


ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **300**, Approved and Ordered

MAR 17 2005


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) the Motor Vehicle Act Regulations, B.C. Reg. 26/58, is amended as set out in Schedule 1, and
- (b) the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended as set out in Schedule 2.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Motor Vehicle Act, s. 209 (1) (a), 210 (2) (a), (h) and (s), (7) and 212 (3) and (4) (a); Offence Act, s. 132 (2) (d), (3)

Other (specify): OIC 1004/58; OIC 262/97

SCHEDULE 1

1 Division 35 of the Motor Vehicle Act Regulations, B.C. Reg. 26/58, is repealed and the following substituted:

Division 35 – Cargo Securement

Application

- 35.01** (1) This Division does not apply to
- (a) a commercial vehicle engaged in highway construction, other than a paving project operating within the limits of a highway construction project, as established or as posted by the Ministry of Transportation, or
 - (b) an implement of husbandry as defined in the Act.
- (2) Nothing in this Division prohibits the dropping from a vehicle of
- (a) sand to secure traction, or
 - (b) water or another substance to clean or maintain a roadway.

Standard adopted

- 35.02** (1) In this Division, “**Standard**” means National Safety Code Standard 10, “Cargo Securement”, recommended by the Canadian Council of Motor Transport Administrators on September 8, 2004 and approved by the Council of Ministers on September 23, 2004, as amended from time to time.
- (2) For the purpose of promoting and securing road safety, but subject to the Act and this regulation, the Standard is
- (a) adopted under section 212 (4) (a) of the Act, and
 - (b) deemed to be a regulation made under section 212 (3) of the Act.
- (3) Despite section 2 (1) of the Standard, the Standard applies to all vehicles transporting cargo on a highway, regardless of the vehicles’ gross vehicle weight.

Prohibitions respecting equipment and cargo

- 35.03** (1) In this section:
- “**business vehicle**” has the same meaning as in section 237 of the Act;
 - “**carrier**” has the same meaning, in relation to both business vehicles and commercial vehicles, as in section 237 of the Act.
- (2) A carrier must not permit a person to drive or operate on a highway a commercial vehicle or business vehicle carrying cargo if the manner in which the vehicle is equipped or its cargo secured contravenes any of sections 35.04 to 35.07.
- (3) A person must not drive or operate on a highway a commercial vehicle or business vehicle carrying cargo if the manner in which the vehicle is equipped or its cargo secured contravenes any of sections 35.04 to 35.07.

- (4) A person must not drive or operate on a highway a vehicle, other than a commercial vehicle or business vehicle, carrying cargo if the manner in which the vehicle is equipped or its cargo secured contravenes any of sections 35.04 to 35.07.

Cargo securement

35.04 Vehicles must be equipped and cargo must be contained, immobilized or secured in accordance with the applicable requirements of this Division and the Standard and so that it cannot

- (a) leak, spill, blow off, fall from, fall through or otherwise be dislodged from the vehicle, or
- (b) shift on or within the vehicle in a manner that affects the stability or manoeuvrability of the vehicle.

Transporting logs or poles

35.05 (1) In this section:

“**spring lash**” means the amount of free play in leaf type suspensions caused by the vertical gap between the main spring leaf and the rebound constraints or sliders;

“**bunk lash**” means the amount of free play caused by the vertical gap between the slipper supports and the bunk rub shoes, measured when the log bunk is perpendicular to the longitudinal axis of the pole trailer and the trailer is fully loaded.

- (2) A person must not drive or operate on a highway a logging truck, a truck or a truck tractor and trailer combination with a flat load deck while the vehicle is transporting a load of logs or poles or both that are longer than 2.6 m placed in the longitudinal axis with the vehicle or vehicle combination unless the vehicle is
- (a) equipped with the same bunk and stake assembly, unmodified, that it was equipped with at the time it was sold as a new vehicle and bears the National Safety Mark under the *Motor Vehicle Safety Act* (Canada) and the regulations made under it, or
 - (b) not equipped and marked as described in paragraph (a) but is equipped with bunks and stake assemblies that meet the requirements of subsection (3) and are of adequate design and construction to contain the load.
- (3) For the purpose of subsection (2) (b),
- (a) stake extensions must be securely attached to the stakes,
 - (b) stakes, together with their stake extensions, must form an angle of 90° or less with the bunk cross member,
 - (c) stakes must be secured to the bunk cross member or to the trailer’s side flanges or rub rails
 - (i) by a method approved by a professional engineer,
 - (ii) by a pin and closed loop stake lines consisting of wire rope at least 22 mm in diameter, or

