

Regular Session, 2006

# ACT No. 838

HOUSE BILL NO. 1010

BY REPRESENTATIVE GARY SMITH

1 AN ACT

2 To enact R.S. 32:300.3, relative to operating motor vehicles; to prohibit the operator or a  
3 passenger in a motor vehicle from smoking when children of a certain age are  
4 present; to provide relative to penalties for violations; to provide relative to citations  
5 issued for violations; to prohibit certain actions by law enforcement officers; and to  
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:300.3 is hereby enacted to read as follows:

9 §300.3. Smoking in motor vehicles prohibited; penalties

10 A. It shall be unlawful for the operator or any passenger in a motor vehicle  
11 to smoke cigarettes, pipes, or cigars in a motor vehicle, passenger van, or pick-up  
12 truck, when a child who is required to be restrained in a rear-facing child safety seat,  
13 a forward-facing child safety seat, a booster seat, or a motor vehicle's safety belt as  
14 required in R.S. 32:295 is also present in such vehicle, regardless of whether  
15 windows of the motor vehicle are down. For purposes of this Section, the term  
16 "smoke" shall mean inhaling, exhaling, burning, or carrying any lighted cigarette,  
17 cigar, pipe, weed, plant, or other combustible substance in any manner or in any  
18 form.

19 B. Whoever violates the provisions of this Section shall be fined one hundred  
20 fifty dollars per offense, or at the discretion of the judge, may be sentenced to no less  
21 than twenty-four hours of community service.

22 C. Probable cause for a violation of this Section shall be based solely upon  
23 a law enforcement officer's clear and unobstructed view of a person smoking as  
24 prohibited by this Section. Violation of this Section shall be considered a primary  
25 offense, and any law enforcement officer may stop a motor vehicle solely because

1           of a violation of this Section; however, a law enforcement officer may not search or  
2           inspect a motor vehicle, its contents, the driver, or a passenger solely because of a  
3           violation of this Section.

4                     D. A violation of this Section shall be considered a nonmoving violation, and  
5           a citation issued by a law enforcement officer for such violation shall not be included  
6           on the driver's operating record.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_