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HOUSE BILL 2818

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Kilduff, Muri, Kagi, Reykdal, Fey, Fitzgibbon, Tarleton, and Morris

Read first time 01/21/16. Referred to Committee on Transportation.

1 AN ACT Relating to covering loads on public highways; amending  
2 RCW 46.61.655, 46.63.020, and 7.68.020; prescribing penalties; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.61.655 and 2005 c 431 s 1 are each amended to  
6 read as follows:

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

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

17 (3)(a) From July 1, 2016, through June 30, 2018: Any vehicle  
18 operating on a paved public highway with a speed limit of more than  
19 thirty-five miles per hour with a load of dirt, sand, rocks, or  
20 gravel susceptible to being dropped, spilled, leaked, or otherwise  
21 escaping (~~((therefrom shall))~~) from the vehicle must be covered so as

1 to prevent spillage((-)); and the covering of such loads is not  
2 required if six inches of freeboard is maintained within the bed, but  
3 if a vehicle hauling such loads is equipped with a cover the cover  
4 must be used.

5 (b) After June 30, 2018: Any vehicle over ten thousand pounds  
6 gross vehicle weight operating on a paved public highway with a speed  
7 limit of more than thirty-five miles per hour with a load of dirt,  
8 sand, rocks, or gravel susceptible to being dropped, spilled, leaked,  
9 or otherwise escaping from the vehicle must be covered so as to  
10 prevent spillage.

11 (c)(i) The department of transportation, counties, and cities,  
12 and any subcontractors working for such public entities, are exempt  
13 from the requirements in (a) and (b) of this subsection if the  
14 vehicle is:

15 (A) Applying sand or deicers for snow and ice control and to  
16 enhance traction;

17 (B) Sprinkling water or other substances to maintain or clean the  
18 roadway;

19 (C) Performing maintenance operations in response to emergency  
20 events;

21 (D) Performing operations within work zones where roads or  
22 sections of roads are closed to the public.

23 (ii) The department of transportation, counties, and cities, and  
24 any subcontractors working for such public entities, may cover the  
25 types of loads described in (c)(i) of this subsection to prevent  
26 spillage. At a minimum, such loads must be transported such that six  
27 inches of freeboard is maintained in the bed.

28 (d) (a) and (b) of this subsection do not apply to farm vehicles  
29 carrying farm commodities.

30 (e) (a) and (b) of this subsection do not apply to vehicles  
31 traveling on gravel roads with a speed limit of thirty miles per hour  
32 or less.

33 (f) For purposes of this subsection (3), "cover" means a tarp,  
34 other covering device, or a manufactured cover to fit a vehicle,  
35 which is securely fastened to the vehicle to cover the load that the  
36 vehicle is hauling.

37 (g) For the purposes of this subsection (3), "susceptible to  
38 being dropped, spilled, leaked, or otherwise escaping" means that the  
39 load, or particles, portions, or pieces of the load, is of such a  
40 density that the load, or particles, portions, or pieces of the load,

1 can be influenced by wind, other atmospheric and weather conditions,  
2 or road conditions.

3 (4)(a) Any person operating a vehicle from which any (~~glass~~)  
4 object or objects have fallen or escaped, which would constitute an  
5 obstruction or injure a vehicle or otherwise endanger travel upon  
6 such public highway (~~shall immediately cause the public highway to~~  
7 ~~be cleaned of all such glass or objects and shall pay any costs~~  
8 ~~therefor~~), must remove the object or objects from the highway if it  
9 is safe to do so or notify law enforcement of the situation and  
10 remain at the scene until the object or objects have been removed  
11 from the highway. The person must pay any costs incurred to remove  
12 the object or objects from the highway.

13 (b) Any person operating a vehicle with deposits of mud, rocks,  
14 or other debris on the vehicle's body, fenders, frame, undercarriage,  
15 wheels, or tires (~~shall be cleaned of~~) must clean off such material  
16 before the operation of the vehicle on a paved public highway.

17 (5) The Washington state patrol, or local law enforcement when  
18 appropriate, must enforce the requirements under subsections (3) and  
19 (4) of this section.

