TITLE 23 - HIGHWAYS
CHAPTER 1 - FEDERAL-AID HIGHWAYS

§ 154. Open container requirements

(a) Definitions.— In this section, the following definitions apply:

(1) Alcoholic beverage.— The term “alcoholic beverage” has the meaning given the term in section 158 (c).

(2) Motor vehicle.— The term “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.

(3) Open alcoholic beverage container.— The term “open alcoholic beverage container” means any bottle, can, or other receptacle—

(A) that contains any amount of alcoholic beverage; and

(B) (i) that is open or has a broken seal; or

(ii) the contents of which are partially removed.

(4) Passenger area.— The term “passenger area” shall have the meaning given the term by the Secretary by regulation.

(b) Open Container Laws.—

(1) In general.— For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or 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.

(2) Motor vehicles designed to transport many passengers.— For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

(c) Transfer of Funds.—

(1) Fiscal years 2001 and 2002.— On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1 1/2 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104 (b) to the apportionment of the State under section 402—

(A) to be used for alcohol-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) Fiscal year 2003 and fiscal years thereafter.— On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104 (b) to the
apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

(3) **Use for hazard elimination program.**— A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 148.

(4) **Federal share.**— The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) **Derivation of amount to be transferred.**— The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

(A) The apportionment of the State under section 104 (b)(1).

(B) The apportionment of the State under section 104 (b)(3).

(C) The apportionment of the State under section 104 (b)(4).

(6) **Transfer of obligation authority.**—

(A) **In general.**— If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) **Amount.**— The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) **Limitation on applicability of obligation limitation.**— Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.


**Prior Provisions**


**Amendments**

Effective Date