



Ohio Legislative Service Commission

Bill Analysis

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S.B. 89

131st General Assembly
(As Introduced)

Sen. Tavares

BILL SUMMARY

- Prohibits smoking in a motor vehicle in which a child under six years of age is a passenger.

CONTENT AND OPERATION

Prohibition on smoking in motor vehicles carrying young children

The bill prohibits a person from smoking in any motor vehicle (see "**Motor vehicle definition**," below) in which a child under six years of age is a passenger. For purposes of the bill, "smoke" means "to inhale, exhale, burn, or carry any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant."¹

A person who violates this prohibition generally must be fined \$500; if the person previously has been convicted of a violation of the prohibition, the person must be fined \$500 plus \$250 for each subsequent violation.²

The bill specifies that smoking in a motor vehicle in which a child under six years of age is a passenger is a strict liability offense.³ (A strict liability offense is an offense for which the action alone is enough to warrant a conviction, with no need to prove a person's state of mind when the action was taken.⁴)

¹ R.C. 4511.702(A) and (B).

² R.C. 4511.702(C).

³ R.C. 4511.702(D).

⁴ *Black's Law Dictionary* 1188 (9th ed. 2009).

Motor vehicle definition

As used in the bill, "motor vehicle" means every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.⁵

As used in the definition of motor vehicle, "vehicle" means every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.⁶

Background

Law not modified by the bill prohibits several types of conduct under the offense of "endangering children."⁷ One provision does not expressly address the conduct prohibited by the bill, but it arguably could be relevant to the bill. That provision prohibits a person who is the parent, guardian, custodian, person having custody or control, or person *in loco parentis* of a child under 18 or a mentally or physically handicapped child under 21 from creating a substantial risk to the health or safety of the child by violating a duty of care, protection, or support. An offense committed in violation of this prohibition generally is a first degree misdemeanor, but if the offender previously has been convicted of endangering children or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of, a child, it is a fourth degree felony. If the violation results in serious physical harm to the child involved, it is a third degree felony.

⁵ R.C. 4511.01, not in the bill.

⁶ R.C. 4511.01, not in the bill.

⁷ R.C. 2919.22, not in the bill.



HISTORY

ACTION

DATE

Introduced

02-26-15

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