

By: Senator(s) Gollott

To: Judiciary, Division B

SENATE BILL NO. 2431

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 person commits an offense under this section if:

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

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

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

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

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

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

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

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

61 (4) Any person who violates the provisions of this act shall
62 be guilty of a misdemeanor and, upon conviction, shall be fined
63 not less than One Hundred Dollars (\$100.00) nor more than Two
64 Hundred Dollars (\$200.00).

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

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

74 **SECTION 3.** This act shall take effect and be in force from
75 and after July 1, 2005.