

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 8th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 1069

4  
5 By: Representative Borhauer  
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## For An Act To Be Entitled

8  
9 AN ACT TO PROHIBIT THE POSSESSION OF OR  
10 CONSUMPTION FROM AN OPEN ALCOHOLIC BEVERAGE  
11 CONTAINER WHILE IN THE PASSENGER AREA OF A MOTOR  
12 VEHICLE; AND FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 TO PROHIBIT THE POSSESSION OF OR  
16 CONSUMPTION FROM AN OPEN ALCOHOLIC  
17 BEVERAGE CONTAINER WHILE IN A MOTOR  
18 VEHICLE.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Title 5, Chapter 71, Subchapter 2 is amended  
24 to add an additional section to read as follows:

25 5-71-230. Open alcoholic beverage container prohibited.

26 (a) As used in this section:

27 (1)(A) "Alcoholic beverage" means:

28 (i) Ethyl alcohol or ethanol;

29 (ii) Beer, ale, stout, sake, and other similar  
30 fermented beverages of any name or description containing one-half of one  
31 percent (1/2 of 1%) or more of alcohol by volume;

32 (iii) Wine of not less than one-half of one percent  
33 (1/2 of 1%) of alcohol by volume; or

34 (B) "Alcoholic beverage" includes a dilution or mixture  
35 that includes any of the substances listed in subsection (1)(A) of this  
36 section, regardless of the source or process used to produce the beverage, as



1 long as the dilution or mixture contains at least one-half of one percent  
 2 (1/2 of 1%) or more of alcohol by volume;

3 (2)(A) "For-hire transportation" means a motor vehicle that is  
 4 operated by a person or entity who is in the business of transporting persons  
 5 in exchange for a fee.

6 (B) "For-hire transportation" includes taxicabs, transit  
 7 buses, tour buses, and charter buses;

8 (3) "Motor vehicle" means a vehicle driven or drawn by  
 9 mechanical power and manufactured primarily for use on public highways;

10 (4) "Open alcoholic beverage container" means a bottle, can, or  
 11 other receptacle that contains any amount of an alcoholic beverage and that:

12 (A) Is open;

13 (B) Has a broken seal; or

14 (C) Has a portion of the contents removed;

15 (5)(A) "Passenger area" means the area of a motor vehicle:

16 (i) Designed to seat the driver and passengers while  
 17 the motor vehicle is being operated; and

18 (ii) Readily accessible to the driver or a passenger  
 19 while in a seated position.

20 (B) "Passenger area" includes the glove compartment.

21 (C) "Passenger area" does not include:

22 (i) The living quarters area of a house coach, house  
 23 trailer, or motor home; or

24 (ii) An area that is not normally occupied by the  
 25 driver or passengers, including, but not limited to, the area behind the last  
 26 upright seat in a vehicle without a trunk;

27 (6) "Public highway" means the entire width between the boundary  
 28 lines of every publicly-maintained street, road, or highway that is open to  
 29 the use of the public for purposes of vehicular traffic, including the public  
 30 right-of-way.

31 (b)(1) Except as provided in subdivision (b)(2) of this section, it is  
 32 unlawful for a person while in the passenger area of a motor vehicle located  
 33 on a public highway:

34 (A) To possess an open alcoholic beverage container; or

35 (B) To consume an alcoholic beverage from an open  
 36 alcoholic beverage container.

1           (2) However, this section shall not apply to a person who is a  
2 passenger:

3                   (A) In a motor vehicle that is designed, maintained, or  
4 used primarily as for-hire transportation; or

5                   (B) In the living quarters area of a house coach, house  
6 trailer, or motor home.

7           (c) A law enforcement officer shall not be required to show that he or  
8 she had probable cause that another violation has been committed to enforce  
9 this section.

10           (d) A person who pleads guilty to, pleads nolo contendere to, or is  
11 found guilty of violating this section shall be guilty of a violation and  
12 shall be fined in an amount of not less than fifty dollars (\$50.00) nor more  
13 than one hundred fifty dollars (\$150).