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SENATE BILL NO. 741

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 9, 2000)

(Patron Prior to Substitute—Senator Rerras)

A BILL to amend and reenact § 18.2-323.1 of the Code of Virginia relating to drinking or possessing opened alcoholic beverages while operating a motor vehicle; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-323.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-323.1. Drinking while operating a motor vehicle; open containers of alcohol in a motor vehicle; penalty.

A. It shall be unlawful for any person to consume an alcoholic beverage while driving a motor vehicle upon a public highway of this Commonwealth, *or the right of way thereof*. A violation of this section is punishable as a Class 4 misdemeanor.

B. *It shall be unlawful for any person to possess any alcoholic beverage in the passenger area of a motor vehicle upon a public highway of this Commonwealth, or the right of way thereof in other than the manufacturer's unopened, original container. If the seal on a container of an alcoholic beverage is broken or some of the contents have been removed, the container shall be presumed to be open.*

"Passenger area of any motor vehicle" means the area designed to seat the driver of any motor vehicle and the area designed to seat passengers and any area within the reach of a seated driver or passenger, including an unlocked glove compartment, but does not mean the trunk of any passenger vehicle. For the purposes of this section, the area behind the last upright back seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle, is deemed the same as the trunk of a passenger vehicle. However, "passenger area of any motor vehicle" does not include the living quarters of a mobile home, or the passenger area of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, except for the driver of such vehicle.

C. A violation of subsection B shall be enforceable and punishable as a traffic infraction as defined in § 46.2-100 and shall not be deemed to be illegal transportation of alcoholic beverages as provided in § 4.1-334.