

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 193

BY SENATORS TAKUBO AND JEFFRIES

[Introduced February 8, 2017; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

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 sixteen years of age or less is present; defining terms; violation
 4 of section a secondary misdemeanor offense; providing penalties; and providing
 5 exceptions for local ordinances or regulations.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §16-9A-11, to read as follows:

ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.

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

1 (a) The following words have the following meaning:

2 (1) A "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) A motor vehicle is defined as a Class A, Class B, Class H or Class J vehicle as those
 5 terms are defined in section one, article ten, chapter seventeen-a of this code.

6 (b) No person who is eighteen years of age or older may smoke or possess a lit tobacco
 7 product in a motor vehicle if an individual sixteen 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 thereof, shall be fined not less than \$110 nor more than \$250. No court costs or other fees may
 10 be assessed for a violation of this section.

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

14 (e) Nothing in this section is meant to limit any local ordinance or regulation with respect
 15 to protection of the public from exposure to tobacco smoke.

NOTE: The purpose of this bill is to prohibit the use of lit tobacco products in a motor vehicle while individuals sixteen years of age or under of are present. The bill also provides that the misdemeanor offense created by this section is a secondary offense that may only be charged if a driver has been detained for violation of another vehicle law.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.