

**HB**

**259**

<TARGET><BILL>HB 259</BILL><SUBJECT>HB  
259</SUBJECT><COMM>SJUD30</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**

**District 32**

**Kodiak-Cordova-Yakutat-Seldovia**

**Session:**  
Alaska State Capitol, #406  
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## Sponsor Statement HB 259 Version S

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 person, 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 Mayor of Anchorage, the Anchorage Assembly, the Mayor of the Mat-Su Borough, and the Mat-Su Borough Assembly officially declared June 6th 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.

It is important to note that Alaska's current confined load statute only applies to sand, gravel, rock, or similar materials, leaving out a litany of materials that are hazards to roadway users. HB 259 establishes standards for load securement of all types of materials. It also requires covering or maintaining six inches of freeboard with loads consisting of sand, dirt, gravel, rock, or similar materials. It raises a violation to the level of a Class A misdemeanor if a person fails to secure a load with a mental state of criminal negligence and it results in the serious physical injury of another person. Likewise, a violation is a Class B misdemeanor if a person fails to secure a load with criminal negligence and it results in \$5,000 or more in damage to another person's property. A violation under any other circumstance is a traffic infraction.

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

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## Explanation of Changes Versions O(introduced), to M (HTRA), to Y(HJUD), to Y.A (House Amended), to S (STRA)

1. HTRA version M: Page 2, line 14

Removed the exemption for the transportation of hazardous materials. This initially was in the bill to align with federal commercial vehicle regulations, but it created a loophole.

2. HTRA version M: Page 2, line 16

Exempted vehicles that are removing snow or hauling snow after removal from the bill

3. HTRA version M: Page 2, line 20

Changed "physical injury" to "serious physical injury" as an aggravator that raises a violation to a Class A misdemeanor

4. HTRA version M: Page 2, lines 28 through 31

Changed the penalty for an infraction to be punishable by a fine of not more than \$300 on the first offense and \$600 on the second offense. In the previous version of the bill, it had been \$600 on the first offense and \$1,200 on the second offense. In both versions, the third offense is a Class B misdemeanor and the fourth offense is a Class A misdemeanor.

5. HJUD version Y: Page 1, lines 4 through 7

A mental state of "criminal negligence" was added as an aggravator regarding whether a violation that resulted in serious physical injury to another person would be raised to the level of a Class A misdemeanor. This was a strict liability offense in the original version of the bill and did not consider a mental state. Criminal negligence applies to the act of the securing the load.

6. HJUD version Y: Page 1, lines 8 through 10

When a load is secured with criminal negligence, property damage of \$5,000 or more was added as an aggravator that would raise the offense to the level of a Class B misdemeanor. Property damage was not an aggravating factor in the original version of the bill.

7. HJUD version Y: Page 2, lines 19 and 20

Added an exemption for random litter escaping a vehicle. Litter is defined in the paragraph as plastic wrappers, empty plastic bags, leaves, paper, or similar soft materials. "Random" modifies "litter" to clarify that a load of litter is not exempted.

8. HJUD version Y: Page 2, lines 21 through 23

Added that in a prosecution under a Class A misdemeanor or a Class B misdemeanor in the above #5 and #6, a person being convicted in the preceding 10 years of a simple violation is prima facie evidence that the person acted with criminal negligence when securing the load. This was not in the original version of the bill. Prima facie is a rebuttable presumption.

9. HJUD Version Y: Page 2, line 29 through Page 3, line 6

Changed the penalty for an infraction, which is a violation without an aggravator, to be punishable by a fine of not more than \$300 on the first offense, \$750 on the second offense, \$1,500 on the third offense, and \$2,500 on the fourth offense. In the previous version of the bill, it was \$300 on the first offense, \$600 on the second offense, a Class B misdemeanor on the third offense, and a Class A misdemeanor on the fourth offense.

10. HJUD Version Y: Page 3, lines 7 and 8

Clarified that "criminal negligence" has the meaning in AS 11.81.900

11. HJUD House Amended Version Y.A: Page 2, line 4 and 8

Deleted "or" and inserted "and" on both lines.

