

AN ACT
RELATING TO MOTOR VEHICLES; AMENDING AN EXCEPTION TO THE OPEN
CONTAINER LAW.

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

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

removed, unless the container is kept in:

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

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

(3) a truck camper; or

(4) the bed of a pick-up truck when the bed is not occupied by passengers.

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

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

(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. "