

HB

259

<TARGET><BILL>HB 259</BILL><SUBJECT>HB
259</SUBJECT><COMM>HJUD30</COMM></TARGET>

30-LS0917\L
Bruce/Martin
2/22/18

CS FOR HOUSE BILL NO. 259()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

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

A BILL
FOR AN ACT ENTITLED

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

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

3 *** Section 1.** AS 28.35.251 is repealed and reenacted to read:

4 **Sec. 28.35.251. Failure to contain or confine a load.** (a) A person commits
5 the crime of failure to contain or confine a load in the first degree if the person, with
6 criminal negligence, violates (b) of this section and, as a result of that violation,

7 (1) causes serious physical injury to another person; or

8 (2) damages property of another person in an amount of \$1,000 or
9 more.

10 (b) A person commits the offense of failure to contain or confine a load in the
11 second degree if the person drives or moves a motor vehicle loaded with any material
12 on a highway unless

13 (1) the load is

14 (A) contained or confined to prevent the load from

15 (i) dropping, leaking, or escaping; or

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(ii) shifting on or within the vehicle to the extent that the motor vehicle's stability or maneuverability is adversely affected; or

(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; or

(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.

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

(3) a vehicle that is removing snow or hauling snow after removal.

(d) In a prosecution under (a) of this section, the fact that the person has been previously convicted of a violation of this section is prima facie evidence that the person acted with criminal negligence.

(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 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

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(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. 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.

Alaska State Legislature

Leadership
Majority Whip

Chair
Fisheries Committee
Transportation Committee

Member
Rules Committee
Labor and Commerce Committee
Legislative Council



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Sponsor Statement HB 259 Version L

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.

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, 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 Mayor of Anchorage, the Anchorage Assembly, the Mayor of the Mat-Su Borough, and the Mat-Su Borough 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.

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 first offense if it results in the serious physical injury to another person or causes \$1,000 or more in property damage.

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.

Thank you for your support of this legislation.

If you have any questions, please contact my staff, Matt Gruening, at 465-3271.

Alaska State Legislature

Leadership
Majority Whip

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Fisheries Committee
Transportation Committee

Member
Rules Committee
Labor and Commerce Committee
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HB 259 Summary of Changes Version M to L

Section 1:

Subsection (a) and (a)(2) on Page 1, lines 4 through line 9:

A mental state of "criminal negligence" is now applied as a factor to whether a violation of the section will be raised to the level of a Class A misdemeanor. It was previously a strict liability offense.

When the load is secured with criminal negligence, property damage of \$1,000 was added as a factor that would raise the offense to the level of a Class A misdemeanor.

Subsection (d) on Page 2 lines 18 through 20:

Added that in a prosecution under (a), which is failure to secure a load in the first degree, a person being previously convicted of a violation of this section is prima facie evidence that the person acted with criminal negligence when securing the load.

Subsection (e)(2)(A), (B), and (D) on Page 2, line 24 through Page 3, line 2:

This subsection specifies that failure to secure a load in the second 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. Previously, it was \$300 for the first offense, \$600 for the second offense, a Class B misdemeanor on the third offense, and a Class A misdemeanor on the fourth offense.

LEGISLATIVE RESEARCH SERVICES

30th Alaska Legislature
LRS Report 17.170
March 20, 2017



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States That Have Enacted Laws Penalizing Unsecured Loads

Susan Haymes, Manager

You asked for information on states with laws that allow criminal charges to be filed against individuals who are charged with operating vehicles on a public highway with unsecured loads.

Whether it be a pickup truck filled to overflowing or a mattress tied loosely to the top of car, unsecured loads are potential road hazards that can lead to serious injuries, property damage, and fatalities. In an analysis of motor vehicle crash data from 2011-2014, the AAA Foundation for Traffic Safety concluded that road debris was a factor in a total of more than 200,000 police-reported crashes, resulting in a total of approximately 39,000 injuries and 500 deaths.¹ The report further found that about two-thirds of debris-related crashes are the result of items falling from a vehicle due to improper maintenance and unsecured loads.

All 50 states have laws that require drivers to properly secure loads in any vehicle or trailer, and all states impose fines ranging from \$10 to \$5,000 for violating unsecured load laws.² In most states a violation of the unsecured load law is considered a traffic violation; however, in at least 15 states a violation is a misdemeanor and the possibility of imprisonment is included in the penalty.³ In at least three states—Colorado, Florida, and Washington—the law specifies a more severe penalty when a violation results in bodily harm to another. Washington has the toughest such penalty, following the legislature's enactment of "Maria's Law" in 2010 (HB 1478).

Maria's Law was a result of road-debris accident in 2004, when a University of Washington student, Maria Federici, was driving home from work, and her windshield was struck by a 40-pound board from an unsecured load, leaving her blind and disfigured. Following the accident, the driver of the trailer was fined for a simple traffic violation. In response, Maria's mother, Robin Abel, began a campaign to change Washington's law regarding unsecured loads and cargo, which resulted in the passage of HB 1478 in 2010. Under its provisions, a person who is convicted for failure to secure a load that results in bodily harm to another is guilty of a gross misdemeanor, which is punishable by a fine of up to \$5,000 and imprisonment of up to one year, or both. A violation of the law that results in damage to the property of another is a misdemeanor, and the penalty is a fine of up to \$1,000 and not more than 90 days in jail.⁴

Virginia has the next toughest penalty—a fine of up to \$2,500, or up to 12 months imprisonment, or both. Virginia's law also requires the driver to pay the costs of cleaning up the debris (Va. Code Ann. § 10.1-1424). Penalties in five states—Mississippi,

¹ AAA Foundation for Traffic Safety, "The Prevalence of Motor Vehicle Crashes Involving Road Debris, United States, 2011-2014," August 2016, https://www.aaafoundation.org/sites/default/files/RoadDebris_FACTSHEET.pdf.

