

**HB**

**259**

<TARGET><BILL>HB 259</BILL><SUBJECT>HB  
259</SUBJECT><COMM>HTRA30</COMM></TARGET>

# Alaska State Legislature



**Leadership**  
Majority Whip

**Chair**  
Fisheries Committee  
Transportation Committee

**Member**  
Rules Committee  
Labor and Commerce Committee  
Legislative Council

**REPRESENTATIVE LOUISE STUTES**  
Rep.Louise.Stutes@akleg.gov  
House District 32  
Kodiak-Cordova-Yakutat-Seldovia

**Session:**  
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## Sponsor Statement HB 259 ver T

Whether someone overflows the bed of their truck with rocks and gravel, plywood, scrap metal, loose debris on their way to the dump, or simply fails to tie down large objects in a flatbed, unsecured loads are an undisputed hazard to other users of the roadway and pedestrians. Improperly secured loads can cause serious injuries, property damage, and fatalities. The AAA Foundation for Traffic Safety concluded that from 2011-2014, road debris was a factor in more than 200,000 police-reported crashes. Those crashes resulted in approximately 39,000 injuries and 500 deaths. Additionally, the report found that about two-thirds of these accidents were the result of items falling from a vehicle due to unsecured loads and improper maintenance. In another study by the U.S Government Accountability Office, it was found that there were approximately 440 fatalities caused by roadway debris in 2010; that data was gathered by the National Highway Traffic Safety Administration.

All 50 states have laws that require drivers to properly secure loads in any vehicle or trailer and impose fees that range from \$10 to \$5,000. In most states, failing to properly secure a load is a traffic violation. In Alaska, even if it results in the serious physical injury of another, it is an infraction punishable by a fine not to exceed \$300. However, 15 states have instituted possible criminal penalties for failing to properly secure loads.

Last year, the State of Alaska, the Municipality of Anchorage, and the Anchorage Assembly officially declared June 6<sup>th</sup> as Secure Your Load Day by issuing proclamations and resolutions recognizing the hazards of failing to take the simple steps of securely affixing every load.

HB 259 increases Alaska's standards for load securement of all types of materials and requires covering or maintaining six inches of freeboard with loads consisting of sand, dirt, gravel, rock, or similar materials. It also raises a violation to the level of a Class A misdemeanor on the fourth offense or on the first offense if it results in the injury of another person.

The legislation will decrease roadway litter, property damage, injuries, and fatalities on Alaska's highways. It is a responsible measure to protect the safety of Alaskan drivers and avoid costly repairs that result from the actions or inactions of others.

Thank you for your support of this legislation.

If you have any questions, please contact my staff, Matt Gruening, at 465-3271.

30-LS0917I  
Martin  
2/5/18

**CS FOR HOUSE BILL NO. 259( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTIETH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES STUTES, Tuck, Kito, Drummond, LeDoux**

**A BILL**  
**FOR AN ACT ENTITLED**

**"An Act relating to containing or confining loads being transported on highways."**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**\* Section 1.** AS 28.35.251(a) is amended to read:

(a) A person may not drive or move a motor vehicle loaded with any material [SAND, GRAVEL, ROCK, OR SIMILAR MATERIALS] on a highway unless

(1) the load is

(A) contained or confined to prevent the load from

(i) dropping, [SHIFTING,] leaking, or escaping; or

(ii) shifting on or within the vehicle to the extent that

the motor vehicle's stability or maneuverability is adversely affected; or

(B) [, EXCEPT THAT SAND OR OTHER SUBSTANCES MAY BE DROPPED, SPRINKLED, OR SPRAYED FOR THE PURPOSE OF CLEANING OR MAINTAINING THE HIGHWAY OR PROVIDING

1 TRACTION; AND (2) THE LOAD IS] subjected to treatment by methods,  
2 approved by the commissioner of public safety by regulation, designed to settle  
3 the load or remove loose material before the vehicle is driven or moved on the  
4 highway; or

