

By Senator Wilson

33-03783-08

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1 A bill to be entitled

2 An act relating to smoking in a motor vehicle occupied by  
3 a child; creating s. 316.6137, F.S.; providing legislative  
4 intent; providing definitions; providing that it is  
5 unlawful for any person to operate or occupy a motor  
6 vehicle while smoking when a child under 18 years of age  
7 is occupying the motor vehicle; providing a penalty;  
8 requiring the Division of Motor Vehicles of the Department  
9 of Highway Safety and Motor Vehicles to provide notice of  
10 the provisions of the act; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Section 316.6137, Florida Statutes, is created  
15 to read:

16 316.6137 Smoking in motor vehicle prohibited when child  
17 occupying vehicle.--

18 (1) LEGISLATIVE INTENT.--It is the intent of the  
19 Legislature that every person operating or occupying a motor  
20 vehicle on the roadways, streets, or highways of this state when  
21 a child under 18 years of age is occupying the motor vehicle must  
22 provide for the protection of the child's health by refraining  
23 from smoking and consequently exposing the child to secondhand  
24 smoke and the adverse health effects that are the result of such  
25 exposure.

26 (2) DEFINITIONS.--As used in this section, the term:

27 (a) "Motor vehicle" means a motor vehicle as defined in s.  
28 316.003 that is operated on the roadways, streets, and highways  
29 of the state. The term does not include:

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30       1. A bus used for the transportation of persons for  
31 compensation, other than a bus regularly used to transport  
32 children to or from school, as defined in s. 316.615(1)(b), or in  
33 conjunction with school activities.

34       2. A farm tractor or implement of husbandry.

35       3. A motorcycle, moped, or bicycle.

36       (b) "Secondhand smoke," also known as environmental tobacco  
37 smoke (ETS), means smoke emitted from lighted, smoldering, or  
38 burning tobacco when the smoker is not inhaling; smoke emitted at  
39 the mouthpiece during puff drawing; and smoke exhaled by the  
40 smoker.

41       (c) "Smoking" means inhaling, exhaling, burning, carrying,  
42 or possessing any lighted tobacco product, including cigarettes,  
43 cigars, pipe tobacco, and any other lighted tobacco product.

44       (3) SMOKING IN MOTOR VEHICLE PROHIBITED WHEN CHILD  
45 OCCUPYING VEHICLE.--

46       (a) It is unlawful for any person to operate or occupy a  
47 motor vehicle on the roadways, streets, or highways of this state  
48 while smoking, as defined in paragraph (2)(c), when a child under  
49 18 years of age is occupying the motor vehicle.

50       (b) Any person who violates the provisions of paragraph (a)  
51 commits a moving violation, punishable as provided in chapter 318  
52 and shall have 3 points assessed against his or her driver's  
53 license as set forth in s. 322.27. In lieu of the penalty  
54 specified in s. 318.18 and the assessment of points, a person who  
55 violates the provisions of paragraph (a) may, with the court's  
56 approval, elect to participate in a public awareness program,  
57 approved by the chief judge of the circuit in which the violation  
58 occurs and the department, on the dangers of smoking and the

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59 adverse health effects of exposure to secondhand smoke. Upon  
60 completing such program, the penalty specified in chapter 318 and  
61 associated costs may be waived at the court's discretion and the  
62 assessment of points shall be waived.

63 (c) The Division of Motor Vehicles shall provide notice of  
64 the provisions of this section, which notice shall accompany the  
65 delivery of each motor vehicle license tag.

66 Section 2. This act shall take effect October 1, 2008.