

By: Senator(s) White

To: Finance

SENATE BILL NO. 2035

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

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

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

9 (a) "Open container" means any glass, metal, plastic or  
10 other container which contains or contained any alcoholic beverage  
11 as defined in Section 67-1-5, Mississippi Code of 1972, or light  
12 wine or beer as defined in Section 67-3-1, Mississippi Code of  
13 1972, and which has been opened or punctured or cut in such a way  
14 that the contents may be consumed by any person or has been  
15 constructed in such a way that the contents may be consumed by any  
16 person without opening or puncturing or cutting it.

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

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

24 (d) "Passenger area" means the area designed to seat  
25 the driver and passengers while the motor vehicle is in operation  
26 and any area that is readily accessible to the driver or a  
27 passenger while in their seated positions, including the glove  
28 compartment.

29           (e) "Public highway or right-of-way" means the entire  
30 width between the right-of-way boundary lines of every way  
31 publicly maintained when any part thereof is open to the use of  
32 the public for purposes of vehicular travel.

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

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

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

45           (3) Nothing in this section shall prohibit the possession of  
46 an open container:

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

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

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

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

58           (e) When the open container is located in a locked  
59 glove compartment.

60           (4) Any person who violates the provisions of this section  
61 shall be guilty of a misdemeanor and, upon conviction, shall be

62 fined not less than One Hundred Dollars (\$100.00) nor more than  
63 Two Hundred Dollars (\$200.00).

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

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

73 **SECTION 2.** This act shall take effect and be in force from  
74 and after July 1, 2005.