



SPONSOR: Rep. Dukes & Sen. Henry;
Reps. D. Short, Hudson, Gray, Scott

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 352

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 strikethrough 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~~
8 ~~each subsequent like offense occurring within 1 year of the previous offense, the person shall be fined not less than \$50 nor~~
9 ~~more than \$400.~~

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

14 (b) Notwithstanding subsection (a) herein, an open or unsealed receptacle containing an alcoholic beverage may
15 be transported in a locked glove or utility compartment.

16 (c) An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor
17 vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat of the motor vehicle.

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

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

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

SYNOPSIS

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.