

HOUSE BILL REPORT

HB 2612

As Passed Legislature

Title: An act relating to including failure to secure a load in the first degree as a compensable crime under the crime victims' compensation program.

Brief Description: Including failure to secure a load in the first degree as a compensable crime under the crime victims' compensation program.

Sponsors: By Representatives Kagi, O'Brien, Darneille, Rodne, Kenney, Schual-Berke, Morrell and Springer; by request of Department of Labor & Industries.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/24/06, 1/27/06 [DP];

Appropriations: 2/2/06, 2/3/06 [DP].

Floor Activity:

Passed House: 2/14/06, 97-0.

Passed Senate: 3/8/06, 49-0.

Passed Legislature.

Brief Summary of Bill

- Expands the eligibility for Crime Victims Compensation funds to include persons who are victims of the crime of failure to secure a load.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

Staff: Yvonne Walker (786-7841).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 30 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi,

Kenney, Kessler, Linville, McDermott, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

Staff: Owen Rowe (786-7391).

Background:

The Washington Crime Victims' Compensation Program administered out of the Department of Labor and Industries (L&I) provides benefits to innocent victims of criminal acts. Generally, persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits (medical treatment and lost wages) under the program providing that:

- the criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- the crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made; and
- the application for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries or dependents accrued.

Criminal act is defined as: (1) an act committed or attempted in Washington, which is punishable as a felony or gross misdemeanor under the laws of Washington, (2) an act committed outside of Washington against a resident of Washington which would be compensable had it occurred inside the state, and the crime occurred in a state which does not have a Crime Victims Compensation Program, or (3) an act of terrorism. Statutory language limits the types of claims that the L&I may pay for vehicular accidents. Under the Crime Victims Compensation statute, the L&I may only pay vehicular claims when:

- the injury or death was intentionally inflicted;
- if the accident occurred during the commission of another non-vehicular criminal act; or
- if the driver was impaired by alcohol or drugs.

Victims suffering from the result of the crime of failing to secure a load would not be eligible for Crime Victims Compensation funds.

In 2005, the Legislature passed SHB 1478 that created the crime of failing to secure a load. Failure to secure a load in the first degree is committed when a person, with criminal negligence, fails to secure all or part of a load to his or her vehicle and, as a result, causes substantial bodily harm to another. Failure to secure a load in the first degree is a gross misdemeanor. Failure to secure a load in the second degree is committed when a person, with criminal negligence, fails to secure all or part of a load to his or her vehicle and, as a result, causes damage to the property of another. Failure to secure a load in the second degree is a misdemeanor. Other failures to secure a load to a vehicle that do not rise to the level of first or second degree are designated as traffic infractions and are subject only to a monetary penalty not to exceed \$250 per infraction.

Summary of Bill:

The definition of criminal act in the Crime Victims Compensation statute is expanded to include acts where an injury or death occurred as a result of a driver who committed the offense of failing to secure a load in the first degree. As a result, victims suffering from such an offense would be eligible for Crime Victims Compensation funds.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Criminal Justice & Corrections) This bill was heard last year when the Legislature assigned a penalty to the crime of failing to secure a load that results in harming someone. The problem is that the Crime Victims Compensation Act was never amended to ensure that victims affected by such an act would be able to obtain some type of compensation when they have no other financial means. This was an oversight from the bill last year.

Maria Federici was critically injured several years ago from an object falling off a truck. She was not eligible for any Crime Victims Compensation because technically no crime had been committed. Since her accident there have been five major accidents on the road, some with fatalities, due to people not securing their loads on their vehicles.

The Crime Victims Compensation fund was created many years ago when the media started to ask, why was so much money being spent on offenders when the victims were often forgotten. There is nothing better that the Legislature can do than to pass legislation that would help benefit crime victims.

Testimony For: (Appropriations) I'm here today to ask for your support of this bill. I received the call from Harborview Hospital that is every parent's worst nightmare. They told me that it was hopeless to save her. She didn't die that night. Someone lost an unsecured load that went through my daughter's windshield. A six foot long, 50 pound board hit her face on the diagonal. She lost her face, her sight, and has a severe brain injury. Last year House Bill 1478 made unsecured loads a crime, but the necessary changes were not made to the Crime Victims' Compensation Program. The reason I wanted the change was to get help for the victims. There have been four deaths on the road. Two weeks ago there was another accident and a young child is in critical condition. I feel that I have failed this child for not getting this passed sooner. I have put together brochures and put out two educational videos. I'm meeting with the Washington Truck Driver's Association and have had this law added to the drivers test. I'm doing my part and I ask you to help.

Testimony Against: (Criminal Justice & Corrections) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (Criminal Justice & Corrections) Representative Kagi, prime sponsor; Robin Abel, Maria Federici Foundation; Dave Johnson, Washington Coalition of Crime Victims Advocates; and Mike Ratko and Cletus Nnanabu, Department of Labor & Industries.

Persons Testifying: (Appropriations) (In support) Robin Abel, Maria Federici Foundation; and Mike Ratko, Washington State Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: (Criminal Justice & Corrections) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.