

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

February 1, 2018

1:29 p.m.

MEMBERS PRESENT

Representative Louise Stutes, Co-Chair
Representative Adam Wool, Co-Chair
Representative Matt Claman
Representative Harriet Drummond
Representative Chuck Kopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Mark Neuman
Representative David Eastman (alternate)
Representative Gabrielle LeDoux (alternate)

OTHER LEGISLATORS PRESENT

Representative Gary Knopp

COMMITTEE CALENDAR

HOUSE BILL NO. 259

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

- HEARD & HELD

HOUSE BILL NO. 263

"An Act exempting certain water taxi operators from regulation as transportation services by the Big Game Commercial Services Board; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 259

SHORT TITLE: CONFINING VEHICLE LOADS

SPONSOR(S): REPRESENTATIVE(S) STUTES

01/08/18 (H) PREFILE RELEASED 1/8/18

01/16/18 (H) READ THE FIRST TIME - REFERRALS
01/16/18 (H) TRA, JUD
01/25/18 (H) TRA AT 1:15 PM BARNES 124
01/25/18 (H) -- MEETING CANCELED --
01/30/18 (H) TRA AT 1:00 PM BARNES 124
01/30/18 (H) -- MEETING CANCELED --
02/01/18 (H) TRA AT 1:00 PM BARNES 124

BILL: HB 263

SHORT TITLE: TRANSPORTATION SERVICES FOR HUNTERS
SPONSOR(S): REPRESENTATIVE(S) KNOPP

01/08/18 (H) PREFILE RELEASED 1/8/18
01/16/18 (H) READ THE FIRST TIME - REFERRALS
01/16/18 (H) TRA, RES
02/01/18 (H) TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

MATT GRUENING, Staff
Representative Louise Stutes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of the prime sponsor of HB 259, presented proposed changes to the committee substitute (CS) for HB 259, Version T.

ROBIN ABEL
Seattle, Washington

POSITION STATEMENT: Testified in support of HB 259.

KELLY ROY
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 269.

JAYME JONES, Staff
Representative Gary Knopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 263, on behalf of Representative Knopp, prime sponsor.

REPRESENTATIVE GARY KNOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 263.

MARK RICHARDS, Executive Director
Resident Hunters of Alaska (RHAK)
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 263.

JANEY MCCULLOUGH, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of
HB 263.

ACTION NARRATIVE

[1:29:11 PM](#)

CO-CHAIR ADAM WOOL called the House Transportation Standing Committee meeting to order at 1:29 p.m. Representatives Wool, Stutes, Sullivan-Leonard, Drummond, and Kopp were present at the call to order. Representative Claman arrived as the meeting was in progress. Also in attendance was Representative Gary Knopp.

HB 259-CONFINING VEHICLE LOADS

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CO-CHAIR WOOL announced that the first order of business would be HOUSE BILL NO. 259, "An Act relating to containing or confining loads being transported on highways."

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CO-CHAIR STUTES made a motion to adopt the proposed committee substitute (CS) for HB 259, labeled LS0917/T, Martin, 2/1/18 as a work draft. There being no objection, Version T was before the committee.

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MATT GRUENING, Staff, Representative Louise Stutes, Alaska State Legislature, on behalf of the prime sponsor of HB 259, stated that the reason for the committee substitute (CS) for HB 259 was due to an error that referenced a section which had been repealed. He said this was the only change in Version T.

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MR. GRUENING, on behalf of the sponsor, Representative Louise Stutes, presented HB 259, also known as the "unsecured load" bill. Reading from a prepared sponsor statement, he paraphrased, as follows [original punctuation provided]:

Whether someone overflows the bed of their truck with rocks and gravel, plywood, scrap metal, loose debris on their way to the dump, or simply fails to tie down large objects in a flatbed, unsecured loads are an undisputed hazard to other users of the roadway and pedestrians. Improperly secured loads can cause serious injuries, property damage, and fatalities. The AAA Foundation for Traffic Safety concluded that from 2011-2014, road debris was a factor in more than 200,000 police-reported crashes. Those crashes resulted in approximately 39,000 injuries and 500 deaths. Additionally, the report found that about two-thirds of these accidents were the result of items falling from a vehicle due to unsecured loads and improper maintenance. In another study by the U.S. Government Accountability Office, it was found that there were approximately 440 fatalities caused by roadway debris in 2010; that data was gathered by the National Highway Traffic Safety Administration.

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MR. GRUENING continued paraphrasing from the sponsor statement, as follows [original punctuation provided]:

All 50 states have laws that require drivers to properly secure loads in any vehicle or trailer and impose fees that range from \$10 to \$5,000. In most states, failing to properly secure a load is a traffic violation. In Alaska, even if it results in the serious physical injury of another, it is an infraction punishable by a fine not to exceed \$300. However, 15 states have instituted possible criminal penalties for failing to properly secure loads.

Last year, the State of Alaska, the Municipality of Anchorage, and the Anchorage Assembly officially declared June 6th as Secure Your Load Day by issuing proclamations and resolutions recognizing the hazards of failing to take the simple steps of securely affixing every load.

