

1 State of Arkansas  
2 91st General Assembly  
3 Fiscal Session, 2018  
4  
5 By: Senator B. Sample

SR 5

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7 **SENATE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION  
9 BILL CONCERNING THE POSSESSION OF AN OPEN CONTAINER  
10 OF ALCOHOL IN A MOTOR VEHICLE; AND TO MAKE TECHNICAL  
11 CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL HIGHWAY  
12 SPENDING PENALTIES.

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15 **Subtitle**

16 TO AUTHORIZE THE INTRODUCTION OF A  
17 NONAPPROPRIATION BILL CONCERNING THE  
18 POSSESSION OF AN OPEN CONTAINER OF  
19 ALCOHOL IN A MOTOR VEHICLE.

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22 BE IT RESOLVED BY THE SENATE OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE  
23 STATE OF ARKANSAS:

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25 THAT Senator Sample is authorized to introduce a bill which as introduced  
26 will read substantially as follows:

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28 "For An Act To Be Entitled  
29 AN ACT CONCERNING THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A MOTOR  
30 VEHICLE; TO MAKE TECHNICAL CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL  
31 HIGHWAY SPENDING PENALTIES; AND FOR OTHER PURPOSES.

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33 Subtitle  
34 CONCERNING THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A MOTOR VEHICLE;  
35 AND TO MAKE TECHNICAL CORRECTIONS NECESSARY TO AVOID FUTURE FEDERAL HIGHWAY  
36 SPENDING PENALTIES.



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3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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5 SECTION 1. Arkansas Code § 5-71-101, concerning definitions that  
6 concern offenses against public health, safety, or welfare, is amended to add  
7 additional subdivisions to read as follows:

8 (10) "Alcoholic beverage" means:

9 (A) Beer, ale, porter, stout, sake, or other similar  
10 fermented beverage of any name or description containing five-tenths percent  
11 (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or  
12 in part, or from any malt substitute;

13 (B) Wine of not less than five-tenths percent (0.5%) of  
14 alcohol by volume; or

15 (C) A distilled spirit known as "ethyl alcohol",  
16 "ethanol", or "spirits of wine" in any form, including all dilutions and  
17 mixtures of a distilled spirit, from whatever source or by whatever process  
18 produced;

19 (11)(A) "Motor vehicle" means a vehicle driven or drawn by  
20 mechanical power and manufactured primarily for use on a public highway.

21 (B) "Motor vehicle" does not include a vehicle operated  
22 solely on a rail or rails; and

23 (12) "Open alcoholic beverage container" means a bottle, can, or  
24 other receptacle that:

25 (A) Contains any amount of alcoholic beverage; and

26 (B) Is either:

27 (i) Open or has a broken seal; or

28 (ii) Not open or having a broken seal but with its  
29 contents already partially removed.

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31 SECTION 2. Arkansas Code § 5-71-218 is amended to read as follows:

32 5-71-218. Possession of open container containing alcohol in a motor  
33 vehicle.

34 (a) It is unlawful for a person to possess an open alcoholic beverage  
35 container within an area of a motor vehicle ~~that~~ if the area of the motor  
36 vehicle is:

1 (1) Designated to seat the driver or a passenger in the motor  
2 vehicle ~~and the motor vehicle is in operation~~; or

3 (2) Readily accessible to the driver or a passenger in the motor  
4 vehicle while in a seated position and the motor vehicle is located on a  
5 public highway or the right-of-way of a public highway.

6 (b) It is not an offense under this section if the open alcoholic  
7 beverage container is possessed:

8 (1) Outside of the passenger area of the motor vehicle or other  
9 area of the motor vehicle commonly used for the transportation of passengers,  
10 such as in the trunk or cargo area of the motor vehicle;

11 (2) In a locked area of the motor vehicle, including without  
12 limitation a glove compartment or center console of the motor vehicle;

13 (3) ~~In a permanently sealed container that cannot be unsealed~~  
14 ~~without breaking the seal or destroying the container~~ Behind the last upright  
15 seat or in an area not normally occupied by the driver or a passenger, in a  
16 motor vehicle that is not equipped with a trunk; or

17 (4) By a passenger in the motor vehicle, but not the driver, as  
18 long as the open alcoholic beverage container is possessed within the living  
19 quarters of the motor vehicle or the area of the motor vehicle that is  
20 designated for passengers only, the open alcoholic beverage container is not  
21 readily accessible to the driver of the motor vehicle, and the motor vehicle  
22 is:

23 (A) Designed, maintained, or used primarily for the  
24 transportation of persons for compensation; or

25 (B) A recreational vehicle, motor home, or house trailer.

26 (c) A violation of this section is a Class C misdemeanor."  
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