



Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Act 2020

Public Act 2020 No 19
Date of assent 28 May 2020
Commencement see section 2

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act	2
Part 1	
Amendments to principal Act	
4 Section 2 amended (Interpretation)	2
5 Section 3A amended (Purposes of this Act)	2
6 Section 5 amended (Smoking in workplaces prohibited)	2
7 Section 5A amended (Employer may permit smoking in vehicle with consent of users)	2
8 Section 9 amended (Smoking restricted in passenger service vehicles)	3
9 New Part 1A inserted	3
Part 1A	
Smoke-free motor vehicles carrying child occupants	
20B Purpose of this Part	3
20C Interpretation for this Part	3
20D Smoking prohibited in motor vehicle carrying child occupant	3
20E Constable's powers	4
<i>Offences</i>	
20F Offences in respect of constables	5

10 Section 38B amended (Commission of infringement offences) 5

Part 2

Amendment to Summary Proceedings Act 1957

11 Summary Proceedings Act 1957 amended 5

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Act 2020.

2 Commencement

This Act comes into force on the day that is 18 months after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Smoke-free Environments Act 1990 (the **principal Act**).

Part 1

Amendments to principal Act

4 Section 2 amended (Interpretation)

In section 2(1), replace the definition of **enforcement officer** with:

enforcement officer means—

- (a) a person for the time being appointed under section 14 to enforce Parts 1 and 2, or provisions of Parts 1 and 2; or
- (b) for the purposes of Part 1A, a constable

5 Section 3A amended (Purposes of this Act)

In section 3A(2), replace “4 and 21, of Parts 1 and 2” with “4, 20B, and 21, of Parts 1, 1A, and 2”.

6 Section 5 amended (Smoking in workplaces prohibited)

After section 5(2), insert:

- (3) Nothing in this section permits smoking in a vehicle carrying child occupants (*see* section 20D).

7 Section 5A amended (Employer may permit smoking in vehicle with consent of users)

In section 5A, insert as subsection (2):

- (2) Nothing in this section permits smoking in a vehicle carrying child occupants (*see* section 20D).

8 Section 9 amended (Smoking restricted in passenger service vehicles)

After section 9(4), insert:

- (5) Nothing in this section permits smoking in a vehicle carrying child occupants (*see* section 20D).

9 New Part 1A inserted

After section 20A, insert:

**Part 1A
Smoke-free motor vehicles carrying child occupants**

20B Purpose of this Part

The purpose of this Part is to limit children's exposure to second-hand smoke by prohibiting smoking when they are in motor vehicles.

20C Interpretation for this Part

In this Part, unless the context otherwise requires,—

child occupant means a person under the age of 18 years who is in a motor vehicle

motor vehicle has the meaning given to it in section 2(1) of the Land Transport Act 1998

road has the meaning given to it in section 2(1) of the Land Transport Act 1998.

20D Smoking prohibited in motor vehicle carrying child occupant

- (1) A person must not smoke in a motor vehicle, whether moving or stationary, that is on a road and has a child occupant.
- (2) However, a person may smoke in a motor vehicle if—
- (a) the person is the only occupant of the motor vehicle who is under the age of 18 years; or
 - (b) the motor vehicle is—
 - (i) manufactured for use as an occasional or permanent dwelling; and
 - (ii) stationary on a road and in use as a dwelling.
- (3) A person who contravenes subsection (1) commits an infringement offence and is liable to—
- (a) an infringement fee of \$50; or
 - (b) a fine imposed by a court not exceeding \$100.

- (4) Sections 38B to 39 apply to the infringement offence in subsection (3) as if—
- (a) the infringement offence were an infringement offence defined in section 38A; and
 - (b) the infringement fee in subsection (3)(a) were an infringement fee specified in section 38A for the infringement offence (although the fee is a set fee and not a maximum fee as contemplated by section 38A); and
 - (c) a constable were the enforcement officer referred to in those sections.

20E Constable's powers

- (1) A constable who sees a person smoking in a motor vehicle that is on a road and that appears to have a child occupant may do 1 or more of the following, if the constable is in uniform, or wearing a distinctive cap, hat, or helmet, with a badge of authority affixed to it:
- (a) signal or request the driver of the motor vehicle to stop the vehicle as soon as practicable;
 - (b) require the driver to remain stopped for as long as is reasonably necessary for the constable to make the inquiries and complete the exercise of powers under this section;
 - (c) require the person who is smoking to stop smoking in the motor vehicle;
 - (d) require any person who is smoking or appears to be aged under 18 years to provide the person's—
 - (i) full name; and
 - (ii) full address; and
 - (iii) date of birth; and
 - (iv) occupation; and
 - (v) telephone number.
- (2) A constable who sees a person smoking in a motor vehicle that is on a road and that appears to have a child occupant may do 1 or more of the following, if the constable is in another vehicle following the motor vehicle:
- (a) by displaying flashing blue, or blue and red, lights or sounding a siren, require the driver of the other vehicle to stop;
 - (b) require the driver to remain stopped for as long as is reasonably necessary for the constable to make the inquiries and complete the exercise of powers under this section;
 - (c) require the person who is smoking to stop smoking in the motor vehicle;
 - (d) require any person who is smoking or appears to be aged under 18 years to provide the person's—
 - (i) full name; and
 - (ii) full address; and

- (iii) date of birth; and
 - (iv) occupation; and
 - (v) telephone number.
- (3) Despite subsection (1), a constable must not take either of the actions referred to in subsection (1)(c) and (d) if the motor vehicle is—
- (a) manufactured for use as an occasional or permanent dwelling; and
 - (b) stationary on a road and in use as a dwelling.

Offences

20F Offences in respect of constables

A person commits an offence, and is liable on conviction to a fine not exceeding \$1,000, if the person—

- (a) intentionally obstructs, hinders, or resists a constable exercising or attempting to exercise powers under section 20E; or
- (b) intentionally fails to comply with a requirement under section 20E; or
- (c) when required under section 20E(1)(d) or (2)(d) to give information, gives information the person knows to be false or misleading.

10 Section 38B amended (Commission of infringement offences)

In section 38B, insert as subsections (2) and (3):

- (2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

Part 2

Amendment to Summary Proceedings Act 1957

11 Summary Proceedings Act 1957 amended

- (1) This section amends the Summary Proceedings Act 1957.
- (2) In section 2(1), definition of **infringement notice**, after paragraph (je), insert:
 - (jf) section 20D or 38C of the Smoke-free Environments Act 1990; or

Legislative history

17 June 2019	Introduction (Bill 153–1)
25 June 2019	First reading and referral to Health Committee
16 December 2019	Reported from Health Committee
13 February 2020	Second reading
11 March 2020	Committee of the whole House (Bill 153–2)
26 May 2020	Third reading
28 May 2020	Royal assent

This Act is administered by the Ministry of Health.