This closed a loophole through which the requirements on Page 1, line 15 through Page 2, line 3 that a load must be contained or confined to prevent it from dropping, leaking, or escaping could be superseded. In other words, you could comply with (c)(1)(B) or (c)(2) on Page 2, lines 5 through 12 and no longer be required to confine or contain the load as specified in (c)(1)(A)(i)(ii). That was not the intent of the bill.

12. STRA Version S: Page 2, lines 17 through 18

Added an exemption that specifies that the provisions of this act do not apply to commercial motor vehicles that are subject to federal motor carrier securement standards implemented through state or federal law.

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## Sectional Analysis HB 259 Version S

Section 1 on Page 1, line 3 through Page 3, line 9: AS 28.35.251 is repealed and reenacted:

Subsection (a) on Page 1, lines 4 through 7:

This subsection states that a person is guilty of the crime of failure to contain or confine a load in the first degree if, with a mental state of criminal negligence, they violate (c) and as result, cause serious physical injury to another person. Criminal negligence applies to the act of the securing the load. Failure to contain or confine a load in the first degree is a class A misdemeanor.

Subsection (b) on Page 1, lines 8 through 10:

This subsection states that a person is guilty of the crime of failure to contain or confine a load in the second degree if, with criminal negligence, they violate (c) and as result, cause property damage of \$5,000 or more to another person's property. Criminal negligence applies to the act of the securing the load. Failure to contain or confine a load in the second degree is a class B misdemeanor.

Subsection (c)(1)(A)(i)(ii) and (B) on Page 1, line 11 through Page 2, line 7:

This subsection specifies that a person commits the offense of failure to contain or confine a load in the third degree if the person drives or moves 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 and 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. Failure to contain or confine a load in the third degree is an infraction.

Subsection (c)(2) on Page 2, lines 9 through 12:

This subsection specifies that a person may drive or move a motor vehicle loaded with sand, gravel, dirt, rock, or similar materials if at least 6 inches of freeboard is maintained around the perimeter of the load or a cover is used and securely fastened.

Subsection (d)(1) on Page 2, lines 13 through 16:

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 (d)(2) on Page 2, lines 17 through 18:

This subsection is an exemption that specifies that the provisions of this act do not apply to commercial motor vehicles that are subject to federal motor carrier securement standards implemented through state or federal law.

Subsection (d)(3) on Page 2, lines 19 through 20:

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.

Subsection (d)(4) on Page 2, line 21:

This subsection is an exemption that specifies that the provisions of this act do not apply to a vehicle that is removing snow or hauling snow after removal.

Subsection (d)(5) on Page 2, lines 22 through 23:

This subsection is an exemption that specifies that the provisions of this act do not apply to random litter escaping a vehicle. Litter is defined in this section as plastic wrappers, empty plastic bags, leaves, paper, or similar soft materials. "Random" modifies "litter" to clarify that a load of litter is not exempted.

Subsection (e) on Page 2, lines 24 through 26:

This subsection specifies that in prosecution under (a) or (b), which is failure to contain or confine a load in the first degree or second degree respectively, a person being convicted in the preceding 10 years of a violation under (c), which is failure to contain or confine a load in the third degree, is prima facie evidence that the person acted with criminal negligence when securing the load.

Subsection (f)(1) on Page 2, lines 28 through 29:

This subsection specifies that failure to contain or confine a load in the first degree is a class A misdemeanor.

Subsection (f)(2) on Page 2, lines 30 through 31:

This subsection specifies that failure to contain or confine a load in the second degree is a class B misdemeanor.

Subsection (f)(3)(A), (B), (C), and (D) on Page 3, lines 1 through 9:

This subsection specifies that failure to contain or confine a load in the third degree is an infraction punishable by a fine of not more than \$300 on the first offense, \$750 on the second offense, \$1,500 on the third offense, and \$2,500 on the fourth offense. The penalty for the first violation is consistent with current statute.

