

1999 DRAFTING REQUEST

Bill

Received: **12/28/1998**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Barry**

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **TNF, ISR**

Pre Topic:

No specific pre topic given

Topic:

Civil liability for spilling waste on highway

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 12/28/1998	jgeller 12/28/1998		_____			
/1	nilsepe 02/19/1999	jgeller 02/24/1999	martykr 12/29/1998	_____	lrb_docadmin 12/29/1998	lrb_docadmin 01/06/1999	
				_____	lrb_docadmin 01/06/1999		
/2	nilsepe 10/05/1999	jgeller 10/05/1999	martykr 02/24/1999	_____	lrb_docadmin 02/24/1999	lrb_docadmin 02/24/1999	
				_____		lrb_docadmin 02/24/1999	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3			martykr 10/05/1999	_____	lrb_docadmin 10/05/1999	lrb_docadmin 10/05/1999	

FE Sent For:

Not Needed
↙

<END>

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95-0737

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Instructions:

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13 10/5 jlg

Km 10/5
Jm 10/5

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			ds km 2/24	_____			

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<END>

Jacket per
~~correct~~
~~DETS~~
~~per DEN~~

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/1			martykr 12/29/98	_____	lrb_docadmin 12/29/98		

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1?	nilsepe	1 12/29 JLG	12/28 Jm	cmh 12/29			

FE Sent For:

<END>

LEGISLATIVE REFERENCE BUREAU

BILL REQUEST FORM

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

PEN

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: <i>12-28-98</i>	Legislator or agency requesting this draft: <i>SENATOR BURKE</i>
Name/phone number of person submitting request: <i>BARRY, 6-8535</i>	
Persons to contact for questions about this draft (names and phone numbers please): <i>BARRY ASHONFELDT, 6-8535</i>	
Describe the problem, including any helpful examples. How do you want to solve the problem? <i>Please re-draft 1997 SB 506, LRB 4481/1 which is attached.</i>	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO
If yes, anyone who asks? YES NO
Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?
 YES NO If yes, please sign your name here:



State of Wisconsin
1997 - 1998 LEGISLATURE

LRB-4481/1

PEN:jlg:lp

1997 SENATE BILL 506

March 17, 1998 - Introduced by Senator BURKE, cosponsored by Representative BOCK. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT** *to renumber* 346.94 (7); and *to create* 346.94 (7) (b) of the statutes;
2 **relating to:** liability for spilling waste or foreign matter upon or along a
3 highway.

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 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 (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.

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

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

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

Stays
-1458/1

1997 SENATE BILL 506

1999 Bill

March 17, 1998 - Introduced by Senator BURKE, cosponsored by Representative BOCK. Referred to Committee on Labor, Transportation and Financial Institutions.

Reger

1 AN ACT to renumber 346.94 (7); and to create 346.94 (7) (b) of the statutes;
2 relating to: liability for spilling waste or foreign matter upon or along a
3 highway.

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 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 (1967), 256

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 law was not intended to establish a standard of due care to be applied in negligence actions, so

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

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

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



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1458/1
PEN:jlg:km

1999 BILL

1 **AN ACT to renumber** 346.94 (7); and **to create** 346.94 (7) (b) of the statutes;
2 **relating to:** liability for spilling waste or foreign matter upon or along a
3 highway.

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.

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

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

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

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/29/98

To: Senator Burke

Relating to LRB drafting number: LRB-1458

Topic

civil liability for spilling waste on highway

Subject(s)

Transportation - traffic laws

1. **JACKET** the draft for introduction Blank

in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

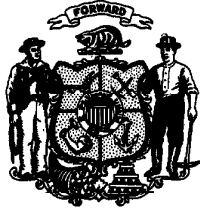
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney
Telephone: (608) 261-6926



BRIAN BURKE
WISCONSIN STATE SENATOR

Senate Chair, Joint Committee on Finance

To: Paul Nilsen, Legislative Reference Bureau
From: Julie Swiderski, Senator Brian Burke's office
Date: January 27, 1999
Re: LRB 1460/1 and LRB 1458/1

Attached please find two bill drafts which you recently prepared for Senator Burke. The Senator would like you to make some additional changes which would apply to LRB 1460/1.

