

Original sponsors: Frank, Miller,
Koponen, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 521 (Judiciary) am S

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

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

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Sec. 28.35.029. OPEN CONTAINER. (a) A person may not drive a

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motor vehicle on a highway or vehicular way or area, when there is an

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open bottle, can, or other receptacle containing an alcoholic beverage

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in the passenger compartment of the vehicle, except as provided in (b)

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of this section.

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(b) A person may transport an open bottle, can, or other recep-

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tacle containing an alcoholic beverage

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(1) in the trunk of a motor vehicle;

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(2) on a motor driven cycle, or behind the last upright

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seat in a motor home, station wagon, hatchback, or similar trunkless

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vehicle, if the open bottle, can, or other receptacle is enclosed

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within another container;

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(3) behind a solid partition that separates the vehicle

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driver from the area normally occupied by passengers; or

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(4) if the open bottle, can, or other receptacle is in the

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possession of a passenger in a commercial motor vehicle.

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(c) In this section

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(1) "alcoholic beverage" has the meaning given in AS 04.-

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21.080(b);

1 (2) "commercial motor vehicle" means a motor vehicle for
2 which the owner receives direct monetary compensation and that has a
3 capacity of 12 or more persons;

4 (3) "motor vehicle" means a vehicle for which a driver's
5 license is required;

6 (4) "open" includes having a broken seal;

7 (5) "passenger compartment" means the area normally oc-
8 cupied by the driver and passengers and includes a utility or glove
9 compartment accessible to the driver or a passenger while the motor
10 vehicle is being operated.

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

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

14 (b) A person who operates or drives a motor vehicle in this
15 state or who operates an aircraft or watercraft shall be considered to
16 have given consent to a preliminary breath test for the purpose of
17 determining the alcoholic content of the person's blood or breath. A
18 law enforcement officer may administer a preliminary breath test at
19 the scene of the incident if the officer has reasonable grounds to
20 believe that a person's ability to operate a motor vehicle, aircraft,
21 or watercraft is impaired by the ingestion of alcoholic beverages and
22 that the person

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

25 (2) committed a moving traffic violation or unlawfully
26 operated an aircraft or watercraft; in this paragraph, "unlawfully"
27 means in violation of any federal, state, or municipal statute, regu-
28 lation or ordinance, except for violations that do not provide reason
29 to believe that the operator's ability to operate the aircraft or

1 watercraft was impaired by the ingestion of alcoholic beverages; or
2 (3) was operating or driving a motor vehicle in violation of
3 AS 28.35.029(a).