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MR. GRUENING added that the Matanuska-Susitna Borough Assembly also officially declared June 6th as "Secure Your Load Day." An effort to highlight the danger of unsecured loads has been happening nationwide, he said. Last year, all 50 states participated in some form of "Secure Your Load Day". In addition, Governor Walker issued a proclamation that also recognized the state's attempt to increase awareness of the hazards of unsecured loads.

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MR. GRUENING continued reading from the sponsor statement as follows [original punctuation provided]:

HB 259 increases Alaska's standards for load securement of all types of materials and requires covering or maintaining six inches of freeboard with loads consisting of sand, dirt, gravel, rock, or similar materials. It also raises a violation to the level of a Class A misdemeanor on the fourth offense or on the first offense if it results in the injury of another person.

The legislation will decrease roadway litter, property damage, injuries, and fatalities on Alaska's highways. It is a responsible measure to protect the safety of Alaskan drivers and avoid costly repairs that result from the actions or inactions of others.

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MR. GRUENING mentioned that Robin Abel, a national expert and advocate on load securement, as well as the mother of a crash caused by an unsecured load, Maria Federici, the namesake of "Maria's Law," a Washington state law that criminalized the failure to properly secure a load. This bill, HB 259, was modeled closely after that bill, he said. In 2004, when Ms. Abel's daughter, Maria, was 24 years old, she was struck by a large piece of particle board that escaped from the back of a trailer in front of her. She was catastrophically injured by the board that broke nearly every bone in her face, leaving her permanently blind. At the time Washington state laws did not address the consequences of unsecured loads. The driver was

cited for a traffic infraction and fined, he said. He stated that Maria's mother, Robin, has dedicated her life to changing the law, educating the public, and doing whatever she can to prevent this from happening to others. Thanks to her mother's efforts, "Maria's Law" criminalized the failure to properly secure a load in Washington state. Since then, she has been leading education and law changing efforts throughout the country. She helped pass a national transportation bill, the Transportation Appropriations Bill, which was signed by President Barack Obama, with a provision requiring the Governmental Accountability Office to recommend federal action after a study of state laws related to the causes of road debris.

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MR. GRUENING added that the committee would later hear from Kelly Roy, an Alaskan who experienced a catastrophic accident, who is the impetus of this bill. He said that Ms. Roy's life was forever changed. He advised that Alaska also had no recourse for the victims of the unsecured loads, besides a fine.

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MR. GRUENING said that the property damage and personal injuries resulting in irrevocably altered lives could be avoided through simple steps to secure truck loads. He noted that some people who did not wish to secure loads, including sand, gravel, and rock expressed opposition to the bill; however, current law requires it. He directed attention to the current statute, AS 28.35.251(a), which read as follows [original punctuation provided]:

(a) A person may not drive a motor vehicle loaded with sand, gravel, rock, or similar materials on a highway unless

(1) the load is contained or confined to prevent the load from dropping, shifting, leaking, or escaping, except that sand or other substances may be dropped, sprinkled, or sprayed for the purpose of cleaning or maintaining the highway or providing traction;

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MR. GRUENING referred to AS 28.35.251(b), which read as follows [original punctuation provided]:

(b) If a cover is used to contain or confine a load being driven on a highway, the cover shall be securely fastened to prevent the cover from becoming loose or detached, or from being a hazard to other users of the highway.

MR. GRUENING reiterated that this language is current statute; yet some parties do not realize it.

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MR. GRUENING offered to present a section-by-section analysis of HB 259, which read as follows [original punctuation provided]:

Section 1 on Page 1, line 3 through Page 2, line 8. AS 28.35.251(a) is amended:

Subsections (a), (a)(1)(A), (a)(1)(A)(i), and (a)(1)(A)(ii) on Page 1, lines 4 through 12:

These subsections specify that a person may not drive or move 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.

MR. GRUENING reiterated that the requirement for securing loads is in existing law; however, the Legislative Legal and Research Services attorney added "move" [a motor vehicle] to clarify that term includes "towing" a load - for example, with a trailer. Further, "any material" was changed from "dirt, rock, sand, and gravel, and similar materials" to include "large objects" that might fall from a truck, he said. Language was also added to add, "maneuverability or stability" of the vehicle. The current statute only stated "shifted" and the sponsor wanted to specify that the vehicle's maneuverability or stability was affected.

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MR. GRUENING continued with the section-by-section analysis of HB 259, which read as follows [original punctuation provided]:

Subsection (a)(B) on Page 1, line 13 through Page 2, line 4:

This subsection is an exemption that specifies that a person may drive or move a motor vehicle loaded with any material without the securement requirements listed in (a), (a)(1)(A), (a)(1)(A)(i), and (a)(1)(A)(ii) if 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.

