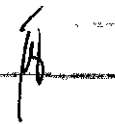


FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 JUN -3 10:28

SENATE

RECEIVED BY: 

S. NO. 2364

Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

Worldwide, an estimated 1.2 million people die in motor vehicle crashes.¹ This event parallels the increase in the number of motor vehicle-related accidents reported by the Metropolitan Manila Development Authority (MMDA) in 2006. Alcohol related crashes are a substantial portion of this problem. With the present statistics relating to drunk-driving, it is just but essential to ensure public safety by enacting this proposed measure.

In the United States, open container laws are considered by police agencies to be an important tool in their crusade against impaired driving. However, the Philippines' existing laws on car accidents involving drunk drivers are lenient, treating such accidents as caused by reckless imprudence and not by deliberate act.

This bill seeks to prohibit unlawful possession of an open alcoholic beverage container and the consumption of any alcoholic beverage by a person in the passenger area of a motor vehicle on a public highway or right-of-way. Furthermore, this bill seeks to provide stricter penalties for its offenders.

In view of the foregoing, early approval of this bill is earnestly sought.


ANTONIO "SONNY" F. TRILLANES IV
Senator

¹ <http://www.pgh.gov.ph/v2/index.php?fid=motor>. Information retrieved on May 15, 2008.

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AN ACT
PROHIBITING THE UNLAWFUL POSSESSION OF OPEN ALCOHOLIC BEVERAGE
IN MOTOR VEHICLE ON HIGHWAYS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1. Title.** This Act shall be known as the "Open Container Law of 2008".

2
3 **SEC. 2. Definition of Terms.** For purposes of this Act, the following terms are hereby
4 defined:

5 1. "Alcoholic beverage" includes beer, wine and distilled spirits that contains one-half (1/2) of
6 one percent (1%) or more of alcohol by volume.

7 2. "Knowingly" means a person acts knowingly with respect to conduct or to a circumstance
8 described by a statute defining an offense when the person is aware of the person's own conduct
9 or that the circumstance exists; a person acts knowingly with respect to the result of conduct
10 when the person is aware that it is highly probable that the result will be caused by the person's
11 conduct. When knowledge of the existence of a particular fact is an element of an offense,
12 knowledge is established if a person is aware of a high probability of its existence.

13 3. "Motor Vehicle" means a vehicle driven or drawn by mechanical power and manufactured
14 primarily for use on public highways. The term does not include a vehicle operated exclusively
15 on a rail or rails.

1 4. "Passenger Area" is the area designed to seat the driver and the passengers while the motor
2 vehicle is in operation and any area that is readily accessible to the driver or a passenger while in
3 their seating positions, including the glove compartment.

4 5. "Possession" means the knowing control of anything for a sufficient time to be able to
5 terminate control.

6 6. "Open alcoholic beverage container" means any bottle, can, or other receptacle –

7 a. that contains any amount of alcoholic beverage; and

8 b. (i) that is open or has a broken seal; or

9 (ii) the contents of which are partially removed

10 7. "Public Highway or Right-of-Way of a Public Highway" is the entire width between and
11 immediately adjacent to the boundary lines of any public road, street, highway, or other publicly
12 maintained way when any part is open to the use of the public for purposes of motor vehicle
13 travel.

14

15 **SEC. 3. *Unlawful Possession of Open Alcoholic Beverage Container in Motor Vehicle***
16 ***on Public Highway or Right-of-Way of a Public Highway.*** Except as provided in Section 4 of
17 this law, a person commits the offense of unlawful possession of an open alcoholic beverage
18 container in a motor vehicle if the person knowingly possesses an open alcoholic beverage
19 container within the passenger area of a motor vehicle, including the possession of or
20 consumption by the driver of the vehicle, on a public highway or right-of-way of a public
21 highway.

22

23 **SEC. 4. *Limitations.***

24 1. This law shall not apply to:

25 a) A passenger of a motor vehicle designed, maintained, or primarily used for the
26 transportation of persons for compensation and the driver holds a valid commercial driver's

1 license.

2 b) A passenger of a bus for which the driver holds a valid commercial driver's license.

3 c) A motor vehicle trunk, storage, or luggage compartment or a truck bed, storage, or cargo
4 compartment.

5 d) A locked case placed in an area that is not readily accessible behind the front seat of a
6 pickup truck which has no trunk or separate enclosed area other than the cab of the truck.

7 e) A driver who does not have knowledge of and cannot access alcoholic beverages in an
8 open container in the passenger area of the vehicle.

9 f) A motor vehicle which is parked or idle and does not have the engine running. This does
10 not apply to the right-of-way of a public highway.

11 g) This law does not apply to an open alcoholic beverage container:

12 i) in a locked glove compartment or storage compartment;

13 ii) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo
14 compartment;

15 iii) behind the last upright seat of a motor vehicle that is not equipped with a trunk;

16 iv) in a closed container in the area of a motor vehicle that is not equipped with a
17 trunk and that is not normally occupied by the driver or a passenger; or

18 v) in the immediate possession of a passenger of a motor vehicle, including a bus,
19 taxi, or limousine, that is used for the transportation of persons for compensation and that
20 includes the provision of a hired driver.

21

22 2. This law shall not be construed to prohibit the transporting of alcoholic beverages in closed
23 containers.

24

25 **SEC. 5. Penalties.** A person who violates the provisions of this law shall face the
26 following sanctions:

1 1. On the first offense, an offender shall face possible jail time of up to one year, one
2 thousand pesos (P1,000) fine and license suspension of up to one (1) year;

3 2. On the second offense within five years of first offense, an offender shall serve a
4 mandatory forty-eight (48) hours in jail in addition to the ninety days (90) days up to one (1) year
5 jail time, a fine of five thousand pesos (Php 5,000), license suspension of three (3) years and a
6 mandatory clinical evaluation and, if indicated, completion of a substance abuse treatment
7 program at the offender's expense; and

8 3. On the third offense within five years of the second offense, an offender shall serve a
9 mandatory fifteen (15) days jail time, a fine of ten thousand pesos (Php 10,000), license
10 revocation for five years a mandatory clinical evaluation and, if indicated, completion of a
11 substance abuse treatment program at the offender's expense and the offender shall be declared
12 as habitual violator and the license plate for his/her vehicle shall be seized and be forwarded to
13 the Department of Transportation and Communications (DOTC).

14

15 **SEC. 6. *Implementing Rules and Regulations.*** The Department of Transportation and
16 Communications (DOTC) is hereby mandated to formulate the rules and regulations to
17 implement this Act within a period of ninety (90) days from the effectivity thereof.

18

19 **SEC. 7. *Separability Clause.*** If any provision of this Act or any part thereof be declared
20 unconstitutional or invalid, the other provisions, far as they are separable from the invalid ones,
21 shall remain in force and effect.

22

23 **SEC. 8. *Repealing Clause.*** All laws, decrees, orders, rules and regulations or parts
24 thereof specifically inconsistent with this Act are hereby repealed or modified accordingly.

1 **SEC. 9. *Effectivity.*** This Act shall take effect fifteen (15) days after its publication in the
2 Official Gazette or in at least two (2) newspapers of general circulation.

Approved,