

ATLANTA DISTRICT COURT
1967-1968

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689 HB

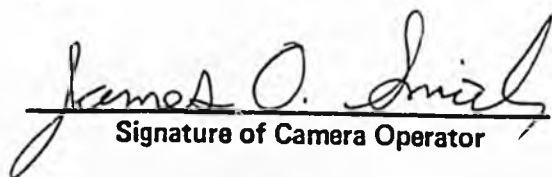


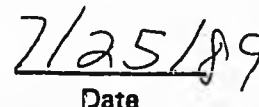
RECORDS



CERTIFICATION

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Date

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MAR 14 '86 12:09 ACA 2ND JUD DIST FAX276-6342



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORBYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 263-4444

March 14, 1986

Rep. Mike Miller
Chair, House Judiciary Committee
P. O. Box 7
Juneau AK 99811

Dear Representative Miller:

I am writing on behalf of the court system to bring to the committee's attention a concern with HB 689, an act relating to motor vehicles. It is my understanding that this bill is scheduled for hearing before the committee today.

The court system has no substantive concerns with this legislation. However, proposed paragraph (c) raises a procedural issue. This paragraph provides that a person charged with a violation of the statute shall appear in court to enter a plea to the offense.

This provision is inconsistent with AS 28.05.151(b) in which the legislature has delegated to the supreme court the authority to determine which traffic offenses are amenable to disposition without court appearance.

There is no other offense in Title 28 for which the legislature has made a separate determination that a court appearance is required. This determination should be made consistently in all cases, either under the court's delegated power, or in all cases by the legislature.

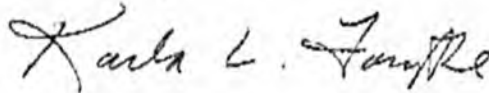
The court system suggests amending HB 689 to include a penalty provision similar to the one adopted in HB 240, an act relating to overtaking and passing school buses (copy attached). Such an amendment could provide that a person who violates this statute is guilty of a class B misdemeanor and is subject to a mandatory assessment of points. A civil penalty is also provided. Finally, the committee could draft a letter of intent indicating that the court system should require a court appearance rather than permit a bail forfeiture.

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Rep. Mike Miller
March 14, 1986, Page 2

Thank you for the opportunity to comment on this legislation. If you have any questions about the court system's position, please let me know.

Sincerely,



Karla L. Forsythe
Staff Counsel

cc: Rep. Cotton
Arthur H. Snowden, II

MAR 14 '86 12:10 ACA 2ND JUD DIST FAX276-6342

Offered: 2/26/86
Referred: Rules

Original sponsors: Thompson, Taylor,
Cato, et al

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 240 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to overtaking and passing school
7 buses."

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

9 * Section 1. AS 28.35 is amended by adding a new section to read:

10 Sec. 28.35.145. OVERTAKING AND PASSING SCHOOL BUS. (a) The
11 driver of a vehicle that approaches from any direction a school bus
12 stopped on a highway or vehicular way or area shall stop not less than
13 30 feet from the school bus before reaching it when there are in
14 operation on the school bus flashing red lights as required by regu-
15 lation. The driver may not proceed until the school bus proceeds and
16 the flashing lights are no longer illuminated.

17 (b) When a school bus is stopped on a highway or vehicular way
18 or area, whether or not there are in operation on the school bus
19 flashing red lights as required by regulation, the driver of a vehicle
20 shall yield the right-of-way to a person crossing a highway, vehicular
21 way, or area to embark on or disembark from the school bus, whether or
22 not the person is crossing within a marked crosswalk.

23 (c) The driver of a vehicle on a highway with separate roadways
24 is not required to stop when meeting or passing a school bus that is
25 on a different roadway or, if upon a controlled access highway, when a
26 school bus is stopped off the highway in a loading zone that is part
27 of, or adjacent to, the controlled access highway, and pedestrians are
28 not permitted to cross the highway.

29 (d) A driver convicted under this section is guilty of a class B

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1 misdemeanor and, in addition to other penalties as provided by law, is
2 subject to a mandatory assessment of six demerit points under AS 28.
3 15.221 - 28.15.261.

4 (e) A vehicle owner, or in the case of a leased vehicle a les-
5 see, may be punished by a civil penalty not to exceed \$100, if the
6 vehicle owned or leased by the person is operated in violation of this
7 section. The owner or lessee may not be penalized if the vehicle was
8 stolen, or the driver of the vehicle is convicted under (d) of this
9 section. This subsection does not apply to a lessor of a vehicle if
10 the lessor keeps a record of the name and address of the lessee. A
11 violation of this subsection may not result in the loss of a driver's
12 license or privilege to drive and does not constitute grounds for
13 assessment of demerit points under AS 28.15.221 - 28.15.261. This
14 subsection does not prohibit or limit the prosecution of a vehicle
15 driver for violating (a) or (b) of this section.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary
" " "

3/14/86

3/19/86

1:30 pm

1:30 pm

**HOUSE
COMMITTEE REPORT**

(7)

Date referred: 3/12/86

FURTHER REFERRALS: FINANCE

DATE: _____

The JUDICIARY Committee has considered HB 689

"An Act relating to motor vehicles."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSHB 689 (JUD) same title
 new title

and recommends _____

- further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

W. L. Taylor
Chairman

A M E N D M E N T

Offered in the HOUSE

By Cotten

TO: HB 689

Page 1, lines 15-17, delete all material.

Renumber remaining paragraph.

Page 1, after line 21, insert a new subsection to read:

"(b) If a cover is used to contain or confine a load being driven on a highway, the cover shall be securely fastened to prevent the cover from becoming loose or detached, or from being a hazard to other users of the highway."

Reletter remaining subsections.

Page 1, lines 26 - 27, delete:

"A person charged with violating this section shall appear in court to enter a plea to the offense."

Page 1, line 28, following "section":

Delete: "may be punished by a fine of not more than \$500"

Insert: "is guilty of an infraction"

It is the intent of the Legislature that the Supreme Court specify in its court rules that a court appearance be required for a violation of AS 28.35.165 (a) or (b).

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

FISCAL DETAIL

Bill/Resolution No. : HB589
 Title : "An Act relating to motor vehicles."
 Sponsor : Rep. Cotten
 Requestor : H. Transportation
 Date of Request : _____

Agency Affected : Public Safety
 BRU : Alaska State Troopers
 Components : Detachments and CIR

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No fiscal impact is anticipated.

Prepared by : Francis C. Allan *F.C.A.* Phone : 269-5691
 Division : Alaska State Troopers Date : 2/25/86

Approved by Commissioner : Arvid Clementson *A. Sundberg* Date : 2-27-86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

Support

February 25, 1986

HB689 - "An Act relating to motor vehicles."

Our interpretation of this legislation is that it is an attempt to prevent damage often caused to private vehicles from gravel, rocks and like items falling from uncovered commercial vehicle loads.

The new provisions provided by this statute will be enforced during our current patrol activities. While no additional enforcement effort is anticipated, this statute will add strength to the current provisions.


Robert J. Sundberg
Commissioner



March 19, 1986

House of Judicial Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: H.B. 689

Gentlemen,

The above referenced bill is not needed to protect the public from gravel trucks if the existing laws were enforced. Gravel will not come out of the trailers if a legal load is being hauled.

I urge you to enforce the existing laws before this bill is passed. The public cannot afford duplication of laws when the problem is lack of enforcement.

Covered loads will increase the cost of development which may make a project unfeasible. With the State of Alaska's economic crisis, this bill is untimely and will cause additional hardships.

Sincerely,

Donald Dowd

dd/cw

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1986

SUBJECT: Load limitations on motor vehicles
HB 689

TO: Representative Sam Cotten

FROM: Michael F. Ford *mf*
Legislative Counsel

You have asked for an analysis of HB 689. The bill would prohibit persons from driving a loaded motor vehicle on a highway unless the load was properly contained or confined. The bill also requires that a cover used to contain or confine the load must be securely fastened and requires loads consisting of sand, gravel or other loose material be subjected to treatment designed to settle the load prior to driving on the highway. Finally, the bill requires vehicles to be equipped with fenders, mud flaps, or other anti-spray devices adequate to prevent the vehicle from being a hazard to others. The bill contains a penalty subsection that requires a court appearance, and establishes a fine for conviction, not to exceed \$500. Responsibility for enforcement of this bill would rest with the Department of Public Safety.

MFF:mkr
m3/137



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 7, 1986

MEMORANDUM

TO: Representative Sam Cotten

FROM: Jay Livey *JL*
Legislative Analyst

RE: Other States Regulations Concerning the Transportation of
Loose Fill Material
Research Request 86-124

You asked that we provide you with a summary of how other states regulate the operation of gravel trucks, particularly with regard to the covering of loads. The American Automobile Association (AAA) is providing us with a summary of state motor carrier laws compiled by the Canvas Products Association International. We will forward a copy of this summary to you upon its receipt.

Mr. Tom Kube of the AAA noted that this summary groups state laws relating to the transportation of loose fill material into several categories, the strictest of which includes states that require loads to be covered in most instances. Mr. Kube identified eight states that were assigned to this category: Florida, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire and New York.

Florida and New Hampshire require all loads of loose fill to be covered in all circumstances. Mississippi, New York and Michigan require the load to be covered if the load is less than six inches below the top of the sides, front and back of the truck bed. Massachusetts law requires the load to be covered if it is not loaded in a way to prevent it from escaping. Nebraska requires a load to be covered if the material protrudes above the truck sides and Missouri requires a cover if the load can reasonably be expected to blow out of the truck. Copies of statutes from these states are attached.

We also contacted the motor carrier regulatory agencies of several states. Wyoming, Vermont and Pennsylvania all require loose fill loads to be loaded so that they do not spill out of the truck. If a cover is necessary to assure this, the driver will be cited if a cover is not used and the load spills. Tennessee requires a load to be covered if the top of the load is within four inches from the top of the truck sides. Colorado, Montana, Iowa, California and Arizona have laws that

Representative Cotten
March 7, 1986
Page Two

allow peace officers to cite drivers if a spill occurs, but there are no requirements that the load be covered.

Enforcement within these states varies, although generally, any peace officer with the authority to enforce state laws can issue citations if material is spilled on the road. Enforcement officers of several states noted that laws directed toward spills on the roadway are not very effective in controlling material blowing out of a truck unless the quantity of material lost is significant. Most of the states we contacted also had vehicle inspection programs which periodically checked commercial trucks for safety hazards. This inspection includes mudflaps, tailgates and truck beds which can all cause loose fill loads to fly off the truck if in disrepair.

We have also attached a copy of House Research Memorandum 84-116, "Hazardous Debris from Commercial Vehicles."

I hope this information will be helpful. If you require additional information, please contact us.

JL

Attachments

DUMP TRUCK COVERING LAW DIRECTORY

United States and Canada - 1977 1983 with addl -

This directory lists the applicable laws of all states and provinces which require the covering of dump trucks with a tarpaulin or restrict the spillage of loads on the highways. This directory is the result of a survey conducted by CPAI in the summer of 1976 and has been updated during the fall of 1977.

The general classification of each law appears next to the name of each state or province. These laws have been divided into four general categories by CPAI.

- A - Laws which require covering in most instances.
- B - Laws which require covering in limited instances.
- C - Laws which restrict spillage and require the secure fastenings of loads and covers.
- D - Laws which restrict spillage only.

There are nine states with category A laws. These are the strictest existing laws and are generally suitable as models for the other forty-one states. Florida's law is probably the clearest and most direct, while the New Hampshire law covers reasonable exceptions in the fullest detail. Ten states have laws which fall into category B, requiring covering in some instances, but the majority of the laws fall into category C or D. These laws quote part of the Uniform Vehicle Code, which is the model followed by many states for all their traffic laws. The 13 states in category C and the 17 states in category D are the prime candidates for stricter regulations since their current laws are unenforceable for most practical purposes.

In Canada, all ten provinces have some form of spillage law. Ontario has a strictly enforced law (category A). Quebec's law falls into category B, and there are four provinces with category C laws and four more with category D regulations.

Effective enforcement is the key to increased highway safety through dump truck covering. A strict law is sometimes not enough. In Missouri (category A) the law uses words like "shall have a protective cover," but the state police only enforce the requirement in extreme cases. In Connecticut and Georgia, on the other hand, strict enforcement of "C" type laws as a matter of state police policy has caused most dump trucks to be covered. The motoring public in these two states is fortunate to have police who are concerned about the spillage problem. In most states, "C" and "D" type laws are rarely enforced since the officer has to witness spillage before issuing a ticket. Effective enforcement is necessary with the strictest laws, but in the 30 states with "C" or "D" laws, the police need clear guidance from the legislature if the public is to be protected legally, instead of just luckily. For information on how each law is enforced in actual practice, the state or provincial police should be contacted. Most officers are very cooperative in telling how and when spillage tickets are issued.

ALABAMA (D)

Section 58 (45a)

58 (45a) Spilling Loads

Whoever willfully and knowingly operates, owns, or causes to be operated on any public highway, road, or street a motor vehicle so loaded with gravel, rock, slag, bricks, sawdust, chips, wood products, or other like substances, in such manner or in such condition that the contents of the vehicle spill out and endanger the safety of the persons or property of motorists and pedestrians, is guilty of a misdemeanor and upon conviction shall be fined not more than \$100.00.

ALASKA

No Law

ARIZONA (C)

Section 28-1006

28-1006. Loads on Vehicles

a. No vehicle shall be driven or moved on any highway unless the 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

b. No person shall operate on any highway a vehicle with any load unless the load and any covering thereon is 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 highway.

ARKANSAS (D)

Section 75-805

75-805. Spilling Loads on highways prohibited - Exceptions.

No vehicle shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

CALIFORNIA (B)

Section 23114 and 23115

Spilling Loads on Highways

23114. No vehicle shall be driven or moved on any highway unless the vehicle is so constructed, covered, or loaded as to prevent any of its contents or load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping therefrom.

23115. No vehicle loaded with garbage, swill, cans, bottles, waste papers, ashes, refuse, trash, or rubbish, or any other noisome, nauseous, or offensive matter shall be driven or moved upon any highway unless the load is covered with a cover sufficient to prevent the load or any part of the load spilling upon the highway. This section does not prohibit a rubbish vehicle from being without cover while in the process of acquiring its load in circumstances

CALIFORNIA (B) cont.

wherein no law, administrative regulation, or local ordinance requires such cover.

This section does not apply to any vehicle engaged in transporting wet waste fruit or vegetable matter, or waste products from a food processing establishment.

COLORADO (D)

Section 42-4-1208

42-4-1208. Spilling Loads on Highways Prohibited.

No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded or the load thereof securely covered 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 or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

CONNECTICUT (C)

Section 14-271

14-271. Securing of Loads

a. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom in such manner or quantity as to constitute a hazard or nuisance to other users of the highway, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

b. No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

c. The provisions of this section shall not apply to motor vehicles registered as farm motor vehicles or vehicles used for farming purposes.

d. Any person who violates any provision of this section shall be fined not more than one hundred dollars for each offense.

DELAWARE (D)

Section 4371

4371. Construction of Vehicles to Prevent Escape of Contents

a. No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom.

b. Whoever violates subsection (a) of this section shall be fined not less than \$5, nor more than \$25, or imprisoned not less than 2 nor more than 10 days, or both. For each subsequent like offense within one year, he shall be fined not less than \$25, nor more than \$50 or imprisoned not less than 2 nor more than 15 days, or both.