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MR. GRUENING explained that the Department of Public Safety (DPS) does not yet have specific regulations, although it is current law; still, this language would allow them to do so. He continued the section-by-section analysis of HB 259, which read as follows [original punctuation provided]:

Subsection (a)(2) on Page 2, lines 5 through 8:

This subsection is an exemption that specifies that a person may drive or move loads consisting of sand, gravel, dirt, rock, or similar materials without the securement requirements listed in (a), (a)(1)(A), (a)(1)(A)(i), and (a)(1)(A)(ii) if at least 6 inches of freeboard is maintained around the perimeter of a load or a cover is used and securely fastened.

Section 2 on Page 2, lines 9 through 30. AS 28.35.251 is amended to add new subsections:

MR. GRUENING continued with the section-by-section analysis of HB 259, which read as follows [original punctuation provided]:

Subsection (c)(1) on Page 2, lines 10 through 13:

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.

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MR. GRUENING continued with the section-by-section analysis of HB 259, which read as follows [original punctuation provided]:

Subsection (c) (2) on Page 2, lines 14 through 15:

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.

Subsections (d) (1) (A) and (B) on Page 2, lines 17 through 21:

These subsections specify that a person who violates (a) is guilty of a Class A misdemeanor on the fourth offense or on the first offense if it results in the physical injury of another.

Subsection (d) (2) on Page 2, lines 22 through 24:

This subsection specifies that a person who violates (a) of this section is guilty of a Class B misdemeanor on the third offense.

Subsection (d) (3) (A) on Page 2, lines 25 through 28:

This subsection specifies that a person who violates (a) of this section is guilty of an infraction on the second offense. This is punishable by a fine of not more \$600.

Subsection (d) (3) (B) on Page 2, lines 29 and 30:

This subsection specifies that a person who violates (a) of this section is guilty of an infraction on the first offense. This is punishable by a fine of not more \$300. This amount is consistent with the current fine.

MR. GRUENING said that the penalty provisions are derived from the Washington state law previously mentioned and other laws the sponsor reviewed. He referred to a Legislative Research Services, [Legislative Affairs Agency] report that provides a comparison of the criminal penalties adopted by 15 states related to unsecured loads.

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REPRESENTATIVE SULLIVAN-LEONARD, referring to the penalty provisions, asked whether it is possible to quantify the penalties to the injuries and interpret between serious and minor injuries.

MR. GRUENING responded that currently, in Alaska Statute (AS) 11.81.900(46) "physical injury" means, "a physical pain or an impairment of physical condition;" however, after speaking with the Legislative Legal and Research Services attorney yesterday, the committee may wish to consider another definition. He said "serious physical injury" is a definition currently defined in AS 11.81.900(57), which read as follows [original punctuation provided]:

(57)"serious physical injury" means

(A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or

(B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy;

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REPRESENTATIVE SULLIVAN-LEONARD asked whether any data has been compiled by the Alaska DPS, noting the committee packet contains national data.

MR. GRUENING answered yes; that the Alaska Department of Transportation & Public Facilities (DOT&PF) has compiled information related to crashes, but the information does not provide details of all incidents reported. Referring to a document not in members' packets, he reported that from 2003 to 2013, 189 crashes [in Alaska] resulted from load shifts. The report does not distinguish between "load shifts" in the vehicle that caused the accident and one in which the object directly flew from a vehicle and hitting another vehicle. The bill covers both incidences with the definition of "shifting." He reported statistics, detailing the number of crashes in Alaska by city or borough, as follows:

Number of crashes from 2003 to 2013 resulting from "load shifts"

Municipality of Anchorage (MOA) - 62
Denali Borough (DB) - 1

Fairbank North Star Borough (FNSB) - 20
Juneau City and Borough (CBJ) - 3
Kenai Peninsula Borough (KPB) - 24
Ketchikan Gateway Borough (KGB) - 3
Kodiak Island Borough (KIB) -2
Matanuska-Susitna Borough (MAT-SU)- 34
North Slope Borough (NSB) - 1
Sitka City and Borough (SCB)-1
Municipality and Borough of Skagway -1
Unorganized Boroughs - 1
Non-borough areas -13

MR. GRUENING further reported that these load shifts resulted in three fatalities, 17 incapacitations, 6 possible injuries, and 136 with no reported injuries, with one non-reported and three with an unknown notation. He stated that out of the causes of crashes due to unsecured loads, Alaska ranks 35th out of 68. He acknowledged that this list is not a real accurate reflection of the number of crashes due to "load shifts" that resulted in injuries and deaths. In response to Representative Claman, he said the information related to fatal and non-incapacitating injuries. He offered to check with the DOT&PF for further clarification of the data.

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CO-CHAIR WOOL asked whether crashes due to unsecured loads would be considered a violation or an accident.

MR. GRUENING answered that if the load shift adversely affected the maneuverability or vehicle stability of and caused the crash, it would be included in the statistic. This data pertained to items leaving the vehicle or moving. For example, the data included instances in which the police reported the primary cause of a crash was due to an unsecured propane tank that rolled in the truck bed and the driver could not control the vehicle. The National Highway Transportation Safety Administration provides more extensive research and reporting than the state's data. He offered to research and provide additional data, if available.

