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SENATE BILL 246

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Michael S. Sanchez

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; REMOVING AN EXCEPTION TO THE PROHIBITION AGAINST ALCOHOLIC BEVERAGES IN OPEN CONTAINERS IN MOTOR VEHICLES; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-8-138 NMSA 1978 (being Laws 1989, Chapter 316, Section 2, as amended) is amended to read:

"66-8-138. CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES IN OPEN CONTAINERS IN A MOTOR VEHICLE PROHIBITED-- EXCEPTIONS. --

A. No person shall knowingly drink any alcoholic beverage while in a motor vehicle upon any public highway within this state.

B. No person shall knowingly have in his possession on his person, while in a motor vehicle upon any

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1 public highway within this state, any bottle, can or other
2 receptacle containing any alcoholic beverage that has been
3 opened or had its seal broken or the contents of which have
4 been partially removed.

5 C. It is unlawful for the registered owner of any
6 motor vehicle to knowingly keep or allow to be kept in a motor
7 vehicle, when the vehicle is upon any public highway within
8 this state, any bottle, can or other receptacle containing any
9 alcoholic beverage that has been opened or had its seal broken
10 or the contents of which have been partially removed, unless
11 the container is kept in:

12 (1) the trunk of the vehicle or in some other
13 area of the vehicle not normally occupied by the driver or
14 passengers if the vehicle is not equipped with a trunk;

15 (2) the living quarters of a motor home or
16 recreational vehicle;

17 (3) a truck camper; or

18 (4) the bed of a pick-up truck when the bed
19 is occupied by passengers.

20 A utility or glove compartment shall be deemed to be
21 within the area occupied by the driver and passengers. This
22 section does not apply to any passenger in a bus, taxicab or
23 limousine for hire licensed to transport passengers pursuant
24 to the Motor Carrier Act or proper legal authority.

25 D. The provisions of this section do not apply to:

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(1) any person who, upon the recommendation of a doctor, carries alcoholic beverages in that person's motor vehicle for medicinal purposes; or

(2) any clergyman or his agent who carries alcoholic beverages for religious purposes in the clergyman's or agent's motor vehicle. [~~or~~

~~(3) any person who is employed by a person licensed by the Liquor Control Act, while discharging his duties as an employee]~~"

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 2001.