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

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

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

33 (B) A person is guilty of failure to remove objects from a  
34 highway, notify law enforcement to remove such objects, or remove  
35 deposits or debris from a vehicle he or she is operating in the first  
36 degree if he or she, with criminal negligence, fails to remove  
37 objects from a highway, notify law enforcement to remove such  
38 objects, or remove deposits or debris from a vehicle he or she is  
39 operating in compliance with subsection (4)(a) or (b) of this section  
40 and causes substantial bodily harm to another.

1 (ii) Failure to secure or cover a load, remove objects from a  
2 highway, notify law enforcement to remove such objects, or remove  
3 deposits or debris from a vehicle he or she is operating in the first  
4 degree is a gross misdemeanor.

5 (b)(i)(A) A person is guilty of failure to secure or cover a load  
6 in the second degree if he or she, with criminal negligence, fails to  
7 secure a load or part of a load to ~~((his or her))~~ a vehicle he or she  
8 is operating in compliance with subsection (1) ~~((or))~~, (2), or (3) of  
9 this section and causes damage to property of another.

10 (B) A person is guilty of failure to remove objects from a  
11 highway, notify law enforcement to remove such objects, or remove  
12 deposits or debris from a vehicle he or she is operating in the first  
13 degree if he or she, with criminal negligence, fails to remove  
14 objects from a highway, notify law enforcement to remove such  
15 objects, or remove deposits or debris from a vehicle he or she is  
16 operating in compliance with subsection (4)(a) or (b) of this section  
17 and causes damage to property of another.

18 (ii) Failure to secure or cover a load, remove objects from a  
19 highway, notify law enforcement to remove such objects, or remove  
20 deposits or debris from a vehicle he or she is operating in the  
21 second degree is a misdemeanor.

22 (c) A person who fails to secure or cover a load or part of a  
23 load to ~~((his or her))~~ a vehicle he or she is operating, remove  
24 objects from a highway, notify law enforcement to remove such  
25 objects, or remove deposits or debris from a vehicle he or she is  
26 operating in compliance with subsection (1), (2), ~~((or))~~ (3), or  
27 (4)(a) or (b) of this section is guilty of an infraction if such  
28 failure does not amount to a violation of (a) or (b) of this  
29 subsection.

30 **Sec. 2.** RCW 46.63.020 and 2014 c 124 s 9 are each amended to  
31 read as follows:

32 Failure to perform any act required or the performance of any act  
33 prohibited by this title or an equivalent administrative regulation  
34 or local law, ordinance, regulation, or resolution relating to  
35 traffic including parking, standing, stopping, and pedestrian  
36 offenses, is designated as a traffic infraction and may not be  
37 classified as a criminal offense, except for an offense contained in  
38 the following provisions of this title or a violation of an

1 equivalent administrative regulation or local law, ordinance,  
2 regulation, or resolution:

3 (1) RCW 46.09.457(1)(b)(i) relating to a false statement  
4 regarding the inspection of and installation of equipment on wheeled  
5 all-terrain vehicles;

6 (2) RCW 46.09.470(2) relating to the operation of a nonhighway  
7 vehicle while under the influence of intoxicating liquor or a  
8 controlled substance;

9 (3) RCW 46.09.480 relating to operation of nonhighway vehicles;

10 (4) RCW 46.10.490(2) relating to the operation of a snowmobile  
11 while under the influence of intoxicating liquor or narcotics or  
12 habit-forming drugs or in a manner endangering the person of another;

13 (5) RCW 46.10.495 relating to the operation of snowmobiles;

14 (6) Chapter 46.12 RCW relating to certificates of title,  
15 registration certificates, and markings indicating that a vehicle has  
16 been destroyed or declared a total loss;

17 (7) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment  
18 of taxes and fees by failure to register a vehicle and falsifying  
19 residency when registering a motor vehicle;

20 (8) RCW 46.16A.520 relating to permitting unauthorized persons to  
21 drive;

22 (9) RCW 46.16A.320 relating to vehicle trip permits;

23 (10) RCW 46.19.050(1) relating to knowingly providing false  
24 information in conjunction with an application for a special placard  
25 or license plate for disabled persons' parking;

26 (11) RCW 46.19.050(8) relating to illegally obtaining a parking  
27 placard, special license plate, special year tab, or identification  
28 card;