5 **(2) at least six inches of freeboard is maintained around the entire**  
6 **perimeter of a load consisting of sand, gravel, dirt, rock, or similar materials or**  
7 **the load is covered and securely fastened to prevent the cover from becoming**  
8 **loose or detached or from being a hazard to other users of the highway.**

9 \* **Sec. 2.** AS 28.35.251 is amended by adding new subsections to read:

10 (c) This section does not apply to

11 (1) a vehicle that drops, sprinkles, or sprays sand, liquids, or other  
12 materials for the purpose of cleaning or maintaining the highway or providing or  
13 improving traction;

14 (2) the natural accumulation of snow, ice, mud, dirt, or similar  
15 materials on a motor vehicle; or

16 (3) a vehicle that is removing snow or hauling snow after removal.

17 (d) A person who violates (a) of this section

18 (1) is guilty of a class A misdemeanor and is punishable as provided in  
19 AS 12.55 if the

20 (A) violation results in serious physical injury; or

21 (B) person has been previously convicted three or more times  
22 of a violation under (a) of this section;

23 (2) under circumstances other than in (1) of this subsection, is guilty of  
24 a class B misdemeanor and is punishable as provided in AS 12.55 if the person has  
25 been previously convicted twice of a violation under (a) of this section; or

26 (3) under circumstances other than in (1) or (2) of this subsection, is  
27 guilty of an infraction and upon conviction is punishable by a fine of not more than

28 (A) \$600 if the person has been previously convicted one time  
29 of a violation under (a) of this section; or

30 (B) \$300 if the person has not been previously convicted of a  
31 violation under (a) of this section.

- 1 \* **Sec. 3.** AS 28.35.253 is amended by adding a new subsection to read:
- 2           (b) Violation of this section is an infraction.
- 3 \* **Sec. 4.** AS 28.35.251(b) and 28.35.255 are repealed.

30-LS0917T  
Martin  
2/1/18

**CS FOR HOUSE BILL NO. 259( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTIETH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES STUTES, Tuck, Kito, Drummond**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to containing or confining loads being transported on highways."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 28.35.251(a) is amended to read:

4 (a) A person may not drive or move a motor vehicle loaded with any  
5 material [SAND, GRAVEL, ROCK, OR SIMILAR MATERIALS] on a highway  
6 unless

7 (1) the load is

8 (A) contained or confined to prevent the load from

9 (i) dropping, [SHIFTING,] leaking, or escaping; or

10 (ii) shifting on or within the vehicle to the extent that  
11 the motor vehicle's stability or maneuverability is adversely  
12 affected; or

13 (B) [, EXCEPT THAT SAND OR OTHER SUBSTANCES  
14 MAY BE DROPPED, SPRINKLED, OR SPRAYED FOR THE PURPOSE  
15 OF CLEANING OR MAINTAINING THE HIGHWAY OR PROVIDING

1 TRACTION; AND (2) THE LOAD IS] subjected to treatment by methods,  
 2 approved by the commissioner of public safety by regulation, designed to settle  
 3 the load or remove loose material before the vehicle is driven or moved on the  
 4 highway; or

5 (2) at least six inches of freeboard is maintained around the entire  
 6 perimeter of a load consisting of sand, gravel, dirt, rock, or similar materials or  
 7 the load is covered and securely fastened to prevent the cover from becoming  
 8 loose or detached or from being a hazard to other users of the highway.

9 \* **Sec. 2.** AS 28.35.251 is amended by adding new subsections to read:

10 (c) This section does not apply to

11 (1) a vehicle that drops, sprinkles, or sprays sand, liquids, or other  
 12 materials for the purpose of cleaning or maintaining the highway or providing or  
 13 improving traction; or

14 (2) the natural accumulation of snow, ice, mud, dirt, or similar  
 15 materials on a motor vehicle.

