

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

7
8 **LONG TITLE**

9 **Committee Note:**

10 The Health and Human Services Interim Committee recommended this bill.

11 **General Description:**

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

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ defines smoking;
- 17 ▶ prohibits a person from smoking in a motor vehicle if a child who is 15 years of age
18 or younger is a passenger in the vehicle ~~↔~~ **except in certain circumstances** ~~↔~~ ;
- 19 ▶ provides that violating the smoking prohibition is an infraction and has a maximum
20 fine of \$45;
- 21 ▶ provides that until July 1, 2014, a peace officer may not issue a citation to an
22 individual for a violation of this section but shall issue the individual a warning
23 informing the individual that smoking is prohibited in a motor vehicle if a child who
24 is 15 years of age or younger is a passenger in the vehicle;
- 25 ▶ provides that a court may suspend the fine for a violation if the person has not
26 previously been convicted of smoking in a vehicle when a child is present and
27 proves that the person has enrolled in a smoking cessation program;



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

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

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 ENACTS:

38 **41-6a-1717**, Utah Code Annotated 1953



39
40 *Be it enacted by the Legislature of the state of Utah:*

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

42 **41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty --**
43 **Enforcement.**

44 (1) As used in this section, "smoking" has the same meaning as defined in Section
45 26-38-2.

46 (2) ~~H~~→ [Smoking] (a) Except as provided in Subsection (2)(b), smoking ~~←H~~ is
47a prohibited in a motor vehicle if a child who is 15 years of age or
47 younger is a passenger in the vehicle.

47a ~~H~~→ **(b) A person may smoke in a motor vehicle while a child who is 15 years of age or**
47b **younger is a passenger in the vehicle if the person:**

47c **(i) is operating a convertible or open-body type motor vehicle; and**

47d **(ii) the roof on the convertible or open-body type motor vehicle is in the**
47e **open-air mode. ~~←H~~**

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

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

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

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

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

58 (6) Enforcement of this section by a state or local law enforcement officer shall be only

59 as a secondary action when the vehicle has been detained for a suspected violation by any
60 person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.
61 (7) A violation of this section may not be used as a basis for or evidence of child abuse
62 or neglect.

Legislative Review Note
as of 9-26-12 3:13 PM

Office of Legislative Research and General Counsel