

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2015-__

Smoking in Motor Vehicles with Minors – HB 148

SPONSOR(S): Councilor Trujillo

SUMMARY: The proposed resolution supports state legislation, House Bill 148 (HB 148) – amending and enacting sections of the motor vehicle code to prohibit smoking in any vehicle when a minor is present and establish penalties for such violations.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: February 4, 2015

ATTACHMENTS: Resolution
FIR
House Bill 148

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2015-_____

3 INTRODUCED BY:

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5 Councilor Ron Trujillo

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10 A RESOLUTION

11 SUPPORTING PROPOSED STATE LEGISLATION, HOUSE BILL 148 (HB 148) –
12 AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE TO
13 PROHIBIT SMOKING IN ANY VEHICLE WHEN A MINOR IS PRESENT AND
14 ESTABLISH PENALTIES FOR SUCH VIOLATIONS.

15
16 WHEREAS, the 60 day session of the 2015 Legislative Session began on January 20, 2015;

17 and

18 WHEREAS, the Governing Body of the City of Santa Fe desires to support HB 148, to
19 amend and enact sections of the motor vehicle code to prohibit smoking in any vehicle when a minor
20 is present; and

21 WHEREAS, HB 148 defines smoking to mean:

22 “(a) inhaling, exhaling, burning, carrying or holding any lighted tobacco product,
23 including any type of cigarette, cigar or pipe or any other lighted tobacco product; or

24 (b) the operation of an e-cigarette”; and

25 WHEREAS, HB 148 proposes to establish the following monetary penalties for smoking in a

1 vehicle when a minor is present:

- 2 • First violation \$300.00
- 3 • Subsequent violation \$500.00

4 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**
 5 **CITY OF SANTA FE** that the Governing Body hereby supports HB 148 that would amend and
 6 enact sections of the Motor Vehicle Code to prohibit smoking in any vehicle when a minor is present
 7 and establish penalties for such violations.

8 **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this
 9 resolution to the City of Santa Fe lobbyist and the City of Santa Fe State Legislative Delegation.

10 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2015.

11
 12 _____
 13 JAVIER M. GONZALES, MAYOR

14
 15 ATTEST:

16
 17 _____
 18 YOLANDA Y. VIGIL, CITY CLERK

19 APPROVED AS TO FORM:

20 
 21 _____
 22 KELLEY A. BRENNAN, CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION SUPPORTING PROPOSED STATE LEGISLATION, HOUSE BILL 148 (HB 148) - AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE TO PROHIBIT SMOKING IN ANY VEHICLE WHEN A MINOR IS PRESENT AND ESTABLISH PENALTIES FOR SUCH VIOLATIONS.

Sponsor(s): Councilor Trujillo

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman / Melissa Byers ' Date: 2/3/15 Phone: 955-6501 / 955-6519

Reviewed by City Attorney: Kelly A. Brennan Date: 2/4/15
(Signature)

Reviewed by Finance Director: [Signature] Date: 2-4-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The resolution supports proposed state legislation of House Bill 148 (HB 148) to amend and enact sections of the motor vehicle code to prohibit smoking in any vehicle when a minor is present and establish penalties.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected - usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" - if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None staff is aware of

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

If this resolution is not enacted, the City of Santa Fe would support HB 148

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

By supporting House Bill 148 (HB 148) to amend and enact sections of the motor vehicle code to prohibit smoking in any vehicle when a minor is present and to establish penalties, shows we are concerned about the health of our youth.

1 HOUSE BILL 148

2 52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

3 INTRODUCED BY

4 Jeff Steinborn and Peter Wirth

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8
9
10 AN ACT

11 RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING SECTIONS OF
12 THE MOTOR VEHICLE CODE TO PROHIBIT SMOKING IN ANY MOTOR VEHICLE
13 WHEN A MINOR IS PRESENT; ESTABLISHING PENALTIES.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. A new section of the Motor Vehicle Code is
17 enacted to read:

18 "[NEW MATERIAL] SMOKING PROHIBITED--VEHICLE WHERE MINOR
19 PRESENT.--

20 A. It is unlawful for a person to smoke in any
21 motor vehicle when a minor is present in the vehicle.

22 B. As used in this section:

23 (1) "e-cigarette":

24 (a) means any electronic oral device
25 that is composed of either a heating element and battery or an

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1 electronic circuit and that emits an aerosol or vapor of
2 nicotine or any other substance that is inhaled or otherwise
3 drawn into the mouth; and

4 (b) includes any device that meets the
5 definition in Subparagraph (a) of this paragraph, whether that
6 device is manufactured, distributed, marketed or sold as an e-
7 cigarette, e-cigar or e-pipe or as any other product, name or
8 descriptor;

9 (2) "minor" means an individual who is under
10 eighteen years of age;

11 (3) "motor vehicle" means a self-propelled
12 device in, upon or by which any person or property is
13 transported upon land; and

14 (4) "smoking" means:

15 (a) inhaling, exhaling, burning,
16 carrying or holding any lighted tobacco product, including any
17 type of cigarette, cigar or pipe or any other lighted tobacco
18 product; or

19 (b) the operation of an e-cigarette."

