

6 August 2019

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

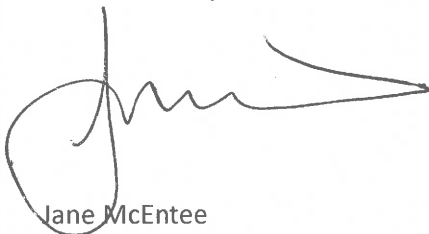
Thank you for the opportunity for Auckland Regional Public Health Service (ARPHS) to provide a submission on the Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Bill.

The following submission represents the views of the Auckland Regional Public Health Service (ARPHS) and does not necessarily reflect the views of the three District Health Boards it serves. Please refer to Appendix 1 for more information on ARPHS.

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Yours sincerely



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General support for the bill and summary of recommendations

1. Auckland Regional Public Health Service (ARPHS) welcomes the governments proposed amendment to the Smoke-free Environments Act 1990 which will require motor vehicles carrying children less than 18 years of age to be smokefree. To support the implementation of this bill, ARPHS recommends that:
 - Any compliance and enforcement measures should take an educational approach in the first instance.
 - Vehicles to be exempt from the law under the new section 20D(2)(b) be specified. We understand the intent of this section is to allow people to smoke in their private residences if it happens to be a vehicle, such as a motor home, but at present this section is too ambiguous. We have concerns about youth who are already significantly disadvantaged by having to live in a small vehicle also being legally exposed to second-hand smoke (SHS) in this significantly enclosed space.
 - If possible, the proposed 18 month transitional implementation period should be reduced to a shorter time period, as we are unsure of the advantages of delaying.

Why the legislation is needed

2. SHS is a proven hazard, causing serious disease such as lung cancer, chronic lung disease, heart attacks and stroke, and disproportionately affecting Maori and children.^{1,2,3,4} Every year in New Zealand SHS exposure is thought to result in children under 16 experiencing about 15,000 asthma attacks, at least 500 children under two being admitted to hospital for chest infections and around 15,000 operations to treat glue ear.⁵ If we do not change children's environments SHS exposure will continue to cause substantial health loss to one of our most important and at-risk groups.
3. Motor vehicles are an enclosed private setting where children in New Zealand are frequently exposed to the harms of SHS. Each week in New Zealand thousands of children are exposed to smoking in motor vehicles, with around one in five year 10 school students, and almost one in three Maori students, reporting being exposed every week.⁶ Studies have found that smoking in motor vehicles leads to extremely high exposure to SHS even in the presence of air conditioning

¹ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health: **The health consequences of smoking – 50 years of progress: a report of the Surgeon General**. Atlanta, GA: U.S. Department of Health and Human Services; 2014

² Raoof S.A., Agaku I.T. & Vardavas C.I. **A systematic review of secondhand smoke exposure in a car: Attributable changes in atmospheric and biological markers**. *Chronic Respiratory Disease*, 2015. Vol 12(2) pp. 120-131

³ Mason, K. & Borman, B. **Burden of disease from second-hand smoke exposure in New Zealand**. *NZMJ*, April 2016 Vol 129(1432)

⁴ Healey B, Hoek J, Wilson N et al. **Youth exposure to in-vehicle second-hand smoke and their smoking behaviours: trends and associations in repeated national surveys (2006-12)**. *Tobacco Control* 2013; 24:146-52

⁵ Health promotion agency. 2004. **Health effects of second-hand smoke on children**. Accessed from <https://www.hpa.org.nz/research-library/research-publications/health-effects-of-second-hand-smoke-on-children>

⁶ Edwards R, Sim D, Ball B. et al. **Survey shows exposure to smoking in cars among year 10 children is not decreasing: time for the Government to act**. *NZMJ* 2017, 130(1458):56-58

or increased airflow from open windows.⁷ A systematic review of these studies found that exposure to SHS and fine particulate matter in a motor vehicle, where smoking is occurring, was ten times higher than in hospitality venues in a number of countries, even prior to the introduction of smokefree hospitality in these countries.⁸ Smoking in motor vehicles is also associated with increased risk of children becoming smokers themselves, through normalisation of a harmful product.^{9,10}

4. SHS exposure in motor vehicles is an entirely preventable cause of ill-health and premature death in New Zealand. The lack of legislation around this is anachronistic, and not in line with New Zealand's stance as a world leader in tobacco control, our commitment to smoke free 2025, and the United Nations Convention for the Rights of the Child to realise children's health by preventing exposure to harmful environmental contaminants.
5. Prohibiting smoking in motor vehicles carrying children was recommended in 2010 by the Maori Affairs Select Committee, and again recommended by the Health Select Committee in 2016. Furthermore, numerous opinion surveys of the general public have documented extremely high support for this legislative change, with support sitting at around 90% across multiple demographics, including young people, smokers and non-smokers.