16 (d) A person who violates (a) of this section

17 (1) is guilty of a class A misdemeanor and is punishable as provided in  
 18 AS 12.55 if the

19 (A) violation results in physical injury; or

20 (B) person has been previously convicted three or more times  
 21 of a violation under (a) of this section;

22 (2) under circumstances other than in (1) of this subsection, is guilty of  
 23 a class B misdemeanor and is punishable as provided in AS 12.55 if the person has  
 24 been previously convicted twice of a violation under (a) of this section; or

25 (3) under circumstances other than in (1) or (2) of this subsection, is  
 26 guilty of an infraction and upon conviction is punishable by a fine of not more than

27 (A) \$600 if the person has been previously convicted one time  
 28 of a violation under (a) of this section; or

29 (B) \$300 if the person has not been previously convicted of a  
 30 violation under (a) of this section.

31 \* **Sec. 3.** AS 28.35.253 is amended by adding a new subsection to read:

- 1 (b) Violation of this section is an infraction.
- 2 \* **Sec. 4.** AS 28.35.251(b) and 28.35.255 are repealed.

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## Explanation of Changes HB 259 Version T to I

Page 2, line 16:

Added an exemption for vehicles that are removing or hauling snow

Page 2, line 20:

Changed "physical injury" to "serious physical injury"

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## Sectional Analysis HB 259 ver T

Section 1 on Page 1, line 3 through Page 2, line 8. AS 28.35.251(a) is amended:

Subsections (a), (a)(1)(A), (a)(1)(A)(i), and (a)(1)(A)(ii) on Page 1, lines 4 through 12:

These subsections specify that a person may not drive or move a motor vehicle loaded with any material on a highway unless it is secured or situated in a way that prevents it from escaping the vehicle or shifting to the extent that the vehicle's maneuverability or stability is adversely affected.

Subsection (a)(B) on Page 1, line 13 through Page 2, line 4:

This subsection is an exemption that specifies that a person may drive or move a motor vehicle loaded with any material without the securement requirements listed in (a), (a)(1)(A), (a)(1)(A)(i), and (a)(1)(A)(ii) if the load is treated by methods approved through regulation by the Department of Public Safety that are designed to settle the load or remove loose material before it is driven on a highway.

Subsection (a)(2) on Page 2, lines 5 through 8:

This subsection is an exemption that specifies that a person may drive or move loads consisting of sand, gravel, dirt, rock, or similar materials without the securement requirements listed in (a), (a)(1)(A), (a)(1)(A)(i), and (a)(1)(A)(ii) if at least 6 inches of freeboard is maintained around the perimeter of a load or a cover is used and securely fastened.

Section 2 on Page 2, lines 9 through 30. AS 28.35.251 is amended to add new subsections:

Subsection (c)(1) on Page 2, lines 10 through 13:

This subsection is an exemption that specifies that the provisions of this act do not apply to a vehicle that deposits sand, liquids, or other materials for the purpose of cleaning, maintaining, or improving traction on the highway.

Subsection (c)(2) on Page 2, lines 14 through 15:

This subsection is an exemption that specifies that the provisions of this act do not apply to the natural accumulation of snow, ice, mud, dirt, or similar materials.

Subsections (d)(1)(A) and (B) on Page 2, lines 17 through 21:

These subsections specify that a person who violates (a) is guilty of a Class A misdemeanor on the fourth offense or on the first offense if it results in the physical injury of another.

Subsection (d)(2) on Page 2, lines 22 through 24:

This subsection specifies that a person who violates (a) of this section is guilty of a Class B misdemeanor on the third offense.

Subsection (d)(3)(A) on Page 2, lines 25 through 28:

This subsection specifies that a person who violates (a) of this section is guilty of an infraction on the second offense. This is punishable by a fine of not more \$600.

Subsection (d)(3)(B) on Page 2, lines 29 and 30:

This subsection specifies that a person who violates (a) of this section is guilty of an infraction on the first offense. This is punishable by a fine of not more \$300. This amount is consistent with the current fine.

Section 3 on Page 2, line 31 through Page 3, line 1. AS 28.35.253 is amended by adding a new subsection:

Specifies that a violation of this section is an infraction. It is an infraction currently and this section is a conforming amendment to reflect the repeal of AS 28.35.251(b) and 28.35.255 in Section 4. AS 28.35.255 housed the penalty for both statutes and the bill changes it so that the penalties are within the individual statutes. There is no substantive change.