20 SECTION 2. Section 66-8-116 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 524, as amended) is amended to read:

22 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--
23 SCHEDULE OF ASSESSMENTS.--

24 A. As used in the Motor Vehicle Code, "penalty
25 assessment misdemeanor" means violation of any of the following

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1 listed sections of the NMSA 1978 for which, except as provided
 2 in Subsections D and E of this section, the listed penalty
 3 assessment is established:

4	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
5	Improper display of		
6	registration plate	66-3-18	\$ 25.00
7	Failure to notify of		
8	change of name or address	66-3-23	25.00
9	Lost or damaged registration,		
10	plate or title	66-3-24	20.00
11	Permitting unauthorized		
12	minor to drive	66-5-40	50.00
13	Permitting unauthorized		
14	person to drive	66-5-41	25.00
15	Failure to obey sign	66-7-104	10.00
16	Failure to obey signal	66-7-105	10.00
17	Speeding	66-7-301	
18	(1) up to and including		
19	ten miles an hour		
20	over the speed limit		15.00
21	(2) from eleven up to		
22	and including fifteen		
23	miles an hour		
24	over the speed limit		30.00
25	(3) from sixteen up to		

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1	and including twenty		
2	miles an hour over the		
3	speed limit		65.00
4	(4) from twenty-one up to		
5	and including twenty-five		
6	miles an hour		
7	over the speed limit		100.00
8	(5) from twenty-six up to		
9	and including thirty		
10	miles an hour over the		
11	speed limit		125.00
12	(6) from thirty-one up to		
13	and including thirty-five		
14	miles an hour over the		
15	speed limit		150.00
16	(7) more than thirty-five		
17	miles an hour over the		
18	speed limit		200.00
19	Unfastened safety belt	66-7-372	25.00
20	Child not in restraint device		
21	or seat belt	66-7-369	25.00
22	Minimum speed	66-7-305	10.00
23	Speeding	66-7-306	15.00
24	Improper starting	66-7-324	10.00
25	Improper backing	66-7-354	10.00

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1	Improper lane	66-7-308	10.00
2	Improper lane	66-7-313	10.00
3	Improper lane	66-7-316	10.00
4	Improper lane	66-7-317	10.00
5	Improper lane	66-7-319	10.00
6	Improper passing	66-7-309 through 66-7-312	10.00
7	Improper passing	66-7-315	10.00
8	Controlled access		
9	violation	66-7-320	10.00
10	Controlled access		
11	violation	66-7-321	10.00
12	Improper turning	66-7-322	10.00
13	Improper turning	66-7-323	10.00
14	Improper turning	66-7-325	10.00
15	Following too closely	66-7-318	10.00
16	Failure to yield	66-7-328 through 66-7-331	10.00
17	Failure to yield	66-7-332	50.00
18	Failure to yield	66-7-332.1	25.00
19	Pedestrian violation	66-7-333	10.00
20	Pedestrian violation	66-7-340	10.00
21	Failure to stop	66-7-342 and 66-7-344	
22		through 66-7-346	10.00
23	Railroad-highway grade		
24	crossing violation	66-7-341 and 66-7-343	150.00
25	Passing school bus	66-7-347	100.00

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1	Failure to signal	66-7-325 through 66-7-327	10.00
2	Failure to secure load	66-7-407	100.00
3	Operation without oversize-		
4	overweight permit	66-7-413	50.00
5	Transport of reducible		
6	load with special		
7	permit more than six miles		
8	from a border crossing	66-7-413	100.00
9	Improper equipment	66-3-801	
10		through 66-3-851	25.00
11	Improper equipment	66-3-901	20.00
12	Improper emergency		
13	signal	66-3-853 through 66-3-857	10.00
14	Minor on motorcycle		
15	without helmet	66-7-356	300.00
16	Operation interference	66-7-357	50.00
17	Littering	66-7-364	300.00
18	Improper parking	66-7-349 through 66-7-352	
19		and 66-7-353	5.00
20	Improper parking	66-3-852	5.00
21	Failure to dim lights	66-3-831	10.00
22	Riding in or towing		
23	occupied house trailer	66-7-366	5.00
24	Improper opening of doors	66-7-367	5.00
25	No slow-moving vehicle		

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1	emblem or flashing		
2	amber light	66-3-887	5.00
3	Open container - first		
4	violation	66-8-138	25.00
5	Texting while driving -	[Section 1 of this	
6	first violation	2014 act] <u>66-7-374</u>	25.00
7	Texting while driving -	[Section 1 of this	
8	subsequent violation	2014 act] <u>66-7-374</u>	50.00
9	<u>Smoking with minor</u>		
10	<u>present in vehicle -</u>	<u>Section 1 of this</u>	
11	<u>first violation</u>	<u>2015 act</u>	<u>300.00</u>
12	<u>Smoking with minor</u>		
13	<u>present in vehicle -</u>	<u>Section 1 of this</u>	
14	<u>subsequent violation</u>	<u>2015 act</u>	<u>500.00.</u>

15 B. The term "penalty assessment misdemeanor" does
16 not include a violation that has caused or contributed to the
17 cause of an accident resulting in injury or death to a person.

18 C. When an alleged violator of a penalty assessment
19 misdemeanor elects to accept a notice to appear in lieu of a
20 notice of penalty assessment, a fine imposed upon later
21 conviction shall not exceed the penalty assessment established
22 for the particular penalty assessment misdemeanor and probation
23 imposed upon a suspended or deferred sentence shall not exceed
24 ninety days.

25 D. The penalty assessment for speeding in violation

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1 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978
2 is twice the penalty assessment established in Subsection A of
3 this section for the equivalent miles per hour over the speed
4 limit.

5 E. Upon a second conviction for operation without a
6 permit for excessive size or weight pursuant to Section
7 66-7-413 NMSA 1978, the penalty assessment shall be two hundred
8 fifty dollars (\$250). Upon a third or subsequent conviction,
9 the penalty assessment shall be five hundred dollars (\$500).

10 F. Upon a second conviction for transport of a
11 reducible load with a permit for excessive size or weight
12 pursuant to Subsection N of Section 66-7-413 NMSA 1978 more
13 than six miles from a port-of-entry facility on the border with
14 Mexico, the penalty assessment shall be five hundred dollars
15 (\$500). Upon a third or subsequent conviction, the penalty
16 assessment shall be one thousand dollars (\$1,000)."

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