

Representative Patrice M. Arent proposes the following substitute bill:

**PROTECTION OF CHILDREN RIDING IN MOTOR
VEHICLES**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: John L. Valentine

7	Cosponsors:	Rebecca P. Edwards	Dixon M. Pitcher
8	Joel K. Briscoe	Brian S. King	Marie H. Poulson
9	Derek E. Brown	Kay L. McIff	Kraig Powell
10	Melvin R. Brown	Ronda Rudd Menlove	Paul Ray
11	Rebecca Chavez-Houck	Carol Spackman Moss	Evan J. Vickers
12	Jack R. Draxler	Lee B. Perry	

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines smoking;
- ▶ prohibits a person from smoking in a vehicle if a child who is 15 years of age or younger is a passenger in the vehicle;
- ▶ provides that violating the smoking prohibition is an infraction and has a maximum fine of \$45;
- ▶ provides that until July 1, 2012, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning



27 informing the individual that smoking is prohibited in a motor vehicle if a child who is 15
 28 years of age or younger is a passenger in the vehicle ~~H~~→ [-] ;

28a ▶ provides that if a peace officer issues a warning or a citation for a violation, the peace
 28b officer shall provide the individual with an information pamphlet that informs the individual
 28c of the dangers of secondhand smoke; ←~~H~~

29 ▶ provides that a court may suspend the fine for a violation if the person proves that
 30 the person has enrolled in a smoking cessation program;

31 ▶ provides that enforcement of the smoking prohibition shall be only as a secondary
 32 action;

33 ▶ provides that a violation of the smoking prohibition may not be used as a basis for
 34 or evidence of child abuse or neglect; and

35 ▶ provides that the prohibition of smoking in a vehicle when a child is present is
 36 repealed July 1, 2016.

37 Money Appropriated in this Bill:

38 None

39 Other Special Clauses:

40 None

41 Utah Code Sections Affected:

42 AMENDS:

43 **63I-1-241**, as last amended by Laws of Utah 2010, Chapter 319

44 ENACTS:

45 **41-6a-1717**, Utah Code Annotated 1953

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

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

49 **41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty --**

50 Enforcement.

51 (1) As used in this section, "smoking" has the same meaning as defined in Section
 52 26-38-2.

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

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

57 (4) ~~H~~→ (a) ←~~H~~ Until July 1, 2012, a peace officer may not issue a citation to an individual
 57a for a

58 violation of this section but shall issue the individual a warning informing the individual that
59 smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a
60 passenger in the vehicle.

60a **Ĥ→ (b) If a peace officer issues a warning or a citation for a violation of this section, the peace**
60b **officer shall provide the individual with an information pamphlet that informs the individual**
60c **of the dangers of secondhand smoke.**

60d **(c) A peace officer is not subject to a penalty for failing to provide an information**
60e **pamphlet to an individual under Subsection (4)(b).**

60f **(d) No public funds may be spent in preparing or producing the information pamphlets**
60g **described in Subsection (4)(b).** ←Ĥ

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

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

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

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

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

70 Section 2. Section **63I-1-241** is amended to read:

71 **63I-1-241. Repeal dates, Title 41.**

72 Section 41-6a-1717 is repealed July 1, 2016.

FISCAL NOTE

H.B. 89 1st Sub. (Buff)

SHORT TITLE: Protection of Children Riding in Motor Vehicles

SPONSOR: Arent, P.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

From FY 2013 to FY 2015, enforcement through the courts will cost about \$6,600 in ongoing General Fund that will be off-set by annual revenues of \$5,000 for a new annual impact of \$1,600.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$5,000	\$5,000
General Fund, One-Time	\$0	(\$5,000)	\$0
Total Revenue	\$0	\$0	\$5,000
Expenditure:			
General Fund	\$0	\$6,600	\$6,600
General Fund, One-Time	\$0	(\$6,600)	\$0
Total Expenditure	\$0	\$0	\$6,600
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	(\$1,600)
Net Impact, General/Education Funds	\$0	\$0	(\$1,600)

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local Justice Courts may incur additional costs and/or associated revenue.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.