



1999 SENATE BILL 265

October 26, 1999 – Introduced by Senators BURKE, DARLING, FARROW, GROBSCHMIDT and RISSER, cosponsored by Representatives KELSO, BLACK, BOCK, COGGS, KRUSICK, MILLER, SCHNEIDER, WASSERMAN and ZIEGELBAUER, by request of the American Automobile Association of Wisconsin. Referred to Committee on Insurance, Tourism, Transportation and Corrections.

1 **AN ACT to renumber** 346.94 (7); **to renumber and amend** 348.10 (2); **to amend**
2 347.46 (2) (intro.); and **to create** 346.94 (7) (b), 347.46 (2) (d) and 348.10 (2) (b)
3 and (c) of the statutes; **relating to:** transporting bulk materials on a highway,
4 liability for spilling waste or foreign matter upon or along a highway and
5 mudguards on motor trucks and semitrailers transporting bulk 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 provide adequate facilities to prevent such waste or foreign matter from spilling on or along the highways. This state's 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. 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.

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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.

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

6 347.46 (2) (intro.) No person shall may operate on a highway in intercity
7 movement any privately owned motor truck or privately owned semitrailer drawn
8 by a truck tractor, except those motor trucks and semitrailers equipped with dump
9 bodies, unless such motor truck or semitrailer is equipped with rear fenders or
10 mudguards or, except for those motor trucks and semitrailers transporting sand,
11 gravel, dirt, rock, refuse or similar bulk material, rear fenders of such material and
12 so constructed and placed as to restrict to a minimum the splashing of water, mud
13 or other material which may be thrown by the rear wheels. Such rear fenders or
14 mudguards shall meet the following minimum specifications:

15 **SECTION 4.** 347.46 (2) (d) of the statutes is created to read:

16 347.46 (2) (d) Notwithstanding pars. (a) to (c), the mudguards on a motor truck
17 or semitrailer transporting sand, gravel, dirt, rock, refuse or similar bulk material

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1 shall be mounted to the rear of the axles, cover the entire width of the vehicle and
2 have a ground clearance of not more than 6 inches when the vehicle is loaded.

3 **SECTION 5.** 348.10 (2) of the statutes is renumbered 348.10 (2) (a) and amended
4 to read:

5 348.10 (2) (a) No person shall may operate a vehicle on a highway unless such
6 vehicle is so constructed and loaded as to prevent its contents from dropping, sifting,
7 leaking or otherwise escaping therefrom.

8 **SECTION 6.** 348.10 (2) (b) and (c) of the statutes are created to read:

9 348.10 (2) (b) Notwithstanding par. (a), no person may operate on a highway
10 a vehicle loaded with sand, gravel, dirt, rock, refuse or similar bulk material that is
11 not in containers, unless the vehicle is so loaded and covered as to prevent the load
12 from dropping or sifting from the vehicle.

13 (c) This subsection does not apply to the application of a bulk material to a
14 highway for the purposes of maintenance or construction of the highway or of
15 highway winter maintenance snow and iced removal.

16 **SECTION 7. Initial applicability.**

17 (1) The renumbering of section 346.94 (7) of the statutes and the creation of
18 section 346.94 (7) (b) of the statutes first apply to material spilled on or along a
19 highway on the effective date of this subsection.

20 (2) The treatment of section 347.46 (2) (intro.) and (d) of the statutes, the
21 renumbering and amendment of section 348.10 (2) of the statutes and the creation
22 of section 348.10 (2) (b) and (c) of the statutes first apply to motor trucks operated
23 on the effective date of this subsection.

24 **SECTION 8. Effective date.**

