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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

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

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

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

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

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

(3)(a) From July 1, 2016, through June 30, 2018: Any vehicle operating on a paved public highway with a speed limit of more than thirty-five miles per hour with a load of dirt, sand, rocks, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping ((~~therefrom shall~~)) from the vehicle must be covered so as to prevent spillage((~~.~~)); and the covering of such loads is not required if six inches of freeboard is maintained within the bed, but if a vehicle hauling such loads is equipped with a cover the cover must be used.

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

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

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

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

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

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

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

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

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

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

(g) For the purposes of this subsection (3), "susceptible to being dropped, spilled, leaked, or otherwise escaping" means that the load, or particles, portions, or pieces of the load, is of such a density that the load, or particles, portions, or pieces of the load, can be influenced by wind, other atmospheric and weather conditions, or road conditions.

(4)(a) Any person operating a vehicle from which any ((~~glass~~)) object 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~~)), must remove the object or objects from the highway if it is safe to do so or notify law enforcement of the situation and remain at the scene until the object or objects have been removed from the highway. The person must pay any costs incurred to remove the object or objects from the highway.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(19) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(20) RCW 46.20.750 relating to circumventing an ignition interlock device;

(21) RCW 46.25.170 relating to commercial driver's licenses;

(22) Chapter 46.29 RCW relating to financial responsibility;

(23) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(24) RCW 46.35.030 relating to recording device information;

(25) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(26) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(27) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(28) RCW 46.37.685 relating to switching or flipping license plates, utilizing technology to flip or change the appearance of a license plate, selling a license plate flipping device or technology used to change the appearance of a license plate, or falsifying a vehicle registration;

(29) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(30) RCW 46.48.175 relating to the transportation of dangerous articles;

(31) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(32) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(33) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;

(34) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(35) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

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

(37) RCW 46.55.300 relating to vehicle immobilization;

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

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

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

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

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

(43) RCW 46.61.500 relating to reckless driving;

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

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

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

(47) RCW 46.61.522 relating to vehicular assault;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Beneficiary" means a husband, wife, registered domestic partner, or child of a victim in whom shall vest a right to receive payment under this chapter, except that a husband or wife of an injured victim, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received or attempted by process of law to collect funds for maintenance, shall be deemed living in a state of abandonment.

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

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

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

(A) The injury or death was intentionally inflicted;

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

(C) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained. In cases where a probable criminal defendant has died in perpetration of vehicular assault or, in cases where the perpetrator of the vehicular assault is unascertainable because he or she left the scene of the accident in violation of RCW 46.52.020 or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**--- END ---**