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STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-1142

**CRIMINAL LAW AND PROCEDURE:
Transportation of Alcoholic
Liquors**

Honorable John G. Satter
State's Attorney
Livingston County
Courthouse
Pontiac, Illinois 61764

Dear Mr. Satter:

This is in response to your letter in which you request an interpretation of the term "passenger area" which is contained in section 11-502 of The Illinois Vehicle Code. (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 11-502.) This section prohibits the transportation of alcoholic liquor in open containers within the "passenger area" of any motor vehicle. It provides specifically as follows:

"No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle except in the original package and with the seal unbroken. A person

Honorable John G. Satter - 2.

convicted of violating this section shall be guilty of a petty offense."

You specifically ask how this term is to be applied in instances where open containers of alcoholic liquor are found in the rear portion of a van into which has been installed curtains, carpet and other amenities. This is but one example of a number of factual situations which may arise because of the variety of motor vehicles and the propensity to customize them.

Therefore, whether a particular area of a motor vehicle is a passenger area is a factual determination which will have to be made in each particular instance. I am of the opinion, however, that in general for purposes of section 11-502 of The Illinois Vehicle Code, the term "passenger area" means that portion of a motor vehicle which is primarily designed for or which is adapted or devoted to the carrying of passengers. This would include any area of the motor vehicle which is readily accessible to the driver or a passenger.

The General Assembly has recognized that a motor vehicle may be designed for carrying passengers, for pulling or carrying freight or cargo, or for use as living quarters.

Honorable John G. Satter - 3.

See section 1-146 of The Illinois Vehicle Code. (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 1-146.) However, in addition, it is generally recognized that persons often ride as passengers in areas of motor vehicles which are not specifically designed for carrying passengers and that one area of a motor vehicle may be easily accessible from another. Any definition of "passenger area" must consider these factors which lead to the conclusion that a broad non-technical definition of "passenger area" was intended by the General Assembly.

Furthermore, such a definition is supported by public policy. This State has long recognized the dangers associated with alcoholic liquor and the public policy of this State is to prohibit drinking while driving. Section 11-502, prior to its amendment by Public Act 77-680, prohibited any alcoholic liquor "in or upon or about any motor vehicle except in the original package and with the seal unbroken". While the law has been changed to allow the transportation of open containers of alcoholic liquor in certain areas of motor vehicles, the areas in which open containers of alcoholic liquor can now be carried in motor vehicles should be limited to those which

Honorable John G. Satter - 4.

are inaccessible to the passenger or driver. Any interpretation which allows a driver or passenger easy access to alcoholic liquor in open containers will make drinking while driving more easy and endanger the public safety. Such a result could not have been intended.

Very truly yours,

A T T O R N E Y G E N E R A L