

LEGISLATIVE EXCERPTS

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ARKANSAS (Act 13 of 2006)

Web source: <http://www.arkleg.state.ar.us/ftp/acts/2006S1/public/act13.pdf>

SECTION 1. Title.

This subchapter shall be known and may be cited as the "Arkansas Protection From Secondhand Smoke for Children Act of 2006".

SECTION 2. Definition.

As used in this subchapter "motor vehicle" means any motor vehicle, except a school bus, church bus, and other public conveyance, which is *required by federal or state law or regulation to be equipped with a passenger restraint system*.

SECTION 3. Tobacco use – Prohibitions.

Upon the effective date of this act, smoking is prohibited in all motor vehicles in which a child who is less than six (6) years of age and who weighs less than sixty pounds (60 lbs.) is restrained in a child passenger safety seat properly secured to the vehicle in accordance with § 27-34-101 et seq.

SECTION 4. Penalty.

(a) A person who violates this subchapter is guilty of a violation and upon conviction shall be punished by a fine not to exceed twenty-five dollars (\$25.00).

(b) If a person is convicted, pleads guilty, pleads nolo contendere, or forfeits bond for violation of this subchapter, no court costs pursuant to § 16-10-305 or other costs or fees shall be assessed.

(c) Any person who proves to the court that he or she has entered into a smoking cessation program may have his or her fine eliminated for a first offense violation of this subchapter.

Note: Unless the Act states otherwise, all Acts passed by the Arkansas General Assembly and signed by the Governor take effect 90 days after the final adjournment of the General Assembly session in which the Act was passed. Sources:

http://www.statescape.com/resources/Effective_dates/effective_dates.asp and
www.nga.org/Files/pdf/BOS3-16.pdf.

BANGOR, MAINE (Ordinance 07-50, consolidated in the Code of the City of Bangor as Article IX, section 291-70 and 291-71)

Web source: [http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=1684%2D291%2Ehtm%23ArticleIX&n=1184&n=\[1\]\[264\]\[1104\]\[1184\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=1684%2D291%2Ehtm%23ArticleIX&n=1184&n=[1][264][1104][1184])

ARTICLE IX Smoking in Motor Vehicles [Added 1-8-2007 by Ord. No. 07-50]

§ 291-70. Smoking in motor vehicles with child passengers prohibited.

- A. It shall be unlawful for the operator or any passenger in a motor vehicle to smoke cigarettes, pipes, or cigars in a motor vehicle, passenger van, pick-up truck or commercial vehicle when any person under the age of 18 is present in the vehicle, regardless of whether the motor vehicle's windows are down.
- B. "Smoke" as used in this article, shall mean inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, regulated narcotic, or other combustible substance.

§ 291-71. Violations and penalties.

- A. Whoever violates any of the provisions of this article shall be punished by a fine of \$50. In any action in which the City prevails it shall be entitled to attorneys' fees and all costs of prosecution.
- B. Subsection A notwithstanding, prior to citing the operator or passenger of a motor vehicle for a violation of this article, the Police Department may give written notice to said person acting in violation of this article at the time of the violation informing the person of the use of the motor vehicle in violation of this article.

Note: City of Bangor ordinances come into force 10 days after they are passed by the city council (*Charter of the City of Bangor*, Article 3, Section 1).

KEYPORT, NEW JERSEY (Ordinance 13-07, consolidated in the Ordinances of the Borough of Keyport and s. 4-10.1)

Web source: none available

4-10.1 Smoking in Motor Vehicle – Prohibition. No person shall smoke, while occupying a motor vehicle, if a person under the age of eighteen (18) is also occupying the vehicle.

“Motor vehicle” under this section means any self propelled vehicle licensed for on-road usage, other than a motorcycle, moped, motor scooter or motorized bicycle, regardless of whether the motor vehicle is publicly or privately owned, leased or rented; whether the motor vehicle is operated for public, private or commercial purposes; or whether the windows or doors of the vehicle are in an opened or closed position.

“Smoke” under this section shall mean the burning, inhaling, exhaling, or being in possession of a lighted cigarette, cigar, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked.

