

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/09
 LAST UPDATED 2/24/09 HB _____

SPONSOR Sanchez, B.

SHORT TITLE Prohibit Smoking In Vehicle With Minors SB 44/aSJC

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Health Policy Commission (HPC)
 Administrative Office of the District Attorneys (AODA)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment strikes section one which provided definitions of various indoor and outdoor locations that could be used for smoking, and strikes the proposed definition for a minor; prohibits smoking in any motor vehicle with a child who is required to be restrained is present, regardless of whether the windows of the motor vehicle are down; and, permits smoking in a limousine under private hire if a child who is required to be restrained is not present, regardless of whether the windows of the motor vehicle are down.

SIGNIFICANT ISSUES

The amended act does not provide an age range for “child”.

Synopsis of Original Bill

Senate Bill 44 adds smoking in a motor vehicle with a minor present to the list of prohibited smoking areas as defined in the Dee Johnson Clean Indoor Air Act.

FISCAL IMPLICATIONS

This bill may help reduce the overall economic and health impact of preventable disease in New Mexico.

This new offense would impact the resources of the DPS and the courts.

SIGNIFICANT ISSUES

The intent of the bill is to protect minors from exposure to secondhand smoke in motor vehicles.

Children are more susceptible than adults to secondhand smoke. DOH reports that children have lungs that are still developing physically, have higher breathing rates than adults, and have little control over their indoor environments.

The Harvard School of Public Health has estimated that 35 to 45 percent of children are regularly exposed to secondhand smoke from adults using tobacco in homes and cars. Researchers reported that in five minutes smoking in cars can produce unsafe levels of secondhand smoke contaminants for children.

The Surgeon General has reported that children exposed to secondhand smoke are at an increased risk for Sudden Infant Death Syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma.

PERFORMANCE IMPLICATIONS

This bill would potentially expand the types of behavior which could be prosecuted by local district attorneys in state courts.

TECHNICAL ISSUES

AODA notes that the Act restricts prosecutions to those persons 18 years of age or older. Thus a 17 year-old “in” (not necessarily “driving”) a motor vehicle could not be cited for this violation even if an infant is the “minor” in question.

OTHER SUBSTANTIVE ISSUES

DOH notes that people at or below the poverty level have higher rates of smoking (2008 Racial and Ethnic Health Disparities Report Card). Children from low income families may be disproportionately exposed to secondhand smoke in vehicles.

ALTERNATIVES

HPC reports that other states are passing legislation that impose stand-alone smoke-free vehicle laws or amendments to children’s health and safety acts. This could be accomplished in New Mexico through an amendment to the New Mexico Children’s Code.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Persons may continue to lawfully smoke in a car with a minor present.