

Date of Hearing: April 9, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1907 (Choi) – As Amended March 19, 2018

SUBJECT: Vehicle loads

SUMMARY: Increases the fine for every person convicted of an infraction for a violation of failing to secure a vehicle load as follows:

- 1) By a fine no less than \$50 nor more than \$100.
- 2) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not less than \$100 nor more than \$250.

EXISTING LAW:

- 1) Prohibits an individual from driving or moving a vehicle on any highway unless the vehicle is so constructed, covered, or loaded so as to prevent any of its contents or load other than clear water, hay, straw, or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle.
- 2) Establishes that aggregate material is only to be carried in a cargo area that does not contain any holes, cracks, or openings through which that material may escape, regardless of the degree to which the vehicle is loaded.
- 3) Requires that every vehicle used to transport aggregate materials, regardless of the degree to which the vehicle is loaded, is to be equipped with properly functioning seals on any openings used to empty the load, including, but not limited to, bottom dump release gates and tailgates.
- 4) Exempts vehicles from covering their loads, if the load where it contacts the sides, front, and back of the cargo container area, remains six inches from the upper edge of the container area, and if the load does not extend, at its peak, above any part of the upper edge of the cargo container area.
- 5) Provides that a violation of the above provisions shall be punishable as follows:
 - a) By a fine not exceeding \$100.
 - b) A second violation of the above provision occurring within the prior two years is a misdemeanor, and not an infraction.
 - c) For a third or subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding \$250.

FISCAL EFFECT: Unknown

COMMENTS:

Unsecured loads and traffic fatalities: In 2016 AAA Foundation for Traffic Safety issued a report titled *The Prevalence of Motor Vehicle Crashes Involving Road Debris, United States, 2011-2014*. The study examined three publicly-available sources of data on motor vehicle crashes in the United States to estimate the number of crashes that involved debris on the roadway. Debris-related crashes were defined as crashes in which a vehicle struck or was struck by an object that fell or was struck by an object that fell or became detached from another vehicle, struck a non-fixed object on the roadway, or crashed after swerving to avoid an object on the roadway.

Results from the study suggests that road debris was a factor in an estimated average of 50,658 police reported crashes, resulting in nearly 10,000 injuries and 124 deaths annually in the United States between 2011 and 2014. Debris related crashes were approximately 4 times as likely to occur on interstate highways. Approximately 35,000 crashes, 7,500 injuries and 89 deaths are attributed to accidents caused by debris from vehicles.

Increasing fines: The costs of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total in the hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and until recently California suspended driver's licenses for failure to pay traffic fines.

Unpaid traffic fine debt has been adding up. According to the Legislative Analyst Office, the state now has over \$10 billion in unpaid court ordered debt. The Legislature and Governor have made several efforts to collect unpaid debt and to address the negative consequences of unpaid fines. In last year's budget, the state removed the court's authority to notify the Department of Motor Vehicles for the suspension of individual's driver's licenses for unpaid traffic fines. Governor Brown also signed AB 503 (Lackey), Chapter 741, Statutes of 2017, which requires a payment program to be offered to indigent individuals before agencies can use DMV to collect unpaid parking tickets.

Actual cost: Every year the Judicial Council releases the Uniform Bail and Penalty Schedule, which provides the recommended penalties for vehicle infractions. Under that schedule, a violation for an unsecured load has a \$35 base fine. However, after adding in the additional fees, the total cost of the ticket comes out to \$235. This bill would provide for a minimum base fine of \$50, similar to the fine for not securing an animal properly. After additional fees are accessed, that fine totals \$285.

Misdemeanor vs. infraction: This bill adds to a current code section which requires a conviction for an infraction for a second violation in a one year period have a minimum fine of \$75 to \$250. However, elsewhere in the vehicle code a section violation of failing to secure a vehicle load within a two year time period is a misdemeanor, and not an infraction. In this case, the additional fine would not apply, as a second violation would result in jail time.

Opposition: The Western States Trucking Association (WTSA), writing in opposition, argues, "Given the ongoing disbelief and lack of evidence that increased penalties actually have a deterrent effect upon driving behaviors, combined with the disproportionate impact of higher fines on low-income earners like truck drivers...WTSA believes that...increasing safety on our highways by reducing debris falling from vehicles would be better served by a public education program."

Committee concerns: While the author intends to increase the minimum base fine by \$15 for unsecured loads, the net result would increase the penalty by \$50. This may be a small amount of money for a trucking company to pay, but it could be a large amount for the weekend mover who may have an item fall off the back of his or her vehicle.

Further, it is unclear how this additional penalty would actually deter individuals from failing to secure their load properly. Generally people do not want to lose the items on the back of their vehicles. An additional \$50 penalty is not going to change their behavior of accidentally losing things they would prefer not to lose. A second violation in a two-year period already results in a misdemeanor instead of an infraction. It may be more prudent to focus on educating individuals about ways to properly load their vehicles.

Related legislation: AB 1925 (Choi) requires DMV to include at least one question on unsecured vehicle loads in their written examination of new and renewing applicants for driver's licenses. AB 1925 is set to be heard by this committee on April 9, 2018.

SB 185 (Hertzberg) requires a court to determine a defendant's ability to pay traffic violations and make specified accommodations if it determines the defendant to be indigent. SB 185 is awaiting a hearing by the Assembly Appropriations Committee.

AB 971 (Choi) would have increased fines for failing to secure a load (in a vehicle) and required that a death caused by an object falling from a vehicle is grounds for a vehicular manslaughter conviction. AB 971 was heard for testimony only by this committee on January 8, 2018, and returned to the Chief Clerk pursuant to Joint Rule 56.

AB 972 (Choi) would have required items carried in a vehicle cargo area to be labeled so that the owner can be identified should the item fall from the vehicle. AB 972 was heard for testimony only by this committee on January 8, 2018, and returned to the Chief Clerk pursuant to Joint Rule 56.

REGISTERED SUPPORT / OPPOSITION:

Support

One private citizen

Opposition

Western States Trucking Association

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