Highly feasible and well evidenced

6. Introducing a smoking in motor vehicles ban is supported by the international evidence where similar regulatory mechanisms have been implemented and evaluated over time. Many countries, states and territories including the United Kingdom, Australian states, and American and Canadian provinces have already recognised the exposure risk and subsequent harm reduction achieved through smoking restrictions, and moved to require smokefree motor vehicles while children are present. Such bans are well-evidenced to be effective in reducing exposure of children to smoke, and highly feasible to implement, with widespread support, and ease of enforcement (even with a light touch enforcement regime).¹¹
7. Implementing this legislation would not require elaborate enforcement measures. ARPHS considers the introduction of the law alone would bring about significant attitudinal and behavioural change. Further to this, New Zealand traffic police already carry out over three million roadside stops a year, so checking for smoking in vehicles can be incorporated into such stops easily.¹² A similar law was introduced in the United Kingdom, and in the first year of implementation only one fine was issued for a breach of the law, indicating it is a feasible

⁷ Raouf S.A., Agaku I.T. & Vardavas C.I. **A systematic review of secondhand smoke exposure in a car: Attributable changes in atmospheric and biological markers.** *Chronic Respiratory Disease*, 2015. Vol 12(2) pp. 120-131

⁸ Raouf S.A., Agaku I.T. & Vardavas C.I. **A systematic review of secondhand smoke exposure in a car: Attributable changes in atmospheric and biological markers.** *Chronic Respiratory Disease*, 2015. Vol 12(2) pp. 120-131

⁹ Li J. et al. **Smoking in Cars: Knowledge, behaviours and support for smokefree cars legislation among New Zealand smokers and recent quitters.** *NZMJ*, August 2016, Vol 129(1439).

¹⁰ Glover M, Scragg R, Min S et al. **Driving kids to smoke? Children's reported exposure to smoke in cars and early smoking initiation.** *Addict Behav* 2011, 36(11):1027-1031

¹¹ Nguyen H V. **Do smoke-free car laws work? Evidence from a quasi-experiment.** *Journal of Health Economics* 2013;32(1): 138-48

¹² <http://www.radionz.co.nz/news/national/235954/police-stops-to-include-vehicle-checks>

legislative change to implement and enforce, requiring minimal prosecution.¹³ We can see similar examples reflecting the ease of enforcement and lack of fines needing to be issued in New South Wales, where the ratio of fines for mobile phone use to fines for smoking in cars with children appears to be in the order of one hundred to one.¹⁴ When considering the intention to take an educative approach, and minimal fines needing to be issued internationally for similar laws, we can surmise that enforcement should not be challenging or resource intensive.

Vaping in cars

8. We understand that the Government is proposing to have all environments currently covered by the Smoke-free Environments Act to also become vape-free areas. The full extent of the harm caused by vaping is still unknown, particularly the second-hand harm in enclosed spaces, or the harm on developing bodies. As such, until more evidence comes to light, we are supportive of the Government's approach to this issue.

Recommendations

Light touch enforcement

9. Experience from other overseas jurisdictions suggests compliance with smokefree motor vehicles legislation will be high, and punitive measures such as fines can be minimised.^{15,16} We recommend that this 'light touch' to enforcement be adopted should the bill pass into law, with punitive measures used only as a last resort. We would anticipate that the first 'breach' or two by an individual provides an opportunity to educate them on the new legislation, and offer referral to stop-smoking services. Following the bill coming into force, subsequent breaches may, at the discretion of the constable, result in a small fine. We would hope considerations would be made for officer training regarding educating and referring those who breach the new law to appropriate cessation services.

No exemptions to any motor vehicles

10. We strongly recommend that Part 1A s20D (2) (b) – *a person may smoke in a motor vehicle if the motor vehicle is stationary on a road and is in use as a dwelling* - be re-worded to more specifically identify the type of vehicles to be exempt from the bill. ARPHS considers that the current wording allows offenders to credibly argue that their vehicle, if parked, is their residence. The bill is intended to protect children from SHS exposure in a confined space. While we can understand exceptions for motor homes or tiny homes on wheels, those children that are forced to live in their vehicle due to circumstance and already at an elevated risk of other health issues should be protected from the harms of SHS. Children are at greater risk of harm in these environments, and although motor vehicles are considered private property, we already

¹³ <http://www.theguardian.com/society/2016/nov/13/just-one-person-fined-in-uk-for-smoking-with-under-18-in-car>

¹⁴ <https://www.sydneycriminallawyers.com.au/blog/mobile-phone-use-while-driving-statistics-research-and-the-law/>

¹⁵ Elton-Marshall T et al. **Do provincial policies banning smoking in cars when children are present impact youth exposure to secondhand smoke in cars?** *Preventative Medicine* 2015, b78:59-64

¹⁶ Nguyen H V. **Do smoke-free car laws work? Evidence from a quasi-experiment.** *Journal of Health Economics* 2013;32(1): 138-48

regulate multiple behaviours in motor vehicles, such as cell phone use and seatbelts, so this is not a new precedent, and would serve to best protect youth from SHS related exposure and subsequent harms.

Less lengthy lead-in time

11. ARPHS recommends the lead-in period for this bill be reduced from 18 months to three months. We do not see any advantage in delaying a bill with such high levels of public support, and feel that three months is sufficient for the public to become aware of the law change. Further to this, while fines may not be required during the initial education phase, ARPHS holds the view that the possibility of receiving a fine is necessary to encourage compliance. ARPHS has concerns that the long lead-in time to a law that will promptly become public knowledge will result in poor compliance if the general public know that people cannot be fined for 18 months.
12. Although we recommend fines should quickly become an available tool for enforcement, we support police being trained in an education based approach that includes resources to support referral to cessation services.

Conclusion

13. Thank you for the opportunity to comment on the Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Bill.

Appendix 1: Auckland Regional Public Health Service

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Counties Manukau Health, Auckland and Waitematā District Health Boards).

Auckland Regional Public Health Service has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

Auckland Regional Public Health Service's primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, infrastructure requirements, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.