Enforcement of this act by State or local law enforcement officers shall be accomplished only as a secondary action when the operator of a motor vehicle has been detained for a violation of Title 39 of the Revised Statutes or another offense.

A person who violates this section shall be fined \$75.00.

No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c. 8 (C.17:33B-14) shall be assessed for this offense.

LOUISIANA (Louisiana Revised Statute 32:300.3)

Web source: <http://www.legis.state.la.us/billdata/streamdocument.asp?did=388304>

§300.3. Smoking in motor vehicles prohibited; penalties

A. It shall be unlawful for the operator or any passenger in a motor vehicle to smoke cigarettes, pipes, or cigars in a motor vehicle, passenger van, or pick-up truck, when a child who is required to be restrained in a rear-facing child safety seat, a forward-facing child safety seat, a booster seat, or a motor vehicle's safety belt as required in R.S. 32:295 is also present in such vehicle, regardless of whether windows of the motor vehicle are down. For purposes of this Section, the term "smoke" shall mean inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.

B. Whoever violates the provisions of this Section shall be fined one hundred fifty dollars per offense, or at the discretion of the judge, may be sentenced to no less than twenty-four hours of community service.

C. Probable cause for a violation of this Section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person smoking as prohibited by this Section. Violation of this Section shall be considered a primary offense, and any law enforcement officer may stop a motor vehicle solely because of a violation of this Section; however, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this Section.

D. A violation of this Section shall be considered a nonmoving violation, and a citation issued by a law enforcement officer for such violation shall not be included on the driver's operating record.

Note: Article 3, Section 19, of the *Louisiana State Constitution of 1974*, sets out the rules for the coming into force of Acts passed by the state legislature. All Acts passed during a regular session of the state legislature (as this one was) take effect on the next August 15, unless otherwise specified within the Act.

ROCKLAND COUNTY, NEW YORK (as passed by County Legislature, County Legislature referral number: 8757)

Web source: none available

Section 3. Definitions

As used in this law, the following terms shall have the meanings included:

- A) "Smoke" or "smoking" shall mean inhaling, exhaling, burning or carrying any lighted matter, including cigarettes, herbal cigarettes, bidis, cigars, pipes, weed, plant, regulated narcotic, any other tobacco products, or other combustible substances.
- B) "Child" or "children" shall mean any person under the age of 18.
- C) "Vehicle" shall mean any vehicle, registered or unregistered, commercial or passenger, with an enclosed compartment for driver and passengers, whether any windows on such vehicle are open or closed.
- D) "Bidi" (alt. sp. "beedi") means a thin, often flavored, south-asian-style cigarette made of tobacco wrapped in tendu (or temburini; *Diospyros melonoxylon roxb.*) leaf, and secured with colored thread at one end. Beedies are smaller than regular cigarettes, but more potent. Because they do not have a filter and are wrapped in nonporous leaves, a smoker needs to inhale more often and more deeply to keep them lit. According to the journal of the national cancer institute (November 3, 1999, pp. 1806-1807), one bidi produces three times more carbon monoxide and nicotine, and five times more tar than a regular cigarette.

Section 4. Prohibitions.

It shall be unlawful for the operator or any passenger in a vehicle to smoke when any child is present.

Section 5. Penalties

The first violation of the provisions of this local law shall be a criminal violation punishable by a fine of between \$75.00 and \$150.00. A second or subsequent violation shall be a criminal violation, punishable by a fine of between \$150.00 and \$250.00

SOUTH AUSTRALIA (s. 48 of the *Tobacco Products Regulation Act 1997*, as enacted by the *Tobacco Products Regulations (Smoking in Cars) Amendment Bill 2006*)

Web source: http://www.austlii.edu.au/au/legis/sa/consol_act/tpra1997293/

48—Smoking in motor vehicle if child present

- (1) A person must not smoke in a motor vehicle if a child is also present in the motor vehicle.

Maximum penalty: \$200.

Expiation fee: \$75.

- (2) In proceedings for an offence against this section an allegation in the complaint that a child was present in a motor vehicle at a specified time will be accepted as proved in the absence of proof to the contrary.
- (3) In this section—

child means a person under 16 years of age;

motor vehicle has the same meaning as in the *Motor Vehicles Act 1959*.