

OPEN CONTAINER REQUIREMENTS

Program Purpose

Section 5 of the TEA-21 Restoration Act established a new program (under Section 154 of chapter 1 of Title 23) to encourage States to enact Open Container laws. A State which does not have an Open Container law by October 1, 2000, will have certain Federal-aid highway funds transferred to the State's Section 402 State and Community Highway Safety grant program.

Requirements

Each State shall have in effect an Open Container law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

For purposes of this section, those jurisdictions defined as "States" in chapter 1 of Title 23 are subject to the Section 154 transfer provisions; this includes the 50 States, the District of Columbia, and Puerto Rico.

Transfer of Funds

On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing an Open Container law, 1-1/2 percent of the funds apportioned to the State under paragraphs (1), (3), and (4) of Section 104(b) will be transferred to the State's Section 402 apportionment.

On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing an Open Container law, the transferred amount increases to 3 percent of the State's apportionment for the specified Federal-aid programs.

Obligation authority transfers with the highway funds. No limitation on Section 402 obligation authority applies to the transferred funds.

Funds transferred to Section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the Section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

Program Administration

This program will be administered by the National Highway Traffic Safety Administration.