

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

3                                   2013 GENERAL SESSION

4                                   STATE OF UTAH

5                   **Chief Sponsor: Patrice M. Arent**

6                   Senate Sponsor: Aaron Osmond

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16 **LONG TITLE**

17 **General Description:**

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

20 **Highlighted Provisions:**

21           This bill:

- 22           ▶ defines smoking;
- 23           ▶ prohibits a person from smoking in a motor vehicle if a child who is 15 years of age  
24 or younger is a passenger in the vehicle except in certain circumstances;
- 25           ▶ provides that violating the smoking prohibition is an infraction and has a maximum  
26 fine of \$45;
- 27           ▶ provides that until July 1, 2014, a peace officer may not issue a citation to an  
28 individual for a violation of this section but shall issue the individual a warning

29 informing the individual that smoking is prohibited in a motor vehicle if a child who is 15  
30 years of age or younger is a passenger in the vehicle;

31       ▶ provides that a court may suspend the fine for a violation if the person has not  
32 previously been convicted of smoking in a vehicle when a child is present and  
33 proves that the person has enrolled in a smoking cessation program;

34       ▶ provides that enforcement of the smoking prohibition shall be only as a secondary  
35 action; and

36       ▶ provides that a violation of the smoking prohibition may not be used as a basis for  
37 or evidence of child abuse or neglect.

38 **Money Appropriated in this Bill:**

39       None

40 **Other Special Clauses:**

41       None

42 **Utah Code Sections Affected:**

43 ENACTS:

44       **41-6a-1717**, Utah Code Annotated 1953



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

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

48       **41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty --**

49 **Enforcement.**

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

52       (2) (a) Except as provided in Subsection (2)(b), smoking is prohibited in a motor  
53 vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

54       (b) A person may smoke in a motor vehicle while a child who is 15 years of age or  
55 younger is a passenger in the vehicle if the person:

56       (i) is operating a convertible or open-body type motor vehicle; and

57           (ii) the roof on the convertible or open-body type motor vehicle is in the open-air  
58 mode.

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

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

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

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

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

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

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