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REPRESENTATIVE DRUMMOND related her understanding that the class A misdemeanor language applied not only to unsecured loads of loose items such as a propane tank but also to loose rock, gravel or sand that leaves the unsecured load and results in the

physical injury of another. She further asked whether the penalty provisions also apply to property injury such as the unsecured load results in a cracked windshield, without any physical injury.

MR. GRUENING answered yes; it would fall under the penalty provisions as a Class A misdemeanor if was fourth offense; a Class B misdemeanor for the third offense; and an infraction on the second offense. He added that the penalties are on a sliding scale, that the penalty would be a fine of not more than \$300 for first-time offenders - which is the fine in current statute - and a fine of not more \$600 for the second offense. He reiterated that the penalties increase for repeat offenders.

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REPRESENTATIVE DRUMMOND related her understanding that the offense goes from a violation to a misdemeanor for subsequent violations, for property damage, but not necessarily causing a crash or physical injury to a person.

MR. GRUENING answered yes, for repeat offenders.

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REPRESENTATIVE CLAMAN asked whether there is a "mental state" required in misdemeanor cases [crashes caused by unsecured loads].

MR. GRUENING answered that it was not written into the bill.

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REPRESENTATIVE CLAMAN was interested in whether this was being treated as a strict liability offense, without a "mental state" requirement, or if there is a "mental state" requirement.

MR. GRUENING was unsure but offered to provide the information to the committee.

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REPRESENTATIVE KOPP asked for examples in current law that relate to driving behavior that results in injury or risk of injury. He further asked for clarification on the intent of the bill. He noted that existing law provides definitions for reckless driving, negligent driving, and reckless endangerment

and asked for clarification on whether drivers with unsecured loans would be covered under these definitions or other definitions. In current law "reckless driving," when a person operates a motor vehicle in a manner that creates as substantial and unjustifiable risk of harm to a person or property, is a Class A misdemeanor. Although this offense does not require actual injury, an injury could provide proof of the offense, he said. "Negligent driving" was a lesser offense, in which an unjustifiable risk was created by the driver's actions, he said. "Reckless endangerment" pertains to all behavior in which a person creates a substantial and unjustifiable risk of harm to another person or property.

REPRESENTATIVE KOPP suggested other standards could be brought in that could apply to risk of harm, not just injury. He related a scenario from his own experiences as a motorcycle driver, such that he has had rocks from [unsecured loads] fly out of the back of trucks and hit his hands, noting that vehicle windshields stop some debris that would hit motorcyclists or pedestrians. He pointed out that Representative Claman also queried whether the mental state applied to drivers with unsecured loads. He suggested that [the sponsor] was on the right track in trying to protect people [from injuries or death from unsecured loads], but he was uncertain how to best do so. He referred to [page 2], line 17 of the proposed committee substitute (CS) for HB 259, Version T, which read, "(1) is guilty of a class A misdemeanor and is punishable as provided in AS 12.55 if the" He suggested adding language, "if the person who drives a motor vehicle in a matter has created a substantial and unjustifiable risk of harm to a person or to property and actually results in physical injury." This would be consistent with how reckless driving is defined and would be in a DOT&PF section of law. The bill addresses driving offenses and the more homogenous the standards for Class A misdemeanors would also provide continuity within the law.

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CO-CHAIR WOOL also expressed some concern about the threshold of physical injury, which could be as low as physical pain, for example, pain that would result from pebbles in vehicles striking motorcycle drivers or pedestrians, with some pain being relatively minor.

MR. GRUENING related his understanding that the previous speakers would like the offenses in the bill to be consistent with other driving offenses with a risk of injury and the actual

injury. He stated he gleaned that was what the Chair also mentioned, which is why the committee may wish to consider the alternate definition of "serious physical injury." This might tie into whether a person has a culpable mental state, he said, noting he shared similar concerns.

[Audio difficulties].

[1:59:59 PM](#)

REPRESENTATIVE CLAMAN said that sometimes it gets complicated because the question of mental state relates to circumstances. He offered an example for reckless driving, which is typically for a driver driving at a speed of 80 miles per hour in 40 miles-per-hour zone, swerving back and forth. He offered his belief that it is arguable that the bill addresses the circumstances in which the driver is operating a tractor trailer vehicle with an unsecured load. He related a scenario in which a driver was driving at the speed limit, absent any erratic behavior. He asked whether simply loading the truck represented conduct or if it represents a set of circumstances. He asked whether a driver who realizes that his/her truck's load is unsecured, has created a mental state, even if his/her exhibited driving is fine. He acknowledged that mental state can create complicated questions.

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REPRESENTATIVE DRUMMOND suggested that if the committee is interested in changing the behavior of drivers with loads, which she supported, that it may prevent injuries if a police officer stopped someone with an unsecured load and issued a misdemeanor citation. She supported the idea of changing driver's behavior to avoid multiple offenses and injuries.

MR. GRUENING acknowledged the prime sponsor's goal is to change driver behavior [with respect to unsecured loads].

[2:03:00 PM](#)

CO-CHAIR WOOL suggested that the increased penalties for multiple offenses speaks to that point; however, he expressed concern that a driver with no prior offenses, who drives with an unsecured load that results in physical harm could immediately be charged with a misdemeanor, even if it was unintended harm.

