

1 IN THE HOUSE

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AND ULMER

2

HOUSE BILL NO. 521

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to open containers of alcoholic
7 beverages in motor vehicles."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 28.35 is amended by adding a new section to article 2
10 to read:

11 Sec. 28.35.029. OPEN CONTAINER. (a) A person may not drive a
12 motor vehicle on a highway or vehicular way or area, when there is an
13 open bottle, can, or other receptacle containing an alcoholic beverage
14 in the passenger compartment of the vehicle, except as provided in (b)
15 of this section.

16 (b) A person may transport an open bottle, can, or other recep-
17 tacle containing an alcoholic beverage in the trunk of a motor vehicle
18 or, if the open bottle, can, or other receptacle is enclosed within
19 another container, behind the last upright seat in a motor home,
20 station wagon, hatchback, or similar trunkless vehicle.

21 (c) In this section

22 (1) "alcoholic beverage" has the meaning given in AS 04.-
23 21.080(b);

24 (2) "motor vehicle" means a vehicle for which a driver's
25 license is required;

26 (3) "open" includes having a broken seal;

27 (4) "passenger compartment" means the area normally oc-
28 cupied by the driver and passengers and includes a utility or glove
29 compartment accessible to the driver or a passenger while the motor

1 vehicle is being operated.

2 (d) A person who violates (a) of this section is guilty of an
3 infraction.

4 * Sec. 2. AS 28.35.031(b) is amended to read:

5 (b) A person who operates or drives a motor vehicle in this
6 state or who operates an aircraft or watercraft shall be considered to
7 have given consent to a preliminary breath test for the purpose of
8 determining the alcoholic content of the person's blood or breath. A
9 law enforcement officer may administer a preliminary breath test at
10 the scene of the incident if the officer has reasonable grounds to
11 believe that a person's ability to operate a motor vehicle, aircraft,
12 or watercraft is impaired by the ingestion of alcoholic beverages and
13 that the person

14 (1) was operating or driving a motor vehicle, aircraft, or
15 watercraft that is involved in an accident; [OR]

16 (2) committed a moving traffic violation or unlawfully
17 operated an aircraft or watercraft; in this paragraph, "unlawfully"
18 means in violation of any federal, state, or municipal statute, regu-
19 lation or ordinance, except for violations that do not provide reason
20 to believe that the operator's ability to operate the aircraft or
21 watercraft was impaired by the ingestion of alcoholic beverages; or

22 (3) was operating or driving a motor vehicle in violation of
23 AS 28.35.029(a).