

House File 2093 - Introduced

HOUSE FILE 2093

BY LOHSE

A BILL FOR

1 An Act relating to smoking in a motor vehicle with a child
2 present and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 321.276A Smoking in a motor vehicle
2 — child present — penalty.

3 1. For purposes of this section:

4 a. "Alternative nicotine product" means the same as defined
5 in section 453A.1.

6 b. "Child" means a person under eighteen years of age.

7 c. "Cigarette" means the same as defined in section 453A.1.

8 d. "Narcotic drug" means the same as defined in section
9 124.101.

10 e. "Smoke" or "smoking" means to inhale, exhale, burn, or
11 carry any lighted or heated cigar, cigarette, pipe, hookah,
12 or other lighted or heated tobacco product, plant product,
13 weed, plant, regulated narcotic drug, or any other combustible
14 substance including marijuana whether natural or synthetic
15 in any manner or in any form. "Smoke" or "smoking" includes
16 the use of a vapor product, alternative nicotine product, or
17 electronic smoking device that creates an aerosol or vapor
18 in any manner or in any form. "Smoke" or "smoking" does not
19 include smoking that is associated with a recognized religious
20 ceremony, ritual, or activity, including but not limited to
21 burning of incense.

22 f. "Tobacco product" means the same as defined in section
23 453A.1.

24 g. "Vapor product" means the same as defined in section
25 453A.1.

26 2. A person shall not smoke in a motor vehicle if a child is
27 present in the motor vehicle.

28 3. a. A peace officer shall not stop or detain a person
29 solely for a suspected violation of this section. This section
30 is enforceable by a peace officer only as a secondary action
31 when the driver of a motor vehicle has been stopped or detained
32 for a suspected violation of another provision of this chapter,
33 a local ordinance equivalent to a provision of this chapter,
34 or other law.

35 b. A violation of this section shall not be considered a

1 moving violation for purposes of this chapter or rules adopted
2 pursuant to this chapter.

3 4. A person convicted of a violation of this section is
4 guilty of a simple misdemeanor punishable as a scheduled
5 violation under section 805.8A, subsection 14, paragraph "m".

6 5. The department, in cooperation with the department of
7 public safety, shall establish educational programs to foster
8 compliance with the requirements of this section.

9 Sec. 2. Section 805.8A, subsection 14, Code 2020, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. *m. Smoking — child present.* For violations
12 under section 321.276A, the scheduled fine is two hundred
13 dollars. Notwithstanding any provision to the contrary, fines
14 collected under this paragraph "m" shall be remitted to the
15 treasurer of state and credited to the department of public
16 health for the purposes of the tobacco use prevention and
17 control initiative as provided in chapter 142A.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to smoking in a motor vehicle with a child
22 present. The bill prohibits a person from smoking in a motor
23 vehicle if a person under 18 years of age is present in the
24 motor vehicle. The bill provides that a peace officer shall
25 not stop or detain a person solely for a suspected violation
26 of the bill, but rather that a peace officer may only enforce
27 the bill as a secondary action when the driver of a motor
28 vehicle has been stopped or detained for a suspected violation
29 of another provision of Code chapter 321 (motor vehicles and
30 law of the road), a local ordinance equivalent to a provision
31 of Code chapter 321, or other law. A violation of the bill
32 shall not be considered a moving violation. The bill requires
33 the department of transportation and the department of public
34 safety to establish educational programs to foster compliance
35 with the requirements of the bill.

H.F. 2093

1 A person convicted of a violation of the bill is guilty of a
2 simple misdemeanor punishable as a scheduled violation, and the
3 scheduled fine is \$200. Fines collected are to be remitted to
4 the treasurer of state and credited to the department of public
5 health for the purposes of the tobacco use prevention and
6 control initiative as provided in Code chapter 142A (tobacco
7 use prevention and control).