

HOUSE BILL NO. 753

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Walker)

A BILL to amend and reenact § 46.2-810.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 8 of Title 18.2 a section numbered 18.2-371.5, relating to smoking with a minor under the age of 15 present; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-810.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 8 of Title 18.2 a section numbered 18.2-371.5 as follows:

§ 18.2-371.5. Smoking marijuana with a minor under the age of 15 present; penalty.

A. For the purposes of this section, "marijuana" means the same as that term is defined in § 4.1-600 and "smoke" includes the use of marijuana in the forms described in § 46.2-810.1.

B. Any person who intentionally smokes marijuana in the presence of a minor under the age of 15 and directly exposes such minor to secondhand smoke is guilty of a Class 3 misdemeanor.

C. Notwithstanding any other provision of law or applicable evidentiary rule, a conviction under this section shall be admissible in any proceeding in which it is alleged that a child is abused and neglected.

§ 46.2-810.1. Smoking in vehicle with a minor present; civil penalty.

A. For the purposes of this section, "smoke" means to carry or hold any lighted pipe, cigar, or cigarette of any kind or any other lighted smoking equipment or to light or inhale or exhale smoke from a pipe, cigar, or cigarette of any kind or any other lighted smoking equipment.

B. It is unlawful for a person to smoke in a motor vehicle, whether in motion or at rest, when a minor under the age of 15 is present in the motor vehicle. A violation of this section is punishable by a civil penalty of \$100 to be paid into the state treasury and credited to the Literary Fund. No demerit points

27 shall be assigned under Article 19 (§ 46.2-489 et seq.) of Chapter 3 and no court costs shall be assessed
28 for a violation of this section. A violation of this section may be charged on the uniform traffic summons
29 form.

30 C. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No
31 evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence
32 discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other
33 proceeding.

34 D. Notwithstanding any other provision of law or applicable evidentiary rule, a conviction under
35 this section shall be admissible in any proceeding in which it is alleged that a child is abused and neglected.

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