

State of Arkansas  
91st General Assembly  
Second Extraordinary Session, 2018

# A Bill

Call Item 2  
SENATE BILL 4

By: Senator B. Sample  
By: Representative Pitsch

## For An Act To Be Entitled

AN ACT CONCERNING THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A MOTOR VEHICLE; TO MAKE TECHNICAL CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL HIGHWAY SPENDING PENALTIES; AND FOR OTHER PURPOSES.

## Subtitle

CONCERNING THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A MOTOR VEHICLE; AND TO MAKE TECHNICAL CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL HIGHWAY SPENDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-71-101, concerning definitions that concern offenses against public health, safety, or welfare, is amended to add additional subdivisions to read as follows:

(10) "Alcoholic beverage" means:

(A) Beer, ale, porter, stout, sake, or other similar fermented beverage of any name or description containing five-tenths percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any malt substitute;

(B) Wine of not less than five-tenths percent (0.5%) of alcohol by volume; or

(C) A distilled spirit known as "ethyl alcohol", "ethanol", or "spirits of wine" in any form, including all dilutions and



mixtures of a distilled spirit, from whatever source or by whatever process produced;

(11)(A) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on a public highway.

(B) "Motor vehicle" does not include a vehicle operated solely on a rail or rails; and

(12) "Open alcoholic beverage container" means a bottle, can, or other receptacle that:

(A) Contains any amount of alcoholic beverage; and

(B) Is either:

(i) Open or has a broken seal; or

(ii) Not open or having a broken seal but with its contents already partially removed.

SECTION 2. Arkansas Code § 5-71-218 is amended to read as follows:

5-71-218. Possession of open container containing alcohol in a motor vehicle.

(a) It is unlawful for a person to possess an open alcoholic beverage container within an area of a motor vehicle ~~that~~ if the area of the motor vehicle is:

(1) Designated to seat the driver or a passenger in the motor vehicle ~~and the motor vehicle is in operation;~~ or

(2) Readily accessible to the driver or a passenger in the motor vehicle while in a seated position and the motor vehicle is located on a public highway or the right-of-way of a public highway.

(b) It is not an offense under this section if the open alcoholic beverage container is possessed:

(1) Outside of the passenger area of the motor vehicle or other area of the motor vehicle commonly used for the transportation of passengers, such as in the trunk or cargo area of the motor vehicle;

(2) In a locked area of the motor vehicle, including without limitation a glove compartment or center console of the motor vehicle;

(3) ~~In a permanently sealed container that cannot be unsealed without breaking the seal or destroying the container~~ Behind the last upright seat or in an area not normally occupied by the driver or a passenger, in a motor vehicle that is not equipped with a trunk; or

(4) By a passenger in the motor vehicle, but not the driver, as long as the open alcoholic beverage container is possessed within the living quarters of the motor vehicle or the area of the motor vehicle that is designated for passengers only, the open alcoholic beverage container is not readily accessible to the driver of the motor vehicle, and the motor vehicle is:

(A) Designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) A recreational vehicle, motor home, or house trailer.

(c) A violation of this section is a Class C misdemeanor.

**APPROVED: 3/19/18**