

By: Senator(s) Frazier

To: Judiciary, Division B;  
Public Health and Welfare

SENATE BILL NO. 3139

1 AN ACT TO PROHIBIT ANY OPERATOR OF A MOTOR VEHICLE WHICH IS  
2 TRANSPORTING A CHILD FROM ALLOWING THE SMOKING OF ANY TOBACCO  
3 PRODUCT IN THE MOTOR VEHICLE; TO PROVIDE DEFINITIONS; TO PROVIDE  
4 MISDEMEANOR PENALTIES FOR VIOLATION OF THIS ACT; TO PROVIDE FOR  
5 ENFORCEMENT BY LAW ENFORCEMENT OFFICERS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** (1) The driver or operator of any motor vehicle  
8 transporting a child shall not smoke any tobacco product in the  
9 vehicle and shall prohibit smoking of any tobacco product by any  
10 occupant of such motor vehicle.

11 (2) For the purposes of this section:

12 (a) "Motor vehicle" shall be defined as in Section  
13 63-7-301, Mississippi Code of 1972.

14 (b) "Child" shall be defined as in Section 63-7-301.

15 (c) "Smoke and smoking" shall be defined as in Section  
16 29-5-161, Mississippi Code of 1972.

17 (3) The operator of a motor vehicle may be in violation of  
18 this section by his or her own action or by the action of an  
19 occupant of the vehicle.

20 (4) A violation of this section shall be a misdemeanor,  
21 punishable by a fine of Fifty Dollars (\$50.00) upon conviction. A  
22 violation of this section shall be considered a nonmoving  
23 violation and shall not be entered on the driving record of any  
24 individual so convicted.

25 (5) Any operator cited, who proves to the court that he or  
26 she has entered into a smoking cessation program, may have his or  
27 her fine waived for a first offense violation of this section.



28           (6) Probable cause for a violation of this section shall be  
29 based solely upon a law enforcement officer's clear and  
30 unobstructed view of a person smoking as prohibited by this  
31 section. Violation of this section shall be considered a primary  
32 offense, and any duly sworn law enforcement officer may stop a  
33 motor vehicle because of a violation of this section.

34           **SECTION 2.** This act shall take effect and be in force from  
35 and after July 1, 2009.

