

RECORKING WINE FROM RESTAURANTS

ALABAMA Section 32-5A-330 allows a person to transport an open container of alcohol in a motor vehicle trunk, storage, or luggage compartment or a truck bed, storage, or cargo compartment and in a locked case placed in an area that is not readily accessible behind the front seat of a pickup truck which has no trunk or separate enclosed area other than the cab of the truck.

ALASKA Currently, state law does not allow patrons to take home partially consumed bottles of wine. HB 382 is making its way through the legislature. The bill would allow patrons to remove an unfinished bottle of wine from a licensed premises, so long as the cork was reinserted so that it may only be removed by a corkscrew. The bill passed the House 34-1, and now awaits a hearing before the Senate Labor & Commerce committee.

ARIZONA 4-244 states that it is unlawful: For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.

ARKANSAS ABC Reg. 1.79(27) does provide that those establishments which hold an on premise permit that would allow the service of wine may allow a consumer who purchases an unsealed package of wine in conjunction with a food service and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premise.

CALIFORNIA Section 23396.5 of the Business and Professions Code, Division 9 allows any "on-sale licensee" which maintains a bona fide eating place in conjunction with such license to

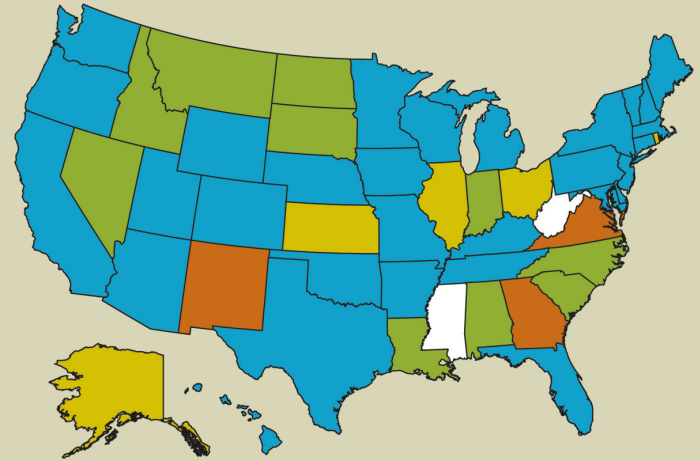
allow a person who has purchased and partially consumed a bottle of wine to remove it from the premises upon departure. Section 23225 goes on to say that this bottle must be kept in the trunk of a vehicle. It goes on to discuss the procedure if the vehicle does not have a trunk.

COLORADO Section 12-47-411, Colorado Revised Statutes was amended to allow a licensed hotel or restaurant to permit a customer to reseal and remove "one opened container of partially consumed vinous liquor purchased on the premises as long as the original container did not contain more than 750 milliliters of vinous liquor." The Colorado Division of Liquor Enforcement strongly encourages restaurateurs to put the bottle in a bag which is sealed to prevent opening until the patron is home. They also suggest restaurants advise patrons of open container laws and check with local towns concerning this.

CONNECTICUT Public Act No. 03-228 and 04-33 allows a restaurant, cafe or hotel dining room patron to remove one unsealed bottle of wine for off-premises consumption provided the patron has purchased a full course meal and consumed a portion of the wine with such meal. The bottle that is removed must be securely sealed and placed in a bag by restaurant personnel.

DELAWARE Title 4, Chapter 5, Section 512(d) allows patrons to take home partially consumed bottles of wine when purchased with a meal.

FLORIDA Section 564.09 of the Florida statutes provides that a restaurant licensed to sell wine may permit a patron to remove one unsealed bottle of wine if (i) the patron consumed a portion of the wine with the purchase of a full meal, (ii) the restaurant securely reseals the bottle, (iii) the bottle is placed in a bag that is secured in a manner that is visibly apparent if the bag has been opened and (iv) a dated receipt for the wine and meal is available.