² A majority of states exempt vehicles from unsecured load laws for activities such as roadway maintenance, or agriculture activities. Nine states, however, have no exemptions.

³ The 15 states are Colorado, Florida, Georgia, Illinois, Louisiana, Michigan, Mississippi, New York, Oklahoma, South Dakota, Tennessee, Virginia, Washington, West Virginia, and Wyoming. A report by the Government Accountability Office, "Highway Safety: Federal and State Efforts Related to Accidents That Involve Non-Commercial Vehicles Carrying Unsecured Loads," November 2012, provided information on laws in the 50 states. The report can be viewed at <http://www.gao.gov/assets/660/650049.pdf>.

⁴ We enclose a copy of Washington's relevant statutes as Attachment A.

New York, Oklahoma, West Virginia, and Wyoming—increase for second, third, and subsequent convictions that occur within a year of the first conviction.

In Table 1, for each of the 15 states in which the penalty for an unsecured load is a misdemeanor, we provide the statutory citations, and a brief description of the penalties. The statutory citations include the unsecured load law and, if different, the laws describing the penalties for a violation.

Table 1: States That Impose Criminal Penalties for Violations of Unsecured Load Laws		
States	Statutory Citations	Penalties
Colorado	C.R.S. 42-4-1407 C.R.S. 42-4-1701	A violation that results in bodily harm is a class 2 misdemeanor traffic offense with a fine of \$150-\$300 or imprisonment of 10-90 days, or both. The driver may also be required to pay restitution. A violation that does not lead to bodily harm is a class A or B traffic infraction with a fine of \$15-\$100.
Florida	Fla. Stat. § 316.520 Fla. Stat. § 318.18(12) Fla. Stat. §§ 775.082-.083	If the offense results in serious bodily injury or death to another, the driver is subject to a fine of no more than \$500 and imprisonment for not more than 60 days - a misdemeanor in the 2nd degree. A violation that does not result in bodily harm is a noncriminal traffic infraction for which the minimum penalty is \$200. For a second offense within five years, the driver's license may be suspended for one to two years.
Georgia	O.C.G.A. § 40-6-254 and § 40-6-248.1 O.C.G.A. § 17-10-3	A conviction for operating a vehicle without adequately securing the load is punishable with a fine of up to \$1,000 or imprisonment not to exceed one year, or both.
Illinois	§ 625 ILCS 5/15-109 § 625 ILCS 5/15-109.1 § 730 ILCS 5/5-4.5-55	Drivers of flatbeds convicted of violating secured loads law face imprisonment of up to one year or a fine of up to \$2,500 for each offense, or both - a Class A misdemeanor. Other violations are punishable with fines not to exceed \$250.
Louisiana	La. R.S. § 32:383	Up to a \$500 fine or imprisonment of up to six months, or both.
Michigan	MCL § 257.720	Up to a \$500 fine or imprisonment of up to 90 days, or both.
Mississippi	Miss. Code Ann. § 63-5-55 Miss. Code Ann. 63-5-7 Miss. Code Ann. 63-9-11	For a first conviction, a fine of not more than \$100 or imprisonment of up to ten days; for a second conviction within one year, a fine of not more than \$200 or imprisonment of up to 20 days, or both; upon a third conviction within a year of the first conviction, a fine of not more than \$500, or not more than six months imprisonment, or both.
New York	NY CLS Veh. & Tr. § 377	Law is specific to vehicles "designed or used for the purpose of hauling logs or other materials which by their very nature may shift or roll so as to be likely to fall from such vehicle. . .". A first offense is punishable by a fine of not more than \$100; second offense a fine of not more than \$350; subsequent offenses up to a \$750 fine or imprisonment up to 30 days, or both.

Table 1: States That Impose Criminal Penalties for Violations of Unsecured Load Laws (cont.)		
States	Statutory Citations	Penalties
Oklahoma	47 Okl. St. § 14-105 47 Okl. St. § 17-101	A fine of not less than \$5 nor more than \$500, or imprisonment for up to ten days for a first conviction; for a second conviction up to 20 days imprisonment; for a third and subsequent convictions up to six months imprisonment, or by both such fine and imprisonment.
South Dakota	S.D. Codified Laws § 32-15-18 S.D. Codified Laws § 22-6-2	Thirty days imprisonment in county jail or \$500 fine, or both.
Tennessee	Tenn. Code Ann. § 55-7-109 Tenn. Code Ann. § 40-35-111	A fine not to exceed \$50 or not more than 30 days imprisonment or both.
Virginia	Va. Code Ann. § 10.1-1424 Va. Code Ann. § 18.2-11	A fine of not more than \$2,500 or not more than 12 months in jail or both - a Class 1 misdemeanor. In addition, the driver has to pay the cost of cleaning the debris from the public highway.
Washington	Rev. Code Wash. (ARCW) § 46.61.655 Rev. Code Wash. (ARCW) § 9A.20.021	A person who is guilty of failure to secure a load is guilty of a gross misdemeanor, if he or she with criminal negligence causes substantial bodily harm to another. The penalty for a gross misdemeanor is a fine of up to \$5,000 or up to a year in jail, or both. A driver who violates the unsecured load law resulting in damage to the property of another is guilty of a misdemeanor. The penalty for a misdemeanor is a fine of not more than \$1,000 or imprisonment up to 90 days, or both.
West Virginia	W. Va. Code § 17C-17-6 W. Va. Code § 17C-18-1	A first conviction is punishable with a fine of not more than \$100 or by imprisonment up to ten days; second conviction within one year is a fine up to \$200 or imprisonment up to 20 days or both; upon a third or subsequent conviction, a fine up to \$500 fine or six months imprisonment or both.
Wyoming	Wyo. Stat. § 31-5-228 Wyo. Stat. § 31-5-1201	For a first conviction by a fine of more than \$200 or imprisonment for not more than 20 days, or both; for a second conviction within one year, fine of up to \$300 or by imprisonment for to six months, or both; for a third or subsequent conviction a fine of up to \$500 or imprisonment up to six months or both.
<p>Notes: While we believe our research to be thorough, we may have missed some laws.</p> <p>Sources: Government Accountability Office, "Highway Safety: Federal and State Efforts Related to Accidents That Involve Non-Commercial Vehicles Carrying Unsecured Loads," November 2012, at http://www.gao.gov/assets/660/650049.pdf; Lexis Nexis.</p>		

