

30-LS0917\S
Martin
4/12/18

SENATE CS FOR CS FOR HOUSE BILL NO. 259(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES STUTES, Tuck, Kito, Drummond, LeDoux, Tarr, Josephson

A BILL

FOR AN ACT ENTITLED

"An Act relating to containing or confining loads being transported on highways."

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

*** Section 1.** AS 28.35.251 is repealed and reenacted to read:

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.

(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.

(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

(1) the load is

(A) contained or confined to prevent the load from

(i) dropping, leaking, or escaping; or

(ii) shifting on or within the vehicle to the extent that 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 the 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) In a prosecution under (a) or (b) of this section, the fact that the person has been previously convicted under (c) of this section within the preceding 10 years is prima facie evidence that the person acted with criminal negligence.

(f) 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.

(g) In this section, "criminal negligence" has the meaning given in AS 11.81.900.

* **Sec. 2.** AS 28.35.253 is amended by adding a new subsection to read:

(b) Violation of this section is an infraction.

* **Sec. 3.** AS 28.35.255 is repealed.