



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

Driving With Cannabis in a Vehicle

The legalization of marijuana for recreational and medicinal use in some states has resulted in policy questions related to driving with cannabis in the vehicle. These laws are similar to “open container” that limit alcohol consumption in motor vehicles. The statutory chart below gives information on state laws relating to driving with cannabis in the vehicle.

State	Statute	Summary
California	Cal. Vehicle Code § 23222 <u>Possession of Open Container Containing Alcoholic Beverage or Marijuana While Driving a Motor Vehicle; Penalty</u>	(a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed. (b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, other than concentrated cannabis, is guilty of an infraction punishable by a fine of not more than \$100.
Colorado	C.R.S. § 42-4-1305.5 <u>Open Marijuana Container – Motor Vehicle – Prohibited</u>	(1) As used in this section, unless the context otherwise requires: (a) “Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. “Marijuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product. (b) “Motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured

		<p>primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.</p> <p>(c) "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:</p> <ul style="list-style-type: none">(I) That is open or has a broken seal;(II) The contents of which are partially removed; and(III) There is evidence that marijuana has been consumed within the motor vehicle. <p>(d) "Passenger area" means the area designed to seat the driver and passengers, including seating behind the driver, 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.</p> <p>(2) Except as otherwise permitted in paragraph (b) of this subsection (2):</p> <p>(a) 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:</p> <ul style="list-style-type: none">(I) Use or consume marijuana; or(II) Have in his or her possession an open marijuana container. <p>(b) The provisions of this subsection (2) shall not apply to:</p> <ul style="list-style-type: none">(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 marijuana container in the living quarters of a house coach, house trailer, motor home, or trailer coach;(III) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
--	--	---

		<p>(IV) The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.</p> <p>(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 \$50 and a surcharge of \$7.80.</p> <p>(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.</p>
Illinois	<p>625 ILCS 5/11-502.1 <u>Possession of Medical Cannabis in a Motor Vehicle</u></p>	<p>(a) No driver, who is a medical cannabis cardholder, may use medical cannabis within the passenger area of any motor vehicle upon a highway in this state.</p> <p>(b) No driver, who is a medical cannabis cardholder, a medical cannabis designated caregiver, medical cannabis cultivation center agent, or dispensing organization agent may possess medical cannabis within any area of any motor vehicle upon a highway in this State except in a sealed, tamper-evident medical cannabis container.</p> <p>(c) No passenger, who is a medical cannabis card holder, a medical cannabis designated caregiver, or medical cannabis dispensing organization agent may possess medical cannabis within any passenger area of any motor vehicle upon a highway in this State except in a sealed, tamper-evident medical cannabis container.</p> <p>(d) Any person who violates subsections (a) through (c) of this Section:</p> <ul style="list-style-type: none"> (1) commits a Class A misdemeanor; (2) shall be subject to revocation of his or her medical cannabis card for a period of 2 years from the end of the sentence imposed; (3) shall be subject to revocation of his or her status as a medical cannabis caregiver, medical cannabis cultivation center agent, or medical cannabis dispensing organization agent for a period of two years from the end of the sentence imposed.
Minnesota	<p>M.S.A. § 152.027 <u>Other Controlled Substance Offenses</u></p>	<p>(3) A person is guilty of a misdemeanor if the person is the owner of a private motor vehicle, or is the driver of the motor vehicle if the owner is not present, and possesses on the person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, more than 1.4</p>

		<p>grams of marijuana. This area of the vehicle does not include the trunk of the motor vehicle if the vehicle is equipped with a trunk, or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment is deemed to be within the area occupied by the driver and passengers.</p>
<p>Washington</p>	<p>R.C.W. 46.61.745 <u>Possessing or Consuming Marijuana in Vehicle on Highways – Penalty, Exceptions – Definition</u></p>	<p>(1)(a) It is a traffic infraction:</p> <ul style="list-style-type: none"> (i) For the registered owner of a motor vehicle, or the driver if the registered owner is not then present, or passengers in the vehicle, to keep marijuana in a motor vehicle when the vehicle is upon a highway, unless it is (A) in the trunk of the vehicle, (B) in some other area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk, or (C) in a package, container, or receptacle that has not been opened or the seal broken or contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers; (ii) To consume marijuana in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway; or (iii) To place marijuana in a container specifically labeled by the manufacturer of the container as containing a non-marijuana substance and to then violate (a)(i) of this subsection. <p>(1)(b) There is a rebuttable presumption that it is a traffic infraction if the original container of marijuana is incorrectly labeled and there is a subsequent violation of (a)(i) of this subsection.</p> <p>(2) As used in this section, “marijuana” or “marihuana” means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.</p>

Source: Thomson West 2016.