A person who is injured, or the family of a person who is killed in an unsecured load incident, may also be able to sue in civil court for personal injury and wrongful death compensation, including medical expenses, lost wages, pain and suffering, disfigurement, disability and other damages. In its report on unsecured load laws, the Government Accountability Office stated that law enforcement officers in a number of states remarked that additional criminal charges could be brought in their state against individuals who injured or killed a person as a result of negligently securing their load, in addition to the specific penalties found in unsecured load laws.⁵

We hope this is helpful. If you have questions or need additional information, please let us know.

⁵ GAO, "Highway Safety: Federal and State Efforts Related to Accidents That Involve Non-Commercial Vehicles Carrying Unsecured Loads," November 2012, p. 15.



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Annotated Revised Code of Washington
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*** Statutes current through the 2016 1st Special Session ***

Title 46 Motor Vehicles
Chapter 46.61 Rules of the Road
Miscellaneous Rules

GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY

Rev. Code Wash. (ARCW) § 46.61.655 (2016)

46.61.655. Dropping load, other materials -- Covering.

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction.

(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon by subsection (3) of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.

(4) (a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(b) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.

(5) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.

(7) (a) (i) A person is guilty of failure to secure a load in the first degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section and causes substantial bodily harm to another.

(ii) Failure to secure a load in the first degree is a gross misdemeanor.

(b) (i) A person is guilty of failure to secure a load in the second degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1) or (2) of this section and causes damage to property of another.

(ii) Failure to secure a load in the second degree is a misdemeanor.

(c) A person who fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section is guilty of an infraction if such failure does not amount to a violation of (a) or (b) of this subsection.

HISTORY: 2005 c 431 § 1; 1990 c 250 § 56; 1986 c 89 § 1; 1971 ex.s. c 307 § 22; 1965 ex.s. c 52 § 1; 1961 c 12 § 46.56.135. Prior: 1947 c 200 § 3, part; 1937 c 189 § 44, part; Rem. Supp. 1947 § 6360-44, part. Formerly RCW 46.56.135.

NOTES: Severability -- 1990 c 250:

See note following *RCW 46.18.215*.

Severability -- 1971 ex.s. c 307:

See *RCW 70.93.900*.

Cross references.

Littering: Chapter 70.93 RCW.

Rules of court: Monetary penalty schedule -- *IRLJ 6.2*.

Transporting waste to landfills: *RCW 70.93.097*.

Notes to Decisions

Liability for unsecured loads.

Customer, as the driver of the truck, had a statutory duty under this section to secure the beam so that it would not fall off; that was not the corporation's duty because its employees did not operate the truck. *Ganno v. Lanoga Corp.*, 119 *Wn. App.* 310, 80 *P.3d* 180, 52 *U.C.C. Rep. Serv. 2d (CBC)* 144, 2003 *Wash. App. LEXIS 2765 (Wash. Ct. App. 2003)*, modified, No. 29762-1-II, 2004 *Wash. App. LEXIS 386 (Wash. Ct. App. Mar. 16, 2004)*.

Trial court erred by granting the trucking company summary judgment in the victim's negligence suit where its failure to properly secure a load of cement blocks as provided by statute was a breach of a legally enforceable obligation to protect the victim from harm. *Skeie v. Mercer Trucking Co.*, 115 *Wn. App.* 144, 61 *P.3d* 1207, 2003 *Wash. App. LEXIS 91 (Wash. Ct. App. 2003)*.

RESEARCH REFERENCES

ALR.

Fall of motor vehicle load upon, or into path of, another vehicle -- liability for resulting accident. *91 ALR2d 897.*



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Annotated Revised Code of Washington
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*** Statutes current through the 2016 1st Special Session ***

Title 9A Washington Criminal Code
Chapter 9A.20 Classification of Crimes

GO TO REVISED CODE OF WASHINGTON ARCHIVE DIRECTORY

Rev. Code Wash. (ARCW) § 9A.20.021 (2016)

9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after.

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

(5) The fines in this section apply to adult offenders only.

HISTORY: 2015 c 265 § 16; 2011 c 96 § 13. Prior: 2003 c 288 § 7; 2003 c 53 § 63; 1982 c 192 § 10.

