

1 **PROTECTION OF CHILDREN RIDING IN MOTOR**
2 **VEHICLES**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5
6 **LONG TITLE**

7 **General Description:**

8 This bill modifies the Motor Vehicles Code by enacting a restriction on smoking in a
9 motor vehicle when a child is present.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines smoking;
- 13 ▶ prohibits a person from smoking in a motor vehicle if a child who is 15 years of age
14 or younger is a passenger in the vehicle;
- 15 ▶ provides that violating the smoking prohibition is an infraction and has a maximum
16 fine of \$45;
- 17 ▶ provides that until July 1, 2014, a peace officer may not issue a citation to an
18 individual for a violation of this section but shall issue the individual a warning
19 informing the individual that smoking is prohibited in a motor vehicle if a child who
20 is 15 years of age or younger is a passenger in the vehicle;
- 21 ▶ provides that a court may suspend the fine for a violation if the person has not
22 previously been convicted of smoking in a vehicle when a child is present and
23 proves that the person has enrolled in a smoking cessation program;
- 24 ▶ provides that enforcement of the smoking prohibition shall be only as a secondary
25 action; and
- 26 ▶ provides that a violation of the smoking prohibition may not be used as a basis for
27 or evidence of child abuse or neglect.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 ENACTS:

34 **41-6a-1717**, Utah Code Annotated 1953

35

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **41-6a-1717** is enacted to read:

38 **41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty --**
39 **Enforcement.**

40 (1) As used in this section, "smoking" has the same meaning as defined in Section
41 26-38-2.

42 (2) Smoking is prohibited in a motor vehicle if a child who is 15 years of age or
43 younger is a passenger in the vehicle.

44 (3) A person who violates this section is guilty of an infraction and is subject to a
45 maximum fine of \$45.

46 (4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a
47 violation of this section but shall issue the individual a warning informing the individual that
48 smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a
49 passenger in the vehicle.

50 (5) The court may suspend the fine for a violation of this section if:

51 (a) the person has not previously been convicted of a violation of this section; and

52 (b) the person proves to the court that the person has enrolled in a smoking cessation
53 program.

54 (6) Enforcement of this section by a state or local law enforcement officer shall be only
55 as a secondary action when the vehicle has been detained for a suspected violation by any
56 person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.

57 (7) A violation of this section may not be used as a basis for or evidence of child abuse
58 or neglect.