



SPONSOR: Rep. Dukes & Rep. Longhurst & Sen. Hocker  
Reps. Baumbach, Bolden, Cooke, Hensley, K. Johnson,  
Osienski, D. Short, Shupe; Sens. Lawson, Wilson

HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 119

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO RULES OF THE ROAD.

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

1 Section 1. Amend § 4177J, Title 21 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 4177J. ~~Drinking while driving prohibited.~~ Open Container of Alcoholic Beverages in Motor Vehicles Prohibited.

4 (a) ~~No person shall consume an alcoholic beverage while driving a motor vehicle upon the highways of this State.~~  
5 ~~“Consume,” as used in this subsection, shall mean the ingestion of a substance containing alcohol while in the act of~~  
6 ~~operating a motor vehicle in the presence of, or in the view of, a police officer.~~

7 (b) ~~Whoever violates this section shall be fined for the first offense not less than \$25 nor more than \$200. For each~~  
8 ~~subsequent like offense occurring within 1 year of the previous offense, the person shall be fined not less than \$50 nor more~~  
9 ~~than \$400.~~

10 (a) No operator or passenger in a motor vehicle upon a public road, street, or highway shall possess in the  
11 passenger area of the motor vehicle an open or unsealed receptacle, including a bottle, can, jar, travel mug, cup, or other  
12 receptacle, containing an alcoholic beverage. “Passenger area” means the area of a motor vehicle designed to seat the driver  
13 or a passenger while in a seated position.

14 (b) Notwithstanding subsection (a) of this section, an open or unsealed receptacle containing an alcoholic beverage  
15 may be transported in:

16 (1) a locked glove or utility compartment;

17 (2) the trunk of the motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright  
18 seat of the motor vehicle; or

19 (3) any other area of the vehicle that is not readily accessible to the operator or any passenger in or on the  
20 vehicle while the vehicle is being operated as a vehicle.

21           (c) This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used  
22 primarily for the transportation of persons for compensation (such as buses, taxis, and limousines), or to a passenger being  
23 transported in the living quarters of a motor home, mobile home, travel trailer, park trailer, or fifth-wheel travel trailer.

24           (d) This section does not apply to any motor home, mobile home, travel trailer, park trailer, or fifth-wheel travel  
25 trailer once the vehicle has ceased being operated on any public road, street or highway, has been parked and otherwise  
26 placed into use as living quarters.

27           (e) Whoever violates this section shall be subject to a civil penalty of \$50.00 plus the established administrative  
28 court assessment payable to the Voluntary Assessment Center.

29           (f) The Division of Motor Vehicles shall not include the civil penalty for a violation of this section on the  
30 individual driving record of the person committing the violation, and the civil penalty shall not be considered by the  
31 Department in any proceeding for suspension, revocation, barring, or denying of the person's driver's license or upon any  
32 application for renewal of driving privileges.

#### SYNOPSIS

Delaware is one of five states that does not have an open container law, which is in direct violation of federal regulations. This Bill bans open containers of alcoholic beverages in motor vehicles and provides a civil penalty for an offense. A violation of this section would not be entered on an individual's driving record.