

HOUSE BILL REPORT

HB 2186

As Reported by House Committee On:
Transportation

Title: An act relating to debris escaping from vehicles on public highways.

Brief Description: Concerning debris escaping from vehicles on public highways.

Sponsors: Representatives Kilduff, Lovick, Kloba, Walen, Thai, Callan, Frame, Fitzgibbon, Ryu, Appleton, Ramos, Slatter and Gregerson.

Brief History:

Committee Activity:

Transportation: 1/20/20, 2/11/20 [DPS].

Brief Summary of Substitute Bill

- Requires any vehicle operating on a paved public highway and carrying a load of dirt, sand, pebbles, cobbles, gravel, or any aggregate material to use a cover, if the vehicle is so equipped, until January 1, 2023.
- Requires vehicles operating on a paved public highway and carrying a load of dirt, sand, pebbles, cobbles, gravel, or any aggregate material to be covered beginning January 1, 2023.
- Defines "aggregate materials" to mean fine, medium, or coarse inert particulate materials used in construction whether natural, manufactured, or recycled, but does not include logs.
- Provides exemptions for public entities and the contractors working for them when performing certain maintenance functions or performing operations in a work zone closed to the public.
- Expands the existing misdemeanors for violation of covered load requirements to include violations of the requirement to remove objects from the highway or notify law enforcement and remain at the scene until the objects are removed.

HOUSE COMMITTEE ON TRANSPORTATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Doglio, Duerr, Entenman, Gregerson, Kloba, Lovick, Mead, Ortiz-Self, Paul, Ramos, Riccelli and Shewmake.

Minority Report: Do not pass. Signed by 14 members: Representatives Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke, Chambers, Chapman, Dufault, Eslick, Goehner, Irwin, McCaslin, Orcutt, Van Werven and Volz.

Staff: Beth Redfield (786-7140).

Background:

No vehicle may be driven on a public highway unless it is constructed or loaded to prevent any of its load from escaping. No person may operate a vehicle on a public highway with any load, unless the load and the covering is securely fastened to prevent the covering or load from coming loose or detached in a manner creating a hazard to other highway users.

Any vehicle carrying dirt, sand, or gravel susceptible to being dropped or escaping, must be covered. Covering is not required if 6 inches of freeboard is maintained within the bed.

Any person operating a vehicle from which objects have fallen, which would be an obstruction or endanger travel on the highway, must immediately cause the highway to be cleaned and pay any costs. Any vehicle with mud or debris on the vehicle must be cleaned of the debris before operation.

Public maintenance vehicles are not prohibited from dropping sand for traction or sprinkling water for cleaning or maintenance purposes.

A person is guilty of Failure to Secure a Load in the first degree, if he or she, with criminal negligence, fails to secure a load and causes substantial bodily harm to another. This violation is a gross misdemeanor. A person is guilty of Failure to Secure a Load in the second degree, if he or she, with criminal negligence, fails to secure a load and causes damage to property of another. This violation is a misdemeanor.

The Litter Control Act requires local jurisdictions operating a transfer station or landfill to adopt an ordinance to reduce litter from vehicles. The ordinances may not require a vehicle transporting sand, dirt, or gravel in compliance with state laws governing covered loads to cover a load.

Summary of Substitute Bill:

Until January 1, 2023, any vehicle operating on a paved public highway and carrying a load of dirt, sand, pebbles, cobbles, gravel, or any aggregate materials susceptible to escaping from the vehicle, must use a cover if the vehicle is so equipped. Beginning January 1, 2023,

vehicles operating on a paved public highway and carrying a load of dirt, sand, pebbles, cobbles, gravel, or any aggregate materials susceptible to escaping from the vehicle, must be covered to prevent spillage and hazards to other users of the highway. Current requirements that both the load and the covering must be secured to prevent either from becoming loose or detached are clarified.

The Washington State Department of Transportation, cities, counties, public utility districts, and the contractors working for such public entities are exempt from these requirements if the vehicle is:

- applying sand or deicers for snow and ice control;
- sprinkling water to clean the roadway;
- performing maintenance in response to emergency events; or
- performing operations in work zones closed to the public.

Three new definitions are provided:

- "aggregate materials" means fine, medium, or coarse inert particulate materials used in construction whether natural, manufactured, or recycled; and aggregate materials do not include logs;
- "covering" means a tarp, other protective layer or device, or a manufactured cap to fit a vehicle, which is securely fastened to the vehicle to cover the load that the vehicle is hauling; and
- "susceptible to being dropped, spilled, leaked, sifted, blown, 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, vehicle speed, or road conditions.

