Safety concluded that road debris was a factor in a total of more than 200,000 police-reported crashes, resulting in a total of approximately 39,000 injuries and 500 deaths.¹ The report further found that about two-thirds of debris-related crashes are the result of items falling from a vehicle due to improper maintenance and unsecured loads.

All 50 states have laws that require drivers to properly secure loads in any vehicle or trailer, and all states impose fines ranging from \$10 to \$5,000 for violating unsecured load laws.² In most states a violation of the unsecured load law is considered a traffic violation; however, in at least 15 states a violation is a misdemeanor and the possibility of imprisonment is included in the penalty.³ In at least three states—Colorado, Florida, and Washington—the law specifies a more severe penalty when a violation results in bodily harm to another. Washington has the toughest such penalty, following the legislature's enactment of "Maria's Law" in 2010 (HB 1478).

Maria's Law was a result of road-debris accident in 2004, when a University of Washington student, Maria Federici, was driving home from work, and her windshield was struck by a 40-pound board from an unsecured load, leaving her blind and disfigured. Following the accident, the driver of the trailer was fined for a simple traffic violation. In response, Maria's mother, Robin Abel, began a campaign to change Washington's law regarding unsecured loads and cargo, which resulted in the passage of HB 1478 in 2010. Under its provisions, a person who is convicted for failure to secure a load that results in bodily harm to another is guilty of a gross misdemeanor, which is punishable by a fine of up to \$5,000 and imprisonment of up to one year, or both. A violation of the law that results in damage to the property of another is a misdemeanor, and the penalty is a fine of up to \$1,000 and not more than 90 days in jail.⁴

Virginia has the next toughest penalty—a fine of up to \$2,500, or up to 12 months imprisonment, or both. Virginia's law also requires the driver to pay the costs of cleaning up the debris (Va. Code Ann. § 10.1-1424). Penalties in five states—Mississippi,

¹ AAA Foundation for Traffic Safety, "The Prevalence of Motor Vehicle Crashes Involving Road Debris, United States, 2011-2014," August 2016, https://www.aaafoundation.org/sites/default/files/RoadDebris_FACTSHEET.pdf.

² A majority of states exempt vehicles from unsecured load laws for activities such as roadway maintenance, or agriculture activities. Nine states, however, have no exemptions.

³ The 15 states are Colorado, Florida, Georgia, Illinois, Louisiana, Michigan, Mississippi, New York, Oklahoma, South Dakota, Tennessee, Virginia, Washington, West Virginia, and Wyoming. A report by the Government Accountability Office, "Highway Safety: Federal and State Efforts Related to Accidents That Involve Non-Commercial Vehicles Carrying Unsecured Loads," November 2012, provided information on laws in the 50 states. The report can be viewed at <http://www.gao.gov/assets/660/650049.pdf>.

⁴ We enclose a copy of Washington's relevant statutes as Attachment A.

New York, Oklahoma, West Virginia, and Wyoming—increase for second, third, and subsequent convictions that occur within a year of the first conviction.

In Table 1, for each of the 15 states in which the penalty for an unsecured load is a misdemeanor, we provide the statutory citations, and a brief description of the penalties. The statutory citations include the unsecured load law and, if different, the laws describing the penalties for a violation.

