

STORAGE NAME: h0043.tr

DATE: October 28, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 43

RELATING TO: Vehicles/Driving With Unsecured Load

SPONSOR(S): Rep. Villalobos

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION
 - (2) JUDICIARY
 - (3) CRIME & PUNISHMENT
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill increases the penalties for driving a vehicle with an unsecured load:

▶ The noncriminal traffic penalty is increased from \$60 to \$100, with a mandatory drivers license suspension of 6 months to 1 year for a second offense within 5 years of a first offense. From the increased penalty, \$25 is to be spent by the Department of Highway Safety & Motor Vehicles (DHS&MV) for public education about the hazards of unsecured loads.

▶ The bill also provides a criminal penalty when the violation causes personal injury or property damage greater than \$500. Punishment for the criminal offense is up to 1 year in jail and up to a \$1,000 fine.

In addition, the bill expands the types of loads that have to be appropriately covered when being hauled on a public road.

The bill has an estimated positive fiscal impact of \$128,000. The Highway Safety Operating Trust Fund will receive \$25 from each fine collected and this money (approximately \$75,000) is to be used by DHS&MV for public education regarding the hazards of driving with unsecured loads. The state and local fiscal impact of criminalization of unsecured load violations causing bodily injury or property damage is unknown. See Fiscal Comments, under part III. D., for details.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Currently, s. 316.520, F.S., provides that no vehicle shall be driven or moved on the highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing or otherwise escaping. It is the responsibility of every owner and driver severally to prevent the loss of dirt, sand, limerock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material on a vehicle by covering or securing the load with a close-fitting tarpaulin or other appropriate cover.

Penalties for a violation of this section are punishable as a noncriminal, moving traffic infraction which is punishable by a \$60 fine. According to the 1998 Florida Uniform Traffic Citation statistics, there were 3,988 citations issued for load violations of which 3,196 resulted in payment of a civil penalty.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 316.520(2), F.S., to emphasize that owners and drivers are individually responsible for appropriately covering loads consisting of dirt, sand, limerock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material. In addition, this provision requiring that certain loads have a close-fitting tarpaulin or appropriate cover is expanded to include loads consisting of any inanimate objects.

The bill amends s. 316.520(3), F.S., to provide that any person who commits a violation of this section by not securing the load on a vehicle, which results in the personal injury to an individual or damage that exceeds \$500 will be punishable as a criminal traffic offense. Punishment may include imprisonment up to one year and a fine not to exceed \$1,000.

This bill also amends ss. 318.18 and 318.19, F.S., to increase the minimum civil penalty to \$100 for unsecured load violations and to require a mandatory hearing for violations not resulting in personal injury or property damage in excess of \$500. This bill also requires suspension of the person's driver license for no less than 180 days and not to exceed one year for a second or subsequent offense within five years.

This bill also amends s. 318.21, F.S., which relates to disposition of civil penalties, to provide that twenty-five dollars of each fine collected for an unsecured load violation be

paid to the Highway Safety Operating Trust Fund and be used to educate the public regarding the hazards of driving with unsecured loads.

According to DHS&MV, there has been an increasing number of serious injuries and deaths attributed to loads falling from vehicles in areas of Florida. This bill provides criminal penalties for violations of this section if serious injuries or property damage result from falling loads; and increases the non-criminal penalty for violations not resulting in personal injury or property damage. Increasing penalties can have a deterrent effect on these violations which may promote a safer driving environment for Florida motorists.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

See Fiscal Comments below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A driver or vehicle owner violating traffic laws related to unsecured loads would be subject to increased civil penalties, and under certain circumstances, to criminal penalties. In addition, expanding the types of loads that have to be covered could result in increased compliance costs for the private sector.

D. FISCAL COMMENTS:

1. This bill has not been reviewed by the Revenue Estimating Conference. According to DHS&MV 1998 Florida Uniform Traffic Citation statistics, there were 3,988 citations issued for load violations of which 3,196 resulted in payment of a civil penalty. Assuming the same annual number of citations resulting in payment of the increased penalty, the bill has an estimated positive fiscal impact of \$128,000. The Highway Safety Operating Trust Fund will receive \$25 from each fine collected and this money (approximately \$75,000) is to be used by DHS&MV for public education regarding the hazards of driving with

unsecured loads. All costs for modifications to the driver license software system related to the mandatory license suspension will be absorbed by DHS&MV.

2. Due to a lack of information regarding the number of unsecured load violations causing bodily injury or property damage which could be charged as a criminal violation, the fiscal impacts resulting from criminalization of these offenses are unknown.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

1. Bringing criminal charges under this bill's provisions may be difficult unless the object causing the bodily injury or property damage can be connected with a specific violator. This would appear to require either an eyewitness to the object falling off of a vehicle or some other method of specifically identifying the object so as to connect it with a particular vehicle.
2. Classification of traffic violations related to unsecured loads as either "moving" or "nonmoving" should be clarified. Chapter 99-248, Laws of Florida, had two sections which amended s.316.520, F.S.:

►Section 5 of Chapter 99-248, Laws of Florida, amended subsection (3) to read: "A violation of this section is a noncriminal traffic infraction, punishable as a *moving* violation as provided in chapter 318." (emphasis added)

►Section 235 of Chapter 99-248, Laws of Florida, amended subsection (3) to read: "A violation of this section is a noncriminal traffic infraction, punishable as a *nonmoving* violation as provided in chapter 318." (emphasis added)

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3. A reference to "s. 315.520" on page 4, line 4, of the bill should be changed to "s. 316.520" to correct a scrivener's error.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Phillip B. Miller

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