Subsection (g) on Page 3, lines 10 through 11:

This subsection specifies that criminal negligence in this section has the meaning given in AS 11.81.900.

Section 2 on Page 3, lines 12 through 13. AS 28.35.253 is amended by adding a new subsection:

This section is a conforming amendment to reflect the repeal and reenactment of AS 28.35.251 in Section 1 of the bill and the repeal of AS 28.35.255. AS 28.35.255 currently houses the penalties for violations of both AS 28.35.251 and AS 28.35.253. Violating AS 28.35.253 is currently an infraction and there is no substantive change.

Section 3 on Page 3, line 14:

This section repeals 28.35.255.

# 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 Statute 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/>

## 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

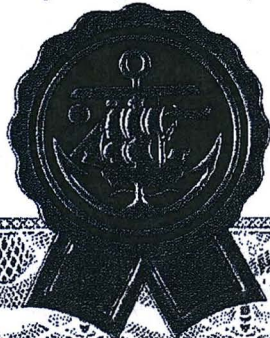
**WHEREAS**, the City of Anchorage recognizes and honors the profound suffering of those harmed by unsecured loads; and

**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

**ANCHORAGE, ALASKA**

**AR No. 2017-204**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY RECOGNIZING AND DESIGNATING JUNE 6, 2017 AS *SECURE YOUR LOAD DAY*.**

**WHEREAS**, All residents of the Municipality of Anchorage should recognize the dangers of driving with an unsecured load and be accountable when hauling with a motor 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 on the highway traveling the typical speed limit of 55 MPH will strike a stationary object or person alongside the roadway with the impact of half a ton, fully capable of causing serious bodily injury or death; and

**WHEREAS**, Anchorage Municipal Code section 9.46.060 requires securing of a load "as to prevent any material from dropping, shifting, leaking, falling from any part of the vehicle, or otherwise escaping therefrom" and requires a load and any covering to be "securely fastened so as to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the street," with a \$150 fine for violations; and

**WHEREAS**, Alaska Statute 46.06.080 similarly requires a vehicle driven on state roads and highways to secure and prevent its load from dropping or shifting; and

**WHEREAS**, The Anchorage Assembly stands in solidarity with those impacted by such instances of avoidable and unnecessary tragedies, harmed or even killed by debris or items falling from unsecured loads, and urges all persons transporting loads of items, personal property, debris, trash, rubbish, or anything to cover and secure their load; and

**WHEREAS**, National, State and local bodies across the United States have joined the movement in designating and recognizing Tuesday, June 6, 2017, as Secure Your Load Day to encourage the simple, routine act of covering and securing every load before driving;


**NOW, THEREFORE, BE IT RESOLVED** that the Anchorage Assembly celebrates, recognizes and designates Tuesday, June 6, 2017, as:

**Secure Your Load Day**

**PASSED AND APPROVED** by the Anchorage Assembly this 23<sup>rd</sup> day of May, 2017.

ATTEST:

  
\_\_\_\_\_  
Municipal Clerk

  
\_\_\_\_\_  
Chair



# 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.

**MATANUSKA-SUSITNA BOROUGH  
MAYORAL PROCLAMATION**

*WHEREAS, all residents of the Matanuska-Susitna Borough should recognize the dangers of driving with an unsecured load; and*

*WHEREAS, according to 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 incidents in the United States; and*

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

*WHEREAS, Alaska Statute 46.06.080 states that "a vehicle may not be driven or moved on a public 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 securing every load protects the lives of Matanuska-Susitna Borough residents and these precautions should not be overlooked; and*

*WHEREAS, the Matanuska-Susitna Borough recognizes the profound suffering of those harmed by unsecure loads and we stand in the solidarity with those critically impacted by such instances of avoidable tragedy.*

*NOW, THEREFORE, BE IT RESOLVED, that I, Vern Halter, the Mayor of the Matanuska-Susitna Borough hereby proclaims Tuesday, June 6th, 2017 as*

