

TESTIMONY OF REP. LAWRENCE R. KLEMN
HOUSE BILL NO. 1253
HOUSE TRANSPORTATION COMMITTEE
JANUARY 27, 2023

Mr. Chairman and Members of the House Transportation Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in support of HB 1253.

HB 1253 relates to the transportation of aggregate material on roads and highways by dump trucks. Aggregate material includes rock, sand, silts, gravel, stone and shale. It does not include hot asphalt, asphalt patching material, wet concrete, or other material not subject to blowing. The bill requires dump trucks to use a tarp or other cover in a manner that prevents the aggregate material from blowing, sifting, leaking, or otherwise escaping from the truck. The truck can also use any method other than a tarp to prevent the aggregate material from escaping.

The bill provides exceptions for dump trucks operating entirely within a marked construction zone, involved in maintenance of public roads during snow or ice removal operations, or involved in emergency operations if requested by law enforcement or an emergency response agency.

Current North Dakota law set out in Section 2 of the bill provides that a truck must be constructed or loaded so as to prevent the contents from escaping from the truck. A truck may not be operated on a road or highway unless the load **and any covering** on the truck is securely fastened so as to prevent it from becoming a hazard to other users of the highway. **However, the current law does not require a tarp or other similar cover on a truck to prevent aggregate materials from escaping.**

The fine for violation of the current law is \$20. And that's only if a truck gets caught with a load that's escaping from the truck at the precise moment that it is seen by law enforcement on the highway. When law enforcement goes down the road and is out of sight of the dump truck, the truck could hit a bump, or the load could shift causing the aggregate material to fly out of the truck and hit another vehicle on the highway. The fine under HB 1253 is \$100 for a violation for carrying a load of gravel on the highway without a tarp, regardless of whether the load is escaping at the particular time that law enforcement is near the truck. \$100 is a fine that the driver of a dump truck might pay more attention to than \$20.

Why is it important for dump trucks to be tarped? While other trucks may not need to cover their loads as long as they secure them, dump trucks carry materials such as stones, rocks, sand, and gravel that can easily escape. Dump trucks have more of a need to carefully tarp their loads.

Tarping regulations were created to ensure:

Road safety. Loose materials can fall from a dump truck with no tarp, which can pose a hazard to other motorists. Small pieces of gravel and stones hurled from a dump truck have enough force to break a windshield and damage the finish on other vehicles. The dust from dump trucks can block the vision of other motorists, leading to accidents.

Road surface protection. Materials such as rock and stones can significantly damage highways. They can also later be picked up off the road by the tires of other vehicles and then hurled into passing vehicles.

The tarp law in HB 1253 is derived from the tarp law in the State of Colorado. Many other States also require tarps on dump trucks to prevent spills.

I have personally experienced damage as a result of a rock thrown from a dump truck that I met on a two lane highway. I was going one way driving a motorhome and a dump truck loaded with gravel was going the other way. As the truck went by, a rock came flying off the truck and smashed directly into my windshield in front of my face. I was in no position to turn around to try to catch up with the dump truck to get its license number, so I continued on my way with a broken windshield. I had to pay out of pocket to have the windshield replaced because the cost was less than my \$1,000 deductible. I have also had rock damage to the windshields of my cars on several occasions that were not covered by insurance.

I don't know how many other people on the road have had similar experiences, but I can guess that there are many. Why should we have to absorb the cost of replacing our windshields when a tarp law can prevent the damage from occurring?

The other day this House passed HB 1061, relating to windows impairing the vision of drivers. Section 3 of that bill provides that glass on the front or side windows cannot be broken, shattered, or distorted to the extent it impairs the vision of the driver. There is a \$20 fine for violation of this law. Should I be subject to a fine if I need to drive around with a broken window for a time until I can get it repaired at my own expense? That's just not fair.

I encourage you to recommend "do pass" on HB 1253. Let's do something to help other drivers on the roads.