

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 966 (Delegate Barnes)
Environmental Matters

Vehicle Laws - Prohibition Against Smoking in Vehicle Containing Young Child

This bill prohibits a driver of a motor vehicle from smoking a tobacco product in which a child younger than age eight is a passenger. The bill also prohibits the driver from allowing vehicle passengers to smoke in the presence of such a child. The offense is not a moving violation for which points may be assessed. A person who violates this provision is subject to a maximum fine of \$50. "Smoking" is defined as the burning of a lighted cigarette, cigar, pipe or other device that contains tobacco.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provision from cases heard in the District Court. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: “Smoking” under the Health-General Article means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco. In the Transportation Article, a “vehicle” means a device in, on, or by which any individual or property is or might be transported on a highway. A vehicle does not include an electronic personal assistive motoring device. A “motor vehicle” is self propelled or propelled by electric power obtained from overhead electrical wires and cannot be

operated on rails. A motor vehicle includes a low speed vehicle but excludes mopeds and motor scooters.

The Clean Indoor Air Act of 2007 (Chapters 501 and 502 of 2007) does not limit the smoking of tobacco products by adults in private residences or in privately owned vehicles; however, it does specifically prohibit smoking in a private vehicle that is being used for the public transportation of children or as a health care or day care transportation facility. The prohibition applies to children of any age. State law and regulations generally prohibit the smoking of tobacco products on public modes of transportation, in government buildings, and in the workplace. That prohibition does not apply to a tobacconist. The Clean Indoor Air Act of 2007 generally prohibits smoking in restaurants, bars, and other indoor areas open to the public.

Additional Information

Prior Introductions: A similar bill, HB 1360 of 2008, was withdrawn before a scheduled hearing in House Economic Matters Committee. SB 629 of 2007, another similar bill, received an unfavorable report from the Senate Finance Committee.

Cross File: SB 288 (Senator Lenett, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland Department of Transportation; Department of State Police; Charles, Frederick, Montgomery, and Somerset counties; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2009
ncs/ljm

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510