SECURE YOUR LOAD DAY

June 2, 2017

WHEREAS, all Alaskan drivers must recognize their responsibility to make safe and considerate choices while driving, and driving with an unsecured load presents danger to the travelling public; and

WHEREAS, according to AAA, between 2012 and 2016, over 200,000 crashes involved debris on U.S. roadways, and road debris resulted in approximately 39,000 injuries, and more than 500 deaths between 2011 and 2014; and

WHEREAS, a 20-pound object that falls off a vehicle traveling at highway speeds will strike with a half-ton impact; and

WHEREAS, Alaska Statute 46.06.080 states that “a vehicle may not be driven or moved on a public highway of right-of-way unless it is constructed, loaded, or covered, to prevent its load from dropping, sifting, leaking, or otherwise escaping from the vehicle;” and

WHEREAS, the simple, routine act of securely affixing every load makes Alaska’s roads safer for all drivers, and these precautions should not be overlooked; and

WHEREAS, the State of Alaska recognizes the profound suffering and loss of those harmed by unsecured loads, and stands with those critically impacted by such instances of avoidable tragedy.

NOW THEREFORE, I, Bill Walker, GOVERNOR OF THE STATE OF ALASKA, do hereby proclaim June 6, 2017 as:

Secure Your Load Day

in Alaska, and encourage all Alaskans to give serious consideration to their safety and the safety of others when transporting materials in their vehicle on our roadways.

Source: <https://gov.alaska.gov/newsroom/2017/06/secure-your-load-day/>

Municipality of Anchorage, Alaska



PROCLAMATION

WHEREAS, all residents of Anchorage should recognize the dangers of driving with an unsecured load and be accountable for our choices while in a vehicle; and

WHEREAS, per a Government Accountability Study, in a single calendar year unsecured loads were responsible for the deaths of 440 people, 10,000 injuries, and 51,000 incidences in the United States; and

WHEREAS, a 20-pound object that falls off a vehicle that is traveling highway speeds (approx. 55 MPH) will strike with the impact of half a ton; and

WHEREAS, Alaska Statute 46.06.080 states that "a vehicle may not be driven or moved on a public highway or right-of-way unless it is constructed, loaded, or covered to prevent its load from dropping, shifting, leaking, or otherwise escaping from the vehicle; and

WHEREAS, the simple, routine act of affixing every load protects the lives of Anchorage community members, and these precautions should not be overlooked; and

WHEREAS, the City of Anchorage recognizes and honors the profound suffering of those harmed by unsecured loads; and

WHEREAS, the City of Anchorage stands in solidarity with those critically impacted by such instances of avoidable tragedy;

NOW, THEREFORE, I, Ethan Berkowitz, Mayor of Anchorage, do hereby proclaim Tuesday June 6th, 2017:

Secure Your Load Day

And urge all residents to give due consideration to their safety and the safety of others when transporting materials in their vehicle on our roadways,




MAYOR ETHAN BERKOWITZ

ANCHORAGE, ALASKA

AR No. 2017-204

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY RECOGNIZING AND DESIGNATING JUNE 6, 2017 AS *SECURE YOUR LOAD DAY*.

WHEREAS, All residents of the Municipality of Anchorage should recognize the dangers of driving with an unsecured load and be accountable when hauling with a motor vehicle; and

WHEREAS, Per a Government Accountability Study, in a single calendar year unsecured loads were responsible for the deaths of 440 people, 10,000 injuries, and 51,000 incidences in the United States; and

WHEREAS, A 20 pound object that falls off a vehicle on the highway traveling the typical speed limit of 55 MPH will strike a stationary object or person alongside the roadway with the impact of half a ton, fully capable of causing serious bodily injury or death; and

WHEREAS, Anchorage Municipal Code section 9.46.060 requires securing of a load "as to prevent any material from dropping, shifting, leaking, falling from any part of the vehicle, or otherwise escaping therefrom" and requires a load and any covering to be "securely fastened so as to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the street," with a \$150 fine for violations; and

WHEREAS, Alaska Statute 46.06.080 similarly requires a vehicle driven on state roads and highways to secure and prevent its load from dropping or shifting; and

WHEREAS, The Anchorage Assembly stands in solidarity with those impacted by such instances of avoidable and unnecessary tragedies, harmed or even killed by debris or items falling from unsecured loads, and urges all persons transporting loads of items, personal property, debris, trash, rubbish, or anything to cover and secure their load; and

WHEREAS, National, State and local bodies across the United States have joined the movement in designating and recognizing Tuesday, June 6, 2017, as Secure Your Load Day to encourage the simple, routine act of covering and securing every load before driving;

NOW, THEREFORE, BE IT RESOLVED that the Anchorage Assembly celebrates, recognizes and designates Tuesday, June 6, 2017, as:

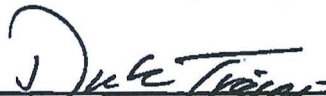
Secure Your Load Day

PASSED AND APPROVED by the Anchorage Assembly this 23rd day of May, 2017.

ATTEST:



Municipal Clerk


Chair



**MATANUSKA-SUSITNA BOROUGH
MAYORAL PROCLAMATION**

WHEREAS, all residents of the Matanuska-Susitna Borough should recognize the dangers of driving with an unsecured load; and

WHEREAS, according to a Government Accountability Study, in a single calendar year, unsecured loads were responsible for the deaths of 440 people, 10,000 injuries and 51,000 incidents in the United States; and

WHEREAS, a 20-pound object that falls from a vehicle that is traveling regular highway speeds (approx. 55 MPH) will strike with the impact of half a ton; and

WHEREAS, Alaska Statute 46.06.080 states that "a vehicle may not be driven or moved on a public right-of-way unless it is constructed, loaded, or covered to prevent its load from dropping, shifting, leaking or otherwise escaping from the vehicle"; and

WHEREAS, the simple, routine act of securing every load protects the lives of Matanuska-Susitna Borough residents and these precautions should not be overlooked; and

WHEREAS, the Matanuska-Susitna Borough recognizes the profound suffering of those harmed by unsecure loads and we stand in the solidarity with those critically impacted by such instances of avoidable tragedy.