In addition to ensuring the removal of any fallen or escaped load from the highway, a vehicle operator must also remain at the scene until the load is cleared.

The existing misdemeanors for violation of covered load requirements are expanded to include violations of the requirement to ensure the removal of objects from the highway or notify law enforcement and remain at the scene until the objects are removed:

- A person is guilty of a gross misdemeanor if he or she, with criminal negligence, fails to comply with the debris removal requirements and the violation causes substantial bodily harm to another.
- A person is guilty of a misdemeanor if he or she, with criminal negligence, fails to comply with the debris removal requirements and the violation causes damage to property of another.

The limitation on local ordinances adopted to reduce litter that prohibits requiring vehicles transporting sand, dirt, or gravel to transfer stations or landfills to cover loads is removed.

Substitute Bill Compared to Original Bill:

The substitute bill:

- requires loads and any covering of that load transported on public highways to be secured, rather than securely fastened to the vehicle;

- changes the covering requirements to apply to loads of dirt, sand, pebbles, cobbles, gravel, or any aggregate materials susceptible to escaping from the vehicle;
- defines aggregate materials; and
- extends to January 1, 2023, the deadline for compliance with the requirement to cover loads.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on October 1, 2020.

Staff Summary of Public Testimony:

(In support) Cover Every Load addresses an all too familiar and common problem on the highways of our state. It is safe to say that every day rocks, sand, and gravel fall off the back of trucks because the load is uncovered and it is completely legal. If the 6 inches of freeboard is complied with, you do not need to cover; it is past time to close that loophole. The debris that flies off these trucks threatens the safety of drivers, passengers, and motorcyclists. It also causes dings, scratches, and breakage to vehicles, a cost to vehicle owners and insurance companies that have to pay claims. Some companies are already covering their loads, it is a risk-management-reduction strategy. The state should set an example for covering loads. Motorcyclists support this bill, mainly because motorcycles have very strict traction requirements of what is safe to ride across; even blades of grass can cause a motorcycle to lose traction and lead to a crash. Some of us know what it is to be impacted by an unsecured load. We cannot turn back the clock, but we can try to save other families from knowing this loss. Companies all say that safety is number one, but continue to fight over the cost of covering the loads. These costs can be capitalized and expensed, but there are no do-overs in the world of safety. We need to teach people how to securely fasten their loads to their vehicles. National research on crashes involving road debris shows that over a four-year period, road debris was involved in 200,000 crashes, resulting in 39,000 injuries and 500 deaths. Nearly 37 percent of the deaths are due to a driver swerving to avoid debris. Compared to non-debris crashes, debris-related crashes are four times more likely to occur on interstate highways. This bill will help save lives and prevent injuries.

(Opposed) Scrap recyclers are opposed to the underlying bill. For hulk haulers carrying cars to be recycled, those cars are strapped onto a trailer, then wrapped in a very hard mesh because tarps will tear. Hulk haulers also haul containers of loose material, with bails of material as a cover. It is not clear whether either of these would be allowed as a cover under the bill. Dairy farmers are concerned about the "other loose material" language. Trying to strap down a load of hay or silage is difficult. Silage, grass, and hay on the road is not a safety hazard. The aggregate supplier industry gets painted as dumping stuff all over the roads. There are many other sources of gravel and dirt on the roadway. A covered load and a secured load are two separate laws. The 6-inch freeboard is not a loophole, it has been a part of the law for over 25 years.

(Other) Maria's Law has been in place since 2005 to address securement of loads for the general public, but we are concerned about implications of this bill for commercial motor vehicles. Vague language needs to be clarified about whether other materials could include commercial motor vehicles that haul logs, wood chips, apples, livestock and related debris, and hay and silage as well. The freeboard exemption needs to be kept for trucks hauling large two-man rocks which would damage a covering. If the reference to loose matter includes bark falling off a log truck that is a concern as there is no way to prevent this. Tarping a load of logs is not a feasible option.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; Brian Lange and Louise Bentley, ABATE of Washington; Robin Abel, Secure Your Load; and Jennifer Cook, Automobile Association of America–Washington.

(Opposed) Holly Chisa, Institute of Scrap Recycling Industries, Pacific Northwest Chapter; Jay Gordon, Washington State Dairy Federation; and Bruce Chattin, Washington Aggregate and Concrete Association.

(Other) Sheri Call, Washington Trucking Associations; and Jerrold Bonagofsky, Washington Contract Loggers Association, Inc.

Persons Signed In To Testify But Not Testifying: None.