Open for debate

Drinking while driving still common in La.

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LAFAYETTE — It was hailed as a tool to curtail the deadly string of alcohol-related accidents that plagued Lafayette.

In 1982, the city of Lafayette enacted legislation prohibiting anyone from operating a motor vehicle with an "unsealed" alcoholic beverage in their car. It appeared that police could finally home in on those who chose to drink and drive.

While the new law has helped, law enforcement officials say it’s not the easiest thing to enforce.

"I think it's a good tool. We spot someone in a car (with an open beverage), we can use that as 'probable cause' to stop those people," said Lt. George Alfred, public information officer for the Lafayette Police Department. "But we can't put up roadblocks looking for violators."

Alfred said because most violators keep their drinks on their seats or in the console, it's difficult for police to spot them. In 1996 and 1997, 463 people were cited for violating the city's open container ordinance.

Drive-thru daiquiri stands are all the rage in Lafayette and many other Acadiana cities.

"Many of those we find after we pull them over, or if they've been in an accident," Alfred said.

Twenty-seven states have open container laws. Louisiana is not one of them. Similar debates on the laws have raged from Lafayette to Los Angeles, as communities try to curb the disturbing trend.

Ideals of personal responsibility are easy to espouse but can only do so much, proponents of open container laws say. It's money that talks, and the U.S. House and Senate hope that pulling federal transportation funds from states that do not have open container laws might encourage those states to get such laws on the books.

A bill passed Thursday by the Senate awaits President Clinton's signature. If approved, the law would give states until 2001 to enact an open container law or lose 1.5 percent of federal transportation aid for highways.

Alfred thinks the bill would have its desired effect.

"The state will probably enact an (open container) law," Alfred said. "When you start losing funds for our roadways, which are already bad, (millions of dollars) will hurt."

An open and shut case?

Exactly what defines a "sealed" container has been questioned since the open container ordinance was enacted.

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Drink

The ordinance currently describes an open container as one that is “not mechanically sealed.”

Factory sealed

Ed McGlasson, city attorney when the ordinance was passed, says to him “a sealed container is something that comes ‘factory sealed.’”

Since the law went into effect, local daiquiri shops have sold daiquiris in Styrofoam cups with a top attached by a piece of masking tape.

Former city Councilman Dub Hudson, who introduced Lafayette’s open container ordinance, says that does not meet his definition of a “mechanically sealed” container.

He said he “does not see how there’s any strange mystique to the term ‘sealed.’ Anything you can stick a straw through or something that can be opened and then immediately closed doesn’t serve as a sealed closed container to me.”

On June 25, 1982, the day the city ordinance went into effect, The Daiquiri Factory celebrated its grand opening. Carloads of people lined up at the Johnston Street business to buy the daiquiris.

In your face

“It was an ‘in your face’ kind of thing,” said Hudson.

In a Daily Advertiser article two days after the grand opening, Hudson said he expected the Daiquiri Factory’s version of a “sealed container” would be challenged in time, and fail the legal test.

Sixteen years later, no one has challenged it.

Citizens are still allowed to carry open containers out of bars onto city streets.

While Hudson says allowing people to carry plastic “to-go” cups from a bar to the streets could be “encouraging” drinking and driving, he thinks that right should be protected.

Personal freedoms

“I’m too strongly for personal freedoms to restrict that,” Hudson said. “I can’t see an ordinance making a barkeep responsible” for making sure no one leaves with an alcoholic beverage.

City-Parish Councilman Randy Menard, a former law enforcement officer, said though current laws regarding open containers are a step in the right direction, they’re almost unenforceable.

“If your intent is to totally prevent someone from driving with an open alcohol beverage within the vehicle, than it would make sense that you would forbid an establishment from allowing someone to leave with an open beverage knowing that nine out of 10 chances they’re going to their vehicle,” Menard said.

Protecting and serving

Yet, Menard said there is little more government can do to protect the community, other than strictly enforce the current laws.

“What you’re doing is keeping people from driving while drinking, but not drinking before driving,” Menard said. “I don’t think anyone is going to put the burden on the owners” to stop giving to-go cups, Menard said.

Besides, Alfred and Menard said, it’s not likely that anyone would ever challenge an individual’s right to take an alcoholic beverage that they paid for from an establishment outside.