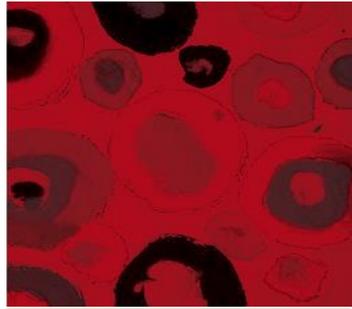


# Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Bill

The Office of the Children’s Commissioner’s support for the Smoke-Free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Bill (the Bill) is a response to the detrimental impacts second hand smoke has on children and young people in New Zealand. The proposed amendments are a positive step toward a smoke-free New Zealand. Without regulated smoke-free environments the exposure to second-hand smoke can impact the health of children and young people at a heightened rate.

## SUMMARY OF THE SUBMISSION BY THE OFFICE OF THE CHILDREN’S COMMISSIONER

- 1 The Office of the Children’s Commissioner supports the Bill, to prohibit smoking in motor vehicles carrying children and young people under the age of 18, as part of its priority to enhance the wellbeing of children and young people in New Zealand. Smoke-free environments are important for the wellbeing of all children and young people.
- 2 The Office of the Children’s Commissioner also supports the Bill based on the Commissioner’s priority to improve the systems, services and supports for mokopuna Māori and their whānau. As stated in the General policy statement of the bill, children and young people in deprived communities are more likely to experience the effects of second-hand smoke. Māori make up a higher proportion of those living in deprived communities which also increases the likelihood of them being exposed to second-hand smoke.
- 3 We recognise there are potential negative impacts of enforcement and consider it critical that appropriate behaviour and culture change is supported before the law is enforced.
- 4 The Office of the Children’s Commissioner supports this Bill in the hope that the right implementation and education of the changes will have a positive impact on the health and environments of children and young people in New Zealand, particularly tamariki Māori.
- 5 In addition to supporting this bill, we recommend that:
  - 1) Legislation is accompanied by an appropriate, positively-framed education campaign, alongside support to stop smoking for all those who want it.
  - 2) The fine should not exceed \$50.00.



The Office of the Children’s Commissioner represents **1.1 million** people in Aotearoa New Zealand under the age of 18, who make up 23 per cent of the total population.

We advocate for their interests, ensure their rights are upheld, and help them have a say on issues that affect them.

For more information, please contact:

Waimarie Mete  
Advisor, Strategy,  
Rights and Advice

[w.mete@occ.org.nz](mailto:w.mete@occ.org.nz)

## TAKING A CHILD CENTRED APPROACH

- 6 The Office of the Children’s Commissioner promotes child-centred policy development and the use of a child impact assessment for policy and legislation. This submission is based on a child-centred assessment to determine whether and how the amendment of this Act will have an impact on children and young people, and the various ways it may affect different groups of children.
- 2 Banning smoking in vehicles will further implement children’s rights under the United Nations Convention on the Rights of the Child, article 3, which states: “In all actions concerning children, whether undertaken by... administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

## HOW WILL THIS AMENDMENT IMPACT ON CHILDREN?

- 7 Smoke-free environments allow children and young people to breathe clear air. This has a positive impact on children and young people’s health as second-hand smoke has detrimental health impacts especially on children and young people who usually have no choice in their exposure and may be exposed on a regular basis<sup>1</sup>. Not only are smoke-free environments good for children and young people but also arguably part of their rights under the United Nations Convention on The Rights of The Child. Article 24 states: “States Parties... shall take appropriate measures... to combat disease... taking into consideration the dangers and risks of environmental pollution...” and “...to develop preventive health care, guidance for parents...”. This amendment will reduce children’s exposure to second hand smoke.
- 8 We also see the amendment of this Act as an opportunity for further promotion and education around smoking. Increasing the awareness of second-hand smoke has an important role to play in creating more smoke-free environments. The positive impact of better education about smoke-free environments not only helps children and young people, but also their families. Second-hand smoke can cause illnesses in children such as asthma, sudden unexpected death in infancy (SUDI) and ear infections such as glue ear. It is important to educate everyone on the effects of second-hand smoke to support people to quit or make a better effort to ensure children and young people are not being exposed to second-hand smoke.
- 9 Also, by increasing smoke-free environments around children, the amendment can ensure children are less impacted by ‘normalisation’ of smoking, and this can support the social and cultural shift that is needed by reducing the likelihood of children taking up smoking.

## WHAT DO CHILDREN AND YOUNG PEOPLE TELL US?

- 10 The Office of The Children’s Commissioner ensures the issues for which we advocate reflect a child-centred perspective. As part of this policy we try to include the voices of children and young people where we can. The Health Promotion Agency has researched the views of children and young people on the topic of smoke free environments. They found that 88% of the young people who participated agreed that smoking in motor vehicles with children in them should be banned and 73% agreed that this should be extended to all outdoor spaces where young people go.<sup>2</sup>

---

<sup>1</sup> Health Promotion Agency, Smoke-free. (2019). Second-hand smoke facts. Retrieved from: <https://www.smokefree.org.nz/smoking-its-effects/second-hand-smoke>

