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SENATE BILL 5846

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State of Washington                      61st Legislature                      2009 Regular Session

By Senators Tom, Kohl-Welles, and McDermott

Read first time 02/04/09. Referred to Committee on Transportation.

1            AN ACT Relating to covering vehicular loads of dirt, sand, and  
2 gravel; amending RCW 46.61.655; reenacting and amending RCW 46.63.110;  
3 creating a new section; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds and declares that it  
6 is the policy of the state of Washington to prevent property or other  
7 damage resulting from impermissible dropped or escaped vehicle loads,  
8 and to protect travelers on public highways.

9            The legislature further finds and declares that it is the policy of  
10 the state of Washington to ensure that motor vehicles operating on  
11 public highways do so in a safe and prudent manner.

12            It is the intent of the legislature to ensure against property or  
13 other damage that may result from uncovered or improperly covered loads  
14 of dirt, sand, or gravel through the imposition of significant monetary  
15 penalties for commercial vehicle operators who violate RCW 46.61.655.

16            **Sec. 2.** RCW 46.61.655 and 2005 c 431 s 1 are each amended to read  
17 as follows:

18            (1) No vehicle shall be driven or moved on any public highway

1 unless such vehicle is so constructed or loaded as to prevent any of  
2 its load from dropping, sifting, leaking, or otherwise escaping  
3 therefrom, except that sand may be dropped for the purpose of securing  
4 traction.

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

10 (3) Any vehicle operating on a paved public highway with a load of  
11 dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or  
12 otherwise escaping therefrom shall be covered so as to prevent  
13 spillage. ~~((Covering of such loads is not required if six inches of  
14 freeboard is maintained within the bed.))~~

15 (4)(a) Any person operating a vehicle from which any glass or  
16 objects have fallen or escaped, which would constitute an obstruction  
17 or injure a vehicle or otherwise endanger travel upon such public  
18 highway shall immediately cause the public highway to be cleaned of all  
19 such glass or objects and shall pay any costs therefor.

20 (b) Any vehicle with deposits of mud, rocks, or other debris on the  
21 vehicle's body, fenders, frame, undercarriage, wheels, or tires shall  
22 be cleaned of such material before the operation of the vehicle on a  
23 paved public highway.

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

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

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

37 (ii) Failure to secure a load in the first degree is a gross  
38 misdemeanor.

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

5 (ii) Failure to secure a load in the second degree is a  
6 misdemeanor.

7 (c) A person who fails to secure a load or part of a load to his or  
8 her vehicle in compliance with subsection (1), (2), or (3) of this  
9 section is guilty of an infraction if such failure does not amount to  
10 a violation of (a) or (b) of this subsection.

11 (8) In addition to other penalties prescribed in this section, a  
12 violation of this section is punishable by a monetary penalty as  
13 specified in RCW 46.63.110(11).

14 **Sec. 3.** RCW 46.63.110 and 2007 c 356 s 8 and 2007 c 199 s 28 are  
15 each reenacted and amended to read as follows:

16 (1) A person found to have committed a traffic infraction shall be  
17 assessed a monetary penalty. No penalty may exceed two hundred and  
18 fifty dollars for each offense unless authorized by this chapter or  
19 title.

20 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is  
21 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is  
22 five hundred dollars for each offense. No penalty assessed under this  
23 subsection (2) may be reduced.

24 (3) The supreme court shall prescribe by rule a schedule of  
25 monetary penalties for designated traffic infractions. This rule shall  
26 also specify the conditions under which local courts may exercise  
27 discretion in assessing fines and penalties for traffic infractions.  
28 The legislature respectfully requests the supreme court to adjust this  
29 schedule every two years for inflation.

30 (4) There shall be a penalty of twenty-five dollars for failure to  
31 respond to a notice of traffic infraction except where the infraction  
32 relates to parking as defined by local law, ordinance, regulation, or  
33 resolution or failure to pay a monetary penalty imposed pursuant to  
34 this chapter. A local legislative body may set a monetary penalty not  
35 to exceed twenty-five dollars for failure to respond to a notice of  
36 traffic infraction relating to parking as defined by local law,

1 ordinance, regulation, or resolution. The local court, whether a  
2 municipal, police, or district court, shall impose the monetary penalty  
3 set by the local legislative body.

4 (5) Monetary penalties provided for in chapter 46.70 RCW which are  
5 civil in nature and penalties which may be assessed for violations of  
6 chapter 46.44 RCW relating to size, weight, and load of motor vehicles  
7 are not subject to the limitation on the amount of monetary penalties  
8 which may be imposed pursuant to this chapter.

