

By: Hegar

S.B. No. 2327

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on the possession or smoking of a burning tobacco product in certain motor vehicles in which a person younger than 16 is present; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 48, Penal Code, is amended by adding Section 48.011 to read as follows:

Sec. 48.011. POSSESSION OR SMOKING OF TOBACCO IN MOTOR VEHICLE If CHILD PRESENT. (a) In this section, "motor vehicle," "moped," and "motorcycle" have the meanings assigned by Section 502.001, Transportation Code.

(b) A person who is 18 years of age or older commits an offense if:

(1) the person:

(A) is an occupant of a motor vehicle other than a moped or motorcycle; and

(B) possesses or smokes a burning tobacco product; and

(2) a person who is younger than 16 years of age is present in the vehicle.

(c) A peace officer may not stop or detain a person who is the operator or an occupant of a motor vehicle for the sole purpose of determining whether an offense under this section is being or has been committed.

1 (d) An offense under this section is a misdemeanor
2 punishable by a fine of \$50.

3 SECTION 2. (a) An offense under Section 48.011, Penal Code,
4 as added by this Act may be prosecuted only if the offense occurs on
5 or after September 1, 2010.

6 (b) For conduct constituting an offense under Section
7 48.011, Penal Code, as added by this Act, before September 1, 2010,
8 a peace officer:

9 (1) may not arrest or issue a citation or notice to
10 appear to a person; and

11 (2) may only issue to the person a written warning to
12 comply with that section.

13 SECTION 3. This Act takes effect September 1, 2009.