

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 378**

BY SENATORS TAKUBO, GRADY, WOELFEL, AND

HAMILTON

[Introduced January 12, 2024; referred  
to the Committee on Health and Human Resources]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §16-9A-11, relating to prohibiting smoking of tobacco products in a motor  
3 vehicle while an individual 16 years of age or younger is present; defining terms; making  
4 the violation a secondary misdemeanor offense; and providing a penalty.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.**

**§16-9A-11. Smoking prohibited in motor vehicle while a person 16 years of age or less is present; penalty.**

1 (a) As used in this section:

2 (1) "Lit tobacco product" means any lighted pipe, cigarette, cigar, or other lighted device  
3 or product containing a tobacco-based product manufactured or made for the purpose of smoking.

4 (2) "Motor vehicle" means a Class A, Class B, Class H, or Class J vehicle as those terms  
5 are defined in §17A-10-1 of this code.

6 (b) No person who is 18 years of age or older may smoke or possess a lit tobacco product  
7 in a motor vehicle if an individual 16 years of age or less is in the motor vehicle.

8 (c) Any person who violates this section is guilty of a misdemeanor and, upon conviction,  
9 shall be fined not more than \$25. No court costs or other fees may be assessed for a violation of  
10 this section.

11 (d) Enforcement of this section may only be accomplished as a secondary action when a  
12 driver of a vehicle, as defined in this section, has been detained for probable cause of violating  
13 another section of this code.

14 (e) Each time a driver of a vehicle is detained for probable cause of violating another  
15 provision of this code, and is cited for the offense created pursuant to this section, it shall be  
16 considered a single offense regardless of the number of individuals 16 years of age or less in the  
17 motor vehicle.