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REPRESENTATIVE KOPP agreed. He liked the progressive penalties; however, he expressed concern for the strict liability of a Class A misdemeanor of drivers with unsecured loads that results in physical injury, which he said is a fairly-low standard. He could envision instances in which an operator made a real attempt to secure the load, but may have hit a big pothole, something shifted, and someone [was injured by flying debris]. This is different than an instance in which a driver operated a vehicle in a manner that created a substantial and unjustifiable risk of harm to a person or property that resulted in injury. The pertinent language difference is that the driver created a "substantial and unjustifiable" risk when the driver either did not secure the load or did so haphazardly. He did not think the driver who unintentionally harmed someone and who had made the effort to adequately secure the load, should face a Class A misdemeanor for a minor injury.

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MR. GRUENING said he agreed with many of Representative Kopp's concerns; pointing out that HB 259 has a Judiciary Committee referral next.

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MR. GRUENING returned briefly to the penalty provisions, stating a third offense would be a Class A misdemeanor. He stated that he could provide the language of specific statutes that define Class A and Class B misdemeanors, including the fines and imprisonment, if so desired. He continued with the section-by-section analysis of HB 259, which read as follows [original punctuation provided]:

Subsection (d) (3) (A) on Page 2, lines 25 through 28:

This subsection specifies that a person who violates (a) of this section is guilty of an infraction on the second offense. This is punishable by a fine of not more \$600.

Subsection (d) (3) (B) on Page 2, lines 29 and 30:

This subsection specifies that a person who violates (a) of this section is guilty of an infraction on the first offense. This is punishable by a fine of not

more \$300. This amount is consistent with the current fine.

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MR. GRUENING continued with the section-by-section analysis of HB 259, paraphrasing Sections 3 and 4, which read as follows [original punctuation provided]:

Section 3 on Page 2, line 31 through Page 3, line 1.
AS 28.35.253 is amended by adding a new subsection:

Specifies that a violation of this section is an infraction. It is an infraction currently and this section is a conforming amendment to reflect the repeal of AS 28.35.251(b) and 28.35.255 in Section 4. AS 28.35.255 housed the penalty for both statutes and the bill changes it so that the penalties are within the individual statutes. There is no substantive change.

Section 4 on Page 3, line 2:

Repeals AS 28.35.251(b) and 28.35.255.

[2:07:25 PM](#)

CO-CHAIR WOOL opened public testimony on HB 259.

[2:07:31 PM](#)

ROBIN ABEL stated that this bill is all about changing behavior. She said that she strives to elicit compassion because that is what it takes to change behavior. She offered to describe what happened to her daughter, Maria, when debris flew off an unsecured load, her efforts in the last 14 years to change laws, and to provide reasons why this bill is important.

MS. ABEL described what happened to her daughter, Maria. On February 22, 2004, Harborview Hospital called to advise her that her daughter was in critical condition and she needed to come as quickly as possible. Her daughter was 25, had graduated from college, and had moved out the prior year. She threw on her clothes and headed to the hospital. She passed her daughter's crashed jeep. At the hospital, doctors said they would not be able to save her; that she was bleeding from the center of her brain, and then she realized that the doctors wanted her consent

to donate Maria's organs. She was driving home from her restaurant job, when an entertainment center fell off a vehicle and a 40-pound board went into through her daughter's windshield. She said they estimated the impact was about 2,000 pounds.

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MS. ABEL said that in the morning, doctors discovered she was improving and they did everything to save her life. They told her she would not see, hear, or likely ever speak, that she had severe brain damage. They recreated a new face from her eyebrows to her upper palate with mesh wire, titanium, and some of her own bone from her hip.

MS. ABEL said her daughter's life will never be the same. She can talk, walk, and dance; however, she is blind. She said within a few days the medical expenses were over a million dollars. She said the [King County] prosecutor, [Norm Maleng] met her daughter at the hospital. He told Maria's mother that what happened in the crash, with the unsecured load, was not a crime; instead the driver received a citation for littering, which is an infraction. With the prosecutor's help, she was able to have legislation passed by the Washington State Legislature [known as "Maria's law"]. She emphasized that she was very vocal about what happened to her daughter and her testimony affected people because they realized it could have been their daughter. Maria's life changed in an instant and it was not due to anything she had done, she said.

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MS. ABEL described aspects of the Washington State law, such that if someone is substantially injured, the driver [of an unsecured load] is subject to one year in jail and a \$5,000 fine. If property is damaged [from an unsecured load], the driver can receive \$1,000 fine and 90 days in jail.

