

**PROTECTION OF CHILDREN RIDING IN MOTOR
VEHICLES**

2013 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

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.

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.