- (ii) with properly welded gussets of adequate strength,
 - (d) bunk lash must not exceed 5 mm when the pole trailer is fully loaded, and
 - (e) log bunks carrying logs or poles must be securely attached to the structurally adequate integral part of the frame of the truck or trailer by nuts and bolts, retaining pins, or by welding.
- (4) If the logging truck includes a tridem pole trailer,
- (a) the trailer bunk centreline must be located at a point forward of the longitudinal centre of the tridem axle group, and
 - (b) the trailer, if equipped with spring suspension, must not have any spring lash in excess of 5 mm when in a loaded state.
- (5) Pole trailers manufactured after January 1, 1993 and equipped with adjustable reaches must have welds, bolts or positive means other than a friction clamp to prevent movement between any reach section, except the compensator, and the chassis.

Covering of aggregate loads

- 35.06** A person must not drive or operate a vehicle on a highway while the vehicle is carrying aggregate material if any of the material is likely, if not covered, to bounce, blow or drop from the vehicle in transit, unless
- (a) the material is covered in a way that prevents any of it from blowing, bouncing or dropping from the vehicle, and
 - (b) the cover is securely and tightly fastened so that it is not, and cannot become, a hazard.

Front end structures

- 35.07** In addition to the requirements of Division 5 of Part 1 of the Standard, a person must not drive or operate on a highway a vehicle transporting cargo that is in contact with the front end structure of the vehicle unless the front end structure has been affixed in accordance with the manufacturer's recommendations and is
- (a) permanently marked with the name and address of its manufacturer, the model number or serial number of the front end structure and its rated capacity in terms of the cargo weight that may be transported in compliance with the Standard, or
 - (b) identified by carrying in the vehicle a copy of a letter that has been signed by the manufacturer or a professional engineer certifying the model number or serial number of the front end structure and its rated capacity in terms of the cargo weight that may be transported in compliance with the Standard.

Operating vehicles with insecure cargo prohibited

- 35.08** (1) If a peace officer has reasonable and probable grounds to believe that a vehicle

carrying cargo is unsafe for use on a highway because of the method of cargo securement, the peace officer may order the driver of the vehicle to stop the vehicle and secure the cargo before proceeding.

- (2) A person must comply with an order given under subsection (1).

Carrying luggage in bus passenger compartments

- 35.09** (1) A person must not drive or operate on a highway a bus or school bus that is transporting passengers and carrying luggage or other equipment in the passenger compartment unless the luggage and other equipment
- (a) do not block or intrude on any aisle or exit,
 - (b) are carried in overhead racks which
 - (i) are designed and adequately constructed for the purpose of carrying luggage and equipment,
 - (ii) are equipped with
 - (A) elastic rope or cord,
 - (B) doors which secure in the closed position by a positive latching mechanism, or
 - (C) a rigid vertical edge or side of a height equal to 1/2 of the remaining opening,
 - (iii) extend from the side of the bus to no further than the centreline of the aisle row of forward facing seats, and
 - (iv) are free of any projections,
 - (c) are stowed under a seat against a barrier that is constructed and placed so that it prevents the luggage and other equipment from sliding forward in the event of an emergency stop,
 - (d) are carried on a passenger's lap, or
 - (e) are carried in a luggage compartment enclosed on all sides.
- (2) For the purpose of subsection (1) (b) (iii), the centreline of the aisle row of seats on a school bus is 20 cm outboard from the inboard edge of each bench seat.
- (3) A person must not load a vehicle so as to
- (a) obscure the driver's view ahead or to the right or left side,
 - (b) interfere with the free movement of the driver's arms or legs,
 - (c) obstruct access to emergency equipment, or
 - (d) interfere with the safe operation of the vehicle in any other manner.

SCHEDULE 2

1 Schedule 3 of the Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97, is amended under the heading "Motor Vehicle Act Regulations, B.C. Reg. 26/58" by striking out the items for sections 35.03 (1) through 35.13 and adding the following items:

section 35.03 (2)	Carrier permits operation without proper equipment or with insecure cargo	\$400	\$375	\$60	\$460	\$435
section 35.03 (3)	Driver operates commercial or business vehicle without proper equipment or with insecure cargo	\$250	\$225	\$38	\$288	\$263
section 35.03 (4)	Driver operates non-commercial or non-business vehicle without proper equipment or with insecure cargo	\$150	\$125	\$23	\$173	\$148
section 35.08 (2)	Failure to stop or secure cargo	\$520	\$495	\$78	\$598	\$573
section 35.09	Insecure luggage in bus passenger compartment	\$150	\$125	\$23	\$173	\$148