

HOUSE BILL NO. 516

INTRODUCED BY D. MCALPIN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING SMOKING IN A MOTOR VEHICLE WHEN A CHILD WHO IS 14 YEARS OF AGE OR YOUNGER IS IN THE VEHICLE; IMPOSING A PENALTY FOR VIOLATION OF THE MOTOR VEHICLE SMOKING PROHIBITION; AND ESTABLISHING THE VIOLATION AS A SECONDARY TRAFFIC OFFENSE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Smoking in motor vehicle prohibited -- definition.** (1) It is unlawful for the operator or any passenger in a motor vehicle to ignite or smoke a cigarette, a pipe, a cigar, or other combustible matter when a child who is 14 years of age or younger is also present in the vehicle, regardless of whether windows of the motor vehicle are down or whether the vehicle is parked or on private property.

(2) (a) For purposes of this section, the term "smoke" means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.

(b) For purposes of subsection (2)(a), a weed, plant, or other combustible substance does not include a substance for which possession is illegal.

NEW SECTION. **Section 2. Penalties.** (1) A driver who violates [section 1] shall be fined \$50, but the violation is not a misdemeanor as defined in 45-2-101, a misdemeanor for purposes of 46-18-236, or a misdemeanor pursuant to 61-8-104 or 61-8-711. A violation of [section 1] may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203. Bond for this offense is \$50 and a jail sentence may not be imposed.

(2) A violation of [section 1] may not be recorded or charged against the driver's record.

(3) An insurance company may not hold a violation of [section 1] against the insured or increase the insured's premiums due to a violation of [section 1].

NEW SECTION. **Section 3. Violation constitutes secondary traffic offense.** The department or its agent may not require a driver who may be in violation of [section 1] to stop except upon reasonable cause to



1 believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped
2 as required by law.

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4 NEW SECTION. Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified
5 as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 through 3].

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