

By: Senator(s) Yancey

To: Judiciary, Division B;
Public Health and Welfare

SENATE BILL NO. 2216

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

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

8 **SECTION 1.** (1) The driver or operator of any motor vehicle
9 transporting a child requiring a passenger restraint device under
10 Section 63-7-301 shall not smoke any tobacco product in the
11 vehicle and shall prohibit smoking of any tobacco product by any
12 occupant of such motor vehicle.

13 (2) For the purposes of this section:

14 (a) "Motor vehicle" shall be defined as in Section
15 63-7-301, Mississippi Code of 1972.

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

17 (c) "Smoke and smoking" shall be defined as in Section
18 29-5-161, Mississippi Code of 1972.

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

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



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

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

36 **SECTION 2.** This act shall take effect and be in force from
37 and after July 1, 2010.

