



2005 ASSEMBLY BILL 716

October 3, 2005 - Introduced by Representatives KRUSICK, BERCEAU, BLACK, CULLEN, FIELDS and KERKMAN, cosponsored by Senators COGGS and CARPENTER. Referred to Committee on Highway Safety.

1 **AN ACT to renumber** 346.94 (7); **to renumber and amend** 348.10 (2); **to amend**
2 346.95 (2) and 347.46 (2) (intro.); and **to create** 346.94 (7) (b), 347.46 (2) (d) and
3 348.10 (2) (b) and (c) of the statutes; **relating to:** transporting bulk materials
4 on a highway, liability for spilling waste or foreign matter upon or along a
5 highway, and mudguards on motor trucks and semitrailers transporting bulk
6 materials.

Analysis by the Legislative Reference Bureau

Current law requires the driver of every vehicle transporting waste or foreign matter on the highways of this state to equip his or her vehicle to prevent such waste or foreign matter from spilling on or along the highways. The Wisconsin Supreme Court has held that this law was not intended to establish a standard of due care to be applied in negligence actions, so a violation of this law is not a sufficient basis for imposing liability for damages caused by the spilled waste or foreign matter. *Kalkopf v. Donald Sales & Mfg. Co.*, 33 Wis. 2d 247, 256 (1967).

This bill makes a person who spills waste or foreign matter from his or her vehicle on or along the highway liable for any harm to another user of the highway or another vehicle caused by the spilled waste or foreign matter.

This bill requires that a load of bulk material, such as sand, gravel, or dirt, that is not in containers be covered to prevent the load from dropping or sifting from the vehicle when transported on a highway. This provision does not apply to certain

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plants, plant parts, animals, or animal products. Failure to comply with this provision also may result in a forfeiture of not less than \$10 nor more than \$200.

This requirement does not apply to bulk material being applied to a highway for highway construction or maintenance or for winter snow or ice treatment.

Under current law, privately owned motor trucks and semitrailers that are equipped with dump bodies and operated on a highway between cities are not required to be equipped with rear fenders or mudguards. This bill requires such vehicles to be equipped with mudguards. The bill establishes minimum specifications for mudguards on vehicles transporting sand, gravel, dirt, rock, refuse, or similar bulk material. Failure to comply with the requirement of mudguards on these vehicles may result in a forfeiture of not less than \$100 nor more than \$200.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.94 (7) of the statutes is renumbered 346.94 (7) (a).

2 **SECTION 2.** 346.94 (7) (b) of the statutes is created to read:

3 346.94 (7) (b) Any person who violates par. (a) is liable for any harm to another
4 person using the highway or to another vehicle resulting from the violation.

5 **SECTION 3.** 346.95 (2) of the statutes is amended to read:

6 346.95 (2) Any person violating s. 346.89 (1) or 346.94 (2), (4), or (7) (a) may be
7 required to forfeit not less than \$20 nor more than \$400.

8 **SECTION 4.** 347.46 (2) (intro.) of the statutes is amended to read:

9 347.46 (2) (intro.) No person ~~shall~~ may operate on a highway in intercity
10 movement any privately owned motor truck or privately owned semitrailer drawn
11 by a truck tractor, except those motor trucks and semitrailers equipped with dump
12 bodies, unless such motor truck or semitrailer is equipped with ~~rear fenders or~~
13 mudguards or, except for those motor trucks and semitrailers transporting sand,
14 gravel, dirt, rock, refuse, or similar bulk material, rear fenders of such material and
15 so constructed and placed as to restrict to a minimum the splashing of water, mud,

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1 or other material which may be thrown by the rear wheels. Such rear fenders or
2 mudguards shall meet the following minimum specifications:

3 **SECTION 5.** 347.46 (2) (d) of the statutes is created to read:

4 347.46 (2) (d) Notwithstanding pars. (a) to (c), the mudguards on a motor truck
5 or semitrailer transporting sand, gravel, dirt, rock, refuse, or similar bulk material
6 shall be mounted to the rear of the axles, cover the entire width of the vehicle, and
7 have a ground clearance of not more than 6 inches when the vehicle is loaded.

8 **SECTION 6.** 348.10 (2) of the statutes is renumbered 348.10 (2) (a) and amended
9 to read:

10 348.10 (2) (a) No person shall may operate a vehicle on a highway unless such
11 vehicle is so constructed and loaded as to prevent its contents from dropping, sifting,
12 leaking, or otherwise escaping therefrom.

13 **SECTION 7.** 348.10 (2) (b) and (c) of the statutes are created to read:

14 348.10 (2) (b) Notwithstanding par. (a), no person may operate on a highway
15 a vehicle loaded with sand, gravel, dirt, rock, refuse, or similar bulk material that
16 is not in containers, unless the vehicle is so loaded and covered as to prevent the load
17 from dropping or sifting from the vehicle. For purposes of this paragraph, "bulk
18 material" does not include plants, plant parts, animals, or animal products produced
19 by a person primarily for sale, consumption, propagation, or other use by humans or
20 animals.

21 (c) This subsection does not apply to the application of a bulk material to a
22 highway for the purposes of maintenance or construction of the highway or of
23 highway winter maintenance snow and ice removal.

24 **SECTION 8. Initial applicability.**

