

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 81

BY SENATORS TAKUBO, BOSO, STOLLINGS, JEFFRIES,

LINDSAY, AND IHLENFELD

[Introduced January 9, 2019; 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 16 years of age or less is present; defining terms; making the
 4 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) 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 §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 are in
 17 the motor vehicle.

NOTE: The purpose of this bill is to prohibit the use of lit tobacco products in a motor vehicle while individuals 16 years of age or under are present. The bill also provides that the misdemeanor offense 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.