DISTRICT OF COLUMBIA (B)

Section 153 d and
153 f

Sec. 1531 (d) Spilling loads. No vehicle other than a streetcar shall be driven or moved on any street or 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, or water or other substances may be sprinkled on the roadway in cleaning or maintaining such roadway.

(f) Load limits - securing of loads. The weight of the load carried on any truck, tractor, trailer, or combination thereof, shall not exceed the manufacturer's rated load capacity of such truck, tractor, trailer, or combination thereof, and loads carried on such vehicles shall be adequately secured to prevent shifting or toppling or in any other manner becoming a hazard. Any tarpaulin or other covering used to protect the load carried on any such vehicles shall be securely fastened so as to prevent its detachment.

FLORIDA (A)

Section 316.198

316.198. Loads on Vehicles

(1) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material which could fall or blow from such vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.

GEORGIA (C)

Section 95A-955

95A-955. Securing Loads on Vehicles

a. No vehicle shall be driven or moved on any public road unless such vehicle is constructed or loaded or covered so as to prevent any of its load from dropping, escaping, or shifting in such a manner as to create a safety hazard, provided that this section shall not prohibit the necessary spreading of any substance in public road maintenance or construction operations.

b. No person shall operate, or load for operation, on any public road any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner becoming a hazard to other users of the public road.

c. Nothing in this section, nor any regulations based thereon, shall conflict with federal regulations or Georgia Public Service Commission regulations applying to the securing of loads on motor vehicles.

HAWAII (B)

Section 15-21.4

Sec. 15-21.4. Loads to be Properly Secured.

(1) No vehicle shall be driven or moved on any highway, unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) No vehicle shall be driven or moved on any highway when any load thereon is not entirely within the body of the vehicle; provided, however, that this prohibition shall not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets, or other suitable mechanical device to prevent such load from dropping onto the highway or from shifting in any manner and, further that this proviso shall not be deemed to supersede the provisions of Section 15-21.3 hereinabove.

(3) No vehicle shall be driven or moved on any highway with any load consisting partially or entirely of loose paper, empty cartons, crates, or any other material susceptible of being blown or carried by the wind, unless such load is entirely covered by tarpaulin, net, canopy or other suitable material, effectively preventing any part of such load from being blown or carried by the wind; provided, however, this paragraph shall not apply to any vehicle carrying a load consisting entirely of soil, sand, coral or gravel, if such load is wetted down to prevent particles thereof from being blown or carried by the wind.

IDAHO

No Law

ILLINOIS (C)

Section 15-109

15-109. Spilling loads on highways prohibited.

a. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

b. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

INDIANA (D)

Section 9-8-1-2

9-8-1-2. Vehicles on State Highways

No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent its contents from dripping, sifting, leaking or otherwise escaping therefrom.

IOWA (D)

Section 321.460

321.460. Spilling loads on highways.

No vehicle shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

KANSAS (C)

Section 8-1906

8-1906. Securing loads on vehicles.

a. No vehicle shall be driven or moved on any 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 this section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations.

b. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

KENTUCKY (D)

Section 189.150

189.150. Escaping contents.

No vehicle shall be operated upon any highway unless it is so constructed as to prevent its contents from escaping.

LOUISIANA (C)

Section 32:386.

32:386. Loads on Vehicles: Care Required Thereto

a. No vehicle shall be driven or moved on any highway of this state 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, or water or other substance on a highway in cleaning or maintaining such highway.

b. No person shall operate on any highway of this State any vehicle with any load unless said load and any covering thereon is 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 highway.

MAINE (C)

1750 (h) and 1752

Ch. 1750 (h) No motor vehicle shall be operated unless the tail-board or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from side, end or top of load.

MADGE (C) Cont.

Ch. 1752 Injurious substances prohibited on ways and bridges; loads securely fastened

No person shall operate or cause to be operated upon any public way a vehicle with a load, unless such load is fastened, secured, confined or loaded to prevent any danger, reasonably to be anticipated, of any portion of said load from falling to the ground. The word "load" as used in this paragraph shall include, but shall not be limited to, firewood, pulpwood, logs, bolts or other material, but shall not include loose hay, pea vines, straw, grain or cornstalks.

MARYLAND (B)

14 - 106

Section 14-106. Loads on vehicles.

a. Dropping or leading loads; loose material. -- No motor vehicle, trailer, or semitrailer shall be driven or moved on any highway unless the vehicle is constructed or loaded 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person may transport or load for transporting any loose material in a motor vehicle, trailer, or semitrailer, on or over the public roads, streets, or highways of this State in violation of any of the requirements of this sub-section. "Loose material" includes dirt, sand, gravel, wood chips, or other material capable of blowing, falling, or spilling from a vehicle as a result of movement or of exposure to air, wind currents, or weather, but does not include agricultural products in their natural state. The Administrator, by rule and regulation, may specify any other types of material capable of spilling or blowing for purposes of this section.

b. Loads to be securely fastened; removal of debris. -- No person shall operate on any highway any vehicle with any load unless the load and any covering thereon 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. Furthermore, the owner of a vehicle which has caused dirt or debris to be deposited on the street shall be responsible for removing the same within a reasonable period.

MASSACHUSETTS (A)

C. 85 - Sec. 36

C. 85 - Sec 36

No person shall drive or move a vehicle on any way, as defined in section one of chapter ninety (90), nor shall the owner or bailee of any vehicle require or permit the same to be driven or moved on any way, unless such vehicle is constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom and, if it is loaded with sand or gravel, unless its load is fully and adequately covered. This section shall not prohibit the dropping of sand for the purpose of securing traction, or the sprinkling of water or other substance on such a way in cleaning or maintaining the same. Whoever violates the provisions of this section shall be punished by a fine of not less than ten (10) nor more than fifty (50) dollars.

MICHIGAN (A)

Section 257.720

Sec. 720. (1) A vehicle shall not be driven or moved on a highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, blowing off, or otherwise escaping therefrom. The tailgate, faucets, and taps shall be securely closed to prevent spillage during transportation, whether loaded or empty, and the body of the vehicle shall not have any holes or cracks through which material can escape. Actual spillage of material on the highway or proof thereof is not necessary to prove a violation of this section. Any highway maintenance vehicle engaged in either ice or snow removal shall be exempt from this act.

(2) A commercial vehicle carrying a load, other than logs or tubular products, which is not completely enclosed shall either:

(a) Be loaded so that no part of the load making contact with any sideboard or side panel or rear part of the enclosure shall be within 6 inches of the top of the part of the enclosure contacted, unless the load is covered with firmly secured canvas or similar type covering.

(b) Have the load securely fastened to the body of the frame of the vehicle with binders of adequate number and of adequate breaking strength to prevent the dropping off or shifting of the load.

(3) A company or individual who loads or unloads a vehicle or causes it to be loaded or unloaded, with knowledge that it is to be driven on a public highway, in a manner as to cause a violation of subsection (1) shall be prima facie liable for a violation of this section.

(4) A person shall not operate a motor vehicle carrying logs or tubular products on a highway unless the following conditions are complied with:

(a) If the logs or tubular products are loaded crosswise or at right angles to the side of the vehicle, the logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 binders which are secured to the frame at each end of the load and pass over the load so that the frame and binders completely encircle the load.

(b) If the logs or tubular products are loaded lengthwise of the vehicle, obliquely or parallel to the sides, the logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 toggle binders which are secured to the frame at each end of the load and pass over the load so that the frame and binders completely encircle the load and 1 wrapping binder which completely encircles the load.

(c) The toggle and wrapping binders shall be made of steel chain or a combination of steel chain and wire rope, which shall not be less than 3/8 of an inch in diameter and have a breaking strength of not less than 12,000 pounds.

MINNESOTA (D)

Sec. 169.81 Subd. 5.

Section 169.81, Subd. 5. Manner of Loading.

No vehicle shall be driven or moved on any highway unless such vehicle is so constructed, loaded, or the load securely covered 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, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. This subdivision shall not apply to motor vehicles operated by a farmer or his agent when transporting produce he has produced.

MISSISSIPPI (A)

Senate Bill 1648

Senate Bill 1648.

An act to require all trucks, trailers and other carriers with open tops when hauling sand, dirt, gravel or rock to use a cover when loaded and traveling on state and United States highways or in the alternative to be equipped with sideboards.

Be it enacted by the legislature of the State of Mississippi:

SECTION 1. Every truck, trailer or other carrier with an open top, while traveling upon any state, United States or interstate highway in the State of Mississippi and while carrying any load of sand, dirt, gravel or rock shall be equipped with a tarpaulin, canvas or other such top and same to be secured over the top of any load of sand, dirt, gravel, or rock.

SECTION 2. In lieu of the tarpaulin provided in Section 1 of this act, a truck, trailer or other carrier with an open top while traveling upon any state, United States or interstate highway in the State of Mississippi and while carrying any load of sand, dirt, gravel or rock shall be in full compliance with this act provided same is not loaded within six (6) inches of the top of the bed or is equipped with four (4) six inch (6") sideboards, which sideboards shall be attached one (1) each to the front, back and two (2) sides of the carrier body, and shall remain lowered while the body is being loaded, provided that no part of the load shall extend above the body of the carrier. After loading, the sideboards shall be raised and secured to remain raised during travel, and the space between the top of the sideboards and the top of the load making contact with the sideboards shall not be less than six (6) inches.

SECTION 3. The Motor Vehicle Comptroller, Mississippi Highway Patrol and other law enforcement agencies are hereby charged with enforcement of this act.

MISSISSIPPI (A) cont.

SECTION 4. Any person, firm or corporation operating a truck, trailer or other carrier on any state, United States or interstate highway not properly covered as set forth in Section 1 or without sideboards as set forth in Section 2 or in violation of any of the other provisions of said Section 2 shall be guilty of a misdemeanor and upon conviction shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each separate and distinct violation.

SECTION 5. This act shall take effect and be in force from and after July 1, 1974.

MISSOURI (A)

Sec. 307.010

Section 307.010. Loads which might become dislodged to be secured -- Failure, penalty.

1. All motor vehicles, and every trailer and semitrailer operating upon the public highways of this State and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semitrailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semitrailer shall have a protective cover or be sufficiently secured so that no portion of such goods or material can become dislodged and fall from the vehicle, trailer or semitrailer while being transported or carried.

2. Operation of a motor vehicle, trailer or semitrailer in violation of this section shall be a misdemeanor, and any person convicted thereof shall be punished as provided by law.

MONTANA

No Law

NEBRASKA (A)

Sec. 39-6, 129

Section 39-6, 129. Transportation of sand, gravel, rock; material covered with canvas.

No person shall transport any sand, gravel, rock less than two inches in diameter, or refuse in any motor vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than five dollars nor more than twenty-five dollars.

NEVADA (C)

484.771

484.771. 1. No vehicle shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

2. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is 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 highway.

NEW HAMPSHIRE (A)

RSA 249:51

RSA 249:51. Spillage of Material

I. No vehicle shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

II. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Without limiting the foregoing provision, no person shall operate on any highway any open vehicle loaded with earth, sand, asphalt, stone, gravel or other particulate substance unless said vehicle is equipped with and said load is covered and secured by a close-fitting tarpaulin which prevents the escape of any substance from said load onto the highway.

III. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any person shall be liable to the state or town for any damage done to the highway by spillage.

IV. The provisions of paragraphs I, II, and III of this section shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a public highway provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.

V. The provisions of paragraph II shall not apply to:

(a) The operation of highway building equipment as defined in RSA 259:1, XII and motor vehicles used in the construction of highways provided that such equipment or motor vehicle is used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the operator of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care.

(b) The operation of municipal and state highway maintenance equipment.

(c) The operation of any vehicle on a highway at speeds of less than thirty miles per hour.

NEW JERSEY (B)

39:4-77

Section 39:4-77. Loading so as to spill prohibited; minimum safety standards; penalty.

No person shall cause or permit a vehicle to be so loaded that the contents or any part thereof may be scattered in any street whenever the load of any vehicle is of material other than farm products susceptible to scattering on a street and such load extends above the height of the sides or tail gate or rear of the body of the vehicle, such load shall be securely covered by a tarpaulin or other cover.

NEW MEXICO (C)

64-23-17

Section 64-23-17. Loads on vehicles.

a. No vehicle shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

b. No person shall operate on any highway any vehicle or combination of vehicles with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

NEW YORK (A)

380-a.

Section 380-a. Certain vehicles engaged in the transportation of loose cargo.

1. It shall be unlawful to operate on any public highway any open truck or trailer being utilized for the transportation of earth, sand, stone or similar loose substances, unless said truck or trailer has a cover, tarpaulin, or other device of a type and specification approved by the commissioner of transportation which completely closes in the opening on the said truck or trailer while said truck or trailer shall be so operated, so as to prevent the falling of any such substances therefrom. However, if the load is six inches below the top of the sides of such truck, the covering is not necessary.

2. The commissioner of transportation is authorized to make necessary rules and regulations 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.

3. The provisions of this section shall not apply to motor vehicles, trailers and semitrailers conveying "farm products" as defined in section two of the agriculture and markets law.

NORTH CAROLINA (D)

20-116, Sec. G

20-116, Section G. Size of vehicles and loads.

No vehicle shall be driven or moved on any highway unless such vehicle is

NORTH CAROLINA (D) cont.

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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

Trucks, trailers or other vehicles when loaded with rock gravel, stone or other similar substances which could blow, leak, sift or drop shall not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point, or if not so loaded, unless the load shall be securely covered by tarpaulin or some other suitable covering, or unless it is otherwise constructed so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

Provided this section shall not be applicable to or in any manner restrict the transportation of poultry or livestock or silage or other feed grain used in the feeding of poultry or livestock.

NORTH DAKOTA (C)

39-21-44.1

Section 39-21-44.1. Vehicle to be constructed to prevent sifting or leaking loads.

No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

OHIO (B)

C. 41 - Sec. 87A

C. 41 - Sec. 87A

No person shall drive or move a vehicle on any way, as defined in section one of chapter ninety (90), nor shall the owner or bailee of any vehicle require or permit the same to be driven or moved on any way, unless such vehicle is constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom and, if it is loaded with sand or gravel, unless its load is fully and adequately covered. This section shall not prohibit the dropping of sand for the purpose of securing traction, or the sprinkling of water or other substance on such a way in cleaning or maintaining the same. Whoever violates the provisions of this section shall be punished by a fine of not less than ten (10) nor more than fifty (50) dollars.

OKLAHOMA (B)

14--105

Section 14--105. Loads on Vehicles.

a. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, blowing or otherwise escaping therefrom, except that sand may be dropped

OKLAHOMA (B) cont.

for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

b. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Any vehicle loaded with sand, cinders, or other loose material susceptible to blowing or escaping by reason of wind shall have such load covered or dampened so as to prevent the blowing or escaping of said load from the vehicle.

c. This section shall not apply to trucks loaded with livestock, poultry or agricultural products only except baled agricultural products, provided that any such truck shall be so constructed or loaded as to prevent such livestock or poultry from escaping therefrom.

OREGON (D)

483.510

Section 483.510. Sifting or leaking loads; permit for food processing by-products.

(1) Except as provided in subsection (2) of this section, no vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

(2) Upon receipt of an application, the Department of Transportation, county court, or board of county commissioners, or the city council shall grant a written permit for the operation over highways or streets under their respective jurisdictions of vehicles transporting food processing plant by-products to be used for livestock feed from which there is fluid leakage. Such permits shall be issued for a maximum period of 60 days and shall be revocable if it is found by the granting authority that the amount or character of the fluid leakage is such that it constitutes a danger to other vehicles. This subsection shall have no effect after December 31, 1976.

