WEST VIRGINIA CODE: §16-9A-11

§16-9A-11. Smoking prohibited in motor vehicle while a person 16 years of age or less is present; penalty.

(a) As used in this section:

(1) "Lit tobacco product" means any lighted pipe, cigarette, cigar, or other lighted device or product containing a tobacco-based product manufactured or made for the purpose of smoking.

(2) "Motor vehicle" means a Class A, Class B, Class H, or Class J vehicle as those terms are defined in §17A-10-1 of this code.

(b) No person who is 18 years of age or older may smoke or possess a lit tobacco product in a motor vehicle if an individual 16 years of age or less is in the motor vehicle.

(c) Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $25. No court costs or other fees may be assessed for a violation of this section.

(d) Enforcement of this section may only be accomplished as a secondary action when a driver of a vehicle, as defined in this section, has been detained for probable cause of violating another section of this code.

(e) Each time a driver of a vehicle is detained for probable cause of violating another provision of this code and is cited for the offense created pursuant to this section, it shall be considered a single offense regardless of the number of individuals 16 years of age or less in the motor vehicle.

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