

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 671 Use of Tobacco Products in Motor Vehicles

SPONSOR(S): Powell

TIED BILLS: **IDEN./SIM. BILLS:** SB 548

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	10 Y, 0 N	Whittaker	Smith
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill creates a new section of Florida Statute prohibiting a person from smoking a tobacco product in a motor vehicle if a child under 13 years of age is also present. A violation of this prohibition is a nonmoving violation which carries a fine of \$30.

The bill has no fiscal impact on state funds.

The bill will become effective October 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

There is currently no restriction in Florida regarding the use of tobacco products in a motor vehicle. However, Florida law does require a person to be 18 years of age to purchase or be in possession of a tobacco product.¹

Smoking in Cars with Children Legislation by State

Other states have adopted laws prohibiting smoking in motor vehicles when children are present. The age range varies among the states as seen in the below chart.

State/Commonwealth	Effective Date	Applicable Age
	2006; Revised	
Arkansas	2011	Under age 14
Louisiana	2006	Under age 13
California	2008	Under age 18
Maine	2008	Under age 16
Oregon	2014	Under age 18
Puerto Rico	2007	Under age 13
Utah	2013	Under age 16
Vermont	2014	Under age 8

Offenses are primarily classified as secondary and penalties include fines ranging from \$25-\$250 for a first offense.²

Proposed Change

The bill creates section 316.6136, F.S., prohibiting a person from smoking a tobacco product in a motor vehicle if a child under 13 years of age is also present. A violation of this prohibition is a nonmoving violation which carries a fine of \$30.

Smoking Defined

For purposes of this new section, the term "smoking" has the same meaning as defined in s. 386.203, F.S., which is the "inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product."

The bill has an effective date of October 1, 2015.

B. SECTION DIRECTORY:

- Section 1 Creates s. 316.6136, F.S., prohibiting a person from smoking a tobacco product in a motor vehicle in which a child under 13 years of age is present; provides penalties.
- Section 2 Provides an effective date of October 1, 2015.

¹ s. 569.11, F.S.

² Arizona Department of Public Health, *Smoking in Cars with Kids Policy Report* (June 30, 2014), <http://azdhs.gov/tobaccofreeaz/reports/> (last visited March 6, 2015).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Anyone who commits a violation of smoking a tobacco product in a motor vehicle in which a child under 13 years of age is present may be fined \$30.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expand funds or to take action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

As written, the bill prohibits "smoking" in a motor vehicle when a minor under the age of 13 is also present. As defined, the term "smoking" only includes *tobacco* products such as cigarettes, cigars, and pipe tobacco. Not included are "nicotine products" such as electronic cigarettes and electronic cigars that are not considered *tobacco* products. As a primary offense, the similar design of both cigarettes and electronic cigarettes may create an enforcement challenge.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