<sup>2</sup> Health Promotion Agency. (2013). Young people’s opinion on extending smoking bans to cars and outdoor places where young people go. Retrieved from: <https://www.hpa.org.nz/research-library/research->

## WHAT ARE THE DIFFERENTIAL IMPACTS OF THE PROPOSED BILL?

- 11 The Office of the Children’s Commissioner has noted some potentially positive differential impacts for specific groups of children and young people. That is, the benefits of smoke-free environments will accrue more to tamariki Māori and Pacific children who are more likely to currently suffer from smoky environments. For example, recent statistics show 31% of smokers in New Zealand are Māori. Māori women have the highest smoking rate at 37%. Therefore, Māori children may be at a heightened risk of being exposed to second hand smoke<sup>3</sup>.
- 12 However, there is a potentially negative consequence for those in poverty. Children and young people living in deprived communities are more likely to live in households with smokers. In addition, police are more likely to patrol in low socioeconomic areas. It is clear, therefore, that children living in low socioeconomic families, including more Māori and Pacific families, are more likely to be impacted by enforcement fines which will exacerbate their poverty.
- 13 The fines associated with enforcement could have negative effects on children through the financial burden and stress it adds to a family or whānau. Economic stress is associated with negative outcomes in families including toxic stress for children. If the Bill is introduced without the appropriate education and support to not smoke in a vehicle with children and young people present, then enforcement could have negative outcomes for family functioning, without the positive benefits of the desired behaviour change.
- 14 It is important to understand potential issues that can arise for these groups who are already over represented in statistics such as poverty. For reasons outlined above, this negative impact is less likely to be borne by children and their families in high income areas due to lower enforcement or patrolling and less impact of fines on family economic functioning. The Government has responsibilities under the Treaty of Waitangi, and under the United Nations Convention on the Rights of Children for children not to be discriminated against based on race or socioeconomic status and must therefore mitigate these potential negative impacts.
- 15 Therefore, we recommend a strong, positively-framed advertising campaign to raise awareness of the new rule, to reduce the potential negative impacts of the subsequent enforcement of the new law.

## MITIGATING NEGATIVE IMPACTS ON CHILDREN

- 16 Through our child-centred assessment, we have identified two actions that can be taken to mitigate any unforeseen negative impacts on children resulting from this amendment:
  - 1) *The proposed amendments should be accompanied by an education campaign*
- 17 It is important to understand the need for an overarching shift in the culture around smoking, for vehicles with children in them to effectively become smoke-free environments. The Health Promotion Agency has conducted several studies on smoking. It is evident that smokers face stigma that does not help them to give up. It is important that any public messaging or education does not further stigmatise smokers and instead provides support and education to quit smoking.

---

[publications/young-people%E2%80%99s-opinion-on-extending-smoking-bans-to-cars-and-outdoor-places-where-young-people-go-in](#)

<sup>3</sup> Smoke-free New Zealand. (2019). Facts and Figures on smoking in New Zealand. Retrieved from: <https://www.smokefree.org.nz/smoking-its-effects/facts-figures>

- 18 We support clear action-oriented messages, such as encouraging adults to get out of the car while they smoke. We also believe that for the best outcome, positive framing is an integral part of this campaign. People need a positive message of what to do, not a shaming message about their addiction. An example of a positive message is: "We all love our children – think about them – get out of your car if you need to smoke."
- 19 We strongly recommend adequate funds be allocated to these advertising and health promotion campaigns, which need to be done by experts in positively-framed messaging that work for Māori, Pacific and low socioeconomic groups of people. This should be in addition to funding for education and support for smokers to understand the effects of second-hand smoke and support for giving up smoking.
- 20 To allow time for this cultural shift, we note the amended Act provides for 18 months before enforcement. We believe this time must be used constructively to implement the supporting educational and advertising components to support smokers to not smoke in the car with their children. Support for smokers to stop smoking is also an important part of implementation and will have more impact on ensuring vehicles are smoke-free.
- 21 It is also important to understand that many long-term smokers have begun smoking as children or young people. By understanding such reasons causing smoking initiation, prevention methods could be identified and applied. We understand that children and young people who have parents that are smokers are also more likely to become smokers themselves. We believe that this cultural and behavioural shift, along with the necessary supports and prevention that go with them, will have a better chance to achieve the change required across society for more smoke-free environments in the long term.
- 22 We know all parents, including Māori, want the best for their children, and would be willing in most cases to get out of the car to smoke. We recommend a very visible, strengths-based campaign, to encourage people to not smoke in cars with children in them.

## ***2) Ensuring the fine does not exceed \$50***

- 23 We also note that in general, the police have discretion in how enforcement is done. We hope enforcement officers will be child-centred in how they conduct themselves, in terms of obtaining the evidence required by the Act namely getting information from people in a car. We would encourage some empathy for families in poverty who have children, as we know the impacts of poverty on children can be severe and exacerbated by enforcement fines. For these reasons we would support a warning for first offences and a minimal fine, not to exceed \$50, for any subsequent offences.
- 24 The Office of the Children's Commissioner is aware of the health benefits smoke-free environments have on children and young people, and we encourage the amendment of this Act largely based on these health benefits. Overall, with the right implementation, this Act can have a positive impact on children and young people in New Zealand, as well as wider society.