

By the Committee on Transportation and Senator Diaz-Balart

306-2212-00

1 A bill to be entitled

2 An act relating to highway safety; amending s.

3 316.520, F.S.; providing for criminal penalties

4 for failure to secure loads on vehicles under

5 certain circumstances; providing for

6 exceptions; amending s. 318.18, F.S.; providing

7 a minimum penalty for violations of s. 316.520,

8 F.S.; amending s. 318.19, F.S.; providing a

9 mandatory hearing for violations of s. 316.520,

10 F.S.; amending s. 318.21, F.S.; providing that

11 the fines collected for a violation of s.

12 316.520, F.S., shall be used to educate the

13 public about the hazards of driving with

14 unsecured loads; providing an effective date.

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16 WHEREAS, because of the many incidents of debris found

17 on our roadways, and the possibility and likelihood of more

18 crashes and injuries caused by such debris, and

19 WHEREAS, many construction vehicles, landscape

20 vehicles, and vehicles used by the general public are driven

21 or moved with unsecured loads, and

22 WHEREAS, the safety of the motoring public depends upon

23 load securement in order to provide a safe driving environment

24 by removing the risks inherent in transporting unsecured loads

25 upon the public roads, streets, and highways of Florida, NOW,

26 THEREFORE,

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Section 316.520, Florida Statutes, is

31 amended to read:

1 316.520 Loads on vehicles.--

2 (1) A vehicle may not be driven or moved on any
3 highway unless the vehicle is so constructed or loaded as to
4 prevent any of its load from dropping, shifting, leaking
5 hazardous material, blowing, or otherwise escaping therefrom,
6 except that sand may be dropped only for the purpose of
7 securing traction or water or other substance may be sprinkled
8 on a roadway in cleaning or maintaining the roadway.

9 (2) It is the duty of every owner and driver,
10 severally, of any vehicle hauling, upon any public road or
11 highway open to the public, dirt, sand, lime rock, gravel,
12 silica, or other similar aggregate or trash, garbage, any
13 inanimate object or objects, or any similar material that
14 could fall or blow from such vehicle, to prevent such
15 materials from falling, blowing, or in any way escaping from
16 such vehicle. Covering and securing the load with a
17 close-fitting tarpaulin or other appropriate cover or a
18 load-securing device meeting the requirements of 49 C.F.R.
19 393.100 or a device designed to reasonably assure that cargo
20 will not shift upon or fall from the vehicle is required and
21 shall constitute compliance with this section.

22 (3)(a) A violation of subsections (1) and (2)~~this~~
23 ~~section~~ is a noncriminal traffic infraction, punishable as a
24 nonmoving violation as provided in chapter 318. A violation of
25 paragraph (b) is a moving violation as provided in chapter
26 318.

27 (b) Any person who violates the provisions of this
28 section which offense results in bodily injury or death to an
29 individual or damage to another motor vehicle or other damage
30 in excess of \$1,000 and which offense occurs as a result of
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1 failing to comply with subsections (1) and (2) of this section
2 is guilty of a moving violation as provided in chapter 318.

3 (c) Any person who willfully violates the provisions
4 of this section which offense results in serious bodily
5 injury or death to an individual which offense occurs as a
6 result of failing to comply with subsections (1) and (2) of
7 this section commits a criminal traffic offense and, upon
8 conviction, is guilty of a misdemeanor of the first degree
9 punishable as provided in s. 775.082 and s. 775.083.

10 (4) This section does not apply to the driver of a
11 commercial motor vehicle, as defined in s. 316.003(66), under
12 the following circumstances:

13 (a) The owner of the vehicle fails to provide the
14 required tarpaulin or other appropriate load-securement
15 device;

16 (b) The vehicle is improperly loaded through no fault
17 of the driver; or

18 (c) The driver is prevented by the owner from properly
19 securing the load on the vehicle.

20 (5) This section is not intended to create a private
21 cause of action.

22 (6) For the purposes of this section, the leasee shall
23 be considered the owner of a leased vehicle, and this section
24 shall not apply to a lessor.

25 Section 2. Subsection (12) is added to section 318.18,
26 Florida Statutes, to read:

27 318.18 Amount of civil penalties.--The penalties
28 required for a noncriminal disposition pursuant to s. 318.14
29 are as follows:

30 (12) One hundred dollars for a violation of s.
31 316.520(1) or (2). If, at a hearing, the alleged offender is

1 found to have committed this offense, the court shall impose a
2 minimum civil penalty of \$100; for each subsequent offense
3 within a period of 5 years, the department may suspend the
4 driver's license of the person for not more than 1 year.

5 Section 3. Section 318.19, Florida Statutes, is
6 amended to read:

7 318.19 Infractions requiring a mandatory hearing.--Any
8 person cited for the infractions listed in this section shall
9 not have the provisions of s. 318.14(2), (4), and (9)
10 available to him or her but must appear before the designated
11 official at the time and location of the scheduled hearing:

12 (1) Any infraction which results in a crash that
13 causes the death of another; or

14 (2) Any infraction which results in a crash that
15 causes "serious bodily injury" of another as defined in s.
16 316.1933(1); or

17 (3) Any infraction of s. 316.172(1)(b); ~~or-~~

18 (4) Any infraction of s. 316.520(3)(b).

19 Section 4. Subsection (13) is added to section 318.21,
20 Florida Statutes, to read:

21 318.21 Disposition of civil penalties by county
22 courts.--All civil penalties received by a county court
23 pursuant to the provisions of this chapter shall be
24 distributed and paid monthly as follows:

25 (13) The proceeds of each fine collected for a
26 violation of s. 316.520 shall be paid to the Highway Safety
27 Operating Trust Fund and must be used to educate the public
28 about the hazards of driving with unsecured loads.

29 Section 5. This act shall take effect upon becoming a
30 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 56

The CS provides a person who does not properly cover the load of their truck to prevent debris from falling commits a moving violation. Any person who willfully allows debris to fall from their truck which results in serious bodily injury or death, upon conviction, is guilty of a first degree misdemeanor. The CS further provides this section does not apply to a lessor.