

# Traffic Safety Facts

## Laws

April 2004

## Open Container Laws

### Key Facts

Motor vehicle crashes are the leading cause of death for Americans aged 2 through 33 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.

- Alcohol involvement remains the leading factor in motor vehicle deaths.
- Impaired driving is the most frequently committed violent crime in the United States.
- While only 6 percent of all police reported crashes involve alcohol use, 41 percent of all fatal crashes involve the use of alcohol.
- Every 30 minutes, someone is killed in the United States in an alcohol-related crash.
- It is estimated that alcohol-related crashes in the United States have an annual cost of more than \$50 billion.

### Section 154 of 23 U.S.C.

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21).

Restoration Act, a new Federal program was established to encourage States to adopt laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of a motor vehicle (23 USC 154).

Commonly referred to as "open container laws," if a State does not achieve compliance with the Federal program requirements, a portion of that State's federal-aid highway construction funds will be redirected to the State's Section 402 appropriation. Transferred funds may be used only for alcohol-impaired driving countermeasures, enforcement of drunk driving laws or the State's hazard elimination program under Section 152.

To comply with the Federal program under Section 154, 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);
- 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.

To avoid the transfer of funds, States must certify that its open container law complies with the above elements, that the law is in effect, and that the State is enforcing the law.

The transferred amount for States not in compliance is 1.5 percent of certain State federal-aid highway construction funds for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

Currently, 36 States and the District of Columbia comply with the terms

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of this law. These States are: Alabama, Arizona, California, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wisconsin.



The reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Impaired Driving and Occupant Protection Office, ATTN: NTS-110, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-9588; or NHTSA's web site at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)

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