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MS. ABEL recapped some of her accomplishments, that with the prosecutor's encouragement, she worked to educate the public and change two Washington state laws and two national transportation laws; one including funding a governmental study on the [hazards and incidence] of unsecured loads. In 2012, the U.S. government acknowledged that unsecured loads constituted a serious hazard, providing funding for states. The State of Washington changed

its driver's guide on securing loads and a revised version was sent to the American Automobile Motor Vehicle Association (AAMVA), an organization whose mission is to serve motor vehicle and law enforcement agencies to accomplish their missions. The AAMVA approved the manual for all noncommercial drivers, and it was distributed last summer to all states, she said. Further, during a three-day international road check - including Canada - unsecured loads was the second-highest noncompliance violation, even though advanced advertising for secure load check occurred. She emphasized the importance of educating people about the dangers of unsecured loads. She acknowledged that drivers do not intentionally put people at risk, nor realized what will happen if they slam on their brakes or swerve and debris hitting other vehicles. She said, "If I could leave you with one thing it would be to say, 'secure your load as if everyone you love is driving in the car behind you.'" She reported that as a nation, \$11.5 billion is spent per year on litter programs, which could be better spent on road maintenance. Some groups believe 20 to 40 percent or more of the litter comes from unsecured loads.

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MS. ABEL directed attention to her website [<https://www.secureyourload.com>]. She reported that Alaska Governor Bill Walker signed a proclamation last year designating June 6th as "Secure Your Load Day." She further reported that 47 states and the Virgin Islands participated in that effort last year, urging members to inform their constituents about it. She thanked and commended Kelly Roy, who is in the audience today; someone who stood out to her among the many people she speaks with nationwide.

[2:20:32 PM](#)

The committee took an at-ease from 2:20 p.m. to 2:23 p.m.

[2:23:00 PM](#)

KELLY ROY described a crash she had when debris from a truck with an unsecured load hit her car and left her with devastating injuries. She stated that about three years ago while driving to work, an unsecured load from a truck ahead of her came loose dispersing debris, including an unsecured trash can. She awoke in an emergency room, with police asking her questions. She learned her car had rolled four times; that the fire department cut her from the vehicle. She suffered broken bones, bruises,

and a blow to her skull. She also suffered from bleeding inside and outside of her brain, which typically has a survival rate of 30 percent. She could not adequately explain how a brain injury feels, but she described that she was unable to walk across the room, hold a fork, or tell her father she was going to be okay, because her speech was impaired. She told members she is still in [physical and speech] therapy to regain her normal functions. She said this was because someone could not "secure their stuff." She told members that the driver never stopped, and it made her feel like she was as unimportant as the trash the driver did not tie down. She advised members that she tried to get financial assistance to cover expenses, but she was ineligible for crime victim compensation, because the unsecured load that hit her car was considered a littering fine and not a crime.

MS. ROY stated that is why she was testifying today. She said that when drivers do not secure their loads, people pay with their lives; that her life has changed. She felt that she has paid for something that was totally avoidable. She offered her belief that HB 259 will educate and remind every person how dangerous an unsecured load is to others on the roadway. This bill will protect all Alaskans from negligent drivers and will hold them accountable for their actions. She asked members to help her change the law that did not protect her. She thanked members for listening.

[2:28:01 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD thanked her for her courage. She asked whether the driver responsible for her injuries was ever found.

MS. ROY answered no.

[2:28:33 PM](#)

REPRESENTATIVE DRUMMOND asked when this occurred.

MS. ROY responded that the date of her crash was February 16, 2015.

REPRESENTATIVE DRUMMOND commented that Ms. Roy seems to be doing well. She pledged to do what she could to help, stating she is a "yes" vote [for HB 259].

[2:29:02 PM](#)

REPRESENTATIVE CLAMAN thanked Ms. Roy for sharing her story. He reiterated the discussion the committee had regarding the how to create criminal penalties that will withstand court challenges, including how to consider the mental state issues. He characterized the issue of unsecured loads as an important one. He thanked her for the courage to testify today, acknowledging the long path to her recovery.

[2:29:23 PM](#)

REPRESENTATIVE KOPP echoed the comments, thanking Ms. Roy for her testimony. He asked whether she ever spoke to the Violent Crimes Compensation Board.

MS. ROY answered no, she had not.

REPRESENTATIVE KOPP said he firmly believed that she should be considered eligible for compensation because two crimes, reckless endangerment and reckless driving applied. He pledged to fix this law, so it could withstand scrutiny.

[2:30:23 PM](#)

CO-CHAIR WOOL thanked the testifiers for sharing their stories. He said it was good to have stories and faces to put with the issue of unsecured loads. He acknowledged that this issue is also about awareness to change behavior, not just increasing penalties. He said that the committee wants to do what is right for the future and help those who are affected by this.

[2:31:03 PM](#)

CO-CHAIR STUTES thanked Ms. Roy, noting it is young people like her who make Alaska strong.

[1:32:22 PM](#)

[HB 259 was held over].

[2:32:26 PM](#)

The committee took an at-ease from 2:32 p.m. to 2:34 p.m.

HB 263-TRANSPORTATION SERVICES FOR HUNTERS

[2:34:49 PM](#)

CO-CHAIR WOOL announced that the final order of business would be HOUSE BILL NO. 263, "An Act exempting certain water taxi operators from regulation as transportation services by the Big Game Commercial Services Board; and providing for an effective date."