PENNSYLVANIA (D)

75 P. S. 831

75 P. S. 831. Sifting or Leaking Loads.

No vehicle carrying inanimate contents shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent such contents from dropping, sifting, leaking or otherwise escaping therefrom.

RHODE ISLAND (B)

31-25-9 and 31-25-10
Sec. D

31-25-9 and 31-25-10, Sec. D. Prevention of leakage of load.
Fastening of load and covering.

No vehicle shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

RHODE ISLAND (B) cont.

31-25-10 Sec. D. Fastening of load and covering.

No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

No person shall operate a motor truck or other vehicle carrying or transporting any rubbish, refuse or other debris on any highway without first securely fastening a covering thereon to prevent the contents from falling to said highway. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

SOUTH CAROLINA (C)

46-660 & 46-661

46-660. Spilling loads on highways prohibited.

No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom.

46-661. Loads to be firmly attached.

No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

SOUTH DAKOTA (D)

SDCL 32-15-18

SDCL 32-15-18. Improperly Loaded Vehicle Unlawful.

No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

TENNESSEE

No Law

TEXAS (B)

Article 6701d-11
Section 3A

Article 6701d-11, Section 3A. Transporting Loose Materials.

a. No person, co-partnership, limited partnership, association, corporation, State, county, municipality, town, village, or any department or political subdivision thereof, their agents or employees, shall load or transport, cause to be loaded or transported, or aid or abet the loading or transporting, in a motor vehicle, commercial motor vehicle, truck-tractor, trailer or semi-trailer, any loose material on or over the public roads, streets or highways of this State in violation of any requirement of this section.

TEXAS (B) cont.

b. As used in this section, 'loose material' means dirt, sand, gravel, wood chips, or other material that is capable of blowing or spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather, but shall not include agricultural products in their natural state.

c. The bed carrying the load must be completely enclosed on both sides by sideboards or sidepanels, on the front by a board or panel or by the cab of the vehicle, and on the rear by tailgate or board or panel, all of which must be so constructed as to prevent the escape of any part of the load because of blowing or spilling.

d. The top of the load making contact with any sideboard or sidepanel or front or rear part of the enclosure must not be within six inches of the top of the part of the enclosure contacted, and the highest point of the load must not be above any point on a horizontal plane equal in height to the top of the side, front, or rear part of the enclosure that is the least in height, or in the alternative by covering the load with a canvas or similar type covering firmly secured thereby creating a physical horizontal plane; and at no time shall the load exceed the six inches as stated in this section during transportation of load without being covered.

e. The excess spillage of loose material on the non-load carrying parts of the vehicle occasioned by or from the act of loading shall be removed before the vehicle is operated over a public road, street, or highway of this State.

f. The tailgate must be securely closed to prevent spillage during transportation, whether loaded or empty.

g. The bed shall not have any holes, cracks, or openings through which loose material may escape.

h. The residue of the transported loose material shall be removed from the non-load carrying parts of the vehicle upon completion of unloading before the vehicle is operated over a public road, street, or highway of this State.

i. Subsection (d) of this section does not apply to any load-carrying compartment that completely encloses the load or to the transporting of any load that is otherwise suitably covered or secured by other means which prevents the escape of loose material.

j. Nothing in this Section 3A applies to any vehicle or construction or mining equipment which is:

- (1) moving between construction barricades on a public works project; or
- (2) merely crossing a public road, street, or highway.

k. Any person, co-partnership, limited partnership, association, corporation, or any departmental head, agent or employee of the State or of any county, municipality, town, village, or any department or political subdivision thereof who fails to comply with the provisions of this section shall be guilty of a misdemeanor, and upon first conviction shall be fined a sum of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), and on second conviction a sum of not less than Two Hundred Dollars (\$200).

UTAH (C)

27-12-146

Section 27-12-146. Loads on Vehicles - Confining, securing and fastening load required.

No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other abrasives may be dropped for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

No person shall operate on any public highway any vehicle with any load unless said load and any covering thereon is suitably fastened, secured and confined according to the nature of such load so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

VERMONT (D)

T. 23, Sec. 1454

T. 23, Section 1454. Securing loads; penalty.

a. A person shall not operate a motor vehicle nor draw a trailer or semi-trailer on a highway unless the motor vehicle, trailer or semi-trailer is so constructed and loaded that it will create no hazard to other users of the highway.

b. Repealed.

VIRGINIA (D)

46.1-303 & 10-211

Section 46.1-303. Construction must prevent escape of contents.

No vehicle shall be operated or moved on any highway unless such vehicle is so constructed as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

Section 10-211. Allowing escape of load material; penalty.

No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. Provided, however, that sand or any substance for increasing traction during times of snow and ice may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in the cleaning or maintaining of such roadway by the State or local government agency having that responsibility. Any person operating a vehicle from which any glass or objects have fallen or escaped, which could constitute an obstruction or damage a vehicle or otherwise endanger travel upon such public highway shall immediately cause the highway to be cleaned of all glass or objects and shall pay any costs therefor. Violation of this section shall constitute a Class I misdemeanor.

WASHINGTON (D)

46.61.655

Section 46.61.655. Permitting escape of load materials.

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, or water or other substance may be sprinkled on a roadway in the cleaning or maintaining of such roadway by public authority having jurisdiction. 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.

WEST VIRGINIA (C)

17C-17-6

Section 17C-17-6. Loads to be securely fastened and not allowed to leak, escape, etc.

a. No vehicle or combination of vehicles shall be operated on any highway unless such vehicle or combination of vehicles 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

b. It shall be unlawful to operate on any highway any vehicle or combination of vehicles with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

WISCONSIN (D)

348.10, Section 2

346.94, Sections 6 & 7

348.10, Section 2. Special limitations on load.

(2) No person shall operate a vehicle on a highway unless such vehicle is so constructed and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

346.94, Sections 6 & 7.

(6) Debris on public or private property. No person shall throw or deposit any type of debris or waste material on or along any highway or on any other public or private property.

(7) Spilling loads of waste or foreign matter. The operator of every vehicle transporting waste or foreign matter on the highways of this State shall provide adequate facilities to prevent such waste or foreign matter from spilling on or along the highways.

WYOMING (D)

No statute citation available

"Dump trucks are not required to be covered during operation. Wyoming statutes do require that all vehicles be loaded as not to spill any substances on the roadway." Wyoming Highway Patrol

PUERTO RICO (A)

Section 1371 (b) 10

Section 1371 (b) 10.

- (b) Except as otherwise provided by the Secretary through regulations promulgated for the purpose there shall not be operated or moved on public highways:

(10) "Any vehicle or trailer engaged in the transportation of refuse, soil, clay, mud, sand, cement, block or crushed stone, or any other analogous material, unless it is equipped with a body free from crevices, openings, or cracks and is not filled to overflowing so that any such material may spill or drop upon the pavement. Where the cargo consists of fine gravel, sand, lime, cement or refuse, or any other analogous material, said cargo shall be completely covered with a tarpaulin, oilskin or canvas so that it will not spill over or pollute the atmosphere to the detriment or prejudice of the public health and safety, provided, further, that on rainy days, if the source of the cargo is swampy, the vehicle's tires shall be cleaned or washed before entering a public road."

CANADIAN PROVINCES

ALBERTA (D)

Section 3.3.2

Section 3.3.2. Loose Materials.

When the load of a vehicle consists of loose material or of material liable to shift, slip, blow off or fall off while being conveyed, it shall be placed on the vehicle inside a container or otherwise so placed as to prevent it from falling off the vehicle.

BRITISH COLUMBIA (C)

Section 19.03

Section 19.03 (5)

No person shall drive or operate on a highway a vehicle unless it is so constructed or loaded as to prevent any of its load,

- (a) from shifting or swaying in such a manner as to affect the operation of the vehicle; or
- (b) from dropping, sifting, leaking, or otherwise escaping therefrom, but sand may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

BRITISH COLUMBIA (C) cont.

Section 19.03 (6)

No person shall drive or operate on a highway a vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached, or in any manner hazardous to other users of the highway.

MANITOBA (D)

No statute quotation available

Section 56.2

When the load is made up of loose material, it must be placed in a container or otherwise so placed to prevent it from spilling. (Summary)

NEW BRUNSWICK (C)

Section 256

Section 256 (1) & (2)

(1) No vehicle carrying material that is injurious to a highway or that would constitute a hazard to users of the highway shall be driven or moved on any 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, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(2) No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is 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 highway.

NEWFOUNDLAND (C)

No statute quotation available

Section 177.1

Vehicle must be so constructed or loaded to prevent spillage. (Summary)

Section 177.2

Load and any covering must be securely fastened. (Summary)

NOVA SCOTIA (C)

Section 177

Section 177 (7)

7. (1) All vehicles transporting firewood, Christmas trees, tree branches, moss or seaweed or other similar loosely packed bulk materials, or liquid or semi-liquid materials shall be constructed in such a manner so as to prevent the contents thereof from dropping, shifting, leaking or otherwise escaping from the vehicle.

NOVA SCOTIA (C) cont.

(2) Loads consisting of sawdust, shavings or wood chips shall be covered entirely by a tarpaulin or other covering in a manner sufficient to prevent the escape from the vehicle of any portion of the load.

(2A) Subject to subsection (2B), loads consisting of salt, sand, gravel, asphalt, coal or other similar bulk materials shall be covered entirely by a tarpaulin, or other covering in a manner sufficient to prevent the escape from the vehicle of any portion of the load.

(2B) Where a vehicle carrying a load consisting of salt, sand, gravel, asphalt, coal or other similar bulk materials is adequately constructed or loaded to prevent the escape from the vehicle of any portion of the load, it shall not be necessary for the load to be covered by a tarpaulin or other covering.

ONTARIO (A)

Ontario Regulation 632/76

O.R. 632/76

COVERING OF LOADS

1. In this Regulation,

- (a) "clear aggregate" means gravel, crushed stone or slag in the form of particles that are not less than 3/8 inch in diameter or more than 1½ inches in diameter;
- (b) "registered gross weight" means the weight for which a permit has been issued under the Act, the fee for which permit is based upon the weight of the vehicle or combination of vehicles and load; and
- (c) "waste" means ordinary waste associated with municipal collection systems, including ashes, garbage, refuse and domestic waste.

2. (1) Subject to subsection 2, where a commercial motor vehicle or a combination of a commercial motor vehicle and trailer or trailers is being operated on a highway and is carrying a load that is:

- (a) sand, gravel, crushed stone, slag, salt or any mixture thereof, where such substances are in the form of particles of up to 1½ inches in diameter;
- (b) waste; or
- (c) shredded scrap metal,

the portion of the load that is not enclosed by the vehicle or load container shall be covered with a covering that is made of tarpaulin, canvas, netting or other material capable of confining the load within the vehicle container or load container.

(2) Subsection 1 does not apply where the commercial motor vehicle or the combination of a commercial motor vehicle and trailer or trailers is being operated.

- (a) in the course of applying sand, salt, a mixture of sand and salt or any similar substance to the highway for the purpose of winter highway maintenance;
- (b) in the course of collecting waste;
- (c) in the course of carrying waste where the vehicle does not have a gross weight or registered gross weight in excess of 10,000 pounds;
- (d) in the course of carrying a load that is not waste and the vehicle does not have a gross weight or registered gross weight in excess of 18,000 pounds;
- (e) in the course of carrying sand, gravel, crushed stone or slag, of which not less than 90 per cent is clear aggregate, where the highest point of the load does not extend above the top of the vehicle container or load container, and the perimeters of the load are not less than twelve inches beneath the top of the vehicle container or load container;
- (f) in the course of carrying sand, gravel, crushed stone, slag, salt or any mixture thereof in December, January, February or March where the highest point of the load does not extend above the top of the vehicle container or load container, and the perimeters of the load are not less than twelve inches beneath the top of the vehicle container or load container;
- (g) in the course of carrying agricultural products, where such vehicle is owned by a farmer;
- (h) on a highway with,
 - (i) an untreated gravel or
 - (ii) an earth surface, or
 - (iii) a surface treated solely for dust abatement purposes;or
- (i) within the limits of a highway construction contract.

3. This Regulation comes into force on the 1st day of January, 1977.

QUEBEC (B)

Section 11 - 38

Section 11 - 38. Security of Load

It is forbidden to drive or permit to be driven on a public highway any vehicle the load of which is not firmly bound, or sufficiently covered or otherwise secured.

Any policeman or officer of the Department who has reason to believe that a vehicle and its load constitute a public danger is authorized to detain the said vehicle until such condition has been rectified.

SASKATCHEWAN (D)

Section 232

Section 232.

"No person shall cause or allow a vehicle to be so loaded that when the vehicle is driven on a public highway the load or any part thereof might drop onto the highway, and no person shall drive on a public highway a vehicle so loaded."

YUKON (D)

Section 131

Section 131.

(1) Every motor vehicle or trailer shall be loaded in such a manner that no portion of the load may become dislodged or fall from the motor vehicle or trailer during transit.

contrary notwithstanding of 50 feet, for a related coach. No at the roadway least 84 inches equipment.

to the provisions from the provi-

DRIVEAWAY ay or driveway ks may use what s, if the overall more than two

TRANSPORT VE to five in num- of collecting re- Such a vehicle vered in such a r does not spill y with the provi- state roads only spose of re-use. e adopted v. Shi- ne Florida Turn- of this section. pike shall meet by the Depart-

-The vehicular section do not by the Depart- ing maintenance ght hours. How- J in accordance by law and De-

1, s. 4, ch. 79-99, ss. 3, 81; s. 80, ch. 85-180, s.

the word "and."

nspection; pen-

prescribed in s. r of the Depart- n s. 316.545(1), idth, height, or ehicles and the s. 316.515 is au- ssubmit such ve- idth, height, or

uring a vehicle thereon, deter- ensional criteria d special permit officer may re- suitable place

(a) A special permit is obtained in accordance with s. 316.550; or

(b) All offending irregularities are corrected.

(3) Special permit fees that may be incurred pursuant to the requirements of this section are in addition to the penalties that may be imposed under s. 316.655.

History.—s. 4, ch. 83-298, s. 3, ch. 85-81; s. 1, ch. 85-87.

316.520 Loads on vehicles.—

(1) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material which could fall or blow from such vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.

History.—s. 1, ch. 71-135, s. 1, ch. 73-174, s. 1, ch. 74-111; s. 1, ch. 76-31.
Note.—Former s. 316.198.

316.525 Requirements for vehicles hauling loads.

(1) It is the duty of every owner, licensee, and driver, severally, of any truck, trailer, semitrailer, or pole trailer to use such stanchions, standards, stays, supports, or other equipment, appliances, or contrivances, together with one or more lock chains, when lock chains are the most suitable means of fastening the load, or together with nylon strapping, when nylon strapping is the most suitable means of securing the load, so as to fasten the load securely to the vehicle.

(2) The Department of Transportation shall promulgate rules with respect to the type and suitability of nylon strapping to be used in compliance with this section.

History.—s. 1, ch. 71-135, s. 1, ch. 76-31; ss. 1, 2, ch. 80-229; s. 190, ch. 81-259.
Note.—Former s. 316.280.