Section 4 on Page 3, line 2:

Repeals AS 28.35.251(b) and 28.35.255.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version: HB 259  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB259-DOT-MSCVE-2-5-18  
Title: CONFINING VEHICLE LOADS  
Sponsor: STUTES  
Requester: House Transportation

Department: Department of Transportation and Public Facilities  
Appropriation: Administration and Support  
Allocation: Measurement Standards & Commercial Vehicle Enforcement  
OMB Component Number: 2332

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version/comments:**

Original version.

Prepared By: <u>Mike Lesmann</u>	Phone: <u>(907)465-4772</u>
Division: <u>Commissioner's Office</u>	Date: <u>02/05/2018 02:40 PM</u>
Approved By: <u>Amanda Holland</u>	Date: <u>02/05/18</u>
Agency: <u>DOT&amp;PF</u>	

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2018 LEGISLATIVE SESSION**

**BILL NO.** HB 259

**Analysis**

HB 259 proposes to increase the penalties on repeat offenders of cargo securement violations. Section 2 of the proposal allows materials to be uncovered as long as at least six inches of freeboard is maintained around the entire perimeter of the load. This is congruent with the Department's current practice. The new subsection (c) (1), (2) and (3) being added to AS 28.35.251 in section 2 of the proposal establishes exceptions that are relevant to the Department's maintenance and operations activities. As currently written, this proposal has no operational or fiscal impacts on the Department.

# LEGISLATIVE RESEARCH SERVICES

30<sup>th</sup> Alaska Legislature  
LRS Report 17.170  
March 20, 2017



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## States That Have Enacted Laws Penalizing Unsecured Loads

Susan Haymes, Manager

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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.***

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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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

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,

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<sup>1</sup> 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](https://www.aaafoundation.org/sites/default/files/RoadDebris_FACTSHEET.pdf).

<sup>2</sup> 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.

<sup>3</sup> 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>.

<sup>4</sup> 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.

<b>Table 1: States That Impose Criminal Penalties for Violations of Unsecured Load Laws</b>		
<b>States</b>	<b>Statutory Citations</b>	<b>Penalties</b>
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 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.<sup>5</sup>

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

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



5 of 8 DOCUMENTS

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. (ARCW) § 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.

## Municipality of Anchorage, Alaska



### PROCLAMATION

**WHEREAS**, all residents of Anchorage should recognize the dangers of driving with an unsecured load and be accountable for our choices while in a vehicle; and

**WHEREAS**, per a Government Accountability Study, in a single calendar year unsecured loads were responsible for the deaths of 440 people, 10,000 injuries, and 51,000 incidences in the United States; and

**WHEREAS**, a 20-pound object that falls off a vehicle that is traveling highway speeds (approx. 55 MPH) will strike with the impact of half a ton; and

**WHEREAS**, Alaska Statue 46.06.080 states that "a vehicle may not be driven or moved on a public highway or right-of-way-unless it is constructed, loaded, or covered to prevent its load from dropping, shifting, leaking, or otherwise escaping from the vehicle; and

**WHEREAS**, the simple, routine act of affixing every load protects the lives of Anchorage community members, and these precautions should not be overlooked; and

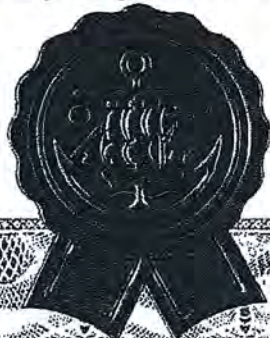
**WHEREAS**, the City of Anchorage recognizes and honors the profound suffering of those harmed by unsecured loads; and

**WHEREAS**, the City of Anchorage stands in solidarity with those critically impacted by such instances of avoidable tragedy;

**NOW, THEREFORE**, I, Ethan Berkowitz, Mayor of Anchorage, do hereby proclaim Tuesday June 6<sup>th</sup>, 2017:

### Secure Your Load Day

And urge all residents to give due consideration to their safety and the safety of others when transporting materials in their vehicle on our roadways,



