

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

House Bill 737

(Delegate Barnes, *et al.*)

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 a vehicle 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 prohibition does not apply to a mobile home when it is being used as a permanent or temporary living space and instead of a conveyance on highways. 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. 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: Similar bills have been introduced in recent years. HB 438 of 2010 received an unfavorable report from the House Environmental Matters Committee. SB 288 of 2009 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 966, received an unfavorable report from the House Environmental Matters Committee. SB 785 of 2008 received an unfavorable report from the Senate Finance Committee. HB 1360 of 2008 was withdrawn before a hearing in the House Economic Matters Committee. SB 629 of 2007 received an unfavorable report from the Senate Finance Committee.

Cross File: SB 415 (Senator Forehand, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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mc/ljm

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