AN ACT

Relating to the use of off-road vehicles within the James Dalton Highway corridor; and relating to containing or confining loads being transported on highways.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1
AN ACT

Relating to the use of off-road vehicles within the James Dalton Highway corridor; and
relating to containing or confining loads being transported on highways.

*Section 1.* AS 19.40.210 is amended to read:

Sec. 19.40.210. Prohibition of off-road vehicles. Off-road vehicles are prohibited on land within [FIVE MILES OF THE RIGHT-OF-WAY OF] the highway corridor. However, this prohibition does not apply to

1. off-road vehicles necessary for oil and gas exploration, development, production, or transportation;

2. a person who holds a mining claim in the vicinity of the highway and who must use land in [WITHIN FIVE MILES OF THE RIGHT-OF-WAY OF] the highway corridor to gain access to the mining claim; [OR]

3. the use of a snow machine to travel across the highway corridor from land outside the corridor to access land outside the other side of the corridor; this
paragraph does not permit the use of a snow machine for any purpose within the
corridor if the use begins or ends within the corridor or within the right-of-way of the
highway or if the use is for travel within the corridor that is parallel to the right-of-way
of the highway; \textbf{or}

\textbf{(4) a person who must use land in the highway corridor to gain}
\textbf{access to private property that}

\textbf{(A) is located outside the corridor; and}

\textbf{(B) has an established history of use as a homestead} [IN

THIS PARAGRAPH, "HIGHWAY CORRIDOR" MEANS LAND WITHIN
FIVE MILES OF THE RIGHT-OF-WAY OF THE HIGHWAY].

* \textbf{Sec. 2.} AS 19.40.210 is amended by adding new subsections to read:

\begin{enumerate}
\item[(b)] Nothing in this section authorizes a person to access the land of another
person unlawfully.
\item[(c)] In this section, "highway corridor" or "corridor" means land within five
miles of the right-of-way of the highway.
\end{enumerate}

* \textbf{Sec. 3.} AS 28.35.251 is repealed and reenacted to read:

\textbf{Sec. 28.35.251. Failure to contain or confine a load.} (a) A person commits
the crime of failure to contain or confine a load in the first degree if the person, with
criminal negligence, violates (c) of this section and, as a result of that violation, causes
serious physical injury to another person.

\item[(b)] A person commits the crime of failure to contain or confine a load in the
second degree if the person, with criminal negligence, violates (c) of this section and
damages the property of another person in an amount of $5,000 or more.
\item[(c)] A person commits the offense of failure to contain or confine a load in the
third degree if the person drives or moves a motor vehicle loaded with any material on
a highway unless

\begin{enumerate}
\item[(1)] the load is
\item[(A) contained or confined to prevent the load from
  \begin{enumerate}
  \item[(i)] dropping, leaking, or escaping; or
  \item[(ii)] shifting on or within the vehicle to the extent that
  \end{enumerate}
\end{enumerate}
the motor vehicle's stability or maneuverability is adversely affected;
and

(B) subjected to treatment by methods, approved by the commissioner of public safety by regulation, designed to settle the load or remove loose material before the vehicle is driven or moved on the highway; and

(2) at least six inches of freeboard is maintained around the entire perimeter of a load consisting of sand, gravel, dirt, rock, or similar materials or the load is covered and securely fastened to prevent the cover from becoming loose or detached or from being a hazard to other users of the highway.

(d) This section does not apply to

(1) a vehicle that drops, sprinkles, or sprays sand, liquids, or other materials for the purpose of cleaning or maintaining the highway or providing or improving traction;

(2) a commercial motor vehicle that is subject to the federal motor carrier cargo securement standards implemented through state or federal law;

(3) the natural accumulation of snow, ice, mud, dirt, or similar materials on a motor vehicle;

(4) a vehicle that is removing snow or hauling snow after removal; or

(5) random litter; in this paragraph, "litter" includes plastic wrappers, empty plastic bags, leaves, paper, or similar soft materials.

(e) Failure to contain or confine a load in the

(1) first degree is a class A misdemeanor punishable as provided in AS 12.55;

(2) second degree is a class B misdemeanor punishable as provided in AS 12.55;

(3) third degree is an infraction punishable by a fine of not more than

(A) $2,500 if the person has been previously convicted three or more times of a violation of this section;

(B) $1,500 if the person has been previously convicted twice of a violation of this section;

(C) $750 if the person has been previously convicted one time
of a violation of this section; or

    (D) $300 if the person has not been previously convicted of a
    violation of this section.

(f) In this section, "criminal negligence" has the meaning given in

    AS 11.81.900.

* Sec. 4. AS 28.35.253 is amended by adding a new subsection to read:

    (b) Violation of this section is an infraction.

* Sec. 5. AS 28.35.255 is repealed.