29 (12) RCW 46.19.050(9) relating to sale of a parking placard,  
30 special license plate, special year tab, or identification card;

31 (13) RCW 46.20.005 relating to driving without a valid driver's  
32 license;

33 (14) RCW 46.20.091 relating to false statements regarding a  
34 driver's license or instruction permit;

35 (15) RCW 46.20.0921 relating to the unlawful possession and use  
36 of a driver's license;

37 (16) RCW 46.20.342 relating to driving with a suspended or  
38 revoked license or status;

39 (17) RCW 46.20.345 relating to the operation of a motor vehicle  
40 with a suspended or revoked license;

- 1 (18) RCW 46.20.410 relating to the violation of restrictions of  
2 an occupational driver's license, temporary restricted driver's  
3 license, or ignition interlock driver's license;
- 4 (19) RCW 46.20.740 relating to operation of a motor vehicle  
5 without an ignition interlock device in violation of a license  
6 notation that the device is required;
- 7 (20) RCW 46.20.750 relating to circumventing an ignition  
8 interlock device;
- 9 (21) RCW 46.25.170 relating to commercial driver's licenses;
- 10 (22) Chapter 46.29 RCW relating to financial responsibility;
- 11 (23) RCW 46.30.040 relating to providing false evidence of  
12 financial responsibility;
- 13 (24) RCW 46.35.030 relating to recording device information;
- 14 (25) RCW 46.37.435 relating to wrongful installation of  
15 sunscreening material;
- 16 (26) RCW 46.37.650 relating to the sale, resale, distribution, or  
17 installation of a previously deployed air bag;
- 18 (27) RCW 46.37.671 through 46.37.675 relating to signal  
19 preemption devices;
- 20 (28) RCW 46.37.685 relating to switching or flipping license  
21 plates, utilizing technology to flip or change the appearance of a  
22 license plate, selling a license plate flipping device or technology  
23 used to change the appearance of a license plate, or falsifying a  
24 vehicle registration;
- 25 (29) RCW 46.44.180 relating to operation of mobile home pilot  
26 vehicles;
- 27 (30) RCW 46.48.175 relating to the transportation of dangerous  
28 articles;
- 29 (31) RCW 46.52.010 relating to duty on striking an unattended car  
30 or other property;
- 31 (32) RCW 46.52.020 relating to duty in case of injury to or death  
32 of a person or damage to an attended vehicle;
- 33 (33) RCW 46.52.090 relating to reports by repairers, storage  
34 persons, and appraisers;
- 35 (34) RCW 46.52.130 relating to confidentiality of the driving  
36 record to be furnished to an insurance company, an employer, and an  
37 alcohol/drug assessment or treatment agency;
- 38 (35) RCW 46.55.020 relating to engaging in the activities of a  
39 registered tow truck operator without a registration certificate;

1 (36) RCW 46.55.035 relating to prohibited practices by tow truck  
2 operators;

3 (37) RCW 46.55.300 relating to vehicle immobilization;

4 (38) RCW 46.61.015 relating to obedience to police officers,  
5 flaggers, or firefighters;

6 (39) RCW 46.61.020 relating to refusal to give information to or  
7 cooperate with an officer;

8 (40) RCW 46.61.022 relating to failure to stop and give  
9 identification to an officer;

10 (41) RCW 46.61.024 relating to attempting to elude pursuing  
11 police vehicles;

12 (42) RCW 46.61.212(4) relating to reckless endangerment of  
13 emergency zone workers;

14 (43) RCW 46.61.500 relating to reckless driving;

15 (44) RCW 46.61.502 and 46.61.504 relating to persons under the  
16 influence of intoxicating liquor or drugs;

17 (45) RCW 46.61.503 relating to a person under age twenty-one  
18 driving a motor vehicle after consuming alcohol;

19 (46) RCW 46.61.520 relating to vehicular homicide by motor  
20 vehicle;

21 (47) RCW 46.61.522 relating to vehicular assault;

22 (48) RCW 46.61.5249 relating to first degree negligent driving;

23 (49) RCW 46.61.527(4) relating to reckless endangerment of  
24 roadway workers;

25 (50) RCW 46.61.530 relating to racing of vehicles on highways;

