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S.B. 78
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Maharath

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Summary

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

Detailed Analysis

Smoking in motor vehicles with young children

The bill prohibits a person from smoking in any motor vehicle in which a child under six 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. However, if the person previously has been convicted of, or pleaded guilty to, a violation of the prohibition, the person must be fined \$500 plus \$250 for each subsequent violation. The bill specifies that smoking in a motor vehicle in which a child under six is a passenger is a strict liability offense.²

Existing offense of endangering children

Current law prohibits several types of conduct under the offense of “endangering children.”³ One such 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. While this provision does not directly address the conduct prohibited by the bill, it could arguably apply.

This offense generally is a first degree misdemeanor, but if the offender previously has been convicted of endangering children or of any offense involving neglect, abandonment,

¹ R.C. 4511.80(A) and (B).

² R.C. 4511.80(C) and (D).

³ R.C. 2919.22, not in the bill.

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.

History

Action	Date
Introduced	03-06-19
