

## Smoking Prohibition (Children in Motor Vehicles) (Scotland)

**Michael Gowan**

1 – I support the overall aims of the bill, as reducing the level of passive smoking in children is undoubtedly going to improve the health of youths. I further believe that tightening legislation surrounding smoking to make it seem less socially acceptable will have a knock on effect on the levels of youths who take up smoking; by making it seem less attractive, hopefully fewer youths will face peer pressure to smoke.

However, there are a number of issues that I think could make the bill even stronger, detailed below. These, however, would only fine tune the bill. I would like to see the bill pass stage 1 consideration, with amendments added as necessary.

2 – I imagine the bill itself would be difficult to enforce - in much the same way as the ban on the use of mobile phones has had an impact on overall usage, but can't be universally enforced. I also believe that it would be difficult to accurately assess the age of a passenger in a moving vehicle. I nonetheless believe it will have an impact on passive smoking levels, both in terms of the initial reduction from those who would cease smoking in cars and from the long term benefit of making smoking even less socially acceptable.

3 – The basic focus of the bill is on fixed penalties, which ignores the main issue with smoking: it is an addiction. By taking a criminal rather than a medical focus, I fear we are missing the opportunity to help those who are smoking. Perhaps, by allowing first time offenders the opportunity to engage with a smoking cessation course as an alternative to a fixed penalty, we could seamlessly marry the two concepts. By creating twelve week courses, with attendance monitored and the threat of a fine should the offender not engage with the programme, we would have a more lasting impact than simply charging people for being addicted.

I also disagree with the age limit being eighteen. Instead, I would reduce this to sixteen (amend section 3, subsection 1), but remove Section 1, subsection 4. I ultimately believe that the responsibility to ask the ages of passengers should be with the driver. In cases where the age of passengers is in doubt, this would hopefully encourage drivers to show restraint. The lowering of the age to 16 should be made as 16 year olds are legally treated as adults in many cases. By not treating them as such in this bill, we effectively disempower them; we send a clear message to youths that they need the state's protection. This would undermine the message of the referendum; that we trust youths to make their own decisions.

This act doesn't include electronic cigarettes as a clearly defined item in section 3 subsection 2. Given that E-cigs still contain nicotine and that the other health risks are poorly researched, it seems prudent to expand this section to include the term "Vaping" and explicitly include E-cigs in Section 3.

4 – Police should be encouraged to stop cars where someone is smoking in front of a suspected child and the responsibility for ensuring officers are aware of their obligation to do this should fall on the Divisional Commander. However, a reporting system should also be in place, so that teachers, social workers, etc. are able to report suspicions. The reporting system should not carry any penalty, but instead should trigger cessation support, with leaflets and advice being sent to the parent in question. This should be managed jointly by the COPFS and the NHS, with a view to supporting cessation as a primary duty and criminal liability only coming after such attempts have demonstrably failed. This system provides an opportunity for smokers to receive additional support, whilst providing an effective deterrent for smoking in cars and a reason to engage with cessation support.

5 – Bill should include all types of vehicles, including those described in section 1, subsection 3 and section 3, subsection 1 (a). This is due to the relatively smaller space for vehicles designed for human habitation that would not allow for youths to leave the vicinity of a smoker. I'm genuinely perplexed as to why an exemption for goods vehicles was seen as necessary in the first place and believe this should be included to ensure the government is doing all it can to make a smoke free generation.

6 – I believe this clause should be removed, as I find it difficult to believe that someone not working in a professional capacity would not know or be able to ask the age of their passengers. Those working in a professional capacity should not be smoking in the vehicle in the first instance.

**Michael Gowan**