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REPRESENTATIVE LOUISE STUTES District 32 Kodiak-Cordova-Yakutat-Seldovia

Sectional Analysis HB 259 Version S

Section 1 on Page 1, line 3 through Page 3, line 9: AS 28.35.251 is repealed and reenacted:

Subsection (a) on Page 1, lines 4 through 7:

This subsection states that a person is guilty of the crime of failure to contain or confine a load in the first degree if, with a mental state of criminal negligence, they violate (c) and as result, cause serious physical injury to another person. Criminal negligence applies to the act of the securing the load. Failure to contain or confine a load in the first degree is a class A misdemeanor.

Subsection (b) on Page 1, lines 8 through 10:

This subsection states that a person is guilty of the crime of failure to contain or confine a load in the second degree if, with criminal negligence, they violate (c) and as result, cause property damage of \$5,000 or more to another person's property. Criminal negligence applies to the act of the securing the load. Failure to contain or confine a load in the second degree is a class B misdemeanor.

Subsection (c)(1)(A)(i)(ii) and (B) on Page 1, line 11 through Page 2, line 7:

This subsection specifies that 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 it is secured or situated in a way that prevents it from escaping the vehicle or shifting to the extent that the vehicle's maneuverability or stability is adversely affected and the load is treated by methods approved through regulation by the Department of Public Safety that are designed to settle the load or remove loose material before it is driven on a highway. Failure to contain or confine a load in the third degree is an infraction.

Subsection (c)(2) on Page 2, lines 9 through 12:

This subsection specifies that a person may drive or move a motor vehicle loaded with sand, gravel, dirt, rock, or similar materials if at least 6 inches of freeboard is maintained around the perimeter of the load or a cover is used and securely fastened.

Subsection (d)(1) on Page 2, lines 13 through 16:

This subsection is an exemption that specifies that the provisions of this act do not apply to a vehicle that deposits sand, liquids, or other materials for the purpose of cleaning, maintaining, or improving traction on the highway.

Subsection (d)(2) on Page 2, lines 17 through 18:

This subsection is an exemption that specifies that the provisions of this act do not apply to commercial motor vehicles that are subject to federal motor carrier securement standards implemented through state or federal law.

Subsection (d)(3) on Page 2, lines 19 through 20:

This subsection is an exemption that specifies that the provisions of this act do not apply to the natural accumulation of snow, ice, mud, dirt, or similar materials.

Subsection (d)(4) on Page 2, line 21:

This subsection is an exemption that specifies that the provisions of this act do not apply to a vehicle that is removing snow or hauling snow after removal.

Subsection (d)(5) on Page 2, lines 22 through 23:

This subsection is an exemption that specifies that the provisions of this act do not apply to random litter escaping a vehicle. Litter is defined in this section as plastic wrappers, empty plastic bags, leaves, paper, or similar soft materials. “Random” modifies “litter” to clarify that a load of litter is not exempted.

Subsection (e) on Page 2, lines 24 through 26:

This subsection specifies that in prosecution under (a) or (b), which is failure to contain or confine a load in the first degree or second degree respectively, a person being convicted in the preceding 10 years of a violation under (c), which is failure to contain or confine a load in the third degree, is *prima facie* evidence that the person acted with criminal negligence when securing the load.

Subsection (f)(1) on Page 2, lines 28 through 29:

This subsection specifies that failure to contain or confine a load in the first degree is a class A misdemeanor.

Subsection (f)(2) on Page 2, lines 30 through 31:

This subsection specifies that failure to contain or confine a load in the second degree is a class B misdemeanor.

Subsection (f)(3)(A), (B), (C), and (D) on Page 3, lines 1 through 9:

This subsection specifies that failure to contain or confine a load in the third degree is an infraction punishable by a fine of not more than \$300 on the first offense, \$750 on the second offense, \$1,500 on the third offense, and \$2,500 on the fourth offense. The penalty for the first violation is consistent with current statute.

Subsection (g) on Page 3, lines 10 through 11:

This subsection specifies that criminal negligence in this section has the meaning given in AS 11.81.900.

Section 2 on Page 3, lines 12 through 13. AS 28.35.253 is amended by adding a new subsection:

This section is a conforming amendment to reflect the repeal and reenactment of AS 28.35.251 in Section 1 of the bill and the repeal of AS 28.35.255. AS 28.35.255 currently houses the penalties for violations of both AS 28.35.251 and AS 28.35.253. Violating AS 28.35.253 is currently an infraction and there is no substantive change.

Section 3 on Page 3, line 14:

This section repeals 28.35.255.