

SENATE BILL NO. 199 am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY SENATOR KELLY BY REQUEST

Amended: 5/12/18
Introduced: 2/19/18

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the use of off-road vehicles within the James Dalton Highway**
2 **corridor; and relating to containing or confining loads being transported on highways."**

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

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

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

8 (1) off-road vehicles necessary for oil and gas exploration,
9 development, production, or transportation;

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

13 (3) the use of a snow machine to travel across the highway corridor
14 from land outside the corridor to access land outside the other side of the corridor; this

paragraph does not permit the use of a snow machine for any purpose within the corridor if the use begins or ends within the corridor or within the right-of-way of the highway or if the use is for travel within the corridor that is parallel to the right-of-way of the highway; or

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

(A) is located outside the corridor; and

(B) has an established history of use as a homestead [IN

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

* **Sec. 2.** AS 19.40.210 is amended by adding new subsections to read:

(b) Nothing in this section authorizes a person to access the land of another person unlawfully.

(c) In this section, "highway corridor" or "corridor" means land within five miles of the right-of-way of the highway.

* **Sec. 3.** AS 28.35.251 is repealed and reenacted to read:

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

(b) A person commits the crime of failure to contain or confine a load in the second degree if the person, with criminal negligence, violates (c) of this section and damages the property of another person in an amount of \$5,000 or more.

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

(1) the load is

(A) contained or confined to prevent the load from

(i) dropping, leaking, or escaping; or

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

1 and

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

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

10 (d) This section does not apply to

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

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

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

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

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

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

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

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

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

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

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

31 (C) \$750 if the person has been previously convicted one time

1 of a violation of this section; or

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

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

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

7 (b) Violation of this section is an infraction.

8 * **Sec. 5.** AS 28.35.255 is repealed.