NOW, THEREFORE, BE IT RESOLVED, that I, Vern Halter, the Mayor of the Matanuska-Susitna Borough hereby proclaims Tuesday, June 6th, 2017 as

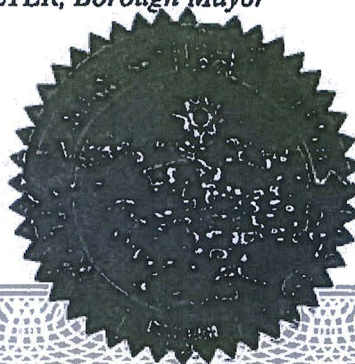
Secure Your Load Day

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Matanuska-Susitna Borough to be affixed this 30 day of May, 2017.


VERN HALTER, Borough Mayor

ATTEST:


LONNIE R. MCKECHNIE, CMC, Borough Clerk



Unsecured Loads Incidents Articles

CNN article link: <http://www.cnn.com/2016/08/11/health/road-debris-deadly-hazard/index.html>

The Deadly Toll of Road Debris

By Sandee LaMotte, CNN

Updated 11:54 AM ET, Thu August 11, 2016

(CNN) — On June 6, 2006, 29-year-old Matthew Reif of Phoenix lost his life in a car accident. The killer? A small piece of unsecured scrap metal that flew off the truck ahead of him, smashing through his windshield. "It impaled his heart, killing him instantly," said his father, Paul Reif. "Someone was hauling a load of junk, and it wasn't secured properly. "He was living his life, as healthy as could be," said Reif, crying softly. "Then suddenly, poof. I guess we have to be thankful there was no suffering."

Robin Abel's 24-year-old daughter, Maria Federici, was luckier. She didn't die in 2004 when a piece of particle board escaped from the back of a rented trailer and broke her windshield. Instead, she was nearly decapitated as the debris crushed every bone in her face. "At first, they told me she wouldn't survive," Abel said as she too broke into tears. "I donated her organs that night, and then they called and said 'come back; she's still alive.' "

Her recovery was long and painful. Maria had seven surgeries and had to learn to swallow, talk and walk again. She is also blind. "When you see what someone has to live through and what they have to endure because of such a simple thing --securing a load on a car -- it's very heartbreaking," said Abel.

If you think these terrible tragedies are freak accidents, think again. According to a new study by the [AAA Foundation for Traffic Safety](#), road debris played a role in more than 200,000 crashes reported to police from 2011 to 2014, killing more than 500 people and injuring another 39,000. AAA says that's a 40% increase since 2001, when the foundation first studied the problem. The AAA numbers echo a [Government Accountability Office study from 2012](#). Based on data from the National Highway Traffic Safety Administration, the GAO found higher numbers: 440 deaths and 10,000 injuries in 2010 due to accidents involving unsecured loads.

Seattle Times link <http://www.seattletimes.com/news/womans-crusade-against-unsecured-loads-leads-to-national-law/>

Woman's crusade against unsecured loads leads to national law

By [Christine Clarridge](#) *Seattle Times* staff reporter

Originally published December 4, 2015 at 8:13 pm

More than a decade after Robin Abel's daughter was blinded by a piece of particle board that flew from the back of a rented moving trailer, Abel saw the president sign a transportation bill on Friday that addresses the risks of unsecured loads.

It's been more than a decade since Robin Abel's only child, Maria Federici, was blinded and nearly killed by a piece of particle board that flew out of a rented moving trailer, struck the 24-year-old's windshield and sheared off her face.

Since then, Abel has worked almost nonstop to educate lawmakers, businesses and individuals about the dangers of driving with unsecured loads.

On Friday, Abel allowed herself to enjoy a celebratory moment as President Obama signed a five-year National Transportation bill that included what Abel calls "my paragraph."

It states: "The Committee is concerned about the dangers posed by unsecured loads on noncommercial vehicles. Federal grant funds for state-run safety campaigns raising awareness about the dangers posed by unsecured loads are currently eligible under State Highway Safety Programs (23 U.S.C. 402). Therefore, the Committee encourages states to address unsecured loads the next time they submit their State Highway Safety Program for approval by the Secretary."

It seems like such a simple, and perhaps even obvious, acknowledgment of the dangers posed by unsecured loads and highway debris, but it has been a long, arduous and sometimes lonely and frustrating campaign for Abel.

"As sad as it is what happened to my family, I know that I have made a difference and that's what keeps me going," said the 61-year-old former banker turned activist. "I know that my work has saved lives and will save lives, and I know that I am the right person for this mission because nobody cared about this more than me."

Abel was asleep at her home on Lake Kathleen in Renton on Feb. 22, 2004, when she got a call from Harborview Medical Center. Her daughter, then 24 and a graduate of the University of Washington, had been injured in an accident and was not expected to survive. Federici had been driving home on Interstate 405 when a piece of wood flew out of the back of a rented U-Haul trailer and through Federici's windshield.

The driver of the car pulling the trailer — who was tracked down by police through a fingerprint on the board — had been moving all day, was tired and had failed to properly secure the items in the trailer, police told Abel later.

At the time, there was no law addressing the consequences of poorly secured

loads and the driver was cited for a traffic infraction and fined.

Abel said former King County Prosecuting Attorney Norm Maleng encouraged her to fight for a new law. “Norm told me to tell my story, to keep it personal and that people would care,” she said. “And he was right. I know that after people hear me talk, they will never look at the road the same way again.”