I have included a separate memo from Ernie Stetenfeld of AAA Wisconsin which outlines some of those changes. His changes make an exception to allow for salt and sand trucks in inclement weather and add further categories to the types of bulk materials to which the bill would apply. In addition, Senator Burke would like the bill to include a provision requiring that vehicles transporting bulk materials on a highway also be equipped with (mud flaps). Finally, Senator Burke would like the two bill drafts (LRB 1458/1 and LRB 1460/1, with the changes outlined above) combined into one draft. Since the topics are related, it may be easier to include all provisions in one piece of legislation.

I will give you a call to discuss this with you directly. In the meantime, please feel free to call me if you have any questions. Thanks for your help.

Notes on Sen. Burke's 1999 bill draft for a covered-trucks law (1/18/99)

by Ernie Stetenfeld, AAA Wisconsin, 608/828-2487

(Please note: The italicized *additions* and *deletions* represent my suggestions.)

An Act to renumber and amend 348.10 (2); and to create 348.10 (2)(b) and (c) of the statutes;
relating to: transporting bulk materials on a highway.

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

Section 1. 348.10 (2) of the statutes is renumbered 348.10 (2)(a) and amended to read:

348.10 (2) (a) No person shall ~~may~~ operate a vehicle on a highway unless such vehicle is so constructed and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom; except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on the roadway in cleaning or maintaining such roadway.

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

348.10 (2) (b) Notwithstanding par. (a), no person may operate upon a highway a vehicle loaded with ~~bulk~~ material, such as sand, gravel, ~~or stone.~~ dirt, refuse or other particulate substance, that is not in containers unless the vehicle is so loaded and covered as to prevent the load from dropping or sifting from the vehicle.

(c) This subsection does not apply to the application of a bulk material to a highway for the purpose of maintenance or construction of a highway.

(END)

12

1999 BILL

Regen

+ transporting ~~new~~ bulk materials on a highway,

1 AN ACT to renumber 346.94 (7); and to create 346.94 (7) (b) of the statutes;

2 relating to: liability for spilling waste or foreign matter upon or along a

3 highway and 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.

INSERTS
✓ 1460-A
✓ 0616-A

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

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

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

BILL

1 346.94 (7) (b) Any person who violates par. (a) is liable for any harm to another

2 person using the highway or to another vehicle resulting from the violation.

✓
insert
2-2

3 **SECTION 3. Initial applicability.**

4 (1) This act first applies to material spilled on or along a highway on the

5 effective date of this subsection.

✓
insert
2-4

6

(END)

✓
insert
2-6

1997 ASSEMBLY BILL 162

March 6, 1997 - Introduced by Representatives URBAN, KAUFERT, NOTESTEIN, SCHAFER and BOCK, cosponsored by Senators RISSER and GROBSCHMIDT. Referred to Committee on Highways and Transportation.

1 **AN ACT to amend** 347.46 (2) (intro.); and **to create** 347.46 (2) (d) of the statutes;
2 **relating to:** requiring mudguards on motor trucks and semitrailers equipped
3 with dump bodies.

