

§ 5853. Open Container – Prohibition.

(a) It is unlawful for any person to drink any alcoholic beverage while operating a motor vehicle.

(b) It is unlawful for any person to drink any alcoholic beverage while in a motor vehicle or in the truck-bed of a motor vehicle.

(c) It is unlawful for any person to possess an open container in the passenger compartment, utility compartment, or truck-bed of a motor vehicle.

(1) This subsection does not apply to the operator of a bus or limousine for hire, licensed to transport passengers.

(d) It is unlawful for any person, or person operating a bicycle, to possess an open container upon a highway or the shoulder of a highway in the Commonwealth.

(1) Any person convicted for violation of subsection (d) is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety days, or by both fine and imprisonment.

(e) It is unlawful for any person under the age of 21 to knowingly operate any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage.

(f) It is lawful for any person over the age of 21 to possess an open container:

- (1) in the trunk of a motor vehicle;
- (2) in the trunk-bed of a motor vehicle if there are no passengers therein;
- (3) in the living quarters of a house car or camper;
- (4) if the person is a passenger in a bus or limousine for hire licensed to transport passengers.

(g) The offense described in this section does not apply if:

- (1) the motor vehicle is located on private property, a public park, or a public beach; and
- (2) the vehicle is parked; and
- (3) the engine is shut off; and
- (4) the key is not in the ignition.

(h) Any person convicted for violations of subsections (a), (b), (c), or (e) is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six months, or by both fine and imprisonment.

Source: PL 10-54, § 3; repealed and reenacted by PL 19-13, § 4(Section 2) (Oct. 23, 2015).

Commission Comment: PL 10-54 contains severability and savings clauses as follows:

TITLE 9: VEHICLE CODE
DIVISION 5: RULES OF THE ROAD

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 19-13 included two sections designated “Section 4.” The Commission refers to these sections as “§ 4(Section 1)” and “§ 4(Section 2)” in the comments to the affected code sections.

PL 19-13, § 4(Section 2) (Oct. 23, 2015) repealed and reenacted this section. For the Short Title and Findings and Purpose sections, see the Commission Comment to 9 CMC § 5852. The Commission changed “fine or” in subsection (h) to “fine of” to correct a manifest error pursuant to 1 CMC § 3806(g).