SPONSOR: Rep. Hensley & Rep. Dukes & Rep. Minor-Brown & Sen. Lawson
Reps. Baumbach, Chukwuocha, Gray, Griffith, Harris, Hilovsky, K. Johnson, Longhurst, Lynn, S. Moore, Neal, Postles, Michael Smith; Sens. Brown, Hansen, Hocker, Huxtable, Lockman, Mantzavinos, S. McBride, Paradee, Pettyjohn, Pinkney, Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 118
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE PROHIBITION OF SMOKING IN VEHICLES WHEN A MINOR IS IN THE VEHICLE.

WHEREAS the State of Delaware has, in recent years, taken important steps to protect its youth from the harmful effects of tobacco products; and

WHEREAS, the Center for Disease Control (CDC) asserts that there is “no safe level of exposure to secondhand smoke” and “even brief exposure can cause immediate harm”; and

WHEREAS, the CDC also states that in children, secondhand smoke can cause respiratory infections, ear infections, asthma attacks and can cause sudden infant death syndrome in babies; and

WHEREAS, secondhand smoke still presents a continuing danger to Delaware’s youth; and

WHEREAS, Delaware has a strong interest in continuing to protect its youth from potential adverse effects of being exposed to tobacco products.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2902, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and renumbering accordingly:

§ 2902. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

HR : RTA : AFJ : 0801520041 Released: 06/30/2023 03:38 PM
LC : HVW : CBM : 5081520065

(15) “Vehicle” means motor vehicles, trailers, recreational vehicles, recreational trailers, and any other device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by animal power, human power, electric bicycles, off-highway vehicles, special mobile equipment and farm equipment.

Section 2. Amend Chapter 29, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2904. Smoking restrictions inapplicable.

This chapter shall not apply ~~to:~~ to any of the following:

(1) Private homes, private ~~residences and~~ residences, or private ~~automobiles; provided, however, it shall only apply~~ vehicles, except when ~~such homes, residences or vehicles are~~ any of the following apply:

a. The home, residence, or vehicle is being used for child care or day ~~care or when the~~ care.

b. The private vehicle is being used for the public transportation of children or as part of health-care or day care ~~transportation;~~ transportation.

c. A passenger under 16 years of age is in the vehicle.

(2) Any indoor area where private social functions are being held when seating arrangements are under the control of the sponsor of the function and not the owner, operator, ~~manager~~ manager, or person in charge of ~~such~~ the indoor ~~area;~~ area.

(3) Limousines under private ~~hire;~~ hire, unless a passenger under 16 years of age is in the limousine.

(4) A hotel or motel room rented to 1 or more guests; provided that the total percentage of such hotel or motel rooms does not exceed ~~25%;~~ 25%.

(5) Any ~~fund raising~~ fundraising activity or function sponsored by a volunteer fire company, auxiliary of a fire company, or a volunteer ambulance or volunteer rescue ~~company; provided, however, that the fund raising~~ company, if the fundraising activity or function takes place upon property owned or leased by the volunteer fire, ~~rescue~~ rescue, or ambulance ~~company; and~~ company.

(6) Any ~~fund raising~~ fundraising activity or function sponsored by a fraternal benefit society as defined ~~by~~ under § 6201 of Title ~~18; provided, however, that the fund raising~~ 18, if the fundraising activity or function takes place upon property owned or leased by ~~said organization.~~ the fraternal benefit society.

Section 3. Amend Chapter 29, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2909. Smoking Restrictions within vehicles

(a) A person is prohibited from smoking in a vehicle, whether it is in motion or at rest, if a person under 16 years of age is in the vehicle, regardless of whether the vehicle's windows are open. This subsection does not apply to a person who is the sole occupant of a vehicle.

(b) State and local police are empowered to enforce this section of the Code, but a police officer may not stop or detain a motor vehicle or its driver nor inspect or search the vehicle, the contents of the vehicle, or the operator or passenger of the vehicle solely for a violation or suspected violation of this section.