

Traffic Safety Facts Laws

DOT HS 810 882W

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Open Container Laws

Background

The National Highway Traffic Safety Administration encourages the enactment of open container laws. In 1998, as part of the Transportation Equity Act for the 21st Century (TEA 21) Restoration Act, a Federal program was established to encourage States to enact and enforce laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of motor vehicles (23 USC 154). Motor vehicle crashes are the leading cause of death for Americans age 2 through 34 and motor vehicle crash injuries are a major health care problem in the United States. Alcohol related crashes are a substantial portion of this problem.

Key Facts

- Alcohol remains a leading factor in motor vehicle deaths.
- In 2006, there were 17,602 alcohol-related fatalities in motor vehicle crashes.

- Of these 17,602 fatalities, 15,121 died in crashes in which at least one driver or non-occupant had a blood alcohol concentration of .08 grams per deciliter or higher.
- In 2006, 41 percent of fatal motor vehicle crashes nationwide were alcohol-related.
- Inpatient rehabilitation costs for motor vehicle injuries average \$11,265 per patient.
- Impaired driving is the most frequently committed violent crime in the United States.
- While only 9 percent of all police-reported crashes involve alcohol use, 41 percent of all fatal crashes involve the use of alcohol.
- A 2002 NHTSA study showed that States without open container laws experienced significantly greater proportions of alcohol-involved fatal crashes than States with partially conforming or fully conforming laws.
- NHTSA's 1999 national survey on drinking and driving revealed that a substantial majority of the general public supported open container laws, even in States without such laws.

Section 154 of 23 U.S.C.

Section 154 of Title 23 of the U.S. Code authorizes the transfer of a portion of a State's Federal-aid highway construction funds to the State's Section 402 apportionment if a State does not achieve compliance with the Federal program requirements for enacting open container laws. Transferred funds may be used only for alcohol impaired driving countermeasures, enforcement of impaired driving laws, or hazard elimination activities under Section 152.

To comply with the Section 154 program, a State's open container law must:

- prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
- cover the passenger area of any motor vehicle, including unlocked glove compartments and any other areas of the vehicle that are readily accessible to the driver or passengers while in their seats;
- apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain one half of one percent or more of alcohol by volume (including 3.2-percent beer);

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- apply to all vehicle occupants except for passengers of vehicles designed, maintained, or used primarily for the transportation of people for compensation (such as buses, taxi cabs, and limousines), or the living quarters of motor homes;
- apply to all vehicles on a public highway or the right of way (i.e., on the shoulder) of a public highway; and
- require primary enforcement of the law, rather than requiring probable cause that another violation had been committed before allowing enforcement of the open container law.

The transfer amount for non-compliant States not in compliance is 3 percent.

To date, 39 States and the District of Columbia comply with the terms of this law. These States are: Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Indiana, 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.

References

Stuster, J.; Burns, M., & Fiorentino, D. *Open Container Laws and Alcohol Involved Crashes: Some Preliminary Data*. April 2002. DOT HS 809 426. Washington, DC: National Highway Traffic Safety Administration.

NHTSA (2006). *Rehabilitation Costs and Long-Term Consequences of Motor Vehicle Injury*. DOT HS 810 581. Washington, DC: National Highway Traffic Safety Administration.