

2002 RECONVENED SESSION

SENATE SUBSTITUTE

024920220

SENATE BILL NO. 148

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Governor
on April 8, 2002)

(Patron Prior to Substitute—Senator Norment)

A BILL to amend the Code of Virginia by adding a section numbered 46.2-801.1, relating to possession of open container of alcohol in a motor vehicle; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-801.1 as follows:

§ 46.2-801.1. Possession of open container of alcohol in a motor vehicle; penalty.

A. No person shall knowingly or intentionally possess any alcoholic beverage in the passenger area of a motor vehicle upon a public highway of this Commonwealth, or the shoulder 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.

For purposes of this section, "public highway or the shoulder thereof" shall not include any motor vehicle parking lot. An open container shall be considered to be in the possession of the driver of a vehicle if the open container is in the passenger area of a vehicle, but is not in the possession of a passenger. An open container shall be considered to be in the possession of a passenger of a vehicle if the open container is in physical control of the passenger. "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 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 motor 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.

The driver of a motor home or motor vehicle designed, maintained or used primarily for the transportation of persons for compensation shall not consume an alcoholic beverage or possess an open container while driving or occupying any area of such vehicle.

B. Any person who violates this section shall be subject to a civil penalty of twenty-five dollars and any such prosecution shall be instituted and conducted in the same manner as a prosecution for a traffic infraction. All penalties collected under this subsection shall be paid into the Traffic Safety Fund, pursuant to subdivision 14 of § 46.2-223.

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