316.530 Towing requirements.—

(1) When one vehicle is towing another vehicle the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and said drawbar or other connection shall not exceed 15 feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered. When one vehicle is towing another vehicle and the connection consists of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(2) When a vehicle is towing a trailer or semitrailer on a public road or highway by means of a trailer hitch to the rear of the vehicle, there shall be attached in addition thereto safety chains from the trailer or semitrailer to the vehicle. These safety chains shall be of sufficient strength to maintain connection of the trailer or semitrailer to the pulling vehicle under all conditions while the trailer or semitrailer is being towed by the vehicle. The

provisions of this subsection shall not apply to trailers or semitrailers using a hitch known as a fifth wheel nor to farm equipment traveling less than 20 miles per hour.

(3) Whenever a motor vehicle becomes disabled upon the highways of this state and a wrecker or tow truck is required to remove it to a repair shop or other appropriate location, if the combined weights of those two vehicles and the loads thereon exceed the maximum allowable weights as established by s. 316.535, no penalty shall be assessed either vehicle or driver. However, this exception shall not apply to the load limits for bridges and culverts established by the department as provided in s. 316.555.

History.—s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 76-91; s. 124, ch. 79-400.
Note.—Former s. 316.205.

316.535 Maximum weights.—

(1) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 20,000 pounds.

(2) For the purposes of this chapter, an "axle load" shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(3) Subject to the limit upon the weight imposed upon the highways through any one axle as set forth herein, the total weight with load imposed upon the highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between first and last axles of vehicles or combination of vehicles.	Maximum load in pounds on all axles.
4	40,000
5	40,000
6	40,000
7	40,000
8	40,000
9	44,140
10	44,980
11	45,810
12	46,640
13	47,480
14	48,310
15	49,150
16	49,980
17	50,810
18	51,640
19	52,480
20	53,310
21	54,140
22	54,980
23	55,810
24	56,640
25	57,470
26	58,310

ART 9

VEHICLE AND TRAFFIC LAW

§ 381

Sub 3, amd, L 1971, ch 756 § 11, eff Jan 1, 1972.
Sub 4, amd, L 1971, ch 756 § 12, eff Jan 1, 1972.

CROSS REFERENCES:

This section referred to in §§ 1630, 1642.
Explosives, Labor Law Art 16.

CODES, RULES AND REGULATIONS:

Dangerous articles, 15A NYCRR §§ 67.1-67.6.

RESEARCH REFERENCES AND PRACTICE AIDS:

4 NY Jur, Automobiles and Other Vehicles §§ 360, 488.

CASE NOTES

Defendant's transportation of a cargo of sulphuric acid without proper markings was a violation of this section though defendant's driver had no knowledge that his cargo was dangerous. *People v Hartford Transp. Co.* (1957) 6 Misc 2d 562, 165 NYS2d 418.

There is no conflict between federal and state laws regulating motor vehicles engaged in the transportation of dangerous articles. *People v Carbone* (1967) 54 Misc 2d 762, 283 NYS2d 468.

Statute requiring a warning to be marked on the outside of a truck carrying a "dangerous article," was not in conflict with federal regulation of interstate commerce even though the federal stat-

ute prescribes "knowing" violations whereas the state statute does not require the violation to be "knowing". *People v Transamerican Freight Lines, Inc.* (1969) 24 NY2d 727, 302 NYS2d 257, 249 NE2d 880, cert den 396 US 939, 24 L Ed 2d 241, 90 S Ct 374.

When state and federal regulatory statutes have the same purpose and are harmonious, as the statutes regulating dangerous substances in transit are, the state is not ousted of jurisdiction because the United States has also acted. *People v Transamerican Freight Lines, Inc.* (1969) 24 NY2d 727, 302 NYS2d 257, 249 NE2d 880, cert den 396 US 939, 24 L Ed 2d 241, 90 S Ct 374.

§ 380-a. Certain vehicles engaged in the transportation of loose cargo

1. It shall be unlawful to operate on any public highway any open truck or trailer being utilized for the transportation of earth, sand, stone or similar loose substances, unless said truck or trailer has a cover, tarpaulin or other device of a type and specification approved by the commissioner of transportation which completely closes in the opening on the said truck or trailer while said truck or trailer shall be so operated, so as to prevent the falling of any such substances therefrom. However, if the load is six inches below the top of the sides of such truck, the covering is not necessary.

2. The commissioner of transportation is authorized to make necessary rules and regulations 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.

3. The provisions of this section shall not apply to motor vehicles, trailers and semitrailers conveying "farm products" as defined in section two of the agriculture and markets law.

HISTORY:

Add, L 1975, ch 418, eff Jan 1, 1976.

§ 381. Motorcycle equipment

1. (a) Every motorcycle, driven upon the public highways of this state, shall be provided with adequate brakes in good working order and sufficient to

PUBLIC WAYS AND WORKS

of construction of highway bridges;

excess of ten feet, except a bridge red and fifty-nine, shall be construct- accordance with plans and specifica- department shall approve or alter to shall determine the maximum load department or the local authorities was constructed prior to June first, re was constructed at a later date, n each end thereof and legible at a f vehicle with load which the bridge ed for the said maximum weight by mmediately thereafter be posted by of such bridge with signs placed as to vehicles weighing three tons or d forthwith to the department, and h bridges. The owner of a vehicle ding section shall be responsible for e and load exceeds the maximum case may be, and the amount of the person or authorities charged ating a vehicle the weight of which, ed under this section or section n two hundred dollars, unless said of a special permit issued under the

operation of chapter eight hundred and of the acts of nineteen hundred and ur, as amended by chapter four hun- ninety-four of the acts of nineteen and seventy-five shall continue to be until March first, nineteen hundred ty-six, except for sections two, three, six, nine and ten of said chapter eight nd fifty-one, as so amended, each of tions shall take effect on September een hundred and seventy-five."

c. 5, § 1, an emergency act, approved 1976, and by § 3 made effective as of 1976, provided:

operation of chapter eight hundred and f the acts of nineteen hundred and ur, as amended by chapter four hun- ninety-four of the acts of nineteen nd seventy-five and as suspended by e hundred and ninety-three of the acts hundred and seventy-five shall con- e suspended until September first, ndred and seventy-six, except for sec- hree, four, five, six and nine of said

PUBLIC WAYS AND WORKS

86 § 1

chapter eight hundred and fifty-one, as so amended, each of which sections took effect on September first, nineteen hundred and seventy-five, and except for section ten of said chapter, as so amended, which is hereby suspended as of September first, nineteen hundred and seventy-five, and which shall take effect on September first, nineteen hundred and seventy-six, and ex-

cept for section eleven of said chapter, as so amended, which shall take effect on March first, nineteen hundred and seventy-six."

1975 Amendment. St.1975, c. 494, § 5, an emergency act, approved July 15, 1975, added "and thirty A" at the end of the concluding sentence.

§ 36. Construction and loading of vehicles to prevent dropping of load on way; penalty

No person shall drive or move a motor vehicle on any way, as defined in section one of chapter ninety, nor shall the owner or bailee of any vehicle require or permit the same to be driven or moved on any such way, unless such vehicle is constructed or loaded so as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, and, if it is loaded with sand, gravel, loam, dirt, stone, rubbish or debris that could fall on other vehicles or on the highway and create litter or potential hazards to other vehicles, unless its load is fully and adequately covered. This section shall not prohibit the dropping of sand for the purpose of securing traction, or the sprinkling of water or other substance on such a way in cleaning or maintaining the same. Whoever violates the provisions of this section shall be punished by a fine of not less than fifty nor more than two hundred dollars.

Amended by St.1961, c. 281; St.1962, c. 160; St.1965, c. 518; St.1973, c. 498; St.1982, c. 217.

1961 Amendment. Approved March 24, 1961, inserted words, "nor shall the owner or bailee of any vehicle require or permit the same to be driven or moved on any such way", and imposed penalty.

1962 Amendment. Approved Feb. 27, 1962, towards the beginning of section substituted

"No person shall drive or move a vehicle" in lieu of "No vehicle shall be driven or moved," and increase penalty from not more than \$10 to not less than \$10 nor more than \$50.

1965 Amendment. Approved June 1, 1965. Struck out former first sentence and inserted two sentences in lieu thereof.

1973 Amendment. St.1973, c. 498, approved July 2, 1973, increased the maximum penalty from \$50 to \$100.

1982 Amendment St.1982, c. 217, approved July 1, 1982, in the first sentence, substituted, " gravel, loam, dirt, stone, rubbish or debris that could fall on other vehicles or on the highway and create litter or potential hazards to other vehicles," for "or gravel" and in the last sentence, substituted "fifty nor more than two hundred" for "ten nor more than one hundred".

Library References

- Automobiles ☞15.
- Highways ☞182.
- C.J.S. Highways § 233.
- C.J.S. Motor Vehicles §§ 422, 423.

CHAPTER 86. BOUNDARIES OF HIGHWAYS AND OTHER PUBLIC PLACES, AND ENCROACHMENTS THEREON

§ 1. Erection of monuments

The county commissioners, aldermen, selectmen or road commissioners shall cause permanent bounds to be erected at the termini and angles of all ways laid out by them. Such bounds shall be of stone, Portland cement or concrete not less than three feet long, two feet of which at least shall be set in the ground, or of stone not less than three feet long with holes drilled therein and filled with lead placed a few inches below the traveled part of the way, or if stone, Portland cement or concrete bounds are impracticable, a heap of stones, a living tree, a permanent rock, or the corner of a building, or such other

(2) As used in this section, "mobile home" means a prebuilt housing module or a home which is designed to be transported by a motor vehicle upon a public highway and designed, equipped, and used for sleeping, eating, and living quarters, or is intended to be so used.

(3) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

Amended by P.A.1978, No. 510, § 1, Eff. Aug. 1, 1979; P.A.1980, No. 175, § 1, Imd. Eff. June 26; P.A.1982, No. 533, § 1, Eff. March 30, 1983; P.A.1983, No. 224, § 1, Imd. Eff. Nov. 28.

§ Section 257.725.

1978 Amendment. Substituted numbers for letters as subsection designations, made revisions in the wording of subsec. (1), and added subsec. (3).

For application of § 8.4a as provided in P.A.1978, No. 510, see note following § 257.6a.

1980 Amendment. Added provisions relating to prebuilt housing modules to a width of 14 feet plus an eave not to exceed 2 feet in width in subsec. (1).

1982 Amendment. In subsec. (3), inserted the second sentence.

1953 Amendment. In subsec. (1), in the second sentence, substituted "14-1/2 feet" for "14 feet" in two places, "80 feet" for "70 feet" in two places and "95 feet" for "85 feet" in two places, in the third sentence, inserted "or mobile homes", in the fourth sentence, inserted "or mobile home" in four places, and in the last sentence, substituted "May 1, 1982" for "July 1, 1956".

Cross References

Civil infraction, definition, see § 257.6a.

County road commissions' agents, shoulder patches and firearms, enforcement of this section, see § 257.726c.

County road commissions' agents as police officers, enforcement of this section, see § 257.42.

257.720. Spilling load on highway prohibited; construction or loading of vehicle, commercial vehicles not completely enclosed, logs or tubular products, exemptions, penalty

Sec. 720. (1) A vehicle, except a commercial vehicle carrying logs or tubular products, shall not be driven or moved on a highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, blowing off, or otherwise escaping therefrom. The tailgate, faucets, and taps shall be securely closed to prevent spillage during transportation, whether loaded or empty, and the body of the vehicle shall not have any holes or cracks through which material can escape. Any highway maintenance vehicle engaged in either ice or snow removal shall be exempt from this act.

(2) Actual spillage of material on the highway or proof of that spillage is not necessary to prove a violation of this section.

(3) A commercial vehicle carrying a load, other than logs or tubular products, which is not completely enclosed shall either:

(a) Be loaded so that no part of the load making contact with any sideboard or side panel or rear part of the enclosure shall be within 6 inches of the top of the part of the enclosure contacted, unless the load is covered with firmly secured canvas or similar type covering.

(b) Have the load securely fastened to the body or the frame of the vehicle with binders of adequate number and of adequate breaking strength to prevent the dropping off or shifting of the load.

(4) A company or individual who loads or unloads a vehicle or causes it to be loaded or unloaded, with knowledge that it is to be driven on a public highway, in a manner as to cause a violation of subsection (1) shall be prima facie liable for a violation of this section.

Deletions from text indicated by asterisks * * *

permits, over-length and over-width; lights, signs, escorts, axles, tires; defini-

tions of this act, a person shall not move a mobile home having a body length in excess of 40 feet, a realistic body width of over 100 feet on the highways of this state. Permits to mobile home transport companies, for the movement, in the ordinary course of business, of mobile homes having a body length of 14-1/2 feet plus normal appurtenant body length of 80 feet and having prebuilt housing modules or mobile homes and having a combined length of 95 feet to a width of 14-1/2 feet plus an eave of 2 feet, including interstate and defense mobile homes, shall be required. Mobile homes having prebuilt housing modules or mobile homes which exceed 14 feet and are transported on a public highway only in accordance with section 257.720 whose width including an eave of 2 feet in the lane furthest to the right of the mobile home and shall be moved in a lane shall overhang on the mobile home is moved. The permit shall be issued on Saturdays, Sundays, holidays, or the day on which the movement shall take place. The permittee shall comply with permit conditions for the operation of a mobile home under the provisions of the highway and with safety in the movement and when the pavement is not wet or covered with snow or ice shall not be moved when the wind velocity exceeds 30 miles per hour. The overall combination length, or 12 feet in excess of the length of the mobile home, shall be equipped with 2 flashing lights, one flashing amber light on the top of the mobile home, and one flashing red light on the front of the mobile home. The signs shall be of the following design: a rectangular sign on interstate yellow background, 12 inches high at the front and not less than 12 inches high at the rear. A vehicle escort shall be required on highways where necessary for highway safety. The signs shall not be less than 34 inches. The state transportation department shall be responsible for the design of section 1 of Public Law 85-767, 23 U.S.C.

changes in text indicated by underline

(5) A person shall not operate a motor vehicle carrying logs or tubular products on a highway unless the following conditions are complied with:

(a) If the logs or tubular products are loaded crosswise or at right angles to the side of the vehicle, the logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 binders which are secured to the frame at each end of the load and pass over the load so that the frame and binders completely encircle the load.

(b) If the logs or tubular products are loaded lengthwise of the vehicle, obliquely or parallel to the sides, the logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 toggle binders which are secured to the frame at each end of the load . . . and 1 wrapping binder which completely encircle the load.

(c) The toggle and wrapping binders shall be made of steel chain or a combination of steel chain and wire rope, which shall not be less than 3/8 of an inch in diameter and have a breaking strength of not less than 12,000 pounds.

(6) This section shall not apply to a person operating a vehicle to transport seasonal agricultural commodities at the time of harvest or in the normal operation of the farm.

(7) Subsection (3) shall not apply to a motor vehicle transporting . . . items of a load which because of their weight will not fall off the moving vehicle and which have their centers of gravity located at least 6 inches below the top of the enclosure.

(8) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.

Amended by P.A.1977, No. 111, § 1, Imd. Eff. Oct. 6.

1977 Amendment. Inserted "except a commercial vehicle carrying logs or tubular products" in the first sentence of subsec. (1); designated the former second to the last sentence of subsec. (1) as subsec. (2) and substituted "of that spillage" for "thereof" therein; redesignated former subsecs. (2) through (7)

as subsecs. (3) through (8); deleted "and pass over the load so that the frame and binders completely encircle the load" following "end of the load" from subsec. (5)(b); and deleted "products in the logging industry nor to" following "motor vehicle transporting" from subsec. (7).

Cross References

County road commissions' agents, shoulder patches and firearms, enforcement of this section, see § 257.726c.

