

## CHAPTER 271

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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**HOUSE BILL 05-1122**

BY REPRESENTATIVE(S) Coleman, Frangas, Carroll T., Ragsdale, Vigil, Borodkin, Green, McGihon, Todd, Berens, and Boyd;  
also SENATOR(S) Groff, Sandoval, Williams, Hanna, and Tupa.

**AN ACT****CONCERNING ALCOHOLIC BEVERAGES IN MOTOR VEHICLES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Part 13 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-4-1305. Open alcoholic beverage container - motor vehicle - prohibited.**

(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ALCOHOLIC BEVERAGE" MEANS A BEVERAGE AS DEFINED IN 23 CFR 1270.3  
(a).

(b) "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 EXCLUSIVELY ON A RAIL OR RAILS.

(c) "OPEN ALCOHOLIC BEVERAGE CONTAINER" MEANS A BOTTLE, CAN, OR OTHER RECEPTACLE THAT CONTAINS ANY AMOUNT OF ALCOHOLIC BEVERAGE AND:

(I) THAT IS OPEN OR HAS A BROKEN SEAL; OR

(II) THE CONTENTS OF WHICH ARE PARTIALLY REMOVED.

(d) "PASSENGER AREA" MEANS THE AREA DESIGNED TO SEAT THE DRIVER AND PASSENGERS WHILE A MOTOR VEHICLE IS IN OPERATION AND ANY AREA THAT IS READILY ACCESSIBLE TO THE DRIVER OR A PASSENGER WHILE IN HIS OR HER SEATING POSITION, INCLUDING BUT NOT LIMITED TO THE GLOVE COMPARTMENT.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(2) (a) EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH (b) OF THIS SUBSECTION (2), A PERSON WHILE IN THE PASSENGER AREA OF A MOTOR VEHICLE THAT IS ON A PUBLIC HIGHWAY OF THIS STATE OR THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY OF THIS STATE MAY NOT KNOWINGLY:

(I) DRINK AN ALCOHOLIC BEVERAGE; OR

(II) HAVE IN HIS OR HER POSSESSION AN OPEN ALCOHOLIC BEVERAGE CONTAINER.

(b) THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO:

(I) PASSENGERS, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, LOCATED IN THE PASSENGER AREA OF A MOTOR VEHICLE DESIGNED, MAINTAINED, OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS FOR COMPENSATION;

(II) THE POSSESSION BY A PASSENGER, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN THE LIVING QUARTERS OF A HOUSE COACH, HOUSE TRAILER, MOTOR HOME, AS DEFINED IN SECTION 42-1-102 (57), OR TRAILER COACH, AS DEFINED IN SECTION 42-1-102 (106) (a);

(III) THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN THE AREA BEHIND THE LAST UPRIGHT SEAT OF A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK; OR

(IV) THE POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER IN AN AREA NOT NORMALLY OCCUPIED BY THE DRIVER OR A PASSENGER IN A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK.

(c) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS A TRAFFIC INFRACTION AND SHALL BE PUNISHED BY A FINE OF FIFTY DOLLARS AND A SURCHARGE OF SEVEN DOLLARS, EIGHTY CENTS AS PROVIDED IN SECTION 42-4-1701 (4) (a) (I) (N).

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREEMPT OR LIMIT THE AUTHORITY OF ANY STATUTORY OR HOME RULE TOWN, CITY, OR CITY AND COUNTY TO ADOPT ORDINANCES THAT ARE NO LESS RESTRICTIVE THAN THE PROVISIONS OF THIS SECTION.

**SECTION 2.** 42-4-1701 (4) (a) (I) (N), Colorado Revised Statutes, is amended to read:

**42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic

infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

<b>Section Violated</b>	<b>Penalty</b>	<b>Surcharge</b>
<b>(N) Other offenses:</b>		
42-4-1301 (2) (a.5)	\$ 50.00	\$ 7.80
42-4-1305	50.00	7.80
42-4-1402	50.00	7.80
42-4-1403	15.00	2.60
42-4-1404	15.00	2.60
42-4-1406	35.00	5.20
42-4-1407 (3) (a)	35.00	5.20
42-4-1407 (3) (b)	100.00	15.00
42-4-1407 (3) (c)	500.00	100.00
42-4-314	35.00	5.20
42-4-1408	15.00	2.60
42-4-1414 (2) (a)	500.00	78.00
42-4-1414 (2) (b)	1,000.00	156.00
42-4-1414 (2) (c)	5,000.00	780.00

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 2005, and shall apply to infractions committed on or after said date.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 2005