- **30 states have enacted recorking legislation:** AR, AZ, CA, CO, CT, DE, FL, HI, IA, KY, MA, MD, ME, MI, MN, MO, NE, NH, NJ, NY, OK, OR, PA, TN, TX, UT, VT, WA, WI, WY
- **5 states have pending recorking legislation:** AK, IL, KS, OH, RI
- **3 states where bills have been defeated:** GA, NM, VA
- **10 states allow an open container to be placed in trunk, etc, but without a specific recorking law:** AL, ID, IN, LA, MT, NC, ND, NV, SC, SD
- **2 states that do have a specific open container or recorking law:** MS, WV

GEORGIA HB 1436—amends Article 1 of Chapter 6 of Title 3 of the O.C.G.A., relating to general provisions relative to wine, so as to authorize restaurant patrons to remove for off-premises consumption a resealed partially consumed bottle of wine that was purchased with a full-course meal, and also amends Article 11 of Chapter 6 of Title 40 of the O.C.G.A., relating to miscellaneous provisions of the uniform rules of the road, so as to provide that a resealed partially consumed bottle of wine that was purchased with a full-course meal is not an open alcoholic beverage container for purposes of the prohibition against possessing an open container of alcohol in the passenger area of a motor vehicle. (Governor vetoed the bill on May 6)

HAWAII Act 49 of 2002 states:

at the discretion of the county liquor commission, permission may be granted to a bona fide hotel, restaurant, or club licensed under class 2, 6, 11, 12, or 14, engaged in meal service, to allow a patron to remove from the licensed premises any portion of wine that was purchased for consumption with a meal; provided that it is recorked or resealed in its original container. Under Hawaii's open alcohol container law, open containers of "intoxicating liquor" must be placed in the trunk of a vehicle, or, in the case of vehicles without trunks, in an area not normally occupied by people.

IDAHO I.C. 23-1333 states that no person may, while operating or riding in or upon a motor vehicle upon a public highway of this state, have in his posses-

RECORKING WINE FROM RESTAURANTS

sion any wine in an open or unsealed container of any kind, but I.C. 23-505 provides that an unsealed alcoholic beverage container may be transported in an enclosed trunk compartment or behind the last upright seat of a vehicle which has no trunk compartment. No specific recorking law exists.

ILLINOIS SB 0946 allows restaurant patrons to remove from the restaurant premises properly sealed bottles of wine purchased and opened at the restaurant. Amends the Illinois Vehicle Code, and makes an exception in a Section concerning the transportation or possession of alcoholic liquor in a motor vehicle for bottles of wine purchased and opened in a restaurant and properly sealed for removal by a patron from the restaurant. (Passed the House and Senate on 4/26)

INDIANA IC 9-30-15-3 states that a person would not be in violation of the open container law if the container possessed by a person is in a fixed center console or other similar fixed compartment that is locked, behind the last upright seat, or in an area not normally occupied by a person in a motor vehicle that is not equipped with a trunk.

IOWA Law allows restaurants with Class B license to sell wines by the bottle and recork them for patrons to take home. Because it is still considered "unsealed" it must be transported in the trunk so as not to violate open container laws.

KANSAS SB 555 would allow club and drinking establishment patrons to carry out partially consumed containers of alcoholic liquor, so long as the bottle is in its original container and is sealed in a tamper-proof transparent bag accompanied by a dated receipt issued by the establishment. The bill has passed the Senate, and was heard in the House on 3/21.

KENTUCKY SB 56—Creates new sections of KRS Chapter 243 to permit a restaurant licensee to

allow a patron to remove an opened and partially consumed container of wine from the restaurant's premises for consumption off the restaurant's premises; requires the restaurant or its employee to reseal the wine and place in a bag or other container where the bottle's subsequent opening or tampering with can be detected; require the restaurant licensee or its employee to provide a dated receipt for the purchase of the wine and meal with the bag or other container; provide that transportation in such a manner is not a violation of KRS 189.530(2); amend KRS 189.530 to establish that a bottle of wine transported in accordance with Section 1 of this Act is not prohibited. (03/28/06—signed by Governor Acts ch. 76)

LOUISIANA RS 32:300 states that possession of an open container of alcoholic beverage in the trunk of a motor vehicle, or if the motor vehicle is not equipped with a trunk, possession of an open container or alcoholic beverages in any of the following areas: in a locked glove or utility compartment, or in an area of the vehicle not normally occupied by, and not readily accessible, to the driver or passengers, would not be in violation of the open container law.

MAINE Title 28-A—any establishment licensed by the State to sell wine on the premises may permit a person who has purchased a full course meal, and purchased and partially consumed a bottle of table wine with the meal, to remove the partially consumed bottle from the premises upon departure, provided that the person is not visibly intoxicated as provided in section 2503, subsection 7, and the bottle of table wine is removed and transported either in the trunk of a vehicle or is securely sealed and bagged.