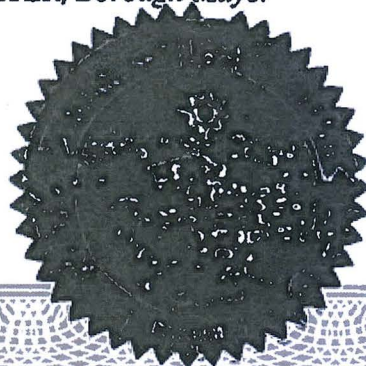
***Secure Your Load Day***

*IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Matanuska-Susitna Borough to be affixed this 30 day of May, 2017.*

  
VERN HALTER, Borough Mayor

ATTEST:

  
LONNIE R. MCKECHNIE, CMC, Borough Clerk



Dear Legislators,

Around 3 years ago I was driving to work just like any other day. Among the other cars during the commute was a truck carrying an unsecured load. I had no idea the impact that truck was about to have on my life. That truck's unsecured load suddenly came straight towards me at highway speeds. I don't remember much about what happened next. I remember there being trash, and bits of wood but the biggest object was a trash can. The kind you put at the end of your driveway and it was going to come through my windshield. The next thing I remember is being in the emergency room and a police officer trying to ask me questions. I was told that my car rolled four times and that the fire department had to cut me out of my vehicle because I was trapped. I had broken bones, countless bruises and cuts but what nearly killed me was a massive blow to my skull. I had brain bleeding both on the outside and inside of my brain. Did you know that bleeding on the inside of the brain has a survival rate of just 30%? I survived those odds but not without consequence. I have never been able to find the right words that would describe how a brain injury feels. I can only tell you the things that I suddenly could not do. I couldn't walk across a room without falling over, I couldn't hold a fork or brush my hair, I couldn't tell my parents that I loved them because so much of my ability to communicate was damaged. It's been years and I'm still in therapy. I've been fighting for so long to get back what I lost and for what? Because someone couldn't be bothered to secure their load? The worst part about that day was that the driver never stopped. They left me there to die. They left deciding that my life was worth less than all that trash.

Having a traumatic brain injury has drastically changed my life. I fight every day to get better. That driver is responsible for what happened to me. Their actions ripped away my ability to be a person. To walk, have a conversation, even to hold someone's hand or hug them. Years to get back the simplest of things that are simple yet so important. They could have spent five minutes to make sure their load was secured but they didn't. They didn't even try and that five minutes not spent I have paid for with the rest of my life.

