

By: White (29th)

To: Finance

SENATE BILL NO. 2138
(As Passed the Senate)

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 any alcoholic beverage as defined
11 in Section 67-1-5, Mississippi Code of 1972, or light wine or beer
12 as defined in Section 67-3-1, Mississippi Code of 1972, and which
13 has been opened or punctured or cut in such a way that the
14 contents may be consumed by any person or has been constructed in
15 such a way that the contents may be consumed by any person without
16 opening or puncturing or cutting it.

17 (b) If an open container in a motor vehicle is not in
18 the possession of a passenger, such open container shall be
19 considered to be in the possession of the operator of a vehicle if
20 the bottle, can or other container is in the passenger area of the
21 motor vehicle.

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

26 (d) "Passenger area" means the area designed to seat
27 the driver and passengers while the motor vehicle is in operation

28 and any area that is readily accessible to the driver or a
29 passenger while in their seated positions, including the glove
30 compartment.

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

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

40 (3) Nothing in this act shall prohibit the possession of an
41 open container:

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

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

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

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

53 (e) When the open container is located in a locked
54 glove compartment.

55 (4) Any person who violates the provisions of this act shall
56 be guilty of a misdemeanor and, upon conviction, shall be fined
57 not more than Fifty Dollars (\$50.00).

58 (5) Any local ordinance which imposes more stringent
59 restrictions on the possession of open containers in vehicles than
60 those imposed by this section shall be preempted by this section.

61 (6) A violation of this section shall not be entered on the
62 driving record of a person convicted of such violation, nor shall
63 any state assessment provided for by Section 99-19-73, or any
64 other state law, be imposed or collected.

65 (7) No motor vehicle may be stopped for a violation of this
66 section unless an open container is visually observed in such
67 motor vehicle.

68 SECTION 2. The provisions of Section 1 of this act shall not
69 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 3. This act shall take effect and be in force from
74 and after September 1, 2000, and shall stand repealed from and
75 after September 1, 2003.