

Open Container Laws

Established in an effort to reduce drunk driving, open container laws prohibit individuals from being in possession of open containers of alcohol while in a vehicle. These restrictions can apply to the driver alone or both the driver and passengers in a vehicle. While these laws vary across the country, in many jurisdictions the vehicle does not have to be in motion for the open container restriction to apply.

As part of the Transportation Equity Act for the 21st Century (TEA-21) passed in 1998, Congress required States to enact open container laws. Failure to do so results in a percentage of highway construction funds being re-directed to fund either alcohol-impaired driving countermeasures or hazard elimination activities. To be in compliance with the TEA-21 regulations, open container laws must conform to the following criteria:

- Prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage in a motor vehicle;
- Have provisions that cover the entire passenger area of any motor vehicle, including any unlocked glove compartments and accessible storage areas;
- Apply to all beverage alcohol including beer, wine, and spirits;
- Apply to all vehicle occupants (notable exceptions include passengers of limousines, buses, taxi cabs, or persons in the living quarters of motor homes);
- Apply to all vehicles on public highways or right-of-way of a public highway (includes the roadway and shoulder); and,
- Require primary enforcement of the law (NHTSA, 2008).

Research Highlights:

Few studies have been conducted that examine the effectiveness of open container laws. In the small body of literature that does exist, researchers have found that following the implementation of the law in a jurisdiction, alcohol-related traffic fatalities have decreased.

- In an evaluation of the effectiveness of several drunk driving policies, Eisenberg (2001; 2003) estimated that the implementation of open container laws results in a 5.1% reduction in fatal crashes for all drivers.
- In a study of four states that modified existing open container laws to come into compliance with Federal requirements in 1999, Stuster et al. (2002) found that there were declines in alcohol-involved fatalities in three of the states in the six months following the implementation of the law. However, these results were not deemed statistically significant.
- Stuster et al. (2002) also determined that states that lack open container laws have higher proportions of alcohol-involved fatal crashes than those states that had laws that either partially or fully conformed to the Federal requirements.
- Public opinion research has found strong support for open container laws. In NHTSA's National Survey of Drinking and Driving (Royal, 2000) approximately 88% of respondents believe that states should implement an open container law.

Prevalence:

To date, 39 states¹ and the District of Columbia have passed laws that prohibit the possession or consumption of open containers of alcohol while in a motor vehicle that apply to both drivers and passengers (NCSL, 2013; GHSA, 2015). These states are in compliance with Federal regulations.

Two states (Louisiana and Wyoming) meet the majority of the Federal requirements. Two states (Arkansas and West Virginia) prohibit the consumption of alcohol while in a motor vehicle or on a public highway. Six states (Alaska, Connecticut, Delaware, Missouri, Tennessee, and Virginia) prohibit drivers from consuming alcohol while operating a motor vehicle, but the laws do not extend to passengers. Mississippi has no open container statute.

Responsibility.org Position:

The Foundation for Advancing Alcohol Responsibility supports open container laws as one strategy to reduce the occurrence of drunk driving. We encourage states to pass strong laws that meet the criteria outlined by the Federal government and to couple the implementation of these statutes with high visibility enforcement to maximize deterrence.

References:

Eisenberg, D. (2001). Evaluating the effectiveness of a 0.08% BAC limit and other policies related to drunk driving. *SIEPR Discussion Paper No. 00-23*. Stanford, CA: Stanford Institute for Economic Policy Research.

Eisenberg, D. (2003). Evaluating the effectiveness of policies related to drunk driving. *Journal of Policy Analysis and Management*, 22, 249-274.

Governors Highway Safety Association (GHSA). (June 2015). *Drunk Driving Laws*. Retrieved from: http://ghsa.org/html/stateinfo/laws/impaired_laws.html

National Conference of State Legislatures (NCSL). (May 2013). *Open Container and Open Consumption of Alcohol State Statutes*. Retrieved from: <http://www.ncsl.org/research/financial-services-and-commerce/open-container-and-consumption-statutes.aspx#RI>

National Highway Traffic Safety Administration (NHTSA) (2008). *Traffic Safety Facts: Open Container Laws*. DOT HS 810 882W. Washington, D.C.: U.S. Department of Transportation.

Royal, D. (2000). *National Survey of Drinking and Driving Attitudes and Behavior: 1999*. DOT HS 809 190. Washington, D.C.: U.S. Department of Transportation.

Stuster, J., Burns, M., & Fiorentino, D. (2002). *Open Container Laws and Alcohol-Involved Crashes*. DOT HS 809 426. Washington, D.C.: U.S. Department of Transportation.

¹ These states include: Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wisconsin.