| Table 1: States That Impose Criminal Penalties for Violations of Unsecured Load Laws | | |
|---|--|--|
| States | Statutory Citations | Penalties |
| Colorado | C.R.S. 42-4-1407 C.R.S. 42-4-1701 | A violation that results in bodily harm is a class 2 misdemeanor traffic offense with a fine of \$150-\$300 or imprisonment of 10-90 days, or both. The driver may also be required to pay restitution. A violation that does not lead to bodily harm is a class A or B traffic infraction with a fine of \$15-\$100. |
| Florida | Fla. Stat. § 316.520 Fla. Stat. § 318.18(12) Fla. Stat. §§ 775.082-.083 | If the offense results in serious bodily injury or death to another, the driver is subject to a fine of no more than \$500 and imprisonment for not more than 60 days - a misdemeanor in the 2nd degree. A violation that does not result in bodily harm is a noncriminal traffic infraction for which the minimum penalty is \$200. For a second offense within five years, the driver's license may be suspended for one to two years. |
| Georgia | O.C.G.A. § 40-6-254 and § 40-6-248.1 O.C.G.A. § 17-10-3 | A conviction for operating a vehicle without adequately securing the load is punishable with a fine of up to \$1,000 or imprisonment not to exceed one year, or both. |
| Illinois | § 625 ILCS 5/15-109 § 625 ILCS 5/15-109.1 § 730 ILCS 5/5-4.5-55 | Drivers of flatbeds convicted of violating secured loads law face imprisonment of up to one year or a fine of up to \$2,500 for each offense, or both - a Class A misdemeanor. Other violations are punishable with fines not to exceed \$250. |
| Louisiana | La. R.S. § 32:383 | Up to a \$500 fine or imprisonment of up to six months, or both. |
| Michigan | MCL § 257.720 | Up to a \$500 fine or imprisonment of up to 90 days, or both. |
| Mississippi | Miss. Code Ann. § 63-5-55 Miss. Code Ann. 63-5-7 Miss. Code Ann. 63-9-11 | For a first conviction, a fine of not more than \$100 or imprisonment of up to ten days; for a second conviction within one year, a fine of not more than \$200 or imprisonment of up to 20 days, or both; upon a third conviction within a year of the first conviction, a fine of not more than \$500, or not more than six months imprisonment, or both. |
| New York | NY CLS Veh. & Tr. § 377 | Law is specific to vehicles “designed or used for the purpose of hauling logs or other materials which by their very nature may shift or roll so as to be likely to fall from such vehicle...”. A first offense is punishable by a fine of not more than \$100; second offense a fine of not more than \$350; subsequent offenses up to a \$750 fine or imprisonment up to 30 days, or both. |

Table 1: States That Impose Criminal Penalties for Violations of Unsecured Load Laws (cont.)

| States | Statutory Citations | Penalties |
|---------------|--|---|
| Oklahoma | 47 Okl. St. § 14-105 47 Okl. St. § 17-101 | A fine of not less than \$5 nor more than \$500, or imprisonment for up to ten days for a first conviction; for a second conviction up to 20 days imprisonment; for a third and subsequent convictions up to six months imprisonment, or by both such fine and imprisonment. |
| South Dakota | S.D. Codified Laws § 32-15-18 S.D. Codified Laws § 22-6-2 | Thirty days imprisonment in county jail or \$500 fine, or both. |
| Tennessee | Tenn. Code Ann. § 55-7-109 Tenn. Code Ann. § 40-35-111 | A fine not to exceed \$50 or not more than 30 days imprisonment or both. |
| Virginia | Va. Code Ann. § 10.1-1424 Va. Code Ann. § 18.2-11 | A fine of not more than \$2,500 or not more than 12 months in jail or both - a Class 1 misdemeanor. In addition, the driver has to pay the cost of cleaning the debris from the public highway. |
| Washington | Rev. Code Wash. (ARCW) § 46.61.655 Rev. Code Wash. (ARCW) § 9A.20.021 | A person who is guilty of failure to secure a load is guilty of a gross misdemeanor, if he or she with criminal negligence causes substantial bodily harm to another. The penalty for a gross misdemeanor is a fine of up to \$5,000 or up to a year in jail, or both. A driver who violates the unsecured load law resulting in damage to the property of another is guilty of a misdemeanor. The penalty for a misdemeanor is a fine of not more than \$1,000 or imprisonment up to 90 days, or both. |
| West Virginia | W. Va. Code § 17C-17-6 W. Va. Code § 17C-18-1 | A first conviction is punishable with a fine of not more than \$100 or by imprisonment up to ten days; second conviction within one year is a fine up to \$200 or imprisonment up to 20 days or both; upon a third or subsequent conviction, a fine up to \$500 fine or six months imprisonment or both. |
| Wyoming | Wyo. Stat. § 31-5-228 Wyo. Stat. § 31-5-1201 | For a first conviction by a fine of more than \$200 or imprisonment for not more than 20 days, or both; for a second conviction within one year, fine of up to \$300 or by imprisonment for up to six months, or both; for a third or subsequent conviction a fine of up to \$500 or imprisonment up to six months or both. |

Notes: While we believe our research to be thorough, we may have missed some laws.