In 2005, Washington legislators adopted what has been called [“Maria’s Law,”](#) which criminalizes a person’s failure to properly secure a load that results in injury or death.

But that was not enough for Abel. She went on to educate businesses, county officials, drivers, anyone who would listen.

In March, Abel was presented with the Department of Transportation’s National Highway Traffic Safety Administration Public Service Award for her effort to bring “awareness to unsecured loads and roadway debris risks to motor vehicles on a local, state, and national level.”

Federici, who [won more than \\$15 million in a lawsuit](#) against U-Haul, has gone on to live her own life. She bought a house and got married. According to Abel, she is happy but does not share her mother’s mission.

“She doesn’t want to do this, and that’s OK,” Abel said. “But I cannot help what I do either. I don’t feel I can rest until everyone knows the dangers and how to secure their load,” she said.

Her next step is to work with states to show them what has worked in this state.

On Friday, just before she headed off to an appointment, she couldn’t resist sending one more email.

“One thing I want the public to know is that ALL items need to be ‘securely fastened’ and often drivers don’t understand that. They think if the load is heavy or light or crammed in, it is good to go. That is not the case. There should be nothing loose in the back of your truck; it must all be securely fastened.”

Tips: Secure Your load

- Use a tarp. Covering items with a large, sturdy tarp is often a good way to secure a load. Remember to make sure the tarp is securely fastened to the vehicle.
- Tie the load down. Use rope, netting, straps or chains to tie large items

directly to your vehicle.

- Layer the load. Put lighter items at the bottom and heavier items on top to help keep them in place. Don't forget to secure the heavy items to your vehicle.
- Don't overload it! Cramming too much stuff onto a vehicle increases the risk of items shifting, sliding or falling onto the roadway.

Check it once, then check it again. Double check that items are securely anchored down and any tarps are tied to the vehicle.

“Secure your load as if everyone you love is driving in the vehicle behind you.” Robin Abel

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The authoritative voice of the trucking industry in Alaska

HB259 Confining of Loads
Testimony
Aves Thompson
Alaska Trucking Association
House Judiciary Committee
February 23, 2018

Thank you, Mr. Chairman and members of the Committee,

I am Aves Thompson, Executive Director of the Alaska Trucking Association here today to testify on HB259. The trucking industry is heavily regulated by both the US Department of Transportation and the Alaska Department of Transportation and Public Facilities, Commercial Vehicle Enforcement.

Both sets of regulations contain specific requirements concerning securement of loads. If I might briefly read part of the federal regulation covering this issue that has also been adopted into the Alaska Administrative Code.

49CFR § 393.100 Which types of commercial motor vehicles are subject to the cargo securement standards of this subpart, and what general requirements apply?

(a)Applicability. The rules in this subpart are applicable to trucks, truck tractors, semitrailers, full trailers, and pole trailers.

(b)Prevention against loss of load. Each commercial motor vehicle must, when transporting cargo on public roads, be loaded and equipped, and the cargo secured, in accordance with this subpart to prevent the cargo from leaking, spilling, blowing or falling from the motor vehicle.

(c)Prevention against shifting of load. Cargo must be contained, immobilized or secured in accordance with this subpart to prevent shifting upon or within the vehicle to such an extent that the vehicle's stability or maneuverability is adversely affected.

Given these broad regulations there are also very specific regulations about confining and securing loads.

It seems that this legislation is unnecessary and duplicates requirements already in law for commercial motor vehicles.

Thank you for your attention.

Aves Thompson
Executive Director

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version:	CSHB 259(TRA)
Fiscal Note Number:	1
(H) Publish Date:	2/9/2018

Identifier: HB259-DOT-MSCVE-2-5-18
 Title: CONFINING VEHICLE LOADS
 Sponsor: STUTES
 Requester: House Transportation

Department: Department of Transportation and Public Facilities
 Appropriation: Administration and Support
 Allocation: Measurement Standards & Commercial Vehicle Enforcement
 OMB Component Number: 2332

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2019	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Original version.

Prepared By: Mike Lesmann
 Division: Commissioner's Office
 Approved By: Amanda Holland
 Agency: DOT&PF

Phone: (907)465-4772
 Date: 02/05/2018 02:40 PM
 Date: 02/05/18

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

Analysis

HB 259 proposes to increase the penalties on repeat offenders of cargo securement violations. Section 2 of the proposal allows materials to be uncovered as long as at least six inches of freeboard is maintained around the entire perimeter of the load. This is congruent with the Department's current practice. The new subsection (c) (1), (2) and (3) being added to AS 28.35.251 in section 2 of the proposal establishes exceptions that are relevant to the Department's maintenance and operations activities. As currently written, this proposal has no operational or fiscal impacts on the Department.

AMENDMENT

#1 Adopted
w/Conceptual
Amendment
#1

OFFERED IN THE HOUSE

BY REPRESENTATIVE STUTES

TO: CSHB 259(), Draft Version "L"

- 1 Page 1, line 6:
2 Delete "(b)"
3 Insert "(c)"
4
5 Page 1, line 7:
6 Delete "(1)"
7
8 Page 1, lines 7 - 9:
9 Delete "; or
10 (2) damages property of another person in an amount of \$1,000 or
11 more"
12
13 Page 1, following line 9:
14 Insert a new subsection to read:
15 "(b) A person commits the crime of failure to contain or confine a load in the
16 second degree if the person violates (c) of this section and damages the property of
17 another person in an amount of \$5,000 or more."
18
19 Reletter the following subsections accordingly.
20
21 Page 1, line 11:
22 Delete "second"
23 Insert "third"

1

2 Page 2, following line 23:

3 Insert a new paragraph to read:

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

6

7 Renumber the following paragraph accordingly.

8

9 Page 2, line 24:

10 Delete "second"

11 Insert "third"

Adopted

Conceptual Amendment #1
to Amendment #1 (L. 4) (Kopp)

Page 1, line 16, following "person:"

Insert ", with criminal negligence,"

10/10/10

1. The first part of the paper discusses the importance of understanding the underlying mechanisms of the system. This is crucial for developing effective interventions and policies.

