SENATE BILL NO. 2116

AN ACT TO PROHIBIT THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE, LIGHT WINE OR BEER CONTAINER OR THE CONSUMPTION OF ALCOHOLIC BEVERAGES, LIGHT WINE OR BEER, WITHIN THE PASSENGER COMPARTMENT OF A MOTOR VEHICLE; TO PRESCRIBE PENALTIES FOR VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The following words and phrases shall have the meaning ascribed herein:

(a) "Open container" means any glass, metal, plastic or other container which contains or contained any alcoholic beverage as defined in Section 67-1-5, Mississippi Code of 1972, or light wine or beer as defined in Section 67-3-1, Mississippi Code of 1972, and which has been opened or punctured or cut in such a way that the contents may be consumed by any person or has been constructed in such a way that the contents may be consumed by any person without opening or puncturing or cutting it.

(b) An open container shall be considered to be in the possession of the operator of a vehicle if the bottle, can or other container is in the passenger area of the motor vehicle.

(c) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail or rails.

(d) "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seated positions, including the glove compartment.
(e) "Public highway or right-of-way" means the entire width between the right-of-way boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(f) "Public place" means any place where people customarily gather for any purpose and includes, but is not limited to, parking lots, parking areas and undedicated private roads.

(2) A person commits an offense under this section if:

(a) It shall be unlawful for a person to possess an open container or to consume an alcoholic beverage within the passenger area of a motor vehicle while operating or occupying the motor vehicle on any public road, highway or highway right-of-way in this state.

(b) It shall be unlawful for any person to operate a motor vehicle in which there is an open container in any public place.

(3) Nothing in this act shall prohibit the possession of an open container.

(a) By a passenger in the living quarters of a parked and nonmoving house coach or house trailer; or

(b) By a passenger, other than the driver, who has hired the vehicle that is owned, operated and driven by a person presently engaged in the business of transporting passengers for compensation; or

(c) When the open container is located behind the last upright seat of a motor vehicle not equipped with a trunk; or

(d) When the open container is located in an area not normally occupied by the driver or passengers in a motor vehicle not equipped with a trunk; or

(e) When the open container is located in a locked glove compartment.
(4) Any person who violates the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than One Hundred Dollars ($100.00) and not more than Two Hundred Dollars ($200.00).

(5) Any local ordinance which imposes more stringent restrictions on the possession of open containers in vehicles than those imposed by this section shall not be preempted by this section.

SECTION 2. The provisions of subsection (1) of this section shall not be construed as exempting any person or vehicle from the provisions of the Highway Safety Patrol and Driver's License Law of 1938, the Mississippi Implied Consent Law or the provisions of any other laws of this state.

SECTION 3. This act shall take effect and be in force from and after July 1, 2003.