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DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 122

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE CONSTRUCTION,
COVERING AND LOADING OF VEHICLES TO PREVENT ESCAPE OF CONTENTS.

1 WHEREAS, the unintentional escape or discharge of materials from vehicles onto state highways not only
2 causes a safety problem for Delaware citizens travelling on such roads but also requires cleanup (generally at state
3 expense), and;

4 WHEREAS, the General Assembly is desirous of strengthening existing law controlling the escape or discharge
5 of materials from vehicles on state highways.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all
7 members elected to each house thereof concurring therein):

8 Section 1. Amend §4371, Title 21, Delaware Code by deleting said section in its entirety and replacing in lieu
9 thereof the following:

10 “§4371. Construction, covering and loading of vehicles to prevent escape of contents; penalty.

11 (a) Definitions

12 As used in this section:

13 (1) ‘Aggregate’ shall mean rock fragments, pebbles, sand, dirt, gravel, cobbles, crushed base, asphalt,
14 and other similar materials.

15 (2) ‘Farm Products’ shall mean sod, crops, livestock or supplies used or produced in farming
16 operations; products of crops or livestock or byproducts therefrom intended to be used in the manufacture of another
17 product; or, fertilizer or manure used in farm operations.

18 (3) 'Loose material' shall mean and include any aggregate, wood chips, or other material that can blow,
19 fall, or spill from a vehicle as a result of movement or of exposure to air, wind, or weather; except that 'loose material'
20 does not include farm products.

21 (b)(1) Except as otherwise provided herein, a person may not carry any loose material in any vehicle or load any
22 loose material for carrying in any vehicle on or across any highway in this State in contravention of this section and no
23 vehicle shall be driven or moved on any highway unless it is so constructed, covered or loaded as to prevent its contents
24 from dropping, sifting, leaking or otherwise escaping therefrom. For any load-carrying vehicle with a compartment that
25 does not fully enclose the load therein or in which the load is not otherwise suitably covered or secured by means that
26 prevents the escape of the loose material, the bed of the vehicle when carrying a load of loose material shall be fully
27 enclosed:

- 28 a. On both sides, by sideboards or sidepanels.
- 29 b. On the front, by a board or panel or by the cab of the vehicle.
- 30 c. On the rear, by a tailgate, board, or panel.

31 (2) The enclosures required by paragraph (1) of this subsection shall be constructed so as to prevent any
32 part of the load from blowing, falling or spilling out of the vehicle and the following provisions shall apply:

- 33 a. No part of the load touching any of these enclosures may be within 6 inches of the top of the
34 part of the enclosure that it touches, unless the load is covered with a firmly secured canvas or similar type covering.
- 35 b. If the vehicle manufacturer's original design specifications for bed enclosures have been
36 altered to increase the vehicle's load capacity, no part of the load touching any of these enclosures may be within 6 inches
37 of the top of the part of the enclosure that it touches and the highest point of the load may not be higher than any of these
38 enclosures, unless the load is covered with a canvas or similar type covering that fully encloses the load or is otherwise
39 suitably covered or secured by other means that prevent the escape of the loose material.

40 (c) The provisions of this section do not apply to:

- 41 (1) Any vehicle that is covered by subsection (f) of this section and is in compliance therewith;
- 42 (2) Any vehicle carrying farm products, including but not limited to road tractors, farm tractors and
43 farm equipment as defined in §101 of this Title that is parked, being carried or moving on a state maintained road or
44 highway;

45 (3) Any construction vehicle working within the confines of a public works construction project site as
46 outlined in the construction project's plans and specifications, provided the distance traveled does not exceed one mile or
47 the distance specified in an extension granted under subsection (e) of this section;

48 (4) Any construction vehicle or mining equipment while crossing a highway between construction or
49 mining sites;

50 (5) Within the Port of Wilmington for a distance not to exceed 1 mile, any vehicle carrying a load of
51 loose material between a stockpile or storage facility and a vessel docked at the port.

