Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0497.01 Thomas Morris HOUSE BILL 00-1130

STATE OF COLORADO

BY REPRESENTATIVE Chavez

A BILL FOR AN ACT

CONCERNING A PROHIBITION ON OPEN ALCOHOLIC CONTAINERS IN MOTOR VEHICLES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits any person from knowingly drinking any alcoholic beverage or possessing an open alcoholic beverage container in the passenger area of a motor vehicle while that vehicle is on a public highway or right-of-way of a public highway.

Creates an exception for passengers in the passenger area of motor vehicles used primarily for compensation or in the living quarters of a motor home, house coach, house trailer, or trailer coach.

Makes any violation of this act a class A traffic infraction.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 13 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1305. Open alcoholic beverage container - motor vehicle - prohibited. (1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ALCOHOLIC BEVERAGE" HAS THE SAME MEANING AS SET

FORTH IN 23 CFR 1270.3 (a).

(b) "MOTOR VEHICLE" MEANS A VEHICLE DRIVEN OR DRAWN BY MECHANICAL POWER AND MANUFACTURED PRIMARILY FOR USE ON PUBLIC HIGHWAYS, BUT DOES NOT INCLUDE A VEHICLE OPERATED EXCLUSIVELY ON A RAIL OR RAILS.

(c) "OPEN ALCOHOLIC BEVERAGE CONTAINER" MEANS ANY BOTTLE, CAN, OR OTHER RECEPTACLE THAT CONTAINS ANY AMOUNT OF ALCOHOLIC BEVERAGE AND:

(I) THAT IS OPEN OR HAS A BROKEN SEAL; OR

(II) THE CONTENTS OF WHICH ARE PARTIALLY REMOVED.

(d) "PASSENGER AREA" MEANS THE AREA DESIGNED TO SEAT THE DRIVER AND PASSENGERS WHILE A MOTOR VEHICLE IS IN OPERATION AND ANY AREA THAT IS READILY ACCESSIBLE TO THE DRIVER OR A PASSENGER WHILE OCCUPYING THE MOTOR VEHICLE, INCLUDING BUT NOT LIMITED TO THE GLOVE COMPARTMENT.

(2) (a) EXCEPT AS OTHERWISE PERMITTED BY PARAGRAPH (b) OF THIS SUBSECTION (2), NO PERSON WHILE IN THE PASSENGER AREA OF A MOTOR VEHICLE THAT IS ON A PUBLIC HIGHWAY OF THIS STATE OR THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY OF THIS STATE SHALL KNOWINGLY:

(I) DRINK ANY ALCOHOLIC BEVERAGE; OR

(II) HAVE IN HIS OR HER POSSESSION ANY OPEN ALCOHOLIC BEVERAGE CONTAINER.

(b) THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO PASSENGERS LOCATED:

(I) IN THE PASSENGER AREA OF A MOTOR VEHICLE DESIGNED, MAINTAINED, OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS

FOR COMPENSATION; OR

(II) IN THE LIVING QUARTERS OF A HOUSE COACH, HOUSE TRAILER, MOTOR HOME AS DEFINED IN SECTION 42-1-102 (57), OR TRAILER COACH AS DEFINED IN SECTION 42-1-102 (106) (a).

(c) ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS A TRAFFIC INFRACTION.

SECTION 2. 42-4-1701 (4) (a) (I) (N), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule. (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

Section Violated	Penalty	Surcharge
(N) **Other offenses:**		
42-4-1301 (2)(a.5)	$ 50.00	$ 6.00
42-4-1305	50.00	6.00
42-4-1402	50.00	6.00
42-4-1403	15.00	2.00
42-4-1404	15.00	2.00
42-4-1406	35.00	4.00
42-4-1407	35.00	4.00
42-4-314	35.00	4.00
42-4-1408	15.00	2.00
42-4-1414 (2)(a)	500.00	60.00
42-4-1414 (2)(b)	1,000.00	120.00
42-4-1414 (2)(c)	5,000.00	600.00

SECTION 3. Applicability. This act shall apply to traffic offenses and infractions committed on or after the applicable effective date of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.