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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/11
LAST UPDATED 02/09/11 **HB** _____

SPONSOR Sanchez, B.

SHORT TITLE Prohibit Smoking in Cars with Children **SB** 212/aSPAC

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	\$1.0 - \$20.0	Recurring	County/Municipal Funds

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$1.0 - \$20.0	\$1.0 - \$20.0	\$2.0 - \$40.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Department of Health (DOH)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment permits smoking in a limousine under private hire when a minor not required to be restrained in a child safety or booster seat is present.

Synopsis of Original Bill

Senate Bill 212 adds smoking in a motor vehicle with a minor restrained in a child passenger restraint device to the list of prohibited smoking areas as defined in the Dee Johnson Clean Indoor Air Act.

FISCAL IMPLICATIONS

Existing statute states that a person eighteen years of age or older who violates a provision of the Dee Johnson Clean Indoor Air Act is subject to: A) up to \$100 fine for first violation; B) up to \$200 fine for second violation within 12 months; and C) up to \$500 for the third and each subsequent violation within 12 months. The imposed fines should cover the cost of enforcement. The initial expense will be educating the public about the new law.

DOH reports that hospitalizations for childhood asthma have been shown to decrease after the implementation of smoke-free legislation. Protecting New Mexico children from exposure to second hand smoke in cars could ease the burden of tobacco-related hospitalizations. Annual health care costs in New Mexico directly caused by smoking covered by the state Medicaid program is \$184 million.

This new offense could impact the resources of law enforcement and the courts if contested.

SIGNIFICANT ISSUES

The intent of the bill is to protect minors from exposure to secondhand smoke in motor vehicles.

Children are more susceptible than adults to secondhand smoke. DOH reports that children have lungs that are still developing physically, have higher breathing rates than adults, and have little control over their indoor environments.

The Harvard School of Public Health has estimated that 35 to 45 percent of children are regularly exposed to secondhand smoke from adults using tobacco in homes and cars. Researchers reported that in five minutes smoking in cars can produce unsafe levels of secondhand smoke contaminants for children.

The Surgeon General has reported that children exposed to secondhand smoke are at an increased risk for serious respiratory problems.

ADMINISTRATIVE IMPLICATIONS

This bill would potentially expand the types of behavior which could be prosecuted by local district attorneys in state courts.

OTHER SUBSTANTIVE ISSUES

DOH notes that people at or below the poverty level have higher rates of smoking. Children from low income families may be disproportionately exposed to secondhand smoke in vehicles.

TECHNICAL ISSUES

Section 66-7-369 NMSA 1978 states that "...children seven years of age through twelve years of age shall be properly secured in a child passenger restraint device or a seat belt." The bill will allow smoking in the car with children seven years through twelve years restrained in a seat belt, but not if those same children are restrained in a car safety or booster seat.

If passed, the provisions of the bill would not pertain to drivers less than 18 years of age.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Persons may continue to lawfully smoke in a car with a minor present.

AHO/bym