52 (d) Consistent with the provisions of this section, a vehicle used for carrying loose material may not be operated
53 on any highway unless:

54 (1) All spillage from loading loose material is removed from the nonload-carrying parts of the vehicle;

55 (2) Whether the vehicle is loaded or empty, the tailgate is closed securely to prevent spillage of a load
56 or of any residue;

57 (3) The bed does not have any holes, cracks, or openings through which loose material can escape;

58 (4) After unloading loose material, all residue is removed from the nonload-carrying parts of the
59 vehicle; and

60 (5) The vehicle has:

61 a. Properly functioning seals on any openings used to empty the load, including, but not
62 limited to, bottom-dump release gates and tailgates.

63 b. Splash flaps behind every tire, or set of tires, regardless of position on the truck, truck
64 tractor, or trailer.

65 c. Complete enclosures on all vertical sides of the cargo area, including, but not limited to,
66 tailgates.

67 (e)(1) Construction Projects: Upon application by the supervisor of a public works construction project on a
68 Department of Transportation project, the Department of Transportation may grant a reasonable extension of the one mile
69 limitation established in subsection (c) of this section within a public works construction project, if the Department of
70 Transportation determines that the extension request meets the criteria developed pursuant to the provisions of this
71 subsection.

72 (2) The Department of Transportation shall adopt regulations establishing criteria for granting an
73 extension under this subsection. In adopting regulations under this subsection, the Department of Transportation shall
74 consider:

- 75 a. The size of the construction project.
- 76 b. The likely adverse impact that granting the extension will have on surrounding highways
77 and motorist safety.
- 78 c. The likely adverse impact of the cover requirement on construction costs and timely
79 completion of the project.

80 (3) An extension granted under this subsection may not exceed the confines of the Department of
81 Transportation's construction project.

82 (f)(1) A vehicle used to carry logs, poles, unfinished or unfabricated lumber, pipe, steel, or other materials of a
83 similar kind, size, shape, or characteristic may not be driven on any highway unless its load is enclosed entirely within the
84 sides and ends of the body of the vehicle.

85 (2) A vehicle used to carry logs, poles, unfinished or unfabricated lumber, pipe, steel, or other materials
86 of a similar kind, size, shape, or characteristic may not be driven on any highway unless its load is fastened securely to
87 both the front and rear of the vehicle at both the front and rear of the load, as provided in this subsection.

88 (3) The fastening of a load to a vehicle shall be:

- 89 a. By two separate common coil B.B. chains, the links of which may not be less than:
 - 90 (i) 3/8 of an inch in diameter for loads of 3 tons or less; or
 - 91 (ii) 1/2 of an inch in diameter for loads over 3 tons.
- 92 b. If they have at least as much tensile strength as the chains, by:
 - 93 (i) Wire rope not less than 5/16 of an inch in diameter;
 - 94 (ii) Steel strapping;
 - 95 (iii) Logistic webbing of synthetic fibers; or
 - 96 (iv) Any fastening device specified in regulations adopted by the Department or the
97 Department of Transportation.
- 98 c. As specified in Part 393.102(b) (securement systems) of the federal Motor Carrier Safety
99 Regulations.

100 (4) The fastening devices specified in this subsection shall be fastened with an adequate load binder of
101 standard make or other appropriate fastening device.

102 (5) The fastening devices specified in this subsection may not be repaired or replaced by any material
103 other than of the size, strength, and material specified in this subsection.

104 (g) Any person, corporation, vehicle owner or vehicle user who violates this section by causing or allowing
105 loose material, logs, poles, unfinished or unfabricated lumber, pipe, steel, or other materials of whatever nature to escape
106 from a vehicle covered by this section shall be responsible for all clean-up costs, and shall also be responsible for any
107 clean-up, unless the Department or police direct otherwise.

108 (h) Whoever violates this section shall for the first offense be fined not less than \$50 nor more than \$250. For
109 each subsequent like offense, the person shall be fined not less than \$250 nor more than \$500.”.

110 Section 2. This Act shall take effect on September 1, 2003.

SYNOPSIS

The escape of the contents of vehicles is an ongoing problem in the State of Delaware - whether it is stone or gravel causing cracked windshields or household trash littering the highways. The existing statute is not enforceable unless the police actually see the contents escaping and even then the fine for a first offense is only \$10 to \$28.75. This Bill (based largely on existing Maryland requirements) makes a number of structural and coverage requirements, requires removal from bumpers of spillage which occurs during loading and unloading and increases the fines which can be imposed. Vehicles carrying farm products are exempted from the provisions of the Bill.

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