

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 193

BY SENATORS TAKUBO AND JEFFRIES

[Originating in the Committee on Health and Human
Resources; reported on March 3, 2017]

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 more than \$25. No court costs or other fees may be assessed for a
10 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) 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 sixteen years of age or less
17 in the motor vehicle.
- 18 (f) Nothing in this section is meant to limit any local ordinance or regulation with respect
19 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.