

By Senator Crist

12-01651A-10

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1 A bill to be entitled
2 An act relating to smoking in vehicles with minor
3 passengers; amending s. 316.6135, F.S.; reorganizing
4 existing provisions; providing a definition; providing
5 for enhanced penalties for any moving or nonmoving
6 violation committed by a person driving or in control
7 of a motor vehicle while a person in the vehicle is
8 smoking when a minor is in the vehicle, regardless of
9 whether the vehicle is in operation or parked;
10 providing that an officer may issue a warning to a
11 violation; providing that an officer may elect to
12 distribute specified materials; providing that
13 enforcement must only be a secondary action when the
14 driver of the motor vehicle has been detained for
15 another violation of specified provisions; amending s.
16 318.18, F.S.; providing the enhanced penalty;
17 providing that no enhanced penalty may be assessed for
18 violations committed before a specified date;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 316.6135, Florida Statutes, is amended
24 to read:

25 316.6135 Endangering ~~Leaving~~ children ~~unattended or~~
26 ~~unsupervised~~ in motor vehicles; penalties ~~penalty~~; authority of
27 law enforcement officer.—

28 (1) (a) A parent, legal guardian, or other person
29 responsible for a child younger than 6 years of age may not

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30 leave such child unattended or unsupervised in a motor vehicle:

31 1.(a) For a period in excess of 15 minutes;

32 2.(b) For any period of time if the motor of the vehicle is
33 running or the health of the child is in danger.

34 (b)1.(2) Any person who violates subparagraph (a)1. ~~the~~
35 ~~provisions of paragraph (1)(a)~~ commits a misdemeanor of the
36 second degree punishable as provided in s. 775.082 or s.
37 775.083.

38 2.(3) Any person who violates subparagraph (a)2. ~~commits~~
39 ~~the provisions of paragraph (1)(b)~~ is guilty of a noncriminal
40 traffic infraction, punishable by a fine not less than \$50 and
41 not more than \$500.

42 3.(4) Any person who violates paragraph (a) ~~subsection (1)~~
43 and in so doing causes great bodily harm, permanent disability,
44 or permanent disfigurement to a child commits a felony of the
45 third degree, punishable as provided in s. 775.082, s. 775.083,
46 or s. 775.084.

47 (c)1.(5) Any law enforcement officer who observes a child
48 left unattended or unsupervised in a motor vehicle in violation
49 of paragraph (a) ~~subsection (1)~~ may use whatever means are
50 reasonably necessary to protect the minor child and to remove
51 the child from the vehicle.

52 2.(6) If the child is removed from the immediate area,
53 notification should be placed on the vehicle.

54 3.(7) The child shall be remanded to the custody of the
55 Department of Children and Family Services pursuant to chapter
56 39, unless the law enforcement officer is able to locate the
57 parents or legal guardian or other person responsible for the
58 child.

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59 (2) (a) As used in this subsection, the term "smoking" has
60 the same meaning as provided in s. 386.203.

61 (b) It is unlawful for any person to drive or be in actual
62 physical control of a motor vehicle in this state while a person
63 in the vehicle is smoking if a minor under 16 years of age is
64 present in the vehicle, regardless of whether the vehicle is in
65 operation or parked.

66 (c) A person who violates this subsection shall, unless
67 issued a warning, pay an enhanced penalty under s. 318.18(21).
68 An officer may elect to issue a warning to a violator.
69 Additionally, an officer may elect to provide a violator with
70 materials relating to the dangers of smoking in a vehicle with
71 children or available smoking cessation programs.

72 (d) Enforcement of this subsection by state or local law
73 enforcement agencies must only be accomplished as a secondary
74 action when the driver of the motor vehicle has been detained
75 for another violation of this chapter, chapter 320, or chapter
76 322.

77 Section 2. Subsection (21) is added to section 318.18,
78 Florida Statutes, to read:

79 318.18 Amount of penalties.—The penalties required for a
80 noncriminal disposition pursuant to s. 318.14 or a criminal
81 offense listed in s. 318.17 are as follows:

82 (21) In addition to any penalties imposed, an additional
83 \$100 must be paid for any noncriminal moving or nonmoving
84 traffic violation committed by operating a motor vehicle in this
85 state while a person in the vehicle is smoking if a minor under
86 16 years of age is present in the vehicle as provided in s.
87 316.6135(2).

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88 Section 3. Notwithstanding any other provision of law, no
89 enhanced penalty may be assessed for a violation of s.
90 316.6135(2), Florida Statutes, as created by this act, committed
91 before January 1, 2011.

92 Section 4. This act shall take effect October 1, 2010.