2. The second part of the paper focuses on the role of the system in the overall process. It highlights the need for a comprehensive approach that considers all relevant factors.

3. The third part of the paper discusses the challenges and opportunities associated with the system. It emphasizes the need for ongoing research and collaboration to address these issues.

4. The fourth part of the paper provides a summary of the key findings and conclusions. It reiterates the importance of a holistic and evidence-based approach to the system.

5. The fifth part of the paper offers recommendations for future research and practice. It suggests that further exploration of the system's dynamics and the development of tailored interventions are essential.

6. The sixth part of the paper discusses the implications of the findings for policy and practice. It stresses the need for a multi-stakeholder approach that involves all relevant parties.

7. The seventh part of the paper concludes by highlighting the significance of the research and the potential for positive impact. It expresses optimism about the future of the system and the field.

8. The eighth part of the paper provides a final summary and a call to action. It encourages researchers and practitioners to continue their efforts to improve the system and the lives of those affected by it.

9. The ninth part of the paper discusses the limitations of the study and the need for further research. It acknowledges the complexity of the system and the need for a long-term perspective.

10. The tenth part of the paper provides a final thought and a message of hope. It believes that with continued effort and collaboration, a better future for the system and its stakeholders is possible.

AMENDMENT

#2 Adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE STUTES

TO: CSHB 259(), Draft Version "L"

1 Page 2, line 16:

2 Delete "or"

3

4 Page 2, line 17, following "removal":

5 Insert "; or

6 (4) random litter; in this paragraph, "litter" includes plastic wrappers,

7 empty plastic bags, leaves, paper, or similar soft materials"

AMENDMENT #3 Adopted
w/Conceptual Amendments

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN #192

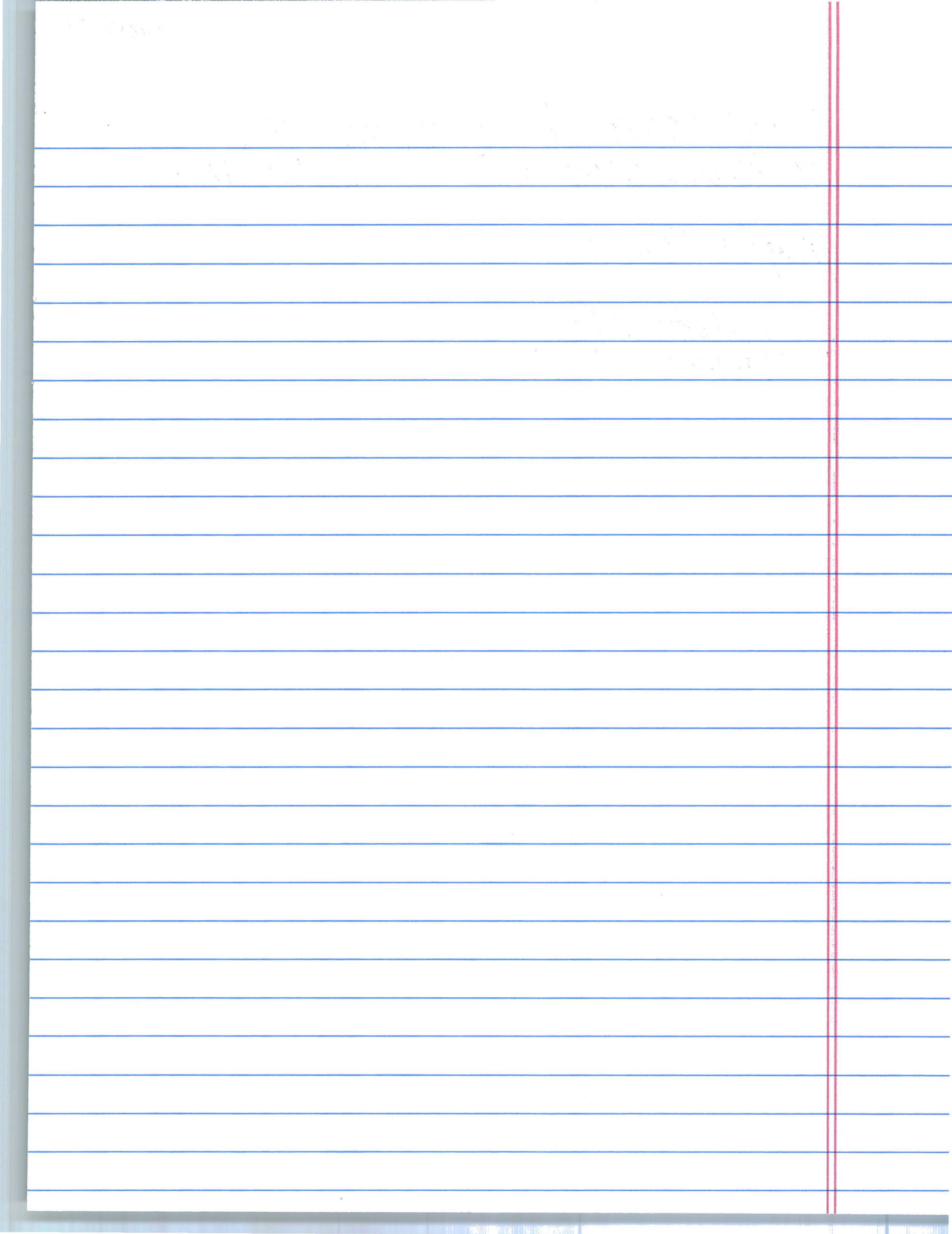
TO: CSHB 259(), Draft Version "L"

