

## **BILL ANALYSIS**

C.S.H.B. 461  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that some drivers often smoke cigarettes and other tobacco products in automobiles with young children present, despite the overwhelming evidence that secondhand smoke can cause serious health problems. Those parties also cite report findings indicating that secondhand smoke increases the frequency and severity of asthma attacks, respiratory infections, and ear infections in children and increases the risk of sudden infant death syndrome, and the parties point out that certain government officials strongly recommend that parents refrain from smoking in a car even with the windows rolled down.

C.S.H.B. 461 seeks to prevent the smoking of tobacco products in an automobile with a child present.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 461 amends the Penal Code to establish a Class C misdemeanor for a person to possess a burning tobacco product or to smoke tobacco in a passenger vehicle while a child who is required to be secured in a child passenger safety seat system is present in the vehicle. The bill authorizes a judge to reduce the amount of the fine for the offense if the person who commits the offense completes a parenting class approved by the judge. The bill prohibits a peace officer from stopping or detaining a person who is the operator or an occupant of a passenger vehicle for the sole purpose of determining whether the offense is being or has been committed.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 461 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 48, Penal Code, is amended by adding Section 48.012 to read as follows:

Sec. 48.012. SMOKING TOBACCO IN A PASSENGER VEHICLE WITH A CHILD PRESENT. (a) A person commits an offense if:

(1) the person possesses a burning tobacco product or smokes tobacco in a passenger vehicle, as defined by Section 545.412, Transportation Code; and

(2) a child who is required to be secured in a child passenger safety seat system under Section 545.412, Transportation Code, is present in the vehicle.

(b) An offense under this section is punishable as a Class C misdemeanor.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 48, Penal Code, is amended by adding Section 48.012 to read as follows:

Sec. 48.012. SMOKING TOBACCO IN PASSENGER VEHICLE WITH CHILD PRESENT. (a) A person commits an offense if:

(1) the person possesses a burning tobacco product or smokes tobacco in a passenger vehicle, as defined by Section 545.412, Transportation Code; and

(2) a child who is required to be secured in a child passenger safety seat system under Section 545.412, Transportation Code, is present in the vehicle.

(b) An offense under this section is punishable as a Class C misdemeanor.

(c) If a person who commits an offense under this section completes a parenting class approved by the judge, the judge may reduce the amount of the fine otherwise imposed by this section.

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

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.