

189.530 Providing motor vehicle to person intoxicated or under influence of substance which may impair driving ability -- Possession of open alcoholic beverage container in a motor vehicle prohibited -- Exceptions -- Definitions -- Election of offenses to prosecute.

- (1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.
- (2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.
- (3) For purposes of this section, "alcoholic beverage" means:
 - (a) Beer, ale, porter, stout, and other similar fermented beverages including sake or similar products of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (b) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or
 - (c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced.
- (4) For the purposes of this section, "open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage, and:
 - (a) Is open or has a broken seal; or
 - (b) The contents of which are partially removed.
- (5) For the purposes of this section, "passenger area" means the area designed to seat the driver and the passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Passenger area does not include possession of an open alcoholic beverage container in a locked glove compartment, or behind the last upright seat or in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.
- (6) For the purpose of this section, "public highway" or "right-of-way of a public highway" means the entire width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (7) No person shall, as a result of a single course of conduct, be tried for or convicted of a violation of this section and a violation of KRS 222.202 or 525.100. The attorney for the Commonwealth shall elect under which statute to

proceed. A conviction, decision not to prosecute, or dismissal of charges under any of these statutes shall operate as a bar to prosecution under any other of these statutes for offenses arising out of the same course of conduct.

Effective: October 1, 2000

History: Amended 2000 Ky. Acts ch. 467, sec. 18, effective October 1, 2000. -- Amended 1984 Ky. Acts ch. 165, sec. 19, effective July 13, 1984. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1376r-2.