

# Missouri State and Local Open Container Laws

**Justin Roberts**

## Problem Statement

In 1998, Congress and the President passed the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), which aimed to encourage states to enact and enforce an open container law that prohibits possession of any open alcoholic beverage container and the consumption of any alcoholic beverage by both the driver and passenger (see Report 29-2005 for more detail).

The current Missouri open container law applies only to the driver, making Missouri one of thirteen states (AK, AR, CO, CT, DE, IN, MO, MS, MT, TN, VA, WV, WY) that allow passengers to drink, despite TEA-21. An increasing number of Missouri municipalities, however, are adopting ordinances that apply to the passenger. Current state legislation, if passed, would override local open container ordinances to allow open wine containers to be transported. This may indicate a possible disconnect between open container law preference at the local and state levels in Missouri.

## Recent Legislative Action in Missouri

Missouri has considered open container laws for several years, but these bills failed due to weak legislative support. The Missouri Department of Transportation is working on a similar legislative proposal for 2006.

While Missouri has yet to adopt a statewide TEA-compliant law, many Missouri communities have adopted local ordinances that prohibit both drivers and passengers from possessing or consuming alcohol in a moving vehicle. In an informal city clerk inquiry, the Missouri Municipal League found that more than 30 cities have passenger restrictions on open containers in the vehicle.

**Table 1: Missouri Municipalities with an Open Container Ordinance Affecting Passengers**

Bates City	Hermann	Normandy
Bellefontaine Neighbors	Independence	Osage Beach
Cabool	Lamar	Salisbury
Clarence	Lake Lotawanna	St. Charles
Clarkson Valley	Lexington	St. John
Columbia	Liberty	Trenton
Crystal City	Licking	Verona
Cuba	Linn	Warson Woods
Elsberry	Maryville	Weston
Foristell	Neosho	
Harrisonville	New Franklin	

Each city is responsible for the level of enforcement and level of punishment. Most ordinances ban open containers from seating areas while a vehicle is in operation and from readily accessible spots such as the glove compartment. Convicted passengers face fines from \$50 to as much as \$500 with possible jail time of up to 90 days.

## Arguments for and Against Open Container Laws

The potential to decrease incidences of alcohol related crashes and fatalities is the main reason many groups support a TEA-compliant law. Opponents believe Missouri already has the necessary laws to curb drunk driving, including the 0.08 percent BAC limit passed in 2001. However, loopholes in the law provide the opportunity for a driver with an open alcohol container to pass it to another passenger or place in the back seat. A TEA-compliant state law would close this loophole, making the driver and any passengers accountable for all open alcoholic beverages. Both sides agree that a uniform law throughout the state allows better enforcement and consistency.



A proposed ban in Arnold recently failed because city officials saw no proof that open container legislation affecting passengers led to decreases in alcohol-related fatalities. A 2002 NHTSA report entitled *Open Container Laws and Alcohol Involved Crashes: Some Preliminary Data* provides evidence that states that enacted TEA-compliant laws experienced the lowest proportion of alcohol-related fatalities. Further, the report also showed 84% public support for open container laws in states that had none.

### Louisiana Case Study

Similar to Missouri, Louisiana has a powerful liquor lobby that successfully defeated state legislation in 2003 to bring the state TEA-compliant. During this time, many municipalities enacted local regulations to ban open containers of alcohol in vehicles, most notably in New Orleans.

While the arguments for and against the bill were much the same, the liquor lobby said that a TEA-compliant law would have little or no effect on alcohol sales or cause the industry to change sales habits. A reintroduced TEA-compliant bill passed in 2004 as opposition slowed and local support grew. The bill has an amendment that exempts the law for athletic tailgating events, those who travel with or deliver open liquor containers as part of their jobs, occupants of taxis, hired buses, hired limos, and courtesy vans provided by a hotel or casino.

The bill was supported by MADD, the Louisiana Highway Safety Commission (LHSC) and the Coalition to Prevent Underage Drinking. Louisiana's state law imposes a maximum fine of \$100 for convicted passengers. According to the LHSC, Louisiana expects to see decreases in the percent of alcohol-related crashes as a result of the statewide open container ban in conjunction with regulations on BAC and underage drinking.

### Conclusion

The adoption of local ordinances banning open alcoholic containers is a growing trend across the state, but to date, Missouri has yet to adopt a statewide TEA-compliant law. The Louisiana case indicates that local bans on open containers may lead to the approval of a statewide TEA-compliant law.

### Author Biography

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Justin Roberts is a May, 2005 graduate of the Truman School of Public Affairs, University of Missouri – Columbia, where he emphasized in organizational analysis and worked as a graduate research assistant in the College of Agriculture, Food and Natural Resources. He earned a bachelor's degree in agricultural economics from the University of Missouri-Columbia.

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