Sources: Government Accountability Office, "Highway Safety: Federal and State Efforts Related to Accidents That Involve Non-Commercial Vehicles Carrying Unsecured Loads," November 2012, at <http://www.gao.gov/assets/660/650049.pdf>; Lexis Nexis.

A person who is injured, or the family of a person who is killed in an unsecured load incident, may also be able to sue in civil court for personal injury and wrongful death compensation, including medical expenses, lost wages, pain and suffering, disfigurement, disability and other damages. In its report on unsecured load laws, the Government Accountability Office stated that law enforcement officers in a number of states remarked that additional criminal charges could be brought in their state against individuals who injured or killed a person as a result of negligently securing their load, in addition to the specific penalties found in unsecured load laws.⁵

We hope this is helpful. If you have questions or need additional information, please let us know.

⁵ GAO, "Highway Safety: Federal and State Efforts Related to Accidents That Involve Non-Commercial Vehicles Carrying Unsecured Loads," November 2012, p. 15.



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Annotated Revised Code of Washington
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*** Statutes current through the 2016 1st Special Session ***

Title 46 Motor Vehicles
Chapter 46.61 Rules of the Road
Miscellaneous Rules

GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY

Rev. Code Wash. (ARCW) § 46.61.655 (2016)

46.61.655. Dropping load, other materials -- Covering.

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction.

(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon by subsection (3) of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.

(4) (a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(b) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.

(5) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.

(7) (a) (i) A person is guilty of failure to secure a load in the first degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section and causes substantial bodily harm to another.

(ii) Failure to secure a load in the first degree is a gross misdemeanor.

(b) (i) A person is guilty of failure to secure a load in the second degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1) or (2) of this section and causes damage to property of another.

(ii) Failure to secure a load in the second degree is a misdemeanor.

(c) A person who fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section is guilty of an infraction if such failure does not amount to a violation of (a) or (b) of this subsection.

HISTORY: 2005 c 431 § 1; 1990 c 250 § 56; 1986 c 89 § 1; 1971 ex.s. c 307 § 22; 1965 ex.s. c 52 § 1; 1961 c 12 § 46.56.135. Prior: 1947 c 200 § 3, part; 1937 c 189 § 44, part; Rem. Supp. 1947 § 6360-44, part. Formerly RCW 46.56.135.

NOTES: Severability -- 1990 c 250:

See note following *RCW 46.18.215*.

Severability -- 1971 ex.s. c 307:

See *RCW 70.93.900*.

Cross references.

Littering: Chapter 70.93 RCW.

Rules of court: Monetary penalty schedule -- *IRLJ 6.2*.

Transporting waste to landfills: *RCW 70.93.097*.

Notes to Decisions

Liability for unsecured loads.

Customer, as the driver of the truck, had a statutory duty under this section to secure the beam so that it would not fall off; that was not the corporation's duty because its employees did not operate the truck. *Ganno v. Lanoga Corp.*, 119 Wn. App. 310, 80 P.3d 180, 52 U.C.C. Rep. Serv. 2d (CBC) 144, 2003 Wash. App. LEXIS 2765 (Wash. Ct. App. 2003), modified, No. 29762-1-II, 2004 Wash. App. LEXIS 386 (Wash. Ct. App. Mar. 16, 2004).

Trial court erred by granting the trucking company summary judgment in the victim's negligence suit where its failure to properly secure a load of cement blocks as provided by statute was a breach of a legally enforceable obligation to protect the victim from harm. *Skeie v. Mercer Trucking Co.*, 115 Wn. App. 144, 61 P.3d 1207, 2003 Wash. App. LEXIS 91 (Wash. Ct. App. 2003).

RESEARCH REFERENCES

ALR.

Fall of motor vehicle load upon, or into path of, another vehicle -- liability for resulting accident. *91 ALR2d 897.*



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Annotated Revised Code of Washington
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*** Statutes current through the 2016 1st Special Session ***

Title 9A Washington Criminal Code
Chapter 9A.20 Classification of Crimes

GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY

Rev. Code Wash. (RCW) § 9A.20.021 (2016)

9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after.

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

(5) The fines in this section apply to adult offenders only.

HISTORY: 2015 c 265 § 16; 2011 c 96 § 13. Prior: 2003 c 288 § 7; 2003 c 53 § 63; 1982 c 192 § 10.