26 (51) RCW 46.61.655(7) (a) and (b) relating to failure to secure  
27 or cover a load, remove objects from a highway, notify law  
28 enforcement to remove such objects, or remove deposits or debris from  
29 a vehicle;

30 (52) RCW 46.61.685 relating to leaving children in an unattended  
31 vehicle with the motor running;

32 (53) RCW 46.61.740 relating to theft of motor vehicle fuel;

33 (54) RCW 46.64.010 relating to unlawful cancellation of or  
34 attempt to cancel a traffic citation;

35 (55) RCW 46.64.048 relating to attempting, aiding, abetting,  
36 coercing, and committing crimes;

37 (56) Chapter 46.65 RCW relating to habitual traffic offenders;

38 (57) RCW 46.68.010 relating to false statements made to obtain a  
39 refund;

1 (58) Chapter 46.70 RCW relating to unfair motor vehicle business  
2 practices, except where that chapter provides for the assessment of  
3 monetary penalties of a civil nature;

4 (59) Chapter 46.72 RCW relating to the transportation of  
5 passengers in for hire vehicles;

6 (60) RCW 46.72A.060 relating to limousine carrier insurance;

7 (61) RCW 46.72A.070 relating to operation of a limousine without  
8 a vehicle certificate;

9 (62) RCW 46.72A.080 relating to false advertising by a limousine  
10 carrier;

11 (63) Chapter 46.80 RCW relating to motor vehicle wreckers;

12 (64) Chapter 46.82 RCW relating to driver's training schools;

13 (65) RCW 46.87.260 relating to alteration or forgery of (~~a card,~~  
14 ~~letter of authority, or other temporary authority~~) any  
15 credential issued under chapter 46.87 RCW;

16 (66) RCW 46.87.290 relating to operation of an unregistered or  
17 unlicensed vehicle under chapter 46.87 RCW.

18 **Sec. 3.** RCW 7.68.020 and 2011 c 346 s 101 are each amended to  
19 read as follows:

20 The following words and phrases as used in this chapter have the  
21 meanings set forth in this section unless the context otherwise  
22 requires.

23 (1) "Accredited school" means a school or course of instruction  
24 which is:

25 (a) Approved by the state superintendent of public instruction,  
26 the state board of education, or the state board for community and  
27 technical colleges; or

28 (b) Regulated or licensed as to course content by any agency of  
29 the state or under any occupational licensing act of the state, or  
30 recognized by the apprenticeship council under an agreement  
31 registered with the apprenticeship council pursuant to chapter 49.04  
32 RCW.

33 (2) "Average monthly wage" means the average annual wage as  
34 determined under RCW 50.04.355 as now or hereafter amended divided by  
35 twelve.

36 (3) "Beneficiary" means a husband, wife, registered domestic  
37 partner, or child of a victim in whom shall vest a right to receive  
38 payment under this chapter, except that a husband or wife of an  
39 injured victim, living separate and apart in a state of abandonment,

1 regardless of the party responsible therefor, for more than one year  
2 at the time of the injury or subsequently, shall not be a  
3 beneficiary. A spouse who has lived separate and apart from the other  
4 spouse for the period of two years and who has not, during that time,  
5 received or attempted by process of law to collect funds for  
6 maintenance, shall be deemed living in a state of abandonment.

7 (4) "Child" means every natural born child, posthumous child,  
8 stepchild, child legally adopted prior to the injury, child born  
9 after the injury where conception occurred prior to the injury, and  
10 dependent child in the legal custody and control of the victim, all  
11 while under the age of eighteen years, or under the age of twenty-  
12 three years while permanently enrolled as a full-time student in an  
13 accredited school, and over the age of eighteen years if the child is  
14 a dependent as a result of a physical, mental, or sensory handicap.