[2:35:26 PM](#)

JAYME JONES, Staff, Representative Gary Knopp, Alaska State Legislature, paraphrased from a prepared sponsor statement, which read as follows [original punctuation provided]:

AS 08.54.790 exempts certain air taxis' from having to obtain a transporter permit from Alaska Department of commerce, community, and economic development if; carrying big game hunters is only an incidental portion of their business; if they do not charge more than the usual tariff or charter rate and do not advertise transportation services or big game hunting services to the public.

[House Bill] 263 would add licensed water taxis', meeting the current stipulations of air taxis', to this exemption. According to big game commercial services, in the 2017 calendar year only nine transporter permits were issued statewide by DCCED. To operate as a water taxi, you must also comply with the Untied [sic] States Coast Guard and all other state licensing regulations.

This exemption would allow individuals to travel to the hunting grounds by their choice of water or air taxi. Currently water taxi operators incur additional burden and expense of obtaining another permit that is not required by the exempt air taxi operators. The inclusion of the water taxi operators levels the playing field for both means of transportation providing "incidental" services to hunters.

[2:37:36 PM](#)

REPRESENTATIVE GARY KNOPP, Alaska State Legislature, prime sponsor of HB 263, stated that the legislators know there are no simple bills, and although some have expressed concerns, he has

found substantial support for the bill. He said that this bill addresses an issue of equality for water taxi operators. An exemption in statute already existed for air taxi operators and this bill, HB 263, would expand that exemption to water taxi operators.

REPRESENTATIVE KNOPP reported that these statutes were amended about 10 years ago. He has spoken to some prior Big Game Commercial Services Board (BGCSB) members about water taxi operators and they advised him that the topic of water taxis did not arise. He introduced the bill at the request of a water taxi operator, after reviewing the statutes pertaining to air taxis, he said.

[2:39:27 PM](#)

CO-CHAIR STUTES stated that she has received several concerns. She related her understanding that with an air taxi service, the plane flies in, drops off hunters, and flies out. She has heard concern expressed that water taxi services bring in hunters, drop them off, then the plane stays in the area, and the pilot could conceivably scout around and/or move hunters, effectively providing guiding services without a license.

REPRESENTATIVE KNOPP responded by saying that currently a water taxi operator with transporter permits could violate guiding laws. He characterized the water taxi services as incidental to the operators' business. He acknowledged that anything is possible, but he did not think it was too big of an issue. Currently, only 140 transporter licenses are issued in the state; however, the department was unable to distinguish between transporters using airplanes and those using other types of vehicles. He anticipated that this bill was likely to affect Southeast Alaska, Kodiak, and perhaps Southcentral Alaska. Currently, the Alaska Marine Highway System (AMHS) transports many hunters to areas such as Kodiak. He reiterated that the type of activity Representative Stutes mentioned was outside the rules.

[2:42:46 PM](#)

CO-CHAIR STUTES acknowledged that some of the concern expressed pertained to black bear populations in Southeast Alaska that could be directly impacted by hunters, who could easily move to the game with access to air taxis. She remarked that reduced state funding translates into [little or] no enforcement.

REPRESENTATIVE KNOPP reiterated that the Chair of the Alaska Board of Game (BOG) [Ted Spraker], among others he contacted, did not anticipate any increased hunting pressure. He recalled that in recent years the bag limit for black bears was five, although it may recently have been reduced to three bears per calendar year. He offered his belief that water taxi operators would self-regulate in terms of numbers of hunters. Thus, he did not anticipate this change would result in any additional hunting pressure. He reiterated that [Mr. Spraker, Chair, Board of Game] said the board could use permits or other means to limit over harvesting.

[2:44:35 PM](#)

REPRESENTATIVE CLAMAN, referring to page 2 [lines 5-14, to AS 08.54.790(12)(B), sub-subparagraph's (i) and (ii)] of HB 163, which outline the two prohibitions for water taxi operators in the bill. Sub-subparagraph (ii) would prohibit the water taxi operator from advertising, for big game services, which relates to Representative Stute's concern. Second, sub-subparagraph (ii) does not allow the water taxi operator to advertise transportation services. He related that in his experience he has never seen a service that did not advertise their transportation services. He offered his belief that would seem to disqualify all water taxi operators.

REPRESENTATIVE KNOPP recalled that at the time the existing law was written, the legislature provided this exemption to recognize some air carriers transported equipment. He offered his belief that the legislature did not "cross the lines" between those who take a larger percentage of their business from transporter services without being guide-outfitters. The exemption states that [an air taxi] service cannot advertise as a transporter or charge a premium, but the key was that these services were "incidental" to their businesses.

[2:46:57 PM](#)

REPRESENTATIVE CLAMAN said he might be misreading the statute; however, it seemed that if a transportation business advertises that it provides transportation services in Prince William Sound, the water taxi operator would be exempted from the statute and not be able to provide services to hunters since the operator advertises transportation services. He said he understood why advertising big game services would exclude air and water taxi operators from transporting hunters; however, he

did not understand why transportation services would exclude them.

