

SENATE BILL NO. 39

INTRODUCED BY MAHLUM

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "~~AN ACT PROHIBITING POSSESSION OF AN UNSEALED ALCOHOLIC BEVERAGE CONTAINER IN THE PASSENGER AREA OF A MOTOR VEHICLE ON A STREET, ROAD, OR HIGHWAY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE~~ PROHIBITING UNLAWFUL POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER BY A PERSON IN A MOTOR VEHICLE; PROHIBITING CONSUMPTION OF AN ALCOHOLIC BEVERAGE BY A PERSON DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE ON A HIGHWAY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

**NEW SECTION. Section 1. Unlawful possession of open alcoholic beverage container in motor vehicle on highway.** (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

- (a) in a locked glove compartment or storage compartment;
- (b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
- (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;
- (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or
- (e) in the immediate possession of a passenger:
  - (i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or
  - (ii) in the living quarters of a camper, travel trailer, or motor home.

(3) A person convicted of the offense of unlawful possession of an open alcoholic beverage container

1 in a motor vehicle shall be fined an amount not to exceed \$100.

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3 **NEW SECTION. Section 2. Unlawful consumption of alcoholic beverage while driving or in actual**  
4 **physical control of motor vehicle on highway.** (1) A person commits the offense of unlawful consumption of  
5 an alcoholic beverage in a motor vehicle if the person knowingly consumes an alcoholic beverage while the  
6 person is driving or in actual physical control of a motor vehicle on a highway.

7 (2) A person convicted of the offense of unlawful consumption of an alcoholic beverage in a motor  
8 vehicle shall be fined an amount not to exceed \$100.

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10 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 and 2], the following definitions apply:

11 (1) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains  
12 not less than 0.5% of alcohol by volume.

13 (2) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers,  
14 including the driver.

15 (3) "Camper" has the meaning provided in 61-1-129.

16 (4) "Highway" has the meaning provided in 61-1-201, including the shoulders of the highway.

17 (5) "Motor home" has the meaning provided in 61-1-130.

18 (6) "Motor vehicle" has the meaning provided in 61-1-102.

19 (7) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains any  
20 amount of an alcoholic beverage and that is open, has a broken seal, or the contents of which are partially  
21 removed or are immediately capable of being consumed.

22 (8) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle  
23 is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger  
24 is seated in the vehicle, including an unlocked glove compartment.

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26 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be  
27 codified as an integral part of Title 61, chapter 8, and the provisions of Title 61 apply to [sections 1 through 3].

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29 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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