The bill establishes

Analysis by the Legislative Reference Bureau

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. Minimum specifications ~~are established~~ for mudguards on vehicles equipped with dump bodies that dump through the floor of the cargo body and which are transporting sand, gravel, dirt, rock or similar 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.

insert
0616-A

bulk
refuse

insert
2-2

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

4 SECTION 1. 347.46 (2) (intro.) of the statutes is amended to read:
5 347.46 (2) (intro.) No person shall ^{not} operate on a highway in intercity movement
6 any privately owned motor truck or privately owned semitrailer drawn by a truck



ASSEMBLY BILL 162

SECTION 1

+ transporting sand, gravel,
dirt, rock, refuse or similar bulk material

1 tractor, except those motor trucks and semitrailers equipped with dump bodies,
2 unless such motor truck or semitrailer is equipped with rear fenders or mudguards
3 or, ~~except for those motor trucks and semitrailers equipped with dump bodies,~~ rear
4 fenders of such material and so constructed and placed as to restrict to a minimum
5 the splashing of water, mud or other material which may be thrown by the rear
6 wheels. Such rear fenders or mudguards shall meet the following minimum
7 specifications:

inset
2-2
(cont.)

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

9 347.46 (2) (d) Notwithstanding pars. (a) to (c),^v the mudguards on a motor truck
10 or semitrailer ~~equipped with a dump body that dumps through the floor of the cargo~~
11 ~~body and which is~~ transporting sand, gravel, dirt, rock, refuse or similar bulk material shall be
12 mounted to the rear of the axles, cover the entire width of the vehicle and have a
13 ground clearance of not more than 18 inches when the vehicle is loaded.

SECTION 3. Effective date.

14 (1) This act takes effect on the first day of the 4th month beginning after
15 publication.
16

inset
2-6

17

~~bill~~

1999 BILL

1
2

~~AN ACT to renumber and amend 348.10 (2); and to create 348.10 (2) (b) and (c) of the statutes; relating to: transporting bulk materials on a highway.~~

Analysis by the Legislative Reference Bureau

~~Under current law, no person is permitted to operate a vehicle on a highway unless the vehicle is so constructed and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping from the vehicle. A forfeiture of not less than \$10 nor more than \$200 may be imposed for violating this provision.~~

insert
1460-A

insert
1460-A

~~This bill specifies that a load of bulk material, such as sand, gravel or dirt, that is not in containers ~~must~~ be covered when ~~being~~ transported on a highway to prevent the load from dropping or sifting from the vehicle. Failure to comply with this provision also may result in a forfeiture of not less than \$10 nor more than \$200.~~

requires

This requirement does

~~The bill specifies that both of these provisions do not apply to bulk material being applied to a highway for highway construction or maintenance.~~ or for winter snow or ice treatment

insert
2-4

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

3
4

SECTION 1. 348.10 (2) of the statutes is renumbered 348.10 (2) (a) and amended to read:



BILL

SECTION 1

1 348.10 (2) (a) No person shall ~~shall~~ ^{may} operate a vehicle on a highway unless such
2 vehicle is so constructed and loaded as to prevent its contents from dropping, sifting,
3 leaking or otherwise escaping therefrom.

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

5 348.10 (2) (b) Notwithstanding par. (a), no person may operate on a highway
6 a vehicle loaded with ~~bulk material, such as~~ sand, gravel ~~or~~ dirt, that is not in
7 containers, unless the vehicle is so loaded and covered as to prevent the load from
8 dropping or sifting from the vehicle.

rock, refuse or similar bulk material

9 (c) This subsection does not apply to the application of a bulk material to a
10 highway for the purpose^s of maintenance or construction of the highway.

~~or~~

or not of highway
winter maintenance
snow and ice removal

(end insert 2-4)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1458/2
PEN;jlg:km

3

1999 SENATE BILL

Regen

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.

SENATE BILL

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

SENATE BILL

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 ~~14~~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) ~~This act~~ first applies to material spilled on or along a highway on the
18 effective date of this subsection.

renumbering of the statutes and the creation of section 346.94 (7)(b) of the statutes

apply

19 SECTION 8. Effective date.

20 (1) This act takes effect on the first day of the 4th month beginning after
21 publication.

22 (END)

(2) The treatment of section 347.46(2) (intro) and (d) and, the
348.10 (2) of the statutes first apply to motor trucks
operated on the effective date of this subsection.

of the statutes

renumbering and amendment of section

and the creation of section 348.10 (2)(b) and (c) of the statutes