  
MAYOR ETHAN BERKOWITZ

# SECURE YOUR LOAD DAY

June 2, 2017

WHEREAS, all Alaskan drivers must recognize their responsibility to make safe and considerate choices while driving, and driving with an unsecured load presents danger to the travelling public; and

WHEREAS, according to AAA, between 2012 and 2016, over 200,000 crashes involved debris on U.S. roadways, and road debris resulted in approximately 39,000 injuries, and more than 500 deaths between 2011 and 2014; and

WHEREAS, a 20-pound object that falls off a vehicle traveling at highway speeds will strike with a half-ton impact; and

WHEREAS, Alaska Statue 46.06.080 states that “a vehicle may not be driven or moved on a public highway of right-of-way unless it is constructed, loaded, or covered, to prevent its load from dropping, sifting, leaking, or otherwise escaping from the vehicle;” and

WHEREAS, the simple, routine act of securely affixing every load makes Alaska’s roads safer for all drivers, and these precautions should not be overlooked; and

WHEREAS, the State of Alaska recognizes the profound suffering and loss of those harmed by unsecured loads, and stands with those critically impacted by such instances of avoidable tragedy.

NOW THEREFORE, I, Bill Walker, GOVERNOR OF THE STATE OF ALASKA, do hereby proclaim June 6, 2017 as:

Secure Your Load Day

in Alaska, and encourage all Alaskans to give serious consideration to their safety and the safety of others when transporting materials in their vehicle on our roadways.

Source: <https://gov.alaska.gov/newsroom/2017/06/secure-your-load-day/>

## Unsecured Loads Incidents Articles

CNN article link: <http://www.cnn.com/2016/08/11/health/road-debris-deadly-hazard/index.html>

### The Deadly Toll of Road Debris

By Sandee LaMotte, CNN

Updated 11:54 AM ET, Thu August 11, 2016

(CNN) — On June 6, 2006, 29-year-old Matthew Reif of Phoenix lost his life in a car accident. The killer? A small piece of unsecured scrap metal that flew off the truck ahead of him, smashing through his windshield. "It impaled his heart, killing him instantly," said his father, Paul Reif. "Someone was hauling a load of junk, and it wasn't secured properly. "He was living his life, as healthy as could be," said Reif, crying softly. "Then suddenly, poof. I guess we have to be thankful there was no suffering."

Robin Abel's 24-year-old daughter, Maria Federici, was luckier. She didn't die in 2004 when a piece of particle board escaped from the back of a rented trailer and broke her windshield. Instead, she was nearly decapitated as the debris crushed every bone in her face. "At first, they told me she wouldn't survive," Abel said as she too broke into tears. "I donated her organs that night, and then they called and said 'come back; she's still alive.' "

Her recovery was long and painful. Maria had seven surgeries and had to learn to swallow, talk and walk again. She is also blind. "When you see what someone has to live through and what they have to endure because of such a simple thing --securing a load on a car -- it's very heartbreaking," said Abel.

If you think these terrible tragedies are freak accidents, think again. According to a new study by the [AAA Foundation for Traffic Safety](#), road debris played a role in more than 200,000 crashes reported to police from 2011 to 2014, killing more than 500 people and injuring another 39,000. AAA says that's a 40% increase since 2001, when the foundation first studied the problem. The AAA numbers echo a [Government Accountability Office study from 2012](#). Based on data from the National Highway Traffic Safety Administration, the GAO found higher numbers: 440 deaths and 10,000 injuries in 2010 due to accidents involving unsecured loads.

Seattle Times link <http://www.seattletimes.com/news/womans-crusade-against-unsecured-loads-leads-to-national-law/>

### Woman's crusade against unsecured loads leads to national law

By [Christine Clarridge](#) *Seattle Times staff reporter*

Originally published December 4, 2015 at 8:13 pm

More than a decade after Robin Abel's daughter was blinded by a piece of particle board that flew from the back of a rented moving trailer, Abel saw the president sign a transportation bill on Friday that addresses the risks of unsecured loads.

