

## SUBCHAPTER D—TRANSFER AND SANCTION PROGRAMS

### PART 1270—OPEN CONTAINER LAWS

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AUTHORITY: 23 U.S.C. 154; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 63 FR 53585, Oct. 6, 1998, unless otherwise noted.

#### § 1270.1 Scope.

This part prescribes the requirements necessary to implement Section 154 of Title 23 of the United States Code which encourages States to enact and enforce open container laws.

#### § 1270.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the transfer of Federal-aid highway funds for noncompliance with 23 U.S.C. 154.

#### § 1270.3 Definitions.

As used in this part:

(a) *Alcoholic beverage* means:

(1) Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(2) Wine of not less than one-half of 1 per centum of alcohol by volume; or

(3) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).

(b) *Enact and enforce* means the State's law is in effect and the State has begun to implement the law.

(c) *Motor vehicle* means a vehicle driven or drawn by mechanical power and

manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail or rails.

(d) *Open alcoholic beverage container* means any bottle, can, or other receptacle that:

(1) Contains any amount of alcoholic beverage; and

(2)(i) Is open or has a broken seal; or

(ii) The contents of which are partially removed.

(e) *Passenger area* means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment.

(f) *Public highway or right-of-way of a public highway* means the width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel; inclusion of the roadway and shoulders is sufficient.

(g) *State* means any of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

[63 FR 53585, Oct. 6, 1998, as amended at 65 FR 51538, Aug. 24, 2000]

#### § 1270.4 Compliance criteria.

(a) To avoid the transfer of funds as specified in § 1270.6 of this part, a State must enact and enforce a law that prohibits the possession of any open alcoholic beverage container, and the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

(b) The law must apply to:

(1) The possession of any open alcoholic beverage container and the consumption of any alcoholic beverage;

(2) The passenger area of any motor vehicle;

(3) All alcoholic beverages;

(4) All occupants of a motor vehicle; and (5) All motor vehicles located a