[2:48:11 PM](#)

REPRESENTATIVE KNOPP, referring to sub-subparagraph (ii), on page 2, line 9-11, of HB 263, directed attention to the definition of "advertise," which read [original punctuation provided]:

... "advertise" means soliciting big game hunters to be customers of an air taxi operator, [OR] air carrier, or water taxi operator for the purpose of providing air or water transportation to, from, or in the field.

REPRESENTATIVE KNOPP said he interpreted this to mean that the water taxi operator can advertise as a transporter but may not specifically target the hunting industry.

[2:48:47 PM](#)

REPRESENTATIVE KOPP agreed with Representative Knopp, that the section relates to soliciting big game hunters.

REPRESENTATIVE CLAMAN said he thinks that his concern was misplaced.

[2:48:54 PM](#)

CO-CHAIR WOOL related his understanding that this language would exempt the water taxi from regulation as transportation services. He asked the reason to exempt them and whether there is any distinction between transporting a kayaker from transporting a hunter from point A to point B since water taxi operators currently follow these [statutes].

[2:49:27 PM](#)

REPRESENTATIVE KNOPP responded that the exemption currently does not apply to water taxis, only to air carriers. Currently, anyone running a boat for hire for any purpose cannot drop off hunters with hunting gear, no matter how incidental the service might be. He said this came to his attention when a water taxi operator got into trouble for transporting a frequent customer. The water taxi operators could not provide hunting services to a loyal customer. The water taxi operators were concerned about

sending his/her client to another water taxi, which could potentially erode his/her client base.

2:50:40 PM

CO-CHAIR STUTES asked the reason current water taxi operators would be opposed to this.

REPRESENTATIVE KNOPP answered that a licensed taxi operator who also had a transporter permit was concerned because it would add some additional competition. Another water taxi operator who previously had a transporter license also had an issue, but he could not recall the reason that water taxi operator was opposed.

2:52:11 PM

MARK RICHARDS, Executive Director, Resident Hunters of Alaska (RHAK), Fairbanks, Alaska, stated that he also served on the Transporter's Committee of the Big Game Commercial Services Board (BGCSB). He said that RHAK wants all hunters to have equal access to the field by commercially licensed and insured carriers, whether by air taxi operators or water.

MR. RICHARDS emphasized that this bill would grant the same exemption to water taxi operators as it does to air taxi operators, who are licensed and regulated by the Federal Aviation Administration (FAA). It would only apply to the carriage of hunters as an incidental part of a water taxi operator business. He pointed out that "incidental" is key in the definitions AS 08.54.790.

2:55:33 PM

MR. RICHARDS, paraphrased from the [RHAK] letter of January 27, 2018, which read, in part, as follows [original punctuation provided]:

The FAA licenses and regulates air-taxis, and the Coast Guard licenses and regulates watertaxis (sic). A Part 135 air-taxi that operates under the current exemptions to provide transportation services to big game hunters without holding a transporter license is no more or less qualified, or less safe, than flying with an air-taxi that holds a transporter license. The same would be true for water-taxis with the same exemption.

[2:53:55 PM](#)

MR. RICHARDS said that the RHAK does not believe the state should have been involved in the transportation services industry, to further regulate air and water carriers who transport one certain class of clientele. He asked why the legislature would ever tell a business what it can charge, whether it can advertise, and what type of clientele it can accept. In fact, that is what the AS 08 statutes do, which negatively affect resident hunters. Any opposition to this bill as it relates to hunter crowding and overharvest concerns is under the sole authority of the Alaska Board of Game (BOG) to address. He pointed out it is currently illegal to direct hunters to animals or to help butcher or transport an animal. He said the RHAK hopes many aspects of AS 08 will be removed as this bill moves forward. He thanked members for their time.

[2:56:25 PM](#)

JANEY MCCULLOUGH, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), introduced herself.

[2:56:16 PM](#)

CO-CHAIR WOOL prefaced his question, noting he does not use water taxi services or hunt big game. He asked for clarification on terminology. He asked whether there was a distinction between regulations governing water taxi operators transporting him for camping, recreation, or big game hunting if he decided to use a water taxi operator to do so.

MS. MCCULLOUGH deferred to Henry Tiffany, Chair, Big Game Commercial Services Board (BGCSB) to answer technical questions. Since he was not available, and although said she is not an expert, she offered her belief that an air taxi or water taxi operator would need to have a transporter's license if the operator transports hunters.

[2:57:35 PM](#)

CO-CHAIR WOOL asked whether a transporter's license is different than a license a water taxi operator would need.

MS. MCCULLOUGH answered that the division does not regulate water taxi operators, which are under the jurisdiction of the US Coast Guard.

CO-CHAIR WOOL directed the question to Representative Knopp.

REPRESENTATIVE KNOPP said during the discussion for this bill, that some believe the transporter licensure is not necessary. He recalled back in the 80s that transporter licensure was instituted when many nonresident hunters who thought they were booking guide services were simply dropped off by air carriers. Since clients were confused about the type of services being provided, the BGCSB established transporter licenses to differentiate between big game guide-outfitter services and air taxi transportation services.

[HB 263 was held over.]

[3:00:14 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:00 p.m.