9 (6) Whenever a monetary penalty, fee, cost, assessment, or other  
10 monetary obligation is imposed by a court under this chapter it is  
11 immediately payable. If the court determines, in its discretion, that  
12 a person is not able to pay a monetary obligation in full, and not more  
13 than one year has passed since the later of July 1, 2005, or the date  
14 the monetary obligation initially became due and payable, the court  
15 shall enter into a payment plan with the person, unless the person has  
16 previously been granted a payment plan with respect to the same  
17 monetary obligation, or unless the person is in noncompliance of any  
18 existing or prior payment plan, in which case the court may, at its  
19 discretion, implement a payment plan. If the court has notified the  
20 department that the person has failed to pay or comply and the person  
21 has subsequently entered into a payment plan and made an initial  
22 payment, the court shall notify the department that the infraction has  
23 been adjudicated, and the department shall rescind any suspension of  
24 the person's driver's license or driver's privilege based on failure to  
25 respond to that infraction. "Payment plan," as used in this section,  
26 means a plan that requires reasonable payments based on the financial  
27 ability of the person to pay. The person may voluntarily pay an amount  
28 at any time in addition to the payments required under the payment  
29 plan.

30 (a) If a payment required to be made under the payment plan is  
31 delinquent or the person fails to complete a community restitution  
32 program on or before the time established under the payment plan,  
33 unless the court determines good cause therefor and adjusts the payment  
34 plan or the community restitution plan accordingly, the court shall  
35 notify the department of the person's failure to meet the conditions of  
36 the plan, and the department shall suspend the person's driver's  
37 license or driving privilege until all monetary obligations, including  
38 those imposed under subsections (3) and (4) of this section, have been

1 paid, and court authorized community restitution has been completed, or  
2 until the department has been notified that the court has entered into  
3 a new time payment or community restitution agreement with the person.

4 (b) If a person has not entered into a payment plan with the court  
5 and has not paid the monetary obligation in full on or before the time  
6 established for payment, the court shall notify the department of the  
7 delinquency. The department shall suspend the person's driver's  
8 license or driving privilege until all monetary obligations have been  
9 paid, including those imposed under subsections (3) and (4) of this  
10 section, or until the person has entered into a payment plan under this  
11 section.

12 (c) If the payment plan is to be administered by the court, the  
13 court may assess the person a reasonable administrative fee to be  
14 wholly retained by the city or county with jurisdiction. The  
15 administrative fee shall not exceed ten dollars per infraction or  
16 twenty-five dollars per payment plan, whichever is less.

17 (d) Nothing in this section precludes a court from contracting with  
18 outside entities to administer its payment plan system. When outside  
19 entities are used for the administration of a payment plan, the court  
20 may assess the person a reasonable fee for such administrative  
21 services, which fee may be calculated on a periodic, percentage, or  
22 other basis.

23 (e) If a court authorized community restitution program for  
24 offenders is available in the jurisdiction, the court may allow  
25 conversion of all or part of the monetary obligations due under this  
26 section to court authorized community restitution in lieu of time  
27 payments if the person is unable to make reasonable time payments.

28 (7) In addition to any other penalties imposed under this section  
29 and not subject to the limitation of subsection (1) of this section, a  
30 person found to have committed a traffic infraction shall be assessed:

31 (a) A fee of five dollars per infraction. Under no circumstances  
32 shall this fee be reduced or waived. Revenue from this fee shall be  
33 forwarded to the state treasurer for deposit in the emergency medical  
34 services and trauma care system trust account under RCW 70.168.040;

35 (b) A fee of ten dollars per infraction. Under no circumstances  
36 shall this fee be reduced or waived. Revenue from this fee shall be  
37 forwarded to the state treasurer for deposit in the Washington auto  
38 theft prevention authority account; and

1 (c) A fee of two dollars per infraction. Revenue from this fee  
2 shall be forwarded to the state treasurer for deposit in the traumatic  
3 brain injury account established in RCW 74.31.060.

4 (8)(a) In addition to any other penalties imposed under this  
5 section and not subject to the limitation of subsection (1) of this  
6 section, a person found to have committed a traffic infraction other  
7 than of RCW 46.61.527 shall be assessed an additional penalty of twenty  
8 dollars. The court may not reduce, waive, or suspend the additional  
9 penalty unless the court finds the offender to be indigent. If a court  
10 authorized community restitution program for offenders is available in  
11 the jurisdiction, the court shall allow offenders to offset all or a  
12 part of the penalty due under this subsection (8) by participation in  
13 the court authorized community restitution program.

14 (b) Eight dollars and fifty cents of the additional penalty under  
15 (a) of this subsection shall be remitted to the state treasurer. The  
16 remaining revenue from the additional penalty must be remitted under  
17 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
18 under this subsection to the state treasurer must be deposited as  
19 provided in RCW 43.08.250. The balance of the revenue received by the  
20 county or city treasurer under this subsection must be deposited into  
21 the county or city current expense fund. Moneys retained by the city  
22 or county under this subsection shall constitute reimbursement for any  
23 liabilities under RCW 43.135.060.

24 (9) If a legal proceeding, such as garnishment, has commenced to  
25 collect any delinquent amount owed by the person for any penalty  
26 imposed by the court under this section, the court may, at its  
27 discretion, enter into a payment plan.

28 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two  
29 hundred fifty dollars for the first violation; (b) five hundred dollars  
30 for the second violation; and (c) seven hundred fifty dollars for each  
31 violation thereafter.

32 (11) The monetary penalty for each violation of RCW 46.61.655 is  
33 one thousand dollars.

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