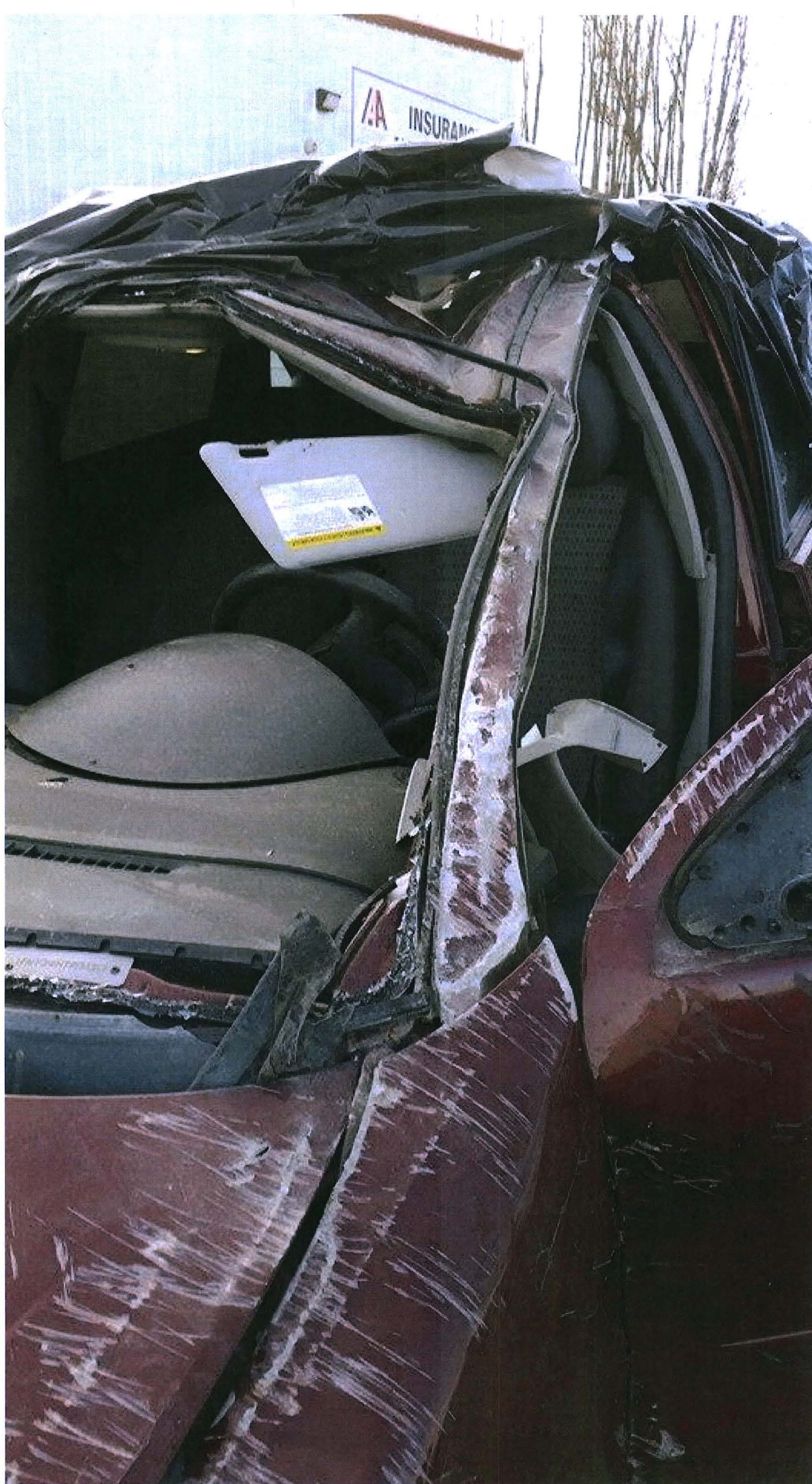
A person chooses not to secure their load just as a person chooses to get behind the wheel of a car drunk. Both drivers don't leave with the intention to harm

anyone but the negligent choice was made because it took less of their time and was more convenient even though that choice put others at risk. This bill will educate and remind every person how dangerous an unsecured load really is. This bill will protect everyone in this room and every Alaskan in this state and will hold these negligent drivers accountable for a choice that has hurt and killed so many people.

I ask with all I have in me that you help me make this change, help me change a law that could not protect me and cannot protect you or anyone you love unless there is change. What happened to me was entirely preventable. I will never get justice for that day but I can fight for change with your help. I see unsecured loads every day. I know in my heart that this change is right and is needed and I hope that you see that too and help me make this possible. I am very grateful to be here today and I thank you for reading my story.

Sincerely,

Kelly Roy  
Anchorage, Alaska  
03/06/18







February 23, 2018

TO: Committee Members  
FROM: Robin Abel (Seattle Mother)  
RE: Approval of HB259

*"Dear Maria, my husband was driving behind you on the way home from work Sunday night, February 22, 2004. He stopped at the scene of your accident, he broke his way into your vehicle, he heard you breathing, he talked to 9-1-1, he held your hand, he encouraged you to hang in there.....he drove home and kissed his three children and wife goodnight. Days later tears still well up in his eyes, for he knows that where his story ends yours begins....."* (Note from Mrs. Helen (Anthony) Cox)

I may be a bit emotional today in sharing this story because it is exactly 14 years ago this morning that I received the call that is every parent's worst nightmare.....it was Harborview Hospital and this woman said to me "is your daughter Maria Federici?" It was the only time in my life that I wanted to say NO. I had always been so proud to be Maria's mother but in that moment I didn't want that call to be about my daughter but I said "yes" and she said, she is in critical condition and you need to get here as soon as you can. That wasn't the call I expected...it was Sunday around midnight; Maria was 24, graduated from college and not living at home but suddenly I knew life had just changed.