- 1 Page 2, line 19:
- 2 Delete "of a violation of this section"
- 3 Insert "under (a) of this section within the preceding 10 years"

Conceptual Amendment #1
to Amendment #3 (L.6) (Eastman)

Page 1, line 3:

Delete "(a)"
Insert "(c)"



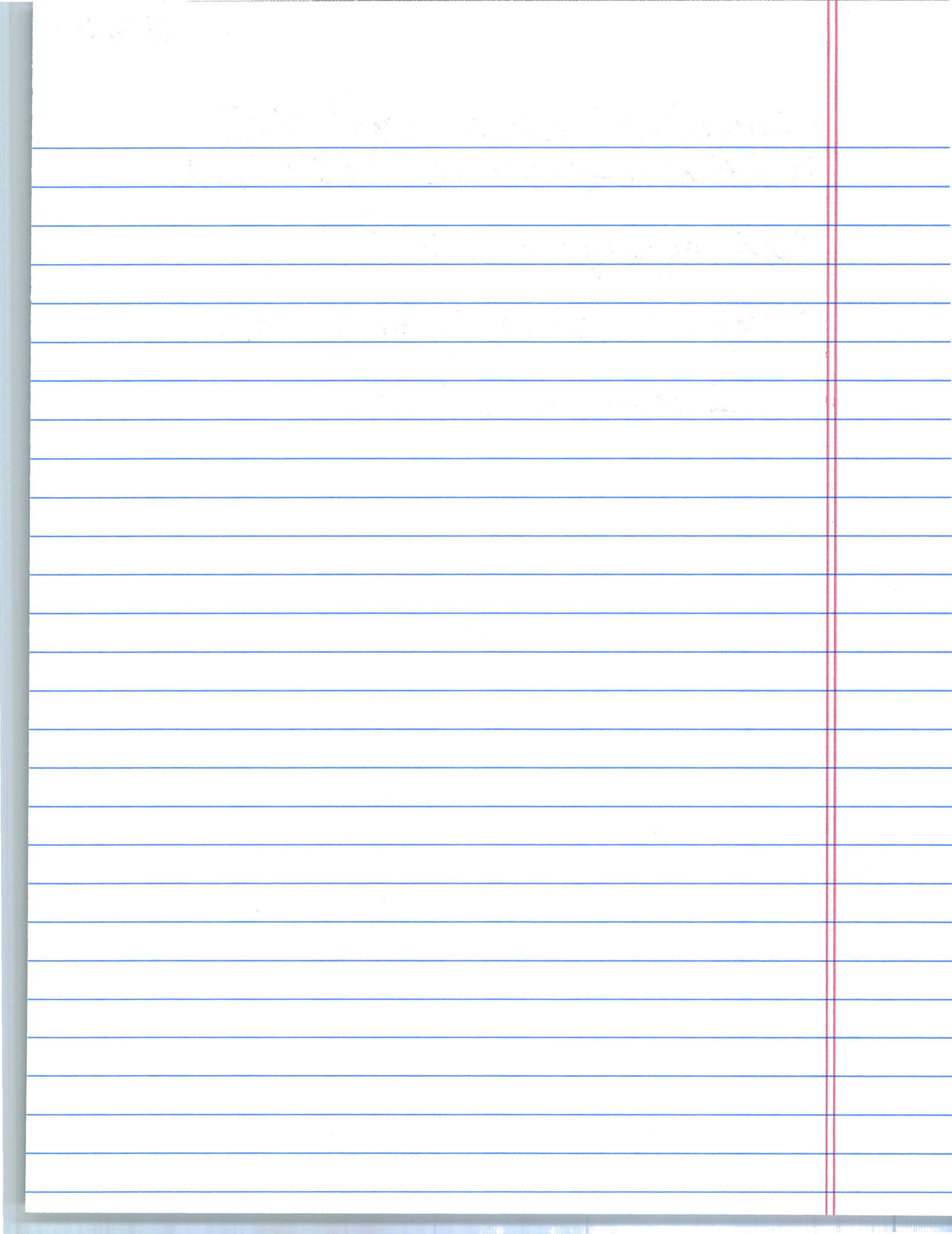
Adopted

Conceptual Amendment #2
to Amendment #3 (L.6) (Stutes)

Add language to L.6:

" Page 2, line 18, following '(a)':

Insert 'or (b)' "



AMENDMENT

#4 Withdrawn

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: CSHB 259(), Draft Version "L"

1 Page 3, lines 3 - 4:

2 Delete all material and insert:

3 "(f) In this section,

4 (1) "criminal negligence" has the meaning given in AS 11.81.900;

5 (2) "highway" means any paved area that is open to the public for
6 vehicular traffic and regularly maintained by the state or a municipality."

AMENDMENT

5 Failed

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: CSHB 259(), Draft Version "L"

1 Page 3, lines 3 - 4:

2 Delete all material and insert:

3 "(f) In this section,

4 (1) "criminal negligence" has the meaning given in AS 11.81.900;

5 (2) "load" means material intentionally transported by the person to be
6 offloaded at a destination, but does not include extraneous material such as litter,
7 snow, mud, or ice."