

The House Committee on Judiciary Non-civil offers the following substitute on SB 130:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to the uniform rules of the road, so as to provide that
3 any person in control of a motor vehicle who smokes or permits another occupant to smoke
4 when a person under the age of 15 is in the vehicle shall be guilty of a civil offense; to
5 provide for secondary enforcement; to define a certain term; to provide a penalty; to provide
6 a short title; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Smokefree Cars for Children Act."

10 **SECTION 2.**

11 Article 1 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
12 general provisions relative to the uniform rules of the road, is amended by adding a new
13 Code section to read as follows:

14 "40-6-18.

15 (a) As used in this Code section, the term 'smoke' means to inhale, exhale, burn, or carry
16 a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic, or other combustible
17 substance.

18 (b) A person who is the driver of or is in control of a motor vehicle that is required to be
19 registered under this title, whether or not such motor vehicle is being driven on the public
20 ways or is stopped on a public or private way, commits the offense of smoking in a motor
21 vehicle if the person smokes or permits another occupant of the motor vehicle to smoke in
22 such motor vehicle while a person under 15 years of age is in the motor vehicle; provided,
23 however, that a person shall not be charged with a violation of this subsection alone, but
24 may be charged with violating this subsection in addition to any other traffic offense.

25 (c) A violation of this Code section shall not be a misdemeanor but shall be punishable by
26 a civil fine not to exceed \$100.00.

27 (d) The odor of burned tobacco alone shall not be sufficient to prove a violation of this
28 Code section.

29 (e) A violation of this Code section shall not constitute child abuse as such term is defined
30 in Code Section 19-7-5.

31 (f) A violation for which a civil penalty is imposed pursuant to this Code section shall not
32 be considered a moving traffic violation, for the purpose of points assessment under Code
33 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil
34 penalty pursuant to this Code section shall not be deemed a conviction and shall not be
35 made a part of the operating record of the person upon whom such liability is imposed, nor
36 shall it be used for any insurance purposes in the provision of motor vehicle insurance
37 coverage."

38 **SECTION 3.**

39 All laws and parts of laws in conflict with this Act are repealed.