Council panel backs open container law

A Metro Council committee Wednesday recommended making it a crime to possess an open alcoholic beverage container in a motor vehicle in East Baton Rouge Parish, despite objections that the ordinance may infringe on individual rights to privacy.

It’s time for Baton Rouge to follow the lead of approximately 40 other states and at least two other Louisiana cities that have passed similar laws, said Councilman Ben Peabody Jr., who sponsored the proposed ordinance.

“This eliminates drinking and driving,” Peabody told the Executive Committee.

“Right now, we are allowing people to drive down the highway drinking, but at the same time we’re telling them not to drive while they’re intoxicated.”

The proposed open container law would provide a clearer message to drunken drivers and make it a little harder for the drunken driver to do his damage, Peabody said.

However, local attorneys Robert Downing and Lewis Unglesby argued the proposed ordinance would be a strike against individual rights to privacy and would be open to abuse by overzealous police officers.

Already endorsed by the Mayor’s DWI

(See DWI, 10A)
Task Force, the proposed ordinance would provide the following:

- It would be against the law for anyone to drink an alcoholic beverage in a private motor vehicle on a public street.
- It would be against the law for the owner or driver of a motor vehicle to allow an opened alcoholic beverage in the passenger compartment of his vehicle.
- The law would not apply to riders on licensed motor carriers, like bus lines and charter services.
- Conviction would carry a fine of up to $500 and/or a jail term of not more than six months. Judges would be given the option of requiring community service in lieu of a fine or jail time.

The full council will consider the proposed ordinance at its regular meeting next Wednesday.

The proposed ordinance defines an open container as "any bottle, container or receptacle containing alcoholic beverages, which has been opened or the seal of a licensed manufacturer has been broken, or the contents of which have been exposed to the air."

There was some concern that the ordinance might prevent people from bringing alcohol to and from parties and other social events. However, Peabody pointed out, the ordinance says open containers can be carried in the trunk of a car or in parts of the vehicle that are not normally occupied by the driver or passengers.

Councilman V.M. "Lank" Corsentino said he was worried that some police officers might use the new ordinance to harass motorists and said the law could easily be abused by an police officer more worried about making a case than preserving an individual's rights.

It would be easy for a police officer to stop a lone motorist, find a closed bottle of whiskey in the car, break the seal and charge the driver with a violation of the open container law, Corsentino said.

Echoing some of Corsentino's concerns, Downing said the law would weaken an individual's right to privacy by making it
too easy for a police officer to find probable cause on which to search a person's car.

Downing said that in his younger days he was harassed because he had long hair and said the proposed law would give police another mechanism for detaining individuals whose appearance they didn't like.

An open container ordinance is no more open to police excess than any other law, countered police legal counsel Richard Redd and Dr. Harold Brandt, state director for Mothers Against Drunk Drivers.

And, Brandt said, a police officer who manufactured evidence to support an open container violation would be no different than an officer who used a "throw-down" weapon to cover up shooting an unarmed suspect.

"That's the sort of thing that should not be tolerated by the community, whether it's a throw-down gun or an open container," Brandt said.

Peabody said an open container law had been proposed during the 1982 session of the state Legislature but was not passed because legislators didn't want to deal with such a controversial issue in an election year.

Peabody said the most vocal opponents of the measure are the ones "who abuse it the most."

"If people cannot get from point A to point B without having to have a drink along the way, then maybe they should consider if they have a drinking problem," Peabody said.

Brandt called the proposed ordinance "dynamic" and said it provides a two-prong attack to the problem of under-age drinking.

The ordinance would make it harder for teen-agers to cruise the streets while drinking illegally obtained alcohol, Brandt said.

In addition, he said, the ordinance would also demonstrate to children that alcohol and driving don't mix. And that, he added, could reduce drunken driving accidents in the future.