MARYLAND HB 517—Allows a person who purchases at a licensed premises a meal and a bottle of wine, the contents of which are partially consumed

with the meal, to remove the bottle and its contents from the licensed premises under specified circumstances; and stating that a bottle of wine under the Act is an "open container" for purposes of a specified provision of law concerning possession of alcohol in a motor vehicle. (Governor signed the bill on 4/26)

MASSACHUSETTS ABCC regulations issued pursuant to Chapter 33 of the Acts of 2006 allows a licensed restaurant or hotel dining room patron to remove one partially consumed bottle of wine that has been purchased with a meal. The bottle that is removed must be placed in a one-time-use tamper proof transparent bag with the meal receipt attached to the sealed bag. (The regulations are still being drafted as of 4/20)

MICHIGAN Public Act 21 of 2005 allows a vendor licensed to sell wine on the premises to allow a person who had purchased a meal and who had purchased a bottle of wine with that meal to remove the unfinished bottle from the premises when the diner left those premises. To be in compliance with the law, the person who was removing a partially consumed bottle of wine has to reinsert a cork so that the top of the cork is level with the lip of the bottle. Section 624a of the Michigan Vehicle Code (MCL 257.624a) prohibits transporting alcohol in an open or uncapped container or in a container with a broken seal within the passenger compartment of a vehicle.

MINNESOTA 340A.404, Subd. 11 states that a restaurant licensed to sell intoxicating liquor or wine at on-sale under this section may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described in this subdivision is

not an off-sale of intoxicating liquor and may be permitted without additional license.

MISSISSIPPI State laws do not allow patrons to take home partially consumed bottles of wine. Possession of alcohol, in any form, is enforced by local jurisdictions. Please contact your local enforcement agency for compliance details.

MISSOURI HB 450 of 2005 allows the owner, operator, or employees or a restaurant bar to allow patrons to carry out unfinished bottles of wine. It is not unlawful under this act, for patrons to carry out wine if they ordered a meal, the bottles are at least partially consumed during the meal, the restaurant bar provides a dated receipt for the bottles, and the restaurant bar securely reseals the bottles and places them in sealed tamper-proof bags. Under this act, any person who transports unfinished bottles of wine will not be considered to have violated any law regarding open containers in vehicles.

MONTANA Restaurant patrons are allowed to take home a partially consumed bottle of wine. There is no requirement that the bottle must be recorked, bagged, or have an attached receipt, but the bottle must be transported in the trunk of a car or a compartment inaccessible to the driver to avoid open container issues.

NEBRASKA LB 562 approved by the governor on 4/10 allows patrons to take home one unsealed bottle of wine if, the wine was purchased and partially consumed in conjunction with a full course meal, and the restaurant securely reseals the bottle in a tamper-evident bag and a dated receipt for the wine and meal are provided. If the bottle is to be transferred in a motor vehicle, it must be stowed in the trunk or behind the last seat of the vehicle.

NEVADA State law does not specifically permit patrons to remove a partially consumed

RECORKING WINE FROM RESTAURANTS

bottle of wine from a restaurant. In many cases, a restaurant's liquor license allows for only 'on-premises' consumption. Open container regulation falls under the purview of the local jurisdictions so it may vary from county to county. Contact your local enforcement agency for compliance details.

NEW HAMPSHIRE Title XIII, Chapter 179, Section 179:27-a allows any person who has purchased a full course meal and purchased and partially consumed a bottle of wine with said meal to remove it from the premises provided (i) the person is not in a state of intoxication and (ii) such bottle is securely sealed and bagged by the restaurant to be in conformance with open container laws.

NEW JERSEY It is the policy of the state, says the NJ Division of Alcoholic Beverage Control, to encourage moderation in the consumption of alcoholic beverages. Permitting a diner to take home an unfinished portion of the bottle of wine furthers that policy. Unfinished bottles of wine must be re-corked by the restaurant. Wine doggy bags can be used but it is suggested that the wine be placed in the trunk of a car while in transit.

NEW MEXICO HB 273 passed the House and a Senate committee, but did not pass the Senate before sine die. It would have allowed restaurant patrons to remove a partially consumed bottle of wine.

NEW YORK SLA 588 allows the take home of one partially consumed bottle of wine if (i) the restaurant has the appropriate wine or liquor license, (ii) the bottle of wine is purchased in connection with a full course meal, (iii) the patron consumes a portion of the wine with the meal, (iv) the wine is securely resealed, placed in a one-time-use tamper-proof transparent bag which is securely sealed and, (v) a dated receipt for the full course meal and wine is provided to the patron.