County road commissions' agents as police officers, enforcement of this section, see § 257.42.

Stopping motor vehicles for possible load, weight, or height violations, see § 257.726b.

Notes of Decisions

In general 1
Violations 2

1. In general

When an officer has arrested a person for violation of this section, he or she may issue a citation for such violation. Op.Atty.Gen.1980, No. 5628, p. 548.

2. Violations

A violation of this section requires that an abstract be sent to the secretary of state by the authorities

made responsible for such reporting under § 257.732 of the code. Op.Atty.Gen.1980, No. 5628, p. 548.

A person convicted of violating this section must be assessed two points on his or her driving record pursuant to § 257.320a, although an individual, not the driver, may not be assigned points on his or her driving record if the individual is convicted of an infraction of the code. Id.

To secure the conviction of a motor vehicle operator for violation of this section, no proof of intent need be shown. Id.

Substantive changes in text indicated by underline

257.721. Trailers towed by pass

Sec. 721. (1) A passenger vel having attached to the passenger

(2) The drawbar or other conne drawing the other on a highway, other. If the connection consists the connection a red flag or othe and width.

(3) A vehicle or trailer draw 1 vehicle with . . . forms of coupli being deflected more than 6 incl vehicle or trailer shall also be con devices, 1 on each side of the cou each . . . chain or device and c haul the trailer when loaded.

(4) A person who violates this Amended by P.A.1978, No. 510, § 1,

1978 Amendment. Substituted numb as subsection designations, revised the subsecs. (1), (2), and (3), and added

Civil infraction, definition, see § 257

257.722. Wheel and axle loads

Sec. 722. (1) The maximum a ed in the following provisions w

(a) When the axle spacing is 9 not exceed 18,000 pounds for ve tires.

(b) When the axle spacing is l the maximum axle load shall no balloon tires.

(c) When axles are spaced les exceed 9,000 pounds per axle.

(d) Subdivisions (a), (b), and

(2) When normal loading is authorities with respect to hi; highways, or sections of those for heavier loading, which desig tandem axle assembly loading assembly.

(3) Except as provided in st tandem axle assembly shall l permissible weight of 16,000 pe combination of vehicles shall ex maximum gross weight of a c pounds, 2 tandem axle assembl gross permissible weight of 16 Deletions from text indicated by

§ 63-7-64

MOTOR VEHICLES AND TRAFFIC

contributory negligence, assumption of risk, or failure to avoid consequences of accident. 40 ALR3d 856.

Motor scooter as within policy provisions relating to automobiles or motorcycles. 43 ALR3d 1400.

§ 63-7-67. Tire equipment.

ALR Annotations—

Products liability: liability for injury or death allegedly caused by defective tires. 81 ALR3d 318.

§ 63-7-71. Use of warning and safety appliances.

JUDICIAL DECISIONS

1. In general

Where a truck driver stopped on interstate highway to aid a disabled motorist, § 63-7-71 required the truck driver to put in place, with reasonable promptness, reflectors or other signals designed to warn approaching vehicles. *Stong v Freeman Truck Line, Inc.* (1984, Miss) 456 So 2d 638.

2. Construction and application

Truck driver's violation of this statute was negligence per se where, after his truck became disabled on a highway outside a business or residential district, he placed two reflectors within fifty feet of his vehicle and, instead of placing the third reflector on the road-way side, placed it by the rear of the

truck away from the road. *Actna Casualty & Surety Co. v Condict* (DC Miss) 417 F Supp 63.

3. Instructions

In an action for personal injuries resulting from a collision between defendants' truck and plaintiff's automobile, where the undisputed testimony showed that a part of the truck trailer was left extending into the highway and that the driver failed to place reflectors on the highway as required by this section [Code 1972, § 63-7-71], the plaintiff was entitled to Instruction No. 8 to the effect that the conduct of the truck driver constituted negligence. *Powers v Malley* (Miss) 302 So 2d 262.

§ 63-7-83. Open top vehicles carrying sand, dirt, gravel or rock—cover.

Every truck, trailer or other carrier with an open top, while traveling upon any state, United States or interstate highway in the State of Mississippi and while carrying any load of sand, dirt, gravel or rock shall be equipped with a tarpaulin, canvas or other such top and same to be secured over the top of any load of sand, dirt, gravel, or rock.

SOURCES: Laws, 1974, ch. 521, § 1, eff from and after July 1, 1974.

Cross references—

As to the general prohibition against spilling loads on highways, see § 63-5-55.

ALR Annotations—

Liability for injury or damage from stone or other object on surface of highway thrown by passing vehicle. 56 ALR2d 1392.

Applicability of res ipsa loquitur doctrine where objects being transported fall from motor vehicle. 66 ALR2d 1255.

EQUIPMENT

§ 63-7-85. Open top vehicle carrying rock—use of sideboards

In lieu of the tarpaulin on a trailer or other carrier with a state, United States or interstate highway in Mississippi and while carrying any load of rock shall be in full compliance with the provisions of this section provided same is not loaded on a bed or is equipped with four sideboards shall be attached to the two (2) sides of the carrier before the body is being loaded, provided the sideboards shall extend above the body of the carrier and shall be raised and secured to the carrier so as to leave no space between the top of the sideboards and the top of the carrier making contact with the sideboards at least two (2) inches.

SOURCES: Laws, 1974, ch. 521, § 2.

§ 63-7-87. Open top vehicle carrying rock—enforcement of law

The motor vehicle component of other law enforcement agency shall enforce the provisions of sections 63-7-83 through 63-7-85.

SOURCES: Laws, 1974, ch. 521, § 3.

§ 63-7-89. Open top vehicle carrying rock—penalties.

Any person, firm or corporation who fails to properly cover a motor vehicle or other carrier on any state, United States or interstate highway with sideboards as set forth in sections 63-7-83 through 63-7-85 shall be guilty of a misdemeanor and upon conviction shall be fined not more than twenty-five dollars (\$25.00) or not more than one hundred dollars (\$100.00) for each separate offense.

SOURCES: Laws, 1974, ch. 521, § 4.

§ 63-7-91. Slow-moving vehicle—displayed.

When any vehicle, whether animal-drawn, which is not used for the purpose of being operated or driven at a speed of more than ten miles per hour, is moved, operated

TRAFFIC

failure to avoid consequences of
ing to automobiles or motorcy-

llegedly caused by defective tires.

ety appliances.

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away from the road. Aetna Casu-
Surety Co. v Condict (DC Miss)
Supp 63.

3. Instructions

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and after July 1, 1974.

loads on highways, see § 63-5-55.

other object on surface of highway
here objects being transported fall

[13 Miss Supp]

EQUIPMENT AND IDENTIFICATION

§ 63-7-91

§ 63-7-85. Open top vehicles carrying sand, dirt, gravel or
rock—use of sideboards.

In lieu of the tarpaulin provided in section 63-7-83, a truck,
trailer or other carrier with an open top while traveling upon any
state, United States or interstate highway in the State of Missis-
sippi and while carrying any load of sand, dirt, gravel or rock shall
be in full compliance with sections 63-7-83 through 63-7-89
provided same is not loaded within six (6) inches of the top of the
bed or is equipped with four (4) six-inch (6") sideboards, which
sideboards shall be attached one (1) each to the front, back and
two (2) sides of the carrier body, and shall remain lowered while
the body is being loaded, provided that no part of the load shall
extend above the body of the carrier. After loading, the sideboards
shall be raised and secured to remain raised during travel, and the
space between the top of the sideboards and the top of the load
making contact with the sideboards shall not be less than six (6)
inches.

SOURCES: Laws, 1974, ch. 521, § 2, eff from and after July 1, 1974.

§ 63-7-87. Open top vehicles carrying sand, dirt, gravel or
rock—enforcement of law.

The motor vehicle comptroller, Mississippi Highway Patrol and
other law enforcement agencies are hereby charged with enforce-
ment of sections 63-7-83 through 63-7-89.

SOURCES: Laws, 1974, ch. 521, § 3, eff from and after July 1, 1974.

§ 63-7-89. Open top vehicles carrying sand, dirt, gravel or
rock—penalties.

Any person, firm or corporation operating a truck, trailer or
other carrier on any state, United States or interstate highway not
properly covered as set forth in section 63-7-83 or without
sideboards as set forth in section 63-7-85 or in violation of any of
the other provisions of said section 63-7-85 shall be guilty of a
misdemeanor and upon conviction shall be fined not less than
twenty-five dollars (\$25.00) nor more than one hundred dollars
(\$100.00) for each separate and distinct violation.

SOURCES: Laws, 1974, ch. 521, § 4, eff from and after July 1, 1974.

§ 63-7-91. Slow-moving vehicle safety emblem—when dis-
played.

When any vehicle, whether pulled, towed, self-propelled or
animal-drawn, which is not under ordinary circumstances moved,
operated or driven at a speed in excess of twenty-five (25) miles
per hour, is moved, operated or driven on any public highway or

[11 Miss Supp]

Chapter 307

VEHICLE EQUIPMENT REGULATIONS

GENERAL PROVISIONS

- 307.010 Loads which might become dislodged to be secured—failure, penalty.
- 307.015 Trucks or truck-tractors, fenders or mud flaps required—violation, penalty.

LIGHT REGULATIONS

- 307.020 Definitions.
- 307.025 Exemptions.
- 307.030 Approval of lighting equipment—rules and regulations—fee—revocation.
- 307.035 Director's decisions final, when—appeal to board—hearing and decisions.
- 307.040 When lights required.
- 307.045 Headlamp on motor vehicles.
- 307.050 Headlamps—permissible substitutes, speed limit.
- 307.055 Single beam headlamps—intensity, adjustment.
- 307.060 Multiple beam headlamps—arrangement.
- 307.065 New vehicles shall have beam indicator.
- 307.070 Dimming of lights, when.
- 307.075 Tail lamps, reflectors.
- 307.080 Auxiliary lamps—number—location.
- 307.085 Wind, fender, running board and backup lamps.
- 307.090 Spot lamps.
- 307.095 Colors of various lamps—restriction of red lights.
- 307.100 Limitations on lamps other than headlamps—flashing signals prohibited except on specified vehicles.
- 307.105 Limitation on total of lamps lighted at one time.
- 307.110 Parked vehicles—how lighted—exception.
- 307.115 Other vehicles—how lighted.
- 307.120 Penalties for violations.
- 307.125 Taillight, bus drawn vehicle—specifications—penalty.
- 307.130 Slow moving equipment, emblem required on, when—emblem described.

EQUIPMENT

- 307.135 Safety glass defined.
- 307.140 Director not to license vehicle without safety glass.
- 307.145 Safety glass on vehicles for hire and school buses.
- 307.150 Sale of vehicles without safety glass prohibited.
- 307.155 List of approved glass.
- 307.160 Violation a misdemeanor.
- 307.165 Revocation of permit by public service commission.
- 307.170 Seat safety belts standard equipment, when—penalty.
- 307.175 Other equipment of motor vehicles.
- 307.180 Studded tires, prohibited when—penalty.
- 307.185 Altering passenger motor vehicle by raising front or rear of vehicle prohibited, when—penalty.
- 307.190 Emergency use of sirens and flashing lights by firemen and ambulances—violation a misdemeanor.

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- 307.200 Bicycle defined.
- 307.205 Brakes required.
- 307.210 Lights and reflectors, when required—standards to be met.
- 307.215 Rights and duties of bicycle riders.
- 307.220 Biding to right and mandatory use of bicycle paths required.
- 307.225 Penalty for violation.

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- 307.230 Compact—entered into.

- 307.255 Legislative findings.
- 307.260 Rules not effective until approved by legislature.
- 307.265 Director of revenue to be state's commissioner.
- 307.270 State employees retirement system may agree with commission on coverage of employees.
- 307.275 State agencies to cooperate with commission.
- 307.280 Documents to be filed with secretary of state.
- 307.285 Commission to submit budget to commissioner of administration.
- 307.290 State auditor may inspect commission's accounts.
- 307.295 Executive head defined.

MOTOR VEHICLE SAFETY INSPECTION

- 307.350 Motor vehicles and certain trailers, inspection required, exceptions—authorization to operate to inspection station for inspection granted.
- 307.355 No safety inspection required during registration period which exceeds one year.
- 307.355 Current inspection required for registration or transfer, exception—inspection valid, how long.
- 307.360 Permits and instructions furnished by superintendent—items to be inspected—inspection stations—permit fee—application contents—mechanic's examination—revocation of permits, hearing on.
- 307.365 Inspection station permit not transferable—approval to be on official form—report to superintendent—selects, correction of, who may make—inspection fee—sticker fee—inspection station discontinued, disposal of inspection stickers, how made.
- 307.370 Prohibited acts.
- 307.375 Inspection of school buses—items covered—violations, when corrected, notice to patrol—spot checks authorized.
- 307.380 Accidents, reinspection required when—certain sales exempt from inspection requirement.
- 307.385 Director of revenue to suspend registration of unapproved vehicle on written notice of superintendent.
- 307.390 Penalty for violation.

CROSS REFERENCES

- Maximum sound levels for recreational watercraft, RSMo 306.090.
- Public service commission to promulgate safety regulation for motor carriers, RSMo 390.131.

GENERAL PROVISIONS

307.010. Loads which might become dislodged to be secured—failure, penalty.—1. All motor vehicles, and every trailer and semitrailer operating upon the public highways of this state and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semitrailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semitrailer shall have a protective cover or be sufficiently secured so that no portion of such goods or material can become dislodged and fall from the vehicle, trailer or semitrailer while being transported or carried.

septic tank, sanitary
ent system. The pro-
0 to 306.290 shall not
n interstate commerce
Mississippi rivers.
(S. B. 123)

ts shall have suitable
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urely affixed to the
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boats.—All boats lo-
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of sections 306.250 to

B. 2)
e refusal to permit inspection
et (A.), 535 S.W.(2d) 543

violations.—Any per-
of the provisions of
9 shall be guilty of a

MARKERS

s marker, flag re-
ats to avoid—penal-
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ving shall mark their
under the water with
al white bar to be
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NEBRASKA RULES OF THE ROAD

§ 39-6.130.01

Failure to comply with statutory requirements is not actionable negligence as matter of law, but may be considered with other

facts tending to establish negligence. *LaFleur v. Poesch*, 126 Neb. 263, 252 N.W. 902.

39-6.128. Splash aprons; requirements; violation; penalty. Every new motor vehicle or semitrailer purchased after January 1, 1956, and operated on any highway in this state shall be equipped with fenders, covers, or devices, including flaps or splash aprons, unless the body of the vehicle affords adequate protection to effectively minimize the spray or splash of water or mud to the rear of the motor vehicle or semitrailer. Any person violating the provisions of this section shall, upon conviction thereof, be fined in a sum not less than ten dollars nor more than one hundred dollars.

Source: Laws 1955, c. 160, § 1, p. 464; R.R.S.1943, § 39-735.01.

39-6.129. Transportation of sand, gravel, rock; material covered with canvas; penalty. No person shall transport any sand, gravel, rock less than two inches in diameter, or refuse in any motor vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering. Any person who shall violate any of the provisions of this section shall be guilty of a Class V misdemeanor.

Source: Laws 1969, c. 304, § 1, p. 1095; C.S.Supp.,1972, § 39-735.02; Laws 1974, LB 593, § 7; Laws 1977, LB 41, § 21.