When I got to the hospital, a social worker took me to a "quiet room." No one had told me if Maria was still alive so I grabbed this woman's arm as she reached for the door, and said "is she still alive" and she said "I don't know." We went in and sat down. Within minutes two doctors came in, but they didn't say anything. I looked up, their coats were so clean and white, there was no blood, and these doctors couldn't have been much older than Maria. Finally I said, "can you save her?" They just shook their heads but I asked again..."are you sure you can't save her? They said that she was bleeding out from the brain and it was now just a matter of time." Then I knew way there were there, "are you here for her organs? Yes, they said. I knew Maria would have wanted that so I spent the next few hours filling out the forms....not an easy thing to do in times of grief.

As my brother was driving me home to get my dogs and go back to his home in Port Orchard he told me what had happened to Maria. She had just finished her shift that night, closed the restaurant up and headed home around 11:15pm. Someone ahead of her, had lost a large black entertainment center and the board that went through Maria's windshield weighed 40 lbs. She was almost completely decapitated. She lost her eye sockets, cheekbones, nose and her upper palate was crushed and a good part of her frontal lobe had been destroyed. She had no face only large hole that went back to ¼ inch from her spinal column. Hearing that I realized it was probably best that Maria had passed that night because what would the quality of her life be like if she had survived? Around 7:00am the phone rang again, Harborview said, "come back she is still alive!" Because I donated her organs...they had kept her alive for organ donation and now they realized that this young woman was still fighting for her life. Now I was even more scared because what would the quality of her life be. The doctors said, she will never see, hear, speak and we don't think she will be able to move and we know she will have severe brain damage. Harborview pulled out all stops...they called the very best surgeons and gave my daughter a new face. At one point they had almost 30 doctors working on her and in the first surgery of 15 hours they gave her a new face.

How was my daughter going to financially survive the rest of her life? Her face had just cost over a million dollars and now there was a lifetime of medical and daily care needed! I contacted the King County Prosecutor and that is when he told me that what happened to Maria was not a crime, it was a littering ticket. That meant that Maria wouldn't even be eligible to apply for Crime Victim's Compensation. I immediately said...it may be too late for my daughter but it is not too late to change the law to protect other families on the road. Norm Maleng agreed to help me change the law, telling me that the tough work begins afterwards to educate the public. Maria's Law passed in our first year! Early on we met with the Truckers and gained their immediate support. They understood that this law enhanced their current 6 inch rule and they didn't consider this change anything but good for safety.

The tough work begins after the law is changed. It is one thing to change a law but it is a lifetime commitment to educate the public on the importance of load securement. I have worked hard to honor my promise to Norm Maleng. I have now changed two laws in Washington State and had language in two national transportation bills. The GAO study reported 440 deaths, 10,000 injuries and over 51,000 incidents and said that unsecured loads and road debris are a serious safety hazard. AAA is a strong believer in Secure Your Load mission and they too have done studies.

I now have a National Secure Your Load Day on June 6<sup>th</sup>. Last year I had 47 states participate in Secure Your Load Day and 7 states declared June 6<sup>th</sup> Secure Your Load Day. Governor Walker was one of the Governors who signed a Proclamation!

Please pass HB259. I know it will save lives, injuries and millions of dollars in litter.

Thank you

Robin Abel  
425-430-8204  
[www.secureyourload.com](http://www.secureyourload.com)

P.S. Maria is blind, but she can hear, talk, walk and dance. She doesn't believe that her life has changed at all and that is a good thing about the brain injury but I miss my daughter.