NORTH CAROLINA Restaurant patrons are allowed to take home a partially consumed bottle of wine. There is no requirement that the bottle must be recorked, bagged, or have an attached receipt. The bottle must be transported in the trunk of a car or a compartment inaccessible to the driver GS 20-138.7.

NORTH DAKOTA Century Code Chapter 39-08-18 states that it is unlawful for a vehicle to contain any bottle or receptacle containing such alcoholic beverages which have been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers.

OHIO Currently, Section 4301.62 does not allow a person to have an open container of alcohol in a motor vehicle, regardless if it is in the trunk or not. There are currently two bills pending in the legislature to allow restaurant patrons to remove partially consumed bottles of wine—HB 211 and HB 333. Each bill allows a partially consumed bottle of wine to be exempt from the open container law.

OKLAHOMA OK law 37-537.1(6) allows patrons to take home partially consumed bottles of wine if they are purchased with a meal and re-corked by the restaurant.

OREGON Section 471.175-3 and 471.178-4 allows the holder of a full or limited on-premises sales license to allow a patron to remove a partially consumed bottle of wine if (i) the wine is served in conjunction with a meal, (ii) the patron is not a minor and (iii) the patron is not visibly intoxicated.

PENNSYLVANIA Article 4-406(E) allows a patron, in conjunction with a meal, to remove the unfinished portion of the bottle of wine from a hotel or restaurant. The hotel or restaurant must reseal the bottle. Resealing is not defined. (Act 59 of 2003)

RHODE ISLAND HB 7051—would permit patrons to leave a restaurant with a partially consumed bottle of wine if the patron purchased a full course meal and the restaurant securely packages the unsealed bottle. (Passed House on 5/3, referred to Senate on 5/10)

SOUTH CAROLINA Section 61-4-110 of the SC Code states that it is unlawful for a person to have in his possession, except in the trunk or luggage compartment, beer or wine in an open container in a motor vehicle.

SOUTH DAKOTA State laws do not specifically permit patrons to take home partially consumed bottles of wine, but 35-1-9.1 allows a person to have an open alcoholic beverage in a vehicle, so long as it is so removed from the passenger area of the motor vehicle that no occupant of the motor vehicle has access to it.

TENNESSEE 57-4-203(e) states that a restaurant licensed under this chapter may permit a customer who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises to remove the partially filled package from the premises.

TEXAS Partially consumed bottles of wine can be taken from properly licensed facilities and must be put in the trunk, a locked compartment of the vehicle, or in the furthest part of the vehicle away from the driver if there is no trunk.

UTAH Title 32A, Chapter 4 307-15(b) allows patrons to take home partially consumed bottles of wine when purchased with a meal if the bottle is

recorked or recapped.

VERMONT Restaurants have the discretion of allowing patrons to take home an unfinished bottle of wine if it is bagged and in accordance with T 7 VSA paragraph 222(1).

VIRGINIA HB 602 of 2006 permits a patron who has purchased a bottle of wine from a licensee for on-premises consumption to remove from the licensed premises the unconsumed portion of the wine upon the patron's departure to his private residence or other private accommodations provided that (i) the unconsumed portion of the wine remains in the original bottle, (ii) the seal of the bottle of wine is reattached in a reasonably secure manner by the licensee, and (iii) the bottle of wine is removed and transported in a manner consistent with Virginia law and Board regulations. (Bill was defeated on 2/07)

WASHINGTON RCW 66.24.400(1) allows patrons to take home partially consumed bottles of wine if they are re-corked and packaged.

WEST VIRGINIA State laws do not permit patrons to take home partially consumed bottles of wine.

WISCONSIN AB 619 of 2006 allows patrons who purchase a bottle of wine at a restaurant to take the bottle with them if they choose not to finish the bottle there. The bottle of wine would be recorked and a receipt taped to the bottle. The patron would then need to place the bottle in their trunk or storage compartment of their vehicle to be taken home. The wine must be taken out of the restaurant before midnight. (Approved by governor on 04/05)

WYOMING WS 12-4-410 allows unfinished wine to be removed if sealed by the licensee and placed in a tamper-proof transparent bag which is also securely sealed. A dated receipt must be provided to the patron.