39-6.130. Load projecting to rear; red flag, red light required. Whenever the load on any vehicle shall extend more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load a red flag not less than twelve inches both in length and width, except that between one half hour after sunset and one half hour before sunrise there shall be displayed at the end of any such load a red light plainly visible under normal atmospheric conditions, at least two hundred feet from the rear of such vehicle.

Source: Laws 1931, c. 110, § 34, p. 316; C.S.Supp.,1941, § 39-1165; R.S.1943, § 39-769.

Failure of driver to display lights on overhanging load when it is dark, as required by law, is evidence of negligence. *Moore v. Nisley*, 133 Neb. 474, 275 N.W. 827.

A failure to comply with requirements of this section is not negligence per se, but is evidence of negligence. *LaFleur v. Poesch*, 126 Neb. 263, 252 N.W. 902.

39-6.130.01. Truck-trailer combination; warning decal, when. A warning decal shall be attached to every truck-trailer combination, except trailers subject to section 39-6,130, having a connection device

266:70

MOTOR VEHICLES

266:70 Securing Construction Equipment on Vehicles.

I. No motor truck, trailer or semi-trailer, while being used to transport construction equipment, shall be driven on the ways of the state unless such load on each such unit is bound by:

- (a) Not less than 2 chains and binders made of not less than 3/8 inch wire; or
- (b) Not less than 2 steel cables and binders; or
- (c) Not less than 2 turnbuckles of comparable strength to the devices in subparagraphs (a) and (b).

II. Such chains, cables or turnbuckles shall be held firmly in place and shall be properly placed to secure the load.

HISTORY

Source. RSA 263:68-d. 1977, 476:1. 1981, 146:1, eff. Jan. 1, 1982.

266:71 Vehicles Transporting Pulpwood. Notwithstanding the provisions of RSA 266:12, a motor vehicle or trailer transporting pulpwood or boltwood may be driven on any way or bridge if the width of the load does not exceed 102 inches if said vehicles and trailers are equipped with:

I. A strip 3 inches thick extending along the sides of the platform securely fastened to the platform so that the load shall pitch to the center of vehicle;

II. Solid-boarded tailboard of 5 stakes evenly spaced of sufficient strength to maintain the weight of the load and such load at no place along its length is higher than the tailboard or stakes;

III. A chain, wire rope, steel cable, or steel strap or nylon webbing binding each tier or row or both, together with a binder to adequately secure the load to the body. Chains shall be made of not less than 3/8 inch wire; wire ropes, steel cables, steel straps or nylon webbing devices shall have a capacity of at least 7,750 pounds working load limit as rated by the manufacturer.

HISTORY

Source. RSA 263:65-a. 1957, 38:1. 1973, 5:1. 1981, 146:1, eff. Jan. 1, 1982.

266:72 Spillage of Material.

I. No vehicle shall be driven or moved on any way 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, or water or other substance may be sprinkled on a way in cleaning or maintaining such way.

II. No person shall operate on any way any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the way. Without limiting the foregoing provision, no person shall drive on any way any open vehicle loaded with earth, sand,

E

asphalt, stone, gravel or
equipped with and sa
tarpaulin which preven
the way.

III. Any person who
of a violation if a natur
person. Any person sha
one to the way by spilla

IV. The provisions of
apply to a local farmer
incidental to his farmi
incidental use of a way
believed of his duty to
operations.

V. The provisions of pa

(a) The operation of
269:42 and motor vehicle
that such equipment
construction zone as pre
highways, provided that
be relieved of his duty to

(b) The operation of
equipment;

(c) The driving of any
per hour.

Source. RSA 249:51. 1965,
30:32; 573:1, 2. 1981, 146:1,
1982.

This section was moved from
chapter on equipment in th
revision: Former RSA 249:51.

obstructions on highways, see

NOTA

Constitutionality
While the provision exempted far
ting farm material or products
farming operations, highway
ment and vehicles used in th
of highways within a highwa
zone, and the operation of
state highway maintenance e

EQUIPMENT OF VEHICLES

266:72

asphalt, stone, gravel or other particulate substance unless said vehicle is equipped with and said load is covered and secured by a close-fitting tarpaulin which prevents the escape of any substance from said load onto the way.

III. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any person shall be liable to the state or town for any damage done to the way by spillage.

IV. The provisions of paragraphs I, II and III of this section shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a way provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.

V. The provisions of paragraph II shall not apply to:

(a) The operation of highway building equipment as defined in RSA 259:42 and motor vehicles used in the construction of highways provided that such equipment or motor vehicle is used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the driver of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care;

(b) The operation of municipal and state highway maintenance equipment;

(c) The driving of any vehicle on a way at speeds of less than 30 miles per hour.

HISTORY

Source. RSA 249:51, 1965, 178:1, 1973, 530:32; 573:1, 2, 1981, 146:1, *eff.* Jan. 1, 1982.

COMMENTARY

This section was moved from the highway title because it seemed to fit more logically in the chapter on equipment in the subdivision concerning safety devices for transporting. Derivation: Former RSA 249:51.

CROSS REFERENCES

Encumbrances on highways, see RS 236:32 et seq.

ANNOTATIONS UNDER FORMER RSA 249:51

1. Constitutionality

While the provision exempted farmer transporting farm material or products incidental to farming operations, highway building equipment and vehicles used in the construction of highways within a highway construction zone, and the operation of municipal and state highway maintenance equipment,

legislature could reasonably find that exempted activities involved less danger and would bear a greater burden than traffic in general if subjected to same restrictions; therefore, the provision fulfilled requirements of Fourteenth Amendment and was constitutional. *State v. Hadley* (1975) 115 NH 541, 345 A2d 160.

MEMORANDUM

State of Alaska

TO: Col. Michael C. Kolivosky
Director

DATE: January 27, 1986

FILE NO:

TELEPHONE NO:

FROM: Capt. T. McConnaughey *T. Mc*
Commander, B Detachment

SUBJECT: B.V.E. Statistics
1/1/85-1/1/86

During the calendar year 1985, B Detachment, in cooperation with APD, formed the AST/APD Metro Truck Team for BVE Enforcement in the Anchorage bowl area, Palmer, Wasilla, Girdwood and Portage areas. The statistics are as follows:

1.	Trucks weighed	609
2.	Trucks measured	83
3.	Trucks off loaded	27
4.	Trucks out of service	364
5.	Citations for overweight	357
6.	Citations for oversize	7
7.	Citations-other violations	1103
8.	Equipment compliance checks	317
9.	Pounds overweight (at 5 cents a pound = \$100,827.20)	2,016,544
10.	Hours portable scales	458

The AST/APD Metro Truck Unit was formed and put into operation in March, 1985, and was taken out of operation in September of 1985, reallocation of manpower necessitated B Detachment's discontinuance in the program. During the time of the program it did very well as indicated by the statistics.

In August 1985, the Glenn inbound scale went out of service and still is to this date, (1/24/86). The AST/APD Metro Unit was the only enforcement/weighing authority for truck traffic coming into the Anchorage area on the Glenn Highway from the north.

TM/sjm

cc: Major Walter J. Gilmour

Attachments: Yearly Statistic Form

MEMORANDUM

State of Alaska

TO: Major Walter J. Gilmour
Field Enforcement Commander
Alaska State Troopers

DATE: 5/20/85

FILE NO:

TELEPHONE NO: 745-5258

FROM: Captain Terry McConnaughey
Commander, B Detachment
Alaska State Troopers

SUBJECT: Bail Schedule -
Karla L. Forsythe Letter

I would like to take this opportunity to offer the following comments on the letter from Karla Forsythe, re: uncovered loads.

The letter addresses the use of 13 AAC 02.530(d) and possible bail schedule modification as an enforcement tool for uncovered loads and is in error in several areas.

The majority of the complaints generated from the public are as a direct result of property damage (broken windshields, etc.) caused by gravel trucks, and the victim's inability to identify the responsible person or collect just compensation.

As it stands now, the State had no regulation requiring that gravel loads be covered or tarped; instead, a vehicle that spills a load is usually cited under 17 AAC 25.040(a) or (b) with a bail of \$50.00.

Representative Cotten's concerns are certainly valid, the penalties are not sufficient for the offense, especially considering the safety hazard, property damage, and inconvenience cause to the general public. The entire traffic regulations and bail schedule are in dire need of revision. As you know, we no longer have any commercial vehicle regulations. All enforcement tools expired with the Alaska Transportation Commission, making many needed enforcement areas impossible.

I think that a mandatory court appearance for violations of 13 AAC 02.530(d) or 17 AAC 25.040(a) or (b) will do very little to correct the problem at hand, as the magistrates generally hesitate to convict and levy substantial fines. For example, recently a Palmer magistrate reduced a statutorily mandated fine after a conviction on an overloaded commercial vehicle from over \$2,000.00 to \$150.00. I also believe that a law requiring tarps on gravel loads would be counter-productive, that the flapping tarps could very well aggravate the problem. The flapping tarp causing the complaints and problems are not coming from the tops of loads in most cases. They are instead being released from worn gates, taken off of under-overrides, trails, and scooped and propelled by revolving wheel parts.

Major Walter Gilmour
Karla Forsythe letter
5/20/85
Page 2

To correct this problem that has been causing Representative Cotten's constituents to complain, the law need a complete revision in the area dealing with anti-spray devices (fenders and flaps), unsafe vehicles, failure to contain loads, etc.

TM:kf

cc: Trooper Bud Dial
Trooper Mark Troutman



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 467-3991

May 25, 1984

MEMORANDUM

TO: Representative Barbara Lacher
FROM: Gretchen Keiser, Legislative Analyst
RE: Hazardous Debris from Commercial Vehicles
Research Request No. 84-116

Ann Plunkett of your staff requested this agency to investigate options for reducing the hazard of debris and construction materials, particularly gravel, which fly off commercial vehicles traveling on Alaska's roads. We were also asked to consider the practicality of enforcing the various options presented.

In summary, options for minimizing the problem of debris/gravel flying off commercial vehicles appear to be rather straightforward. As practical solutions, the truck driver can: 1) ensure that the truck is properly loaded; 2) secure the load in the bed of the truck; 3) ensure that tailgates, or bottom gates in the case of belly dump gravel trucks, are properly functioning and engaged; 4) clear the ledge around the bed of the truck; and 5) maintain proper anti-spray devices, or "mud flaps", behind the rear wheels. Furthermore, officials could increase enforcement of existing laws and regulations which address several of the above measures; however, this would likely divert enforcement effort from other priorities. Finally, the driver of a vehicle following the truck can: 1) allow for a greater distance between vehicles; and 2) seek compensation from the truck owner for damages caused by flying debris.

Truck Operator Measures

The uncontrolled release of gravel from a truck while in transit stems primarily from loose gravel falling off the ledges, spinning-off the top of the load in the bed, or leaking from partially sprung tailgates or bottomgates which no longer engage properly. In addition, gravel entrained in the tire treads can be sprayed toward the rear if the truck is not equipped with mud flaps. Making sure that a truck is not overloaded and cleaning the rig at the pit are reasonable measures to pursue. According to Bill Synder of the Association of General Contractors (AGC), AGC is aware of the problem and has conducted an educational campaign this spring in its weekly bulletin to its members urging

Representative Lacher
May 25, 1984
Page 3

Safety Hazard Program by the Alaska Transportation Commission, the weigh station inspectors can pull over vehicles until the condition is corrected.¹ Mr. Aves Thompson, Chief of Permits and Weigh Stations in DCED, interpreted a sprung tailgate or bottomgate on a gravel truck as an unsecured load that would be a violation covered under this program. Mr. Thompson stated that he receives complaints regarding the gravel hazard. His division recently cooperated with the State Troopers in an inspection operation between Palmer and Anchorage. The Troopers used the weigh station for inspection of trucks and noted problems with tailgates and gravel on ledges. In general, the State Troopers enforce the vehicle laws and regulations as much as they are able during their highway patrols, given their staffing and other responsibilities of higher priority.²

The Department of Environmental Conservation (DEC) has anti-littering enforcement authority under the Recycling and Reduction of Litter Law (AS 46.06; attached).³ DEC routinely applies the secured load provision of the law in the issuance of warnings and citations to drivers of trucks carrying loads of construction material scraps [AS 46.06.080(b)]. However, the statute is somewhat ambiguous with respect to gravel loads because it exempts "mining products" from the secured load provision but fails to define mining products. DEC has not sought a legal opinion on this point. The department has focused primarily on the problem of litter in its common form (i.e., refuse) and has chosen not to enforce the gravel situation because of the ambiguity.

To our knowledge, the Municipality of Anchorage is the only local government to address the litter/debris situation with a local ordinance.⁴ The "covered load ordinance" enacted in the fall of 1983 has been very successful in tackling the problem of unsecured loads

¹CSSB 491 would give the department the authority to issue citations under AS 45.75.130. The bill is awaiting action in the House Labor and Commerce Committee.

²1st Sergeant Young, Alaska State Troopers Headquarters, Anchorage. Personal Communication, May 23, 1984.

³A bill (CSSB 500) to extend the litter law, which terminates on July 1, 1984, is currently in House Rules awaiting scheduling for floor action.

⁴The Fairbanks North Star Borough Assembly is considering a revision to its solid waste ordinance which would require covered or secured loads.

ATTACHMENT A
Statutes and Regulations Addressing Litter and
Confinement of Vehicular Loads

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 25, 1984

MEMORANDUM

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FROM: *G. Keiser* Gretchen Keiser, Legislative Analyst
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gravel haulers to clean their rigs before leaving the pit. AGC has also called gravel pit operators and urged them to load trucks properly and to level the loads. Requiring gravel haulers to cover their loads, however, would be time-consuming and costly, and AGC would oppose such efforts.

In the case of construction material scraps being hauled, debris hazards would be reduced if the driver: 1) limited the size of the load; and 2) secured the load properly.

Enforcement Measures

If self-policing by the truck operators is not effective, there are statutes and regulations which could be enforced more strenuously. The State Troopers, the primary enforcement agency, would have to divert staff effort from other duties in order to increase truck inspections. The statutes and the condition they address are summarized below:

<u>Condition</u>	<u>Statute/Regulation</u>	<u>Enforcement Agency</u>
Unsafe/defective equipment (e.g. sprung tailgates)	AS 28.05.011(3) 13 AAC 04.007	State Troopers
Lack of mud flaps	AS 28.05.011(2) 13 AAC 04.265	State Troopers
Unsecured load	AS 44.33.020(25) 17 AAC 25.040	State Troopers Commerce & Ec. Dev. (Weigh Stations)
Littering/ Unsecured load	AS 46.06.080(b)	State Troopers Environmental Cons.

The State Troopers have the authority to inspect vehicles for safe operating conditions and typically issue "fix it" citations which require repair of defective/unsafe equipment within a specified period of time (13 AAC 04.007). Similarly, mud flaps are required on all trucks under 13 AAC 04.265 and the regulation is enforced by the Troopers.

