169A.35 OPEN BOTTLE LAW.

Subdivision 1. **Definitions.** As used in this section:

(1) "alcoholic beverage" has the meaning given it in section 340A.101, subdivision 2;

(2) "distilled spirits" has the meaning given it in section 340A.101, subdivision 9;

(3) "motor vehicle" does not include motorboats in operation, or off-road recreational vehicles except when being operated on a roadway or shoulder of a roadway that is not part of a grant-in-aid trail or trail designated for that vehicle by the commissioner of natural resources;

(4) "possession" means either that the person had actual possession of the bottle or receptacle or that the person consciously exercised dominion and control over the bottle or receptacle; and

(5) "3.2 percent malt liquor" has the meaning given it in section 340A.101, subdivision 19.

Subd. 1a. **Alcoholic beverage, distilled spirit, 3.2 malt liquor; determination.** For purposes of this section only, when determining whether a beverage is an alcoholic beverage, a distilled spirit, or 3.2 percent malt liquor:

(1) "alcohol by volume" means milliliters of alcohol per 100 milliliters of beverage; and

(2) "alcohol by weight" means grams of alcohol per 100 grams of beverage.

Subd. 2. **Drinking and consumption; crime described.** It is a crime for a person to drink or consume an alcoholic beverage, distilled spirit, or 3.2 percent malt liquor in a motor vehicle when the vehicle is upon a street or highway.

Subd. 3. **Possession; crime described.** It is a crime for a person to have in possession, while in a private motor vehicle upon a street or highway, any bottle or receptacle containing an alcoholic beverage, distilled spirit, or 3.2 percent malt liquor that has been opened, or the seal broken, or the contents of which have been partially removed.

Subd. 4. **Liability of nonpresent owner; crime described.** It is a crime for the owner of any private motor vehicle or the driver, if the owner is not present in the motor vehicle, to keep or allow to be kept in a motor vehicle when the vehicle is upon a street or highway any bottle or receptacle containing an alcoholic beverage, distilled spirit, or 3.2 percent malt liquor that has been opened, or the seal broken, or the contents of which have been partially removed.

Subd. 5. **Criminal penalty.** A person who violates subdivisions 2 to 4 is guilty of a misdemeanor.

Subd. 6. **Exceptions.** (a) This section does not prohibit the possession or consumption of alcoholic beverages by passengers in:

(1) a bus that is operated by a motor carrier of passengers, as defined in section 221.012, subdivision 26;

(2) a vehicle that is operated for commercial purposes in a manner similar to a bicycle as defined in section 169.011, subdivision 4, with five or more passengers who provide pedal power to the drive train of the vehicle; or

(3) a vehicle providing limousine service as defined in section 221.84, subdivision 1.

(b) Subdivisions 3 and 4 do not apply to a bottle or receptacle that is in the trunk of the vehicle if it is equipped with a trunk, or that is in another area of the vehicle not normally occupied by the driver and passengers if the vehicle is not equipped with a trunk. However, a utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

History: *2000 c 426 s 22-24; 2000 c 478 art 1 s 19; art 2 s 7; 1Sp2001 c 8 art 12 s 3,4; 2007 c 131 art 1 s 77; 2008 c 311 s 1*