

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

MRC/CSO Social and Public Health Sciences Unit, University of Glasgow

1. Do you support the Bill? Please provide reasons for your position

The contribution of second-hand smoke to the global disease burden of tobacco smoke is well established[1], and there is a persuasive evidence base suggesting that the risks to health are particularly great in children, for whom exposure to second-hand smoke increases the risk of various diseases including sudden infant death, respiratory illnesses, middle ear disease, and bacterial meningitis[2]. The risks are compounded by children's lack of agency to remove themselves from environments such as cars, and, often, lack of power to influence adults' smoking behaviours. This lack of social and political power in the most affected group underlines the need for legislative action to protect them.

If passed, this Bill would build upon the success of[3-5], and public support for[6], existing smoke-free legislation. Our research analysing the legislation debate in print media provides evidence that the issue of second-hand smoke in vehicles carrying children has been of increasing interest to the media, and newspapers largely presented a supportive stance towards the need for legislation[7]. As well as reflecting public attitudes, the mass media have a well-established role in influencing public opinion, and, as such, our research suggests that the public are likely aware of the problem of children's exposure to second-hand smoke in cars, and to be supportive of such a legislative solution. Public support for legislation has also been identified by survey research[8].

Researchers at the MRC/CSO Social and Public Health Sciences Unit, University of Glasgow support legislation to prohibit smoking in private vehicles carrying people under 18 years of age.

2. Do you think the Bill (if enacted) would achieve its aim of protecting children from the effects of second-hand smoke and their health? Please provide an explanation for your answer.

The Bill, even if comprehensively enacted, would not entirely protect children from second-hand smoke, as other microenvironments, such as private homes, would remain sites of exposure. However, the Bill is likely to considerably reduce children's exposure in vehicles, which represent microenvironments where atmospheric concentration of fine particulate matter can be particularly high[9].

International precedent exists in the form of similar legislation in Canada, the United States, Australia, South Africa, Bahrain and Mauritius, suggesting that laws regulating smoking in cars are both acceptable and enforceable. Domestically, the adherence to existing smoke-free legislation bodes well for adherence with legislation to prohibit smoking in vehicles carrying children[6]. In addition, legislation regarding seat belts and mobile phone use suggest that legislation targeting behaviours in vehicles can be enforced[10].

3. Is there anything in the Bill you would change? If yes, please provide more details.

No.

4. Who do you think should have responsibility for enforcing the proposed legislation and why?

We believe that Police Scotland would be best placed to enforce the measure while engaging in routine duties.

5. What type of vehicles do you think should be exempt from the legislation and why?

We think that it would be appropriate to exclude vehicles that can be used as temporary or permanent residences, such as caravans and motorhomes, from the legislation.

6. What is your view on the Bill's provision for a defence that the person smoking could not have reasonably know that the other occupants of the vehicle were under 18?

We believe that the focus of the offence should be on the person smoking rather than on the driver. The offence should apply to any individual smoking when another person under the age of 18 is present. However, before any offender is referred to court or prosecuted, due consideration should be given as to whether or not it is in the public's interest to do so.

We believe that this suggestion is consistent with the smoking in vehicles legislative proposals of Wales, England, and Northern Ireland, where the offender can present a defence that:

- a) the driver, by reason of driving the vehicle, was unable to prevent another individual from smoking in the car, and
- b) the driver made all reasonable efforts to prevent the offence.

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