

By: Senator(s) Dawkins

To: Judiciary, Division B

SENATE BILL NO. 2072

1 AN ACT TO PROHIBIT THE OPERATOR OR A PASSENGER IN A MOTOR
2 VEHICLE FROM SMOKING WHEN CHILDREN OF A CERTAIN AGE ARE PRESENT;
3 TO PROVIDE PENALTIES FOR VIOLATIONS; TO PROVIDE FOR CITATION OF
4 VIOLATION; TO PROHIBIT CERTAIN ACTIONS BY LAW ENFORCEMENT
5 OFFICERS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** (1) It shall be unlawful for the operator or any
8 passenger in a motor vehicle to smoke cigarettes, pipes, or cigars
9 in a motor vehicle, passenger van, or pickup truck, when a child
10 who is under the age of eight (8) years is also present in such
11 vehicle, regardless of whether windows of the motor vehicle are
12 down. For purposes of this section, the term "smoke" shall mean
13 inhaling, exhaling, burning, or carrying any lighted cigarette,
14 cigar, pipe, weed, plant, or other combustible substance in any
15 manner or in any form.

16 (2) Whoever violates the provisions of this section shall be
17 fined One Hundred Fifty Dollars (\$150.00) per offense, or at the
18 discretion of the judge, may be sentenced to no less than
19 twenty-four (24) hours of community service.

20 (3) Probable cause for a violation of this section shall be
21 based solely upon a law enforcement officer's clear and
22 unobstructed view of a person smoking as prohibited by this
23 section. Violation of this section shall be considered a primary
24 offense and any law enforcement officer may stop a motor vehicle
25 solely because of a violation of this section; however, a law
26 enforcement officer may not search or inspect a motor vehicle, its
27 contents, the driver, or a passenger solely because of a violation
28 of this section.

29 (4) A violation of this section shall be considered a
30 nonmoving violation and a citation issued by a law enforcement
31 officer for such violation shall not be included on the person's
32 driving record.

33 **SECTION 2.** This act shall take effect and be in force from
34 and after July 1, 2007.