

1 State of Arkansas
2 91st General Assembly
3 Fiscal Session, 2018

HR 1007

4
5 By: Representative Pitsch
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7 **HOUSE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
9 BILL CONCERNING THE POSSESSION OF AN OPEN CONTAINER
10 OF ALCOHOL IN A MOTOR VEHICLE; AND TO MAKE TECHNICAL
11 CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL HIGHWAY
12 SPENDING PENALTIES.
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15 **Subtitle**

16 TO AUTHORIZE THE INTRODUCTION OF A
17 NONAPPROPRIATION BILL CONCERNING THE
18 POSSESSION OF AN OPEN CONTAINER OF
19 ALCOHOL IN A MOTOR VEHICLE.
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22 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FIRST GENERAL
23 ASSEMBLY OF THE STATE OF ARKANSAS:

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25 THAT Senator Sample is authorized to introduce a bill which as introduced
26 will read substantially as follows:
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28 "For An Act To Be Entitled
29 AN ACT CONCERNING THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A MOTOR
30 VEHICLE; TO MAKE TECHNICAL CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL
31 HIGHWAY SPENDING PENALTIES; AND FOR OTHER PURPOSES.
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33 Subtitle
34 CONCERNING THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A MOTOR VEHICLE;
35 AND TO MAKE TECHNICAL CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL HIGHWAY
36 SPENDING PENALTIES.



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3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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5 SECTION 1. Arkansas Code § 5-71-101, concerning definitions that
6 concern offenses against public health, safety, or welfare, is amended to add
7 additional subdivisions to read as follows:

8 (10) "Alcoholic beverage" means:

9 (A) Beer, ale, porter, stout, sake, or other similar
10 fermented beverage of any name or description containing five-tenths percent
11 (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or
12 in part, or from any malt substitute;

13 (B) Wine of not less than five-tenths percent (0.5%) of
14 alcohol by volume; or

15 (C) A distilled spirit known as "ethyl alcohol",
16 "ethanol", or "spirits of wine" in any form, including all dilutions and
17 mixtures of a distilled spirit, from whatever source or by whatever process
18 produced;

19 (11)(A) "Motor vehicle" means a vehicle driven or drawn by
20 mechanical power and manufactured primarily for use on a public highway.

21 (B) "Motor vehicle" does not include a vehicle operated
22 solely on a rail or rails; and

23 (12) "Open alcoholic beverage container" means a bottle, can, or
24 other receptacle that:

25 (A) Contains any amount of alcoholic beverage; and

26 (B) Is either:

27 (i) Open or has a broken seal; or

28 (ii) Not open or having a broken seal but with its
29 contents already partially removed.

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31 SECTION 2. Arkansas Code § 5-71-218 is amended to read as follows:

32 5-71-218. Possession of open container containing alcohol in a motor
33 vehicle.

34 (a) It is unlawful for a person to possess an open alcoholic beverage
35 container within an area of a motor vehicle ~~that~~ if the area of the motor
36 vehicle is:

1 (1) Designated to seat the driver or a passenger in the motor
2 vehicle ~~and the motor vehicle is in operation~~; or

3 (2) Readily accessible to the driver or a passenger in the motor
4 vehicle while in a seated position and the motor vehicle is located on a
5 public highway or the right-of-way of a public highway.

6 (b) It is not an offense under this section if the open alcoholic
7 beverage container is possessed:

8 (1) Outside of the passenger area of the motor vehicle or other
9 area of the motor vehicle commonly used for the transportation of passengers,
10 such as in the trunk or cargo area of the motor vehicle;

11 (2) In a locked area of the motor vehicle, including without
12 limitation a glove compartment or center console of the motor vehicle;

13 (3) ~~In a permanently sealed container that cannot be unsealed~~
14 ~~without breaking the seal or destroying the container~~ Behind the last upright
15 seat or in an area not normally occupied by the driver or a passenger, in a
16 motor vehicle that is not equipped with a trunk; or

17 (4) By a passenger in the motor vehicle, but not the driver, as
18 long as the open alcoholic beverage container is possessed within the living
19 quarters of the motor vehicle or the area of the motor vehicle that is
20 designated for passengers only, the open alcoholic beverage container is not
21 readily accessible to the driver of the motor vehicle, and the motor vehicle
22 is:

23 (A) Designed, maintained, or used primarily for the
24 transportation of persons for compensation; or

25 (B) A recreational vehicle, motor home, or house trailer.

26 (c) A violation of this section is a Class C misdemeanor."
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