In 1982, operation of the State's weigh stations was transferred from the Department of Public Safety (State Troopers) to the Department of Commerce and Economic Development (Division of Measurement Standards). DCED maintains that it was not given the authority to issue citations in the case of unsecured load violations (under 17 AAC 25.040; attached). However, under authority delegated to DCED in the Imminent

Representative Lacher
May 25, 1984
Page 3

Safety Hazard Program by the Alaska Transportation Commission, the weigh station inspectors can pull over vehicles until the condition is corrected.¹ Mr. Aves Thompson, Chief of Permits and Weigh Stations in DCED, interpreted a sprung tailgate or bottomgate on a gravel truck as an unsecured load that would be a violation covered under this program. Mr. Thompson stated that he receives complaints regarding the gravel hazard. His division recently cooperated with the State Troopers in an inspection operation between Palmer and Anchorage. The Troopers used the weigh station for inspection of trucks and noted problems with tailgates and gravel on ledges. In general, the State Troopers enforce the vehicle laws and regulations as much as they are able during their highway patrols, given their staffing and other responsibilities of higher priority.²

The Department of Environmental Conservation (DEC) has anti-littering enforcement authority under the Recycling and Reduction of Litter Law (AS 46.06; attached).³ DEC routinely applies the secured load provision of the law in the issuance of warnings and citations to drivers of trucks carrying loads of construction material scraps [AS 46.06.080(b)]. However, the statute is somewhat ambiguous with respect to gravel loads because it exempts "mining products" from the secured load provision but fails to define mining products. DEC has not sought a legal opinion on this point. The department has focused primarily on the problem of litter in its common form (i.e., refuse) and has chosen not to enforce the gravel situation because of the ambiguity.

To our knowledge, the Municipality of Anchorage is the only local government to address the litter/debris situation with a local ordinance.⁴ The "covered load ordinance" enacted in the fall of 1983 has been very successful in tackling the problem of unsecured loads

¹CSSB 491 would give the department the authority to issue citations under AS 45.75.130. The bill is awaiting action in the House Labor and Commerce Committee.

²1st Sergeant Young, Alaska State Troopers Headquarters, Anchorage. Personal Communication, May 23, 1984.

³A bill (CSSB 500) to extend the litter law, which terminates on July 1, 1984, is currently in House Rules awaiting scheduling for floor action.

⁴The Fairbanks North Star Borough Assembly is considering a revision to its solid waste ordinance which would require covered or secured loads.

Representative Lacher
May 25, 1984
Page 4

releasing trash and scrap construction materials enroute to the landfill. Once again, this ordinance has not been applied to gravel trucks. Attempts by municipal officials in Anchorage, Fairbanks North Star and the Mat-Su Boroughs to urge contractors and trucking firms to reduce their uncontrolled release of gravel from trucks have met with moderate success, at best.

Judging by the extent of the problem, it appears that greater educational efforts by the trucking industry itself are warranted. In addition, the State Troopers could be encouraged to enforce existing vehicular laws to the maximum extent possible and especially in areas where local governments have no policing powers, such as the Mat-Su and Fairbanks North Star Boroughs. A clarification of the application of the State's litter law to improperly loaded gravel trucks could be sought through the Department of Law. This might expand DEC's enforcement actions as well.

Passenger Vehicle Measures

Enforcement aside, the driver of passenger vehicles following trucks loaded with gravel appear to have two immediate remedies at their disposal. They can drive defensively and allow for greater distance between themselves and the loaded truck and potential hazard. Secondly, they can seek compensation from the trucking firm or contractor if their vehicle, or its windshield as is often the case, is damaged. If the driving public continually demands compensation and brings the situation to the attention of the firms' owners, there might very well be greater incentive for self-policing on the part of the firms.

We hope that this information will be of use to you.

GK

Attachment

ATTACHMENT A
Statutes and Regulations Addressing Litter and
Confinement of Vehicular Loads

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Editor's notes. — The repealed article derived from ch. 117, SLA 1949; ch. 129, SLA 1970.

Article 2. Prohibited Acts and Penalties.

Section
160 — 220. [Repealed]

Cross references. — For present provisions as to prohibited acts and penalties, see AS 46.03.710 et seq.

Secs. 46.05.160 — 46.05.220.
Repealed by § 4 ch 120 SLA 1971.

Editor's notes. — The repealed article derived from ch. 117, SLA 1949; ch. 109, SLA 1968; ch. 244, SLA 1970; ch. 62, SLA 1971.

Article 3. General Provisions.

Section
225 — 240. [Repealed]

Secs. 46.05.225 — 46.05.240.
Repealed by § 4 ch 120 SLA 1971.

Editor's notes. — The repealed article derived from ch. 117, SLA 1949; ch. 109, SLA 1968; ch. 145, SLA 1970.

Chapter 06. Recycling and Reduction of Litter.

Section	Section
10. Powers and duties of the department	80. Littering prohibited
20. Annual report	90. Prohibited beverage containers
30. Advisory council	100. Notice to public
40. Public awareness; motivation	110. Enforcement authority
50. Litter receptacles and anti-litter symbol	120. Grants
60. Litter bags	130. Conditions for grants
70. Litter patrol	140. Federal requirements
	150. Definitions

Revisor's notes. This chapter was enacted as AS 41.21.010 — 41.21.150 but was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Termination date of chapter. — Section 5, ch. 149, SLA 1980, provides: "This Act terminates July 1, 1984."

Editor's notes. — As to intent of 1980 legislation enacting AS 46.06.010 — 46.06.150, see § 1, ch. 149, SLA 1980, in Temporary and Special Acts and Resolves.

Collateral references. — 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 466, 467; 40 Am. Jur. 2d, Highways.

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Streets and Bridges, § 608; 56 Am. Jur. 2d. Validity and construction of statute or
 Municipal Corporations, Counties, and ordinance requiring return deposits on soft
 Other Political Subdivisions, §§ 455, 456; drink or similar containers 73 ALR3d
 61A Am. Jur. 2d, Pollution Control, 1105.
 §§ 46-49.
 39A C.J.S., Health and Environment,
 §§ 44, 125-128.

Sec. 46.06.010. Powers and duties of the department [Terminates July 1, 1984]. The department shall

- (1) serve as the coordinating agency among the various government and private organizations in the state which are involved in litter control and reduction and the recovery of energy or materials from litter;
- (2) assist local governments in the adoption and amendment of ordinances relating to litter control and reduction;
- (3) encourage, organize and coordinate voluntary local information campaigns which seek to focus the attention of the public on the reduction of litter and the recovery of materials and energy from litter;
- (4) encourage, organize and coordinate voluntary or nonprofit local programs for the recovery of materials or energy from litter;
- (5) encourage federal, state and local agencies to aid programs for the recovery of materials and energy from litter by providing publicity which encourages those programs and by allowing the use of publicly owned land, buildings, or equipment for those programs whenever possible;
- (6) investigate the availability of, apply for, receive, and expend grants, loans or other funds available from any source, and, if it is appropriate and feasible, accept nonmonetary assistance in the form of services or equipment for use in programs established under this chapter;
- (7) determine the types of materials or energy which may be profitably recovered from litter, and adopt regulations under the Administrative Procedure Act (AS 44.62) which require the recovery of the materials or energy;
- (8) adopt other regulations under the Administrative Procedure Act (AS 44.62) necessary to implement this chapter; and
- (9) develop methods for the measurement of litter in the state and encourage competition between municipalities to establish which municipality has the least litter. (§ 2 ch 149 SLA 1980)

Sec. 46.06.020. Annual report [Terminates July 1, 1984]. Not later than six months after the end of each fiscal year, the department shall prepare a detailed report describing and evaluating the actions taken and programs established under this chapter for submission to the governor and the legislature. The report must include

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- (1) the status and results of all grants made under this chapter;
- (2) an evaluation of the progress achieved by litter control and reduction programs; and
- (3) an evaluation of the resources and energy recovered from litter in the state. (§ 2 ch 149 SLA 1980)

Sec. 46.06.030. Advisory council (Terminates July 1, 1984). (a) There is created an advisory council to the department, which shall advise the department concerning the litter control and reduction, source separation and other programs for the recovery of energy and materials from litter under this chapter. The council may encourage the participation of industry, labor, municipalities, and the public in the programs administered by the department.

(b) The council consists of seven members appointed by the governor who are aware of and concerned with achieving the goals of this chapter. The members serve at the pleasure of the governor.

(c) The council shall meet annually, and may meet more frequently if necessary or desired. The members of the council serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions. (§ 2 ch 149 SLA 1980)

Sec. 46.06.040. Public awareness; motivation (Terminates July 1, 1984). The department shall establish, provide advice concerning, and coordinate programs designed to

- (1) encourage the public to recover material and energy from litter;
- (2) use existing, and develop new, techniques and programs to reduce litter and littering;
- (3) encourage the public not to litter and to engage in cleanup efforts; and
- (4) advise the public of the state's anti-litter laws and regulations and encourage enforcement of those laws and regulations. (§ 2 ch 149 SLA 1980)

Sec. 46.06.050. Litter receptacles and anti-litter symbol (Terminates July 1, 1984). (a) The department shall designate one or more types and sizes of litter receptacles for use in the state. The department shall make available for distribution throughout the state an anti-litter symbol of a uniform color and design adopted by the department. This anti-litter symbol must bear a statement of the penalties for littering, and the department shall design the anti-litter symbol so that it may be attached to litter receptacles. To aid public recognition and use of litter receptacles, the department may adopt an anti-litter symbol used in another state. The anti-litter symbol designed by the department must be attached to litter receptacles located in the public places of the state by the person or agency responsible for the placement of those receptacles.

(b) Litter receptacles designated for use in the state by the department shall be placed at public places in the state unless the public place

is specifically exempted by regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62). The number of receptacles required to be placed in each public place shall be determined by a formula related to the need for those receptacles. The requirements of this subsection are satisfied by the use of a litter receptacle which was in use before July 1, 1980, if the anti-litter symbol of the state is attached to the receptacle.

(c) A person owning or operating a privately owned public place at which litter receptacles are required under (b) of this section shall place litter receptacles at the public place at his own expense.

(d) Compliance with this section requires proper upkeep, maintenance and repair of a litter receptacle sufficient to permit the receptacle to serve the function for which it was designed and to prevent the receptacle from becoming unsightly.

(e) Responsibility for the placement of litter receptacles at publicly owned public places and for the removal of litter from those litter receptacles remains with the municipality or other public agency performing litter removal. Removal of litter from litter receptacles placed at privately owned public places remains the responsibility of the owner or operator of the privately owned public place.

(f) A person may not damage, deface, abuse or misuse a litter receptacle not owned by him so as to interfere with its proper function or to detract from its appearance.

(g) A person may not deposit leaves, clippings, prunings, garden refuse or household waste materials in a litter receptacle unless he has the permission of the owner of that receptacle.

(h) Except as provided in (i) of this section, a person who violates the provisions of (b) — (g) of this section is guilty of a violation and in addition to the punishment imposed by AS 12.55.035(b)(5), the court may order a person who violates this section to gather and dispose of litter in an area and for a length of time determined by the court.

(i) If a municipality of the state adopts an ordinance which prohibits the same conduct prohibited by (b) — (g) of this section, a violation of (b) — (g) of this section which occurs in the municipality is punishable under the provisions of the municipal ordinance if the punishment imposed under the ordinance is equal to or greater than the punishment imposed by AS 12.55.035(b)(5). (§ 2 ch 149 SLA 1980)

Sec. 46.06.060. Litter bags [Terminates July 1, 1984]. The department shall design and have produced a biodegradable litter bag bearing the state anti-litter symbol and a statement of the penalties for littering in the state. The department shall make litter bags available to the division of motor vehicles in the Department of Public Safety for this purpose. To the greatest extent practicable, the division of motor vehicles shall distribute one litter bag to each person who applies for registration or reregistration of his motor vehicle and shall notify the person of his responsibilities under the law. The department shall

make litter bag available to the state by authorized points for the entering the state.

Sec. 46.06.070. The department shall employ or contract with young people to cooperate with the department in support for the department.

(b) The department shall follow the Administrative Procedure Act, section. (§ 2 ch 149 SLA 1980)

Sec. 46.06.070. (a) A person may not litter from a state or in a public place.

(1) the person shall not litter at a site for the department authorized to collect litter.

(2) litter is prohibited from being carried on private property.

(b) A vehicle shall not litter on the right-of-way or load from a vehicle. This section shall not apply to salt or sand used to maintain highways or products. A person shall not litter on a highway or on private property at his own expense.

(c) A person who violates this section shall be guilty of a misdemeanor, and shall be punished under AS 12.55.035(b)(5) for gathering and disposing of litter as determined by the court.

Sec. 46.06.070. July 1, 1984] offer to sell a litter bag constructed so that it can be attached to a tab. This section shall be terminated by a detached

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make litter bags available to all vessel owners and persons entering state by automobile. The commissioner shall designate distribution points for the broadest possible distribution of litter bags to persons entering the state by automobile or vessel. (§ 2 ch 149 SLA 1980)

Sec. 46.06.070. Litter patrol [Terminates July 1, 1984]. (a) The department shall establish a youth litter patrol program for the employment of young people on a seasonal basis. The department shall cooperate with federal, state or municipal programs that either employ young people or encourage their employment. The department may contract with other state agencies to provide administration and other support for the youth litter patrol established by this section.

(b) The department may adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary to implement this section. (§ 2 ch 149 SLA 1980)

Sec. 46.06.080. Littering prohibited [Terminates July 1, 1984]. (a) A person may not throw, drop, deposit, discard or otherwise dispose of litter from a vehicle or otherwise, on public or private property in the state or in waters in the state or under state jurisdiction unless

(1) the property is designated by a state agency or municipality as a site for the sanitary disposal of garbage or refuse, and the person is authorized to use the site for that purpose; or

(2) litter is placed in a litter receptacle so that the litter is prevented from being carried away or deposited by the elements upon public or private property or waters in the state or under state jurisdiction.

(b) 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, sifting, leaking or otherwise escaping from the vehicle. This subsection does not apply to a vehicle used (1) to deposit salt or sand to secure traction, (2) by a public agency to clean or maintain highways, or (3) to transport agricultural, mining or timber products. A person who operates a vehicle from which an object has fallen or escaped which obstructs or endangers travel upon a public highway or right-of-way shall immediately remove the object at his own expense or pay the cost of removal incurred by the state or by a person.

(c) A person who violates this section is guilty of a class B misdemeanor, and in addition to the punishment imposed by AS 12.55.035(b)(4) and 12.55.135(b), the court may order the person to gather and dispose of litter in an area and for a length of time determined by the court. (§ 2 ch 149 SLA 1980)

Sec. 46.06.090. Prohibited beverage containers [Terminates July 1, 1984]. (a) Beginning October 1, 1981, a person may not sell or offer to sell a nonglass beverage container which is designed and constructed so that the container is opened by detaching a metal ring or tab. This section does not apply to a beverage container which is opened by a detachable piece of tape, foil, or other soft material.

(b) Beginning October 1, 1981, a person may not sell or offer to sell beverage containers which are held together by plastic rings or similar plastic devices which are not degradable.

(c) A person who violates this section is guilty of a violation. Each sale or offer to sell is a separate offense. (§ 2 ch 149 SLA 1980)

Cross references. -- As to fines for violations, see AS 12.55.035(b)(5)

Sec. 46.06.100. Notice to public [Terminates July 1, 1984]. The penalties imposed for littering shall be posted along the public highways of the state, at visitor centers, at entrances to state parks and recreational areas, at public beaches, and other publicly owned public places the commissioner determines necessary to accomplish the purposes of this chapter. The state agency or municipality responsible for litter removal from a public place shall post the notice required by this section. (§ 2 ch 149 SLA 1980)

Sec. 46.06.110. Enforcement authority [Terminates July 1, 1984]. (a) The following persons are authorized to enforce the provisions of this chapter:

- (1) a state employee authorized by the commissioner; and
- (2) a peace officer.

