

103D CONGRESS  
1ST SESSION

# S. 809

To amend title 23, United States Code, relating to open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 22 (legislative day, APRIL 19), 1993

Mr. DORGAN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend title 23, United States Code, relating to open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. OPEN CONTAINER LAWS.**

4       (a) ESTABLISHMENT.—Chapter 1 of title 23, United

5       States Code, is amended by adding at the end the follow-

6       ing new section:

1   **“§ 161. Open Container Limitations**2       “(a) WITHHOLDING OF FUNDS FOR NONCOMPLI-  
3    ANCE.—4           “(1) GENERAL RULE.—Beginning with fiscal  
5    year 1997, and for each fiscal year thereafter, the  
6    Secretary shall withhold 5 percent of the amount re-  
7    quired to be apportioned to a State under para-  
8    graphs (1), (2), (5), and (6) of section 104(b) for  
9    the fiscal year, if, for any period during the imme-  
10   diately preceding fiscal year, the possession of any  
11   open alcoholic beverage container, or the consump-  
12   tion of any alcoholic beverage, in the passenger area  
13   of any motor vehicle located on a public highway, or  
14   the right-of-way of a public highway, in the State is  
15   lawful.16           “(2) LIMITATION OF APPLICATION TO CHARTER  
17    BUSES.—If a State has in effect a law that makes  
18    the possession of any open alcoholic beverage con-  
19    tainer unlawful in the passenger area by the driver  
20    (but not by a passenger) of a motor vehicle designed  
21    to transport more than 10 passengers (including the  
22    driver) while being used to provide charter transpor-  
23    tation of passengers, the State shall be deemed in  
24    compliance with paragraph (1) with respect to the  
25    motor vehicle for each fiscal year during which the  
26    law is in effect.

1       “(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLI-  
2 ANCE AND NONCOMPLIANCE.—

3       “(1) FUNDS WITHHELD ON OR BEFORE SEP-  
4 TEMBER 30, 1997.—

5           “(A) PERIOD OF AVAILABILITY.—Any  
6 funds withheld under this section from appor-  
7 tionment to any State on or before September  
8 30, 1997, shall remain available for apportion-  
9 ment to the State as follows:

10           “(i) If, but for this section, the funds  
11 would otherwise have been apportioned  
12 under section 104(b)(5)(A), the funds shall  
13 remain available until the end of the fiscal  
14 year for which the funds are made avail-  
15 able.

16           “(ii) If, but for this section, the funds  
17 would otherwise have been apportioned  
18 under section 104(b)(5)(B), the funds shall  
19 remain available until the end of the sec-  
20 ond fiscal year following the fiscal year for  
21 which the funds are made available.

22           “(iii) If, but for this section, the funds  
23 would have been apportioned under para-  
24 graph (1), (2), or (6) of section 104(b), the  
25 funds shall remain available until the end

4                             “(B) FUNDS WITHHELD AFTER SEPTEM-  
5                             BER 30, 1997.—No funds withheld under this  
6                             section from apportionment to a State after  
7                             September 30, 1997, shall be available for ap-  
8                             portionment to the State.

9                     “(2) APPORTIONMENT OF WITHHELD FUNDS  
10                     AFTER COMPLIANCE.—If, before the last day of the  
11                     period for which funds withheld under this section  
12                     from apportionment are to remain available for ap-  
13                     portionment to a State under paragraph (1), the  
14                     State brings into effect a law that is in compliance  
15                     with subsection (a), on the day following the effec-  
16                     tive date of the law, the Secretary shall apportion to  
17                     the State the withheld funds remaining available for  
18                     apportionment to the State pursuant to paragraph  
19                     (1).

20               “(3) PERIOD OF AVAILABILITY OF SUBSE-  
21               QUENTLY APPORTIONED FUNDS.—

22                             “(A) IN GENERAL.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

23

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1                             “(i) Funds apportioned under section  
2                             104(b)(5)(A) shall remain available until  
3                             the end of the fiscal year succeeding the  
4                             fiscal year for which the funds are appor-  
5                             tioned.

6                             “(ii) Funds apportioned under para-  
7                             graph (1), (2), (5)(B), or (6) of section  
8                             104(b) shall remain available until the end  
9                             of the third fiscal year succeeding the fis-  
10                             cal year for which the funds are appor-  
11                             tioned.

12                             “(B) UNOBLIGATED SUMS.—Sums that  
13                             are not obligated on the termination of the pe-  
14                             riod referred to in subparagraph (A) shall—

15                             “(i) lapse; or  
16                             “(ii) in the case of funds apportioned  
17                             under section 104(b)(5), lapse and be  
18                             made available by the Secretary for  
19                             projects in accordance with section 118(b).

20                             “(4) EFFECT OF NONCOMPLIANCE.—If, on the  
21                             termination of the period for which funds withheld  
22                             under this section from apportionment are available  
23                             for apportionment to a State under paragraph (1),  
24                             the State does not have in effect a State law that  
25                             is in compliance with subsection (a)—

1                   “(A) the funds shall lapse; or  
2                   “(B) in the case of funds withheld from  
3                   apportionment under section 104(b)(5), the  
4                   funds shall lapse and be made available by the  
5                   Secretary for projects in accordance with sec-  
6                   tion 118(b).

7                   “(c) DEFINITIONS.—As used in this section:

8                   “(1) ALCOHOLIC BEVERAGE.—The term ‘alco-  
9                   holic beverage’ has the meaning provided the term in  
10                   section 158(c).

11                   “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
12                   cle’ has the meaning provided the term in section  
13                   154(b).

14                   “(3) OPEN ALCOHOLIC BEVERAGE CON-  
15                   TAINER.—The term ‘open alcoholic beverage con-  
16                   tainer’ has the meaning provided the term in section  
17                   410.

18                   “(4) PASSENGER AREA.—The term ‘passenger  
19                   area’ shall have the meaning provided by the Sec-  
20                   retary by regulation.”.

21                   (b) CONFORMING AMENDMENT.—The analysis for  
22                   chapter 1 of title 23, United States Code, is amended by  
23                   adding at the end the following new item:

“161. Open container limitations.”.

