

House Republican Press Release

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Press Office: 860-240-8700

A VIEW FROM THE INSIDE **State Representative Ruth Fahrbach** **Time has come for state to adopt open container law**



Many Connecticut residents are probably unaware that our state does not currently have an open container law on the books with regard to alcohol in motor vehicles. While it is obviously illegal to drink and drive, it is not currently illegal for passengers to have an open container of alcohol in the car. In past years, legislation to address the issue has been approved by the legislature's Transportation Committee but Connecticut's House and Senate have failed to take action. The proposal is likely to be revisited in 2009.

Connecticut is one of only six states that does not have an open container law on the books. One of the main reasons for changing the law is that we currently are obligated to spend \$5.2 million of our federal transportation funding on traffic law enforcement and various other roadway projects. If we adopted an open container law, we could use these federal dollars for infrastructure improvements, which are sorely needed in many cases.

As the Office of Legislative Research has indicated in a report it has compiled on 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 adopt laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of motor vehicles.

As of February 2007, 43 states and the District of Columbia and Puerto Rico have open container laws. Of those, the laws in 39 states and the District of Columbia satisfy the federal requirements, such that they are not subject to a penalty transfer of federal highway construction funds to the state's safety grant program.

To comply with the federal program, an open container law must meet certain requirements. Among other things, the law must apply to all vehicle occupants. But, the law may provide an exception for open containers of alcoholic beverages possessed by passengers "in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation" (i.e., buses, taxicabs, and limousines).

No jurisdiction exempts open containers possessed by passengers in a privately owned vehicle by a person passengers hired for the specific purpose of driving them so they can possess open containers and consume alcoholic beverages in the vehicle.

In order to comply with the federal program, a state's open container law must:

1. Prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
2. 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;
3. Apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain 0.5% or more of alcohol by volume (including 3.2% beer);
4. 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;
5. Apply to all vehicles on a public highway or the right-of-way (i. e. on the shoulder) of a public highway; and
6. 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.

To avoid the transfer of funds, a state must certify that its laws comply with each of the criteria specified above and that the state is enforcing the law.

For a copy of OLR report R-0152 on open container laws, please contact my office at 240-8700.

State Rep. Ruth Fahrbach represents the 61st District, including Suffield, and parts of Windsor and East Granby, in the General Assembly.