

# Smoking in Cars



## What's the current situation?

### The debate about 'smoking in cars' may refer to 3 situations:

Drivers who smoke on their own with no passengers present; drivers with adult passengers, whom may smoke; or adult drivers smoking with children present.

It is already against the law for an adult driver to smoke in their car or van, even if they are alone, where the car or van is a work vehicle.<sup>1</sup> Existing legislation<sup>2</sup> also provides for smoking to be prosecuted, alongside other behaviours such as eating and drinking, if it creates a dangerous distraction for the driver.<sup>3</sup>

Drivers and passengers who choose to smoke in their vehicles should therefore do so in full **knowledge** of the well-publicised health risks of smoking, with **courtesy** for those around them, and with **respect** for the law.

## Children in Cars

Public Health campaigners claim that children's health is compromised by parents who smoke in their cars whilst children are present.

The Children and Families Act 2014 made provision for the Government to legislate to ban smoking in private vehicles where someone under the age of 18 is present. Regulations banning smoking in vehicles containing under-18s were approved by Parliament in February 2015. They are due to come into force on 1st October 2015.

They say that, because cars are confined and enclosed spaces, levels of 'second-hand smoke' (or Environmental Tobacco Smoke – ETS) are higher than they would be in other environments. They are also concerned about the frequent exposure to ETS of children who regularly travel with a smoking adult, such as to and from school.

## What is ETS?

ETS is a mixture of exhaled mainstream smoke and side-stream smoke released from a smouldering cigarette and diluted with ambient air. It is not the same as smoke inhaled by a smoker.

ETS exposure in cars is difficult to quantify because two major factors vary from journey to journey: the level of ventilation – both that provided by a particular car and the additional ventilation from open car windows and sunroofs – and the period and intensity of exposure, which will vary according to the length of the journey and the number of cigarettes smoked.

Figures quoted by the British Medical Association (BMA) in 2011 on levels of ETS exposure in cars had to be revised down three times in as many days<sup>4</sup> following a media outcry over their accuracy.<sup>5</sup>

## What are the risks?

It is important to recognise that there is no scientific definition of 'fresh air'. There are many sources of airborne fine particulate matter, other than from proximity to a cigarette. Diesel fumes and car tyre particles, for example, are pollutants that affect air quality outside a car, particularly in urban areas, and may pose health risks.

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## Do many people smoke in cars with children present?

Parents who smoke should reflect on and consider changing their own smoking behaviour if they wish to avoid exposing their children to ETS. However the number of people who smoke in their car with children present is significantly smaller than the level of media attention would suggest. A panel of 1000 adult smokers polled by Mitchla Marketing/SSI in August 2014 found that only 1% of them had smoked frequently in front of a child in a vehicle over the course of the previous year. The evidence of the true scale of the problem is further reinforced by recent research from New Zealand,<sup>7</sup> where a roadside study of 149,886 vehicles found just 0.13% of the occupants smoked with children present.

A study conducted by the UCD School of Public Health, published in the Irish Medical Journal, also found a very low prevalence of smoking in cars carrying children. Researchers observed 2,230 drivers in Dublin. Eight adult passengers and just one child were seen to be exposed to a smoking adult driver. The overall prevalence of smoking was just 1.39%. This area therefore presents a weak case for legislative action, especially given the high costs of enforcement it would incur.

## How will a ban on smoking in cars be enforced?

Unlike smoking bans at work or in indoor public places, which are enforced by the owner of the premises, a smoking ban in cars would have to be enforced by the police increasing their workload at a time of resource constraint. Concerns have been raised about a ban on smoking in cars by the RAC,<sup>8</sup> the Association of British Drivers,<sup>9</sup> or the Police:

*"I think it's a challenge. I'm not sure the first time a cop in the country stops someone for smoking in their car, that they won't then be pilloried for not dealing with the bloke behind who was seen on a mobile phone five minutes earlier."*

Simon Parr, Chief Constable for Cambridgeshire.

Education and awareness programmes such as the Welsh Assembly Government's 'Fresh Start' campaign or the NHS 'Take Seven Steps' campaign, which aim to reduce smoking in the proximity of children, are likely to be more effective drivers of behavioural change.

## Will there be difficulties in introducing legislation to stop people smoking in cars with children present?

The regulations approved by Parliament in February 2015 state that a private vehicle should be smoke-free if it is enclosed, if there is more than one person present in the vehicle, and if a person under the age of 18 is in the vehicle. This suggests that 16 and 17-year-olds, who are legally entitled to smoke, could be prosecuted for smoking in private vehicles.

How easy will it be to distinguish between 16 and 17-year-olds, on the one hand, and those adolescents over 18, on the other? In reality, it will be very difficult. It will be equally hard to identify where small children are present whilst a driver is smoking, particularly from a distance or in traffic. Whatever one's views on smoking, it is a legal activity and, as long as the car is not a work vehicle, it is private property. The implications of criminalising a legal activity on private property are significant, and legislative bans are likely to amount to an unjustified and disproportionate interference with fundamental rights, including the right to respect for private and family life, by national (the Human Rights Act 1998) and international law (including Articles 7 and 8 of the European Convention on Human Rights).

## In summary

Concern about children's exposure to ETS must be seen in the context of the scale of the issue, as well as existing urban air pollution levels. There is no justification for banning smoking in cars, and any such law is likely to be unenforceable. For public health campaigns to be successful in effecting a change in smoking behaviour they need to engage with and involve smokers, rather than stigmatise them through prohibitionist policies.

## What's the alternative?

- Raise awareness through public education campaigns such as 'Fresh Start Wales'.
- Encourage children, through the personal, social, health and economic (PSHE) education material on tobacco, to discuss smoking issues with their parents and make their views known.

**REFERENCES** | (1) The Smoke-free (Exemptions and Vehicles) Regulations 2007 | (2) Rule 126 Highway Code, updated 2007 | (3) There are, in fact, no statistics of any road traffic casualties caused by smoking whilst driving – Department for Transport Reported Road Casualties in Great Britain 2011 annual report. | (4) A BMA press statement 16th November 2011; b BMA correction 17th November 2011; c 18th November 29011 APPG Smoking & Health correspondence to Andrew Lansley MP, Secretary of State for Health | (5) [blogs.telegraph.co.uk/news/brendanoneill/2/100118383/the-bma-admits-it-was-wrong-about-smoking-in-cars-yet-it-is-still-making-dubious-claims/](http://blogs.telegraph.co.uk/news/brendanoneill/2/100118383/the-bma-admits-it-was-wrong-about-smoking-in-cars-yet-it-is-still-making-dubious-claims/) | <http://www.dailymail.co.uk/news/article-2062498/Nanny-state-anger-ban-smoking-cars.html> | [thesundaytimes.co.uk/sto/comment/columns/rodliddle/article825403.ece](http://thesundaytimes.co.uk/sto/comment/columns/rodliddle/article825403.ece) | (6) [bbc.co.uk/news/science-environment-15693627](http://bbc.co.uk/news/science-environment-15693627) | (7) Patel V, Thomson G, Wilson N. Objective measurement of area differences in 'private' smoking behaviour: observing smoking in vehicles (December 2011) | (8) The Observer, 14 May 2007, Pages 1, 3 'Call to ban smoking while driving' Juliette Jowitt | (9) ABD press release 20th May 2007.