

HB 1141

2010

1 A bill to be entitled
 2 An act relating to smoking in vehicles with minor
 3 passengers; amending s. 316.6135, F.S.; reorganizing
 4 existing provisions; providing a definition; providing for
 5 enhanced penalties for any moving or nonmoving violation
 6 committed by a person driving or in control of a motor
 7 vehicle while a person in the vehicle is smoking when a
 8 minor is in the vehicle, regardless of whether the vehicle
 9 is in operation or parked; providing that an officer may
 10 issue a warning to a violator; providing that an officer
 11 may elect to distribute specified materials; providing
 12 that enforcement must only be a secondary action when the
 13 driver of the motor vehicle has been detained for another
 14 violation of specified provisions; amending s. 318.18,
 15 F.S.; providing the enhanced penalty; providing that no
 16 enhanced penalty may be assessed for violations committed
 17 before a specified date; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 316.6135, Florida Statutes, is amended
 22 to read:
 23 316.6135 Endangering ~~Leaving~~ children ~~unattended or~~
 24 ~~unsupervised~~ in motor vehicles; penalties ~~penalty~~; authority of
 25 law enforcement officer.—

26 (1) (a) A parent, legal guardian, or other person
 27 responsible for a child younger than 6 years of age may not
 28 leave such child unattended or unsupervised in a motor vehicle:

29 1.~~(a)~~ For a period in excess of 15 minutes;
 30 2.~~(b)~~ For any period of time if the motor of the vehicle
 31 is running or the health of the child is in danger.

32 (b)1.~~(2)~~ Any person who violates subparagraph (a)1. ~~the~~
 33 ~~provisions of paragraph (1)(a)~~ commits a misdemeanor of the
 34 second degree punishable as provided in s. 775.082 or s.
 35 775.083.

36 2.~~(3)~~ Any person who violates subparagraph (a)2. ~~commits~~
 37 ~~the provisions of paragraph (1)(b)~~ is guilty of a noncriminal
 38 traffic infraction, punishable by a fine not less than \$50 and
 39 not more than \$500.

40 3.~~(4)~~ Any person who violates paragraph (a) ~~subsection (1)~~
 41 and in so doing causes great bodily harm, permanent disability,
 42 or permanent disfigurement to a child commits a felony of the
 43 third degree, punishable as provided in s. 775.082, s. 775.083,
 44 or s. 775.084.

45 (c)1.~~(5)~~ Any law enforcement officer who observes a child
 46 left unattended or unsupervised in a motor vehicle in violation
 47 of paragraph (a) ~~subsection (1)~~ may use whatever means are
 48 reasonably necessary to protect the minor child and to remove
 49 the child from the vehicle.

50 2.~~(6)~~ If the child is removed from the immediate area,
 51 notification should be placed on the vehicle.

52 3.~~(7)~~ The child shall be remanded to the custody of the
 53 Department of Children and Family Services pursuant to chapter
 54 39, unless the law enforcement officer is able to locate the
 55 parents or legal guardian or other person responsible for the
 56 child.

57 (2) (a) As used in this subsection, the term "smoking" has
 58 the same meaning as provided in s. 386.203.

59 (b) It is unlawful for any person to drive or be in actual
 60 physical control of a motor vehicle in this state while a person
 61 in the vehicle is smoking if a minor under 16 years of age is
 62 present in the vehicle, regardless of whether the vehicle is in
 63 operation or parked.

64 (c) A person who violates this subsection shall, unless
 65 issued a warning, pay an enhanced penalty under s. 318.18(21).
 66 An officer may elect to issue a warning to a violator.
 67 Additionally, an officer may elect to provide a violator with
 68 materials relating to the dangers of smoking in a vehicle with
 69 children or available smoking cessation programs.

70 (d) Enforcement of this subsection by state or local law
 71 enforcement agencies must only be accomplished as a secondary
 72 action when the driver of the motor vehicle has been detained
 73 for another violation of this chapter, chapter 320, or chapter
 74 322.

75 Section 2. Subsection (21) is added to section 318.18,
 76 Florida Statutes, to read:

77 318.18 Amount of penalties.—The penalties required for a
 78 noncriminal disposition pursuant to s. 318.14 or a criminal
 79 offense listed in s. 318.17 are as follows:

80 (21) In addition to any penalties imposed, an additional
 81 \$100 must be paid for any noncriminal moving or nonmoving
 82 traffic violation committed by operating a motor vehicle in this
 83 state while a person in the vehicle is smoking if a minor under

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84 16 years of age is present in the vehicle as provided in s.
85 316.6135(2).

86 Section 3. Notwithstanding any other provision of law, no
87 enhanced penalty may be assessed for a violation of s.
88 316.6135(2), Florida Statutes, as created by this act, committed
89 before January 1, 2011.

90 Section 4. This act shall take effect October 1, 2010.