

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

Children in Scotland

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

Children in Scotland has been supportive of the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill since its launch. Children in Scotland has consistently called for additional regulations to protect children from second-hand smoke. We strongly believe that children's health must be protected through preventative measures as far as practicable. We believe that this Bill makes a positive step towards protecting children from harmful second-hand smoke and welcome its application in cars.

The evidence gathered by Dr Neneh Rowa-Dewar (University of Edinburgh) and colleagues is very clear in demonstrating that children are particularly sensitive to the risks of second hand smoke including asthma, middle ear and respiratory infections. Further to this, the risks associated with second-hand smoke increase when smoking within a confined space, for example a car, and therefore there should be additional measures in place to protect children's health.

Children in Scotland has long supported the United Nations Convention of the Rights of the Child (UNCRC) and we believe that this Bill reinforces Article 24 which states that "Children have the right to good quality health care – the best health care possible – a clean and safe environment, and information to help them stay healthy."

In March 2014 Scotland became the first country to set a national target to reduce the percentage of children exposed to second-hand smoke from 12% to 6% by 2020. Children in Scotland supports the ambition to reduce the harm children are exposed to through second-hand smoke and believe this Bill alongside public awareness campaigns and offering support to smokers will have a positive impact on smoking rates and children's exposure to cigarette smoke.

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.

We believe that legislation would help protect children from the effects of second-hand smoke. Following the implementation of Smoking, Health and Social Care (Scotland) Act 2005 there is consistent data to show that there have been no adverse affects to children from this Act. There is substantial evidence to show that in countries where comprehensive smoke-free legislation has been implemented, reductions in second-hand smoke exposure of between 80% and 90% have been recorded (Callinan JE, Clarke A, Doherty K, et al 2010). There is similar evidence available for the effects of second-hand smoke to children.

Prior to the implementation of the 2006 smoking ban it was thought that children may be exposed to more second hand smoke as smoking may be more prevalent in the home. However recent research does not support this as there has been an overall reduction in children's exposure to second-hand smoke since the introduction of smoke free legislation (ASH, 2014).

Children in Scotland is supportive of all measures to reduce children's exposure to cigarettes and second-hand smoke. Most recently we called for additional regulations for e-cigarettes and signed the ASH's Charter for a Tobacco Free Generation.

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

Children in Scotland would welcome the extension of this Bill to include e-cigarettes. Whilst we understand that the Scottish Government is currently investigating further controls for e-cigarettes and how they may be covered under existing legislation for cigarettes at this time there is not sufficient evidence to show the effects of second-hand smoke in e-cigarettes and therefore they should be regulated until proven to be safe to children.

The patterns of tobacco use and inequalities are significant in Scotland particularly within deprived areas. Almost all of the most disadvantaged children in the UK have detectable levels of secondhand smoke exposure and 33% have high levels of exposure, compared to 3% of the most advantaged (Moore, Currie, Gilmore, Holliday, & Moore, 2012). We would urge the Scottish Parliament to maximise opportunities to reduce these health inequalities through linking this proposed legislation to associated fields.

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

In our previous response to this Bill Children in Scotland stated that we would like to treat any violation of this proposed legislation in the same manner as a violation under the Smoking Health and Social Care (Scotland) Act 2005. This would mean a £50 fine for smoking in a public place.

At present the Act is enforced by Environmental Health Officers and we would welcome this extension to this proposed legislation as it ensures that any breach would be treated as a health issue rather than a motoring offence.

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

Matching our previous consultation responses we do not believe there should be any exceptions to this legislation and that it should apply to all enclosed vehicles.

Children in Scotland believes that any exceptions, for example convertible cars, may lead to inconsistencies and confusion as to when the ban would apply. This legislation should stipulate clearly that its purpose is to protect

children from second-hand smoke and the opening of a window or sunroof for example does not provide adequate protection. This approach is also consistent with the ban on smoking in public places in which even partially covered structures for example bus shelters must be smoke free.

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?

Firstly we welcome the move to extend this responsibility to those aged 18 and over, as in our previous consultation response we voiced concerns that this should not be applicable from the age of 16.

We do not believe that the Bill should provide the defence that the person smoking could not have reasonably known that the other occupants of the vehicle were under the age of 18. Children in Scotland believes that this responsibility lies with the person smoking and the driver. In the event of any doubt cast the driver should ensure that there is no smoking in the car. This would bring in the ban on smoking in cars on a par with wearing a seatbelt, in which it is the drivers' responsibility to ensure that all children are wearing a seat belt.

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