



SPONSOR: Rep. Wagner & Sen. Sorenson;
Reps. Spence, Ulbrich, Valihura

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 37

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 (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 4177J of Title 21 of the Delaware Code by deleting the current subsection and replacing
2 with the following new Section 4177J entitled “Open Container of Alcoholic Beverages in Motor Vehicles--Prohibited.”:

3 “§ 4177J. Open Container of Alcoholic Beverages in Motor Vehicles--Prohibited.

4 (a) No driver or passenger in a motor vehicle upon a public, road, street or highway shall possess in the
5 passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing
6 an alcoholic beverage. 'Passenger area' means the area of a motor vehicle designed to seat the driver or
7 a passenger while in their seated positions, including the glove compartment. An open or unsealed
8 receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An
9 open or unsealed receptacle containing an alcoholic beverage may be transported behind the last upright
10 seat of the motor vehicle if the motor vehicle does not have a trunk.

11 (b) This Section does not apply to a passenger being transported in a motor vehicle designed, maintained,
12 or used primarily for the transportation of persons for compensation (such as buses, taxis, and
13 limousines), or a passenger being transported in the living quarters of a motor home, mobile home,
14 travel trailer, or fifth-wheel travel trailer.

15 (c) Whoever violates this Section shall be subject to a civil penalty of \$25.00 plus the established
16 administrative court assessment payable to the Voluntary Assessment Center.

17 (d) The Division of Motor Vehicles shall not include the civil penalty for a violation of this Section on the
18 individual driving record of the person committing the violation and the civil penalty shall not be
19 considered by the Department in any proceeding for suspension, revocation, barring, or denying of the
20 person's driver's license or upon any application for renewal of driving privileges.”.

SYNOPSIS

This act bans open containers of alcoholic beverages in motor vehicles, provides a civil penalty for an offense and changes the enactment clause from a general enactment to a 2/3-vote requirement.