15 (5) "Criminal act" means an act committed or attempted in this  
16 state which is: (a) Punishable as a federal offense that is  
17 comparable to a felony or gross misdemeanor in this state; (b)  
18 punishable as a felony or gross misdemeanor under the laws of this  
19 state; (c) an act committed outside the state of Washington against a  
20 resident of the state of Washington which would be compensable had it  
21 occurred inside this state and the crime occurred in a state which  
22 does not have a crime victims' compensation program, for which the  
23 victim is eligible as set forth in the Washington compensation law;  
24 or (d) trafficking as defined in RCW 9A.40.100. A "criminal act" does  
25 not include the following:

26 (i) The operation of a motor vehicle, motorcycle, train, boat, or  
27 aircraft in violation of law unless:

28 (A) The injury or death was intentionally inflicted;

29 (B) The operation thereof was part of the commission of another  
30 nonvehicular criminal act as defined in this section;

31 (C) The death or injury was the result of the operation of a  
32 motor vehicle after July 24, 1983, and a preponderance of the  
33 evidence establishes that the death was the result of vehicular  
34 homicide under RCW 46.61.520, or a conviction of vehicular assault  
35 under RCW 46.61.522, has been obtained. In cases where a probable  
36 criminal defendant has died in perpetration of vehicular assault or,  
37 in cases where the perpetrator of the vehicular assault is  
38 unascertainable because he or she left the scene of the accident in  
39 violation of RCW 46.52.020 or, because of physical or mental  
40 infirmity or disability the perpetrator is incapable of standing

1 trial for vehicular assault, the department may, by a preponderance  
2 of the evidence, establish that a vehicular assault had been  
3 committed and authorize benefits;

4 (D) The injury or death was caused by a driver in violation of  
5 RCW 46.61.502; or

6 (E) The injury or death was caused by a driver in violation of  
7 RCW 46.61.655(7)(a), failure to secure or cover a load, remove  
8 objects from a highway, notify law enforcement to remove such  
9 objects, or remove deposits or debris from a vehicle in the first  
10 degree;

11 (ii) Neither an acquittal in a criminal prosecution nor the  
12 absence of any such prosecution is admissible in any claim or  
13 proceeding under this chapter as evidence of the noncriminal  
14 character of the acts giving rise to such claim or proceeding, except  
15 as provided for in (d)(i)(C) of this subsection;

16 (iii) Evidence of a criminal conviction arising from acts which  
17 are the basis for a claim or proceeding under this chapter is  
18 admissible in such claim or proceeding for the limited purpose of  
19 proving the criminal character of the acts; and

20 (iv) Acts which, but for the insanity or mental irresponsibility  
21 of the perpetrator, would constitute criminal conduct are deemed to  
22 be criminal conduct within the meaning of this chapter.

23 (6) "Department" means the department of labor and industries.

24 (7) "Financial support for lost wages" means a partial  
25 replacement of lost wages due to a temporary or permanent total  
26 disability.

27 (8) "Gainfully employed" means engaging on a regular and  
28 continuous basis in a lawful activity from which a person derives a  
29 livelihood.

30 (9) "Injury" means a sudden and tangible happening, of a  
31 traumatic nature, producing an immediate or prompt result, and  
32 occurring from without, and such physical conditions as result  
33 therefrom.

34 (10) "Invalid" means one who is physically or mentally  
35 incapacitated from earning wages.

36 (11) "Permanent total disability" means loss of both legs, or  
37 arms, or one leg and one arm, total loss of eyesight, paralysis, or  
38 other condition permanently incapacitating the victim from performing  
39 any work at any gainful occupation.

1 (12) "Private insurance" means any source of recompense provided  
2 by contract available as a result of the claimed injury or death at  
3 the time of such injury or death, or which becomes available any time  
4 thereafter.

5 (13) "Public insurance" means any source of recompense provided  
6 by statute, state or federal, available as a result of the claimed  
7 injury or death at the time of such injury or death, or which becomes  
8 available any time thereafter.

9 (14) "Temporary total disability" means any condition that  
10 temporarily incapacitates a victim from performing any type of  
11 gainful employment as certified by the victim's attending physician.

12 (15) "Victim" means a person who suffers bodily injury or death  
13 as a proximate result of a criminal act of another person, the  
14 victim's own good faith and reasonable effort to prevent a criminal  
15 act, or his or her good faith effort to apprehend a person reasonably  
16 suspected of engaging in a criminal act. For the purposes of  
17 receiving benefits pursuant to this chapter, "victim" is  
18 interchangeable with "employee" or "worker" as defined in chapter  
19 51.08 RCW as now or hereafter amended.

20 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2016.

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