(b) The department shall prescribe a citation form which shall be used by all peace officers and persons in the state who are authorized to enforce the provisions of this chapter. (§ 2 ch 149 SLA 1980)

Sec. 46.06.120. Grants [Terminates July 1, 1984]. The department may make grants to state agencies, to municipalities, and to private organizations including nonprofit organizations for the establishment and operation of programs authorized under this chapter. A grant under this section may not exceed 18 months. A program qualifying for a grant under this section may include

- (1) courses of instruction at, or the distribution of informative materials to, elementary and secondary schools;
- (2) purchase and erection of roadside signs;
- (3) organization and operation of litter removal activities conducted by municipalities, private organizations or service groups using volunteer help;
- (4) a public information program to inform the public concerning the reduction of litter using the media including use of the electronic media;
- (5) expansion of existing, and planning, design and construction of new, facilities for the recovery of materials and energy from litter;
- (6) research and evaluation of markets for the materials and energy recovered from litter;
- (7) advice and assistance, including information and consultation on available technology, operating procedures, organizational arrange-

ments, marking, and identification alternatives;
(8) surveys to assess the need for recycling;
(9) the purchase of recycling equipment;
(10) the creation of recycling centers;
(11) the installation and operation of recycling materials handling equipment.
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(8) surveys by public agencies or recognized research organizations
to assess the amount and composition of litter, and rates of littering;

(9) the purchase of litter receptacles;

(10) the creation or expansion of litter law enforcement programs;

(11) the initial purchase or lease of recycling equipment, the cost of
operating that equipment, and the cost of storing and transporting
materials before and after those materials are recycled. (§ 2 ch 149
SLA 1980)

Sec. 46.06.130. Conditions for grants [Terminates July 1, 1984].

(a) The department shall adopt regulations under the Administrative
Procedure Act (AS 44.62) which establish

(1) eligibility requirements for applicants for a grant under AS
46.06.120;

(2) standards for the evaluation of proposals submitted by applicants
for grants under AS 46.06.120; and

(3) other conditions for the receipt of a grant under AS 46.06.120
which are necessary to achieve the purposes of this chapter.

(b) The regulations adopted by the department under (a) of this
section must meet the following criteria:

(1) if there is not enough money for grants to all eligible applicants,
the following shall receive priority:

(A) a proposed program or project which most efficiently recovers
materials or energy from litter;

(B) the proposed program or project which creates the greatest num-
ber of new jobs;

(2) the maximum amount for a single grant shall be established so
that available money is distributed to a variety of programs;

(3) a grant may be made for new programs or for improvements to
or additions to existing programs which were not previously financed
by other existing resources of financing. (§ 2 ch 149 SLA 1980)

**Sec. 46.06.140. Federal requirements [Terminates July 1,
1984].** If a federal department or agency issues a formal ruling that a
section of this chapter will prevent the state from receiving federal
financial participation in a program or activity established under this
chapter, the section does not apply to the extent that it causes the
program or activity to lose federal funding. (§ 2 ch 149 SLA 1980)

Sec. 46.06.150. Definitions [Terminates July 1, 1984]. In this
chapter,

(1) "beverage container" means the individual, separate, sealed
glass, metal or plastic bottle, can, jar or carton containing beer or other
malt beverages or carbonated soft drinks, in liquid form;

(2) "commissioner" means the commissioner of environmental con-
servation;

(3) "department" means the Department of Environmental Conservation;

(4) "litter" means all waste materials susceptible to being dropped, deposited, discarded or otherwise disposed of upon property in the state or in waters under state jurisdiction; "litter" does not include the waste of the primary processes of mining or other extraction process, logging, sawmilling, farming or manufacturing;

(5) "litter bag" means a bag, sack or other container made of any material which is large enough and suitable to serve as a receptacle for litter inside a vehicle or vessel;

(6) "public place" means public or private property that is used or held out for use by the public, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, trailer parks, drive-in and fast food restaurants, gasoline service stations, parking lots for taverns, shopping centers and grocery stores and other parking lots which have a capacity for more than 50 vehicles, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches, bathing areas, school grounds, sporting event sites with seating capacity for more than 200 spectators, and business district sidewalks;

(7) "vehicle" means a mechanically driven device of any kind which is used for the transportation of a person or property on a public highway, trail or path;

(8) "vessel" means all descriptions of watercraft used or capable of being used as a means of transportation on the water. (§ 2 ch 149 SLA 1980)

Chapter 07. Village Safe Water Act.

<p>Section</p> <p>10. Statement of purpose</p> <p>20. Provision of facilities</p> <p>30. Nature and location of facilities</p> <p>40. Construction of facilities</p> <p>50. Operation of facilities</p>	<p>Section</p> <p>60. Educational and informational program</p> <p>70. Economy of administration</p> <p>80. Definitions</p>
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Collateral references. — 39 Am. Jur. 2d, Health, § 22; 61A Am. Jur. 2d, Pollution Control, §§ 134, 135; 78 Am. Jur. 2d, Waterworks and Water Companies, §§ 31-46.

39A C.J.S., Health and Environment, § 46; 93 C.J.S., Waters, §§ 43-57.

Validity of statute prescribing standard of purity of water furnished for human consumption. 6 ALR 475.

Power of board of health to prescribe means or methods of keeping water supply free of impurities. 23 ALR 228.

Constitutionality and construction of statutes and ordinances for protection of municipal water supply. 72 ALR 673.

Wrongful pollution of stream by municipality as creating single cause of action or successive causes of action. 75 ALR 529.

When statute of limitations commences to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

Measure and elements of damages for pollution of well, cistern, or spring. 19 ALR2d 769.

Liability for pollution of water, or the liability. ALR2d 1033.

Validity, constitutionality, ordinance, or chemical treatment. 43 ALR2d 453.

Measure and pollution of stream. Validity of provisions.

Sec. 46.07 chapter to establish hygienic sewerage. SLA 1970)

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CHAPTER 25.
OPERATIONS, WHEELED VEHICLES

6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 3/22/81, Reg. 77; am 6/19/81, Reg. 78)

Authority: AS 19.05.020

AS 19.10.060

Section

- 10. Prohibited vehicles and loads
- 20. Width of vehicles
- 30. Height and length of vehicles and loads
- 40. Confinement of loads
- 50. Trailers and towed vehicles
- 60. Allowable gross weights
- 70. (Repealed)
- 80. (Repealed)
- 90. (Repealed)
- 100. Road closures and restrictions
- 110. Definitions

17 AAC 25.010. PROHIBITED VEHICLES AND LOADS. (a) No person may drive or move, nor may an owner or lessee cause or knowingly permit to be driven or moved on a highway, a vehicle or vehicles of a size or weight or having a load exceeding the limitations stated in this chapter.

(b) The provisions of this chapter governing size, weight, and load do not apply to a vehicle or vehicles with a load operated under the terms of a permit issued under AS 44.33.020(25). (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 3/22/81, Reg. 77; am 11/16/83, Reg. 88)

Authority: AS 19.05.020
AS 19.10.060

17 AAC 25.020. WIDTH OF VEHICLES. (a) The total outside width of any vehicle or load on a vehicle may not exceed 96 inches, except by permit as provided in AS 28.05.011(8). Balloon or duplex tires on trucks may extend three inches beyond the limit on either side. Vehicles used in public transportation may have a total outside width, including load, of 102 inches when operating on roadways with a lane width of 12 feet. Safety devices and load binders may extend three inches beyond the limit on either side if they are situated more than four feet above the roadway. Load binders must be located on the right-hand side of the vehicle if possible.

(b) No passenger vehicle may be operated on any highway with a load which extends beyond the line of the fenders on the left side, nor which extends more than six inches beyond the line of the fenders on the right side. (Eff.

17 AAC 25.030. HEIGHT AND LENGTH OF VEHICLES AND LOADS. (a) No vehicle, including any load thereon, shall exceed a height of 13 feet 6 inches.

(b) No single vehicle, including any load thereon, may exceed a length of 40 feet inclusive of front and rear bumpers, except as provided in (c) of this section.

(c) No semitrailer may exceed an overall length of 45 feet. No combination of truck-tractor and semitrailer, including any load, may exceed a length of 70 feet, including front and rear bumpers.

(d) No combination of truck-tractor and trailer or trailers, or other combination of vehicles, including any load, may have an overall length in excess of 75 feet, including front and rear bumpers.

(e) Subject to the foregoing provisions of this chapter limiting the length of vehicles and loads, the load on any vehicle or combination of vehicles may not extend more than three feet beyond the front bumper or more than four feet beyond the rear of the bed or body of the vehicle or trailer. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 11/16/83, Reg. 88)

Authority: AS 19.05.020

AS 19.05.040(5),(11)

AS 19.10.060(1)

17 AAC 25.040. CONFINEMENT OF LOADS. (a) No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent any of the load from dropping, shifting, leaking, or escaping, except that sand may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in cleaning or maintaining it.

(b) No person may operate on any highway any vehicle with a load unless the load and any covering on it is securely fastened so as to prevent the covering or load from coming loose, detached or in any manner a hazard to other

users of the highway. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43)

Authority: AS 19.05.020
AS 19.10.060
AS 28.05.020

17 AAC 25.050. TRAILERS AND TOWED VEHICLES. When one vehicle is towing another, the drawbar or other connections shall be of such strength, design and configuration to control the towed vehicle. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43)

Authority: AS 19.05.020
AS 19.10.060
AS 28.05.020

17 AAC 25.060. ALLOWABLE GROSS WEIGHTS. The gross weight of any vehicle or combination of vehicles may not exceed any of the limits provided in this section. The most restrictive limitation of the following shall determine the maximum allowable weight of every vehicle or vehicle combination:

(1) The maximum gross vehicle weight may not exceed that weight as determined from the following formula:

$$W = 500 \left[\frac{LN}{N-1} + 12N + 36 \right]$$

where

W = The maximum gross vehicle weight to the nearest 500 pounds

L = The distance in feet between extreme axles, and

N = The number of axles.

(2) The weight on axles may not exceed and the distance between axles may not be less than the following:

	Weight	Distance
Single Axles	20,000 pounds	10' minimum spacing*
2-Axle Tandem	34,000 pounds	3'6" minimum spacing
3-Axle Tandem	42,000 pounds	3'6" minimum spacing
4-Axle Tandem Group	50,000 pounds	3'6" minimum spacing

* Any axle spaced less than 10 feet from another axle is considered as part of a tandem group.

Any axle which can be elevated from the roadway, thus transferring its portion of the vehicle weight to the other axles, will not be considered as a load-carrying axle unless the vehicle is equipped with an approved tell-tale device. The tell-tale device shall indicate that the lift axle is in full load-carrying position and shall be clearly visible from the left side of the vehicle under normal operating conditions. Vehicles which were on order or manufactured prior to the effective date of this regulation are exempt from the requirements of this subsection until one year following the effective date.

(3) The weight on any tire shall not exceed 500 pounds per inch of tire width, on such axles, based on the tire manufacturer's rating of tire width. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 9/3/74, Reg. 51)

Authority: AS 19.10.060
AS 28.05.020

Editor's Note: Beginning with Register 51 (October 1974), the formula in paragraph (1) of this section was erroneously printed. It has been corrected as of Register 66 (July 1978).

17 AAC 25.070. ENFORCEMENT. Repealed 11/16/83.

17 AAC 25.080. PERMITS FOR EXCESS SIZE AND WEIGHT. Repealed 3/22/81.

17 AAC 25.090. REQUIREMENTS FOR PERMITS. Repealed 11/16/83.

17 AAC 25.100. ROAD CLOSURES AND RESTRICTIONS. (a) The Department of Transportation and Public Facilities may prohibit the operation of vehicles upon any highway or may impose restrictions on any aspect of vehicle operation on any highway whenever the highway, in the judgment of the commissioner, may be seriously damaged or destroyed by such operation or whenever it is deemed necessary by the commissioner in the interests of safety to the traveling public. The restrictions shall be effective after due notice has been given to the public except in an emergency requiring immediate action.

(b) Whenever weight restrictions imposed by the commissioner or his representative are stated as a percentage of legal allowable weights, the percentage shall be applied to the maximum axle loading of 17 AAC 25.060(2).

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to the equipment as approved by the Society of Automotive Engineers on the effective date of this section.

(d) No person may drive on a highway or other vehicular way or area, equip, sell, or offer for sale, a motor vehicle equipped with air-conditioning equipment which does not meet the requirements of this section. (Eff. 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

Editor's Note: Copies of these standards may be obtained from Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Lorendale, Pennsylvania 15096.

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13 AAC 04.257. EMISSION-CONTROL SYSTEMS. When a motor vehicle is equipped with an emission-control system or when a motor vehicle is required by a statute or regulation to have an emission-control system, the system must be maintained in good working order. (Eff. 6/28/79, Reg. 70)

Authority: AS 28.05.011

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13 AAC 04.260. TELEVISION RECEIVERS AND HEADSETS. (a) No motor vehicle driven in this state may be equipped with television-type receiving equipment located so that the viewer or screen is visible from the driver's seat.

(b) A driver of a motor vehicle may not wear a headset, headphones, or other headgear designed for receiving sound and transmitting sound to the driver, or ear plugs or a similar device which reduces his hearing ability while the vehicle he is driving is in motion.

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(c) This section does not prohibit the use of television-type or headgear-receiving equipment used exclusively for safety or law enforcement purposes, or designed to improve a driver's hearing ability. (Eff. 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

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13 AAC 04.265. ANTISPRAY DEVICE. (a) No person may drive a motor vehicle unless it has a device which effectively reduces the wheel spray or splash of water or other substance to the rear of the vehicle.

(b) The device required in (a) of this section

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must be installed and maintained so that the device placed behind a wheel extends downward to a distance of 14 inches from the surface of the ground when the vehicle is standing on level ground. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 04.270. SAFETY BELTS. (a) A passenger car manufactured or assembled after January 1, 1965, must be equipped with lap belt assemblies for use in the driver's and one other front seat position. A motor vehicle manufactured or assembled after January 1, 1968, except a motorcycle or off-highway vehicle, must be equipped with lap or shoulder belts required by the United States Department of Transportation in effect on the effective date of this section.

(b) No person may distribute, offer for sale, sell or install a seat belt or shoulder harness for use in a motor vehicle unless the belt or harness meets minimum standards and specifications of the United States Department of Transportation in effect on the effective date of this section.

(c) A vehicle owner shall maintain belts and assemblies required by this section in good condition. (Eff. 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 04.272. ENERGY ABSORPTION SYSTEMS. If a motor vehicle was equipped, when assembled, with bumpers or other collision energy absorption or attenuation system, the system must be maintained in good operating condition, and no person may remove, disconnect, cause or knowingly permit the removal or disconnection of a part of the system, except temporarily in order to make repairs, replacements, or adjustments, during which time the vehicle may not be driven. (Eff. 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 04.275. TOWED VEHICLES: CONNECTIONS AND SAFETY DEVICES. (a) A vehicle towed upon a street or highway must be coupled to its towing vehicle by means of a safety chain, chains, cable or equivalent device,

in addition to the additional slack thereof of the vehicle connecting both the drawing manner with rigid connection ground safety device retain of failure

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(c) Except when or other strength drawn feet in excess vehicle pipes structure disme

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13 AAC SCOOTER SHIELD

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COMMITTEE REPORT

JUDICIARY

(7)

Date referred: 2/17/86

FURTHER REFERRALS: FINANCE

DATE: 11 MARCH 1986

The TRANSPORTATION Committee has considered HB 689

"An Act relating to motor vehicles."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Malipualberri

Mike Dem

Bette Cate

W Furnace NO Rec

Dink Shultz No Rec

Bette Cate

Chairman