

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 56

SPONSOR: Transportation Committee and Senator Diaz-Balart

SUBJECT: Vehicles/Unsecured Loads

DATE: April 26, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This CS provides any person who drives a vehicle with an unsecured load which results in bodily injury or death, or damage in excess of \$1,000 is guilty of a moving violation. The CS further provides any person who willfully drives a vehicle with an unsecured load which results in bodily injury or death, or damage in excess of \$1,000 is guilty of a first degree misdemeanor. The CS provides the proceeds collected for violation of this CS is to be spent by the Department of Highway Safety and Motor Vehicles (DHSMV) for public education about the hazards of unsecured loads.

The driver of a commercial motor vehicle is exempted by the CS from being cited for an unsecured load violation if: 1) the vehicle owner fails to provide appropriate covers or devices to secure loads; 2) the vehicle is improperly loaded through no fault of the driver; or 3) the driver is prevented by the owner from properly securing the load. Under these three conditions as determined by the court, the owner is deemed responsible for the violation.

The CS further provides the statutory provision is not intended to create a private cause of action, and a leasee shall be considered the owner of a leased vehicle for the purposes of this act.

This CS substantially amends sections 316.520, 318.18, 318.19, and 318.21 of the Florida Statutes.

## II. Present Situation:

Currently, s. 316.520, F.S., provides 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. Every owner and driver are responsible, 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.

### **III. Effect of Proposed Changes:**

Section 316.520, F.S., is amended to provide any person who drives a vehicle with an unsecured load which results in bodily injury or death, or damage in excess of \$1,000 is guilty of a moving violation. The CS further provides any person who willfully drives a vehicle with an unsecured load which results in bodily injury or death, or damage in excess of \$1,000 is guilty of a first degree misdemeanor.

The section is further amended to provide a vehicle may not be driven when leaking hazardous material. Current law does not allow any material to leak from a truck. The section is amended to clarify an appropriate cover includes a load securing device which meets federal requirements or which will reasonably secure the load and that use of such securing devices constitutes compliance with this section.

The driver of a commercial motor vehicle is exempted by the CS from being cited for an unsecured load violation if: 1) the vehicle owner fails to provide appropriate covers or devices to secure loads; 2) the vehicle is improperly loaded through no fault of the driver; or 3) the driver is prevented by the owner from properly securing the load. Under these three conditions as determined by the court, the owner is deemed responsible for the violation.

The CS further provides the statutory provision is not intended to create a private cause of action, and a lessee shall be considered the owner of a leased vehicle for the purposes of this act.

This CS also amends ss. 318.18 and 318.19, F.S., to increase the minimum civil penalty to \$100 for unsecured load violations. This CS also requires suspension of the person's driver license for a period not to exceed one year for a second or subsequent offense within five years.

In addition, the CS amends s. 318.21, F.S., which relates to disposition of civil penalties, to provide each fine collected for an unsecured load violation be paid to the Highway Safety Operating Trust Fund and used to educate the public regarding the hazards of driving with unsecured loads.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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.

C. Government Sector Impact:

This CS has not been reviewed by the Revenue Estimating Conference. According to DHSMV 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 CS has an estimated positive fiscal impact of \$128,000. The Highway Safety Operating Trust Fund will receive the funds from each fine collected and this money to be used by DHSMV 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 DHSMV.

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.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.