

§ 5852. Definition.

(a) “Open container” means any bottle, can, or receptacle containing an alcoholic beverage which:

- (1) has been opened; or
- (2) has a seal broken; or
- (3) contents have been partially removed.

(b) “Possess” means either actual possession of the open container or that the person had dominion and control over the open container.

Source: PL 10-54, § 2; repealed and reenacted by PL 19-13, § 4(Section 1) (Oct. 23, 2015).

Commission Comment: [9 CMC § 1102\(o\)](#) which defined the term “highway” was redesignated § 1102(p) in the codification process. The cross-reference to subsection (o) was therefore changed to (p). See the Commission comment to [9 CMC § 1102](#).

PL 19-13 (Oct. 23, 2015) included the following Short Title and Findings and Purpose sections, in addition to severability and savings clauses:

Section 1. Short Title. This Act may be cited as the “Open Container Act of 2015.”

Section 2. Findings and Purpose. The purpose of the Commonwealth’s Open Container Act is to prevent the injury, death, and destruction of property which inevitably results when a motor vehicle is driven while under the influence of alcohol. Unfortunately, the Open Container Act does not fulfill its purpose because the penalty for its violation is a mere traffic infraction. Having considered the existing law, the Legislature finds that the language of the Open Container Act must be clarified and the penalty for its violation must be increased.

PL 19-13 included two sections designated “Section 4.” The Commission refers to these sections as “§ 4(Section 1)” and “§ 4(Section 2)” in the comments to the affected code sections.