It's been more than a decade since Robin Abel's only child, Maria Federici, was blinded and nearly killed by a piece of particle board that flew out of a rented moving trailer, struck the 24-year-old's windshield and sheared off her face.

Since then, Abel has worked almost nonstop to educate lawmakers, businesses and individuals about the dangers of driving with unsecured loads.

On Friday, Abel allowed herself to enjoy a celebratory moment as President Obama signed a five-year National Transportation bill that included what Abel calls "my paragraph."

It states: "The Committee is concerned about the dangers posed by unsecured loads on noncommercial vehicles. Federal grant funds for state-run safety campaigns raising awareness about the dangers posed by unsecured loads are currently eligible under State Highway Safety Programs (23 U.S.C. 402). Therefore, the Committee encourages states to address unsecured loads the next time they submit their State Highway Safety Program for approval by the Secretary."

It seems like such a simple, and perhaps even obvious, acknowledgment of the dangers posed by unsecured loads and highway debris, but it has been a long, arduous and sometimes lonely and frustrating campaign for Abel.

"As sad as it is what happened to my family, I know that I have made a difference and that's what keeps me going," said the 61-year-old former banker turned activist. "I know that my work has saved lives and will save lives, and I know that I am the right person for this mission because nobody cared about this more than me."

Abel was asleep at her home on Lake Kathleen in Renton on Feb. 22, 2004, when she got a call from Harborview Medical Center. Her daughter, then 24 and a graduate of the University of Washington, had been injured in an accident and was not expected to survive. Federici had been driving home on Interstate 405 when a piece of wood flew out of the back of a rented U-Haul trailer and through Federici's windshield.

The driver of the car pulling the trailer — who was tracked down by police through a fingerprint on the board — had been moving all day, was tired and had failed to properly secure the items in the trailer, police told Abel later.

At the time, there was no law addressing the consequences of poorly secured

loads and the driver was cited for a traffic infraction and fined.

Abel said former King County Prosecuting Attorney Norm Maleng encouraged her to fight for a new law. “Norm told me to tell my story, to keep it personal and that people would care,” she said. “And he was right. I know that after people hear me talk, they will never look at the road the same way again.”

In 2005, Washington legislators adopted what has been called [“Maria’s Law,”](#) which criminalizes a person’s failure to properly secure a load that results in injury or death.

But that was not enough for Abel. She went on to educate businesses, county officials, drivers, anyone who would listen.

In March, Abel was presented with the Department of Transportation’s National Highway Traffic Safety Administration Public Service Award for her effort to bring “awareness to unsecured loads and roadway debris risks to motor vehicles on a local, state, and national level.”

Federici, who [won more than \\$15 million in a lawsuit](#) against U-Haul, has gone on to live her own life. She bought a house and got married. According to Abel, she is happy but does not share her mother’s mission.

“She doesn’t want to do this, and that’s OK,” Abel said. “But I cannot help what I do either. I don’t feel I can rest until everyone knows the dangers and how to secure their load,” she said.

Her next step is to work with states to show them what has worked in this state.

On Friday, just before she headed off to an appointment, she couldn’t resist sending one more email.

“One thing I want the public to know is that ALL items need to be ‘securely fastened’ and often drivers don’t understand that. They think if the load is heavy or light or crammed in, it is good to go. That is not the case. There should be nothing loose in the back of your truck; it must all be securely fastened.”

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#### Tips: Secure Your load

- Use a tarp. Covering items with a large, sturdy tarp is often a good way to secure a load. Remember to make sure the tarp is securely fastened to the vehicle.
- Tie the load down. Use rope, netting, straps or chains to tie large items

directly to your vehicle.

- Layer the load. Put lighter items at the bottom and heavier items on top to help keep them in place. Don't forget to secure the heavy items to your vehicle.
- Don't overload it! Cramming too much stuff onto a vehicle increases the risk of items shifting, sliding or falling onto the roadway.

Check it once, then check it again. Double check that items are securely anchored down and any tarps are tied to the vehicle.

**“Secure your load as if everyone you love is driving in the vehicle behind you.” Robin Abel**

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or 206-464-8983**