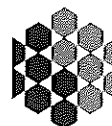


FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY



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Chair
Committee for Health Social Services and Public Safety
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Our Ref: COR/1843/2015

Date: 5 January 2016

Dear

Thank you for your letter of 11 December 2015 regarding my intention to table an amendment to the Health (Miscellaneous Provisions) Bill in relation to banning smoking in private cars carrying children. Your correspondence sought further details on the amendment, the action I intend to take and the likely timescale for tabling.

In order to assist the Committee, I have attached to this letter a copy of my proposed amendment as drafted by the Office of the Legislative Counsel (Appendix 1). You will note that it amends the Smoking (Northern Ireland) Order 2006 to provide my Department with regulation-making powers to allow for the creation of the following offences in relation to private vehicles where under 18s are present:

- smoking in a smokefree vehicle; and
- failing to prevent smoking in a smokefree vehicle.

The amendment also allows for fixed penalty notices to be applied for the above offences.

Given that the provisions contained within my proposed amendment represent a substantial change in policy, Executive approval is required before it can be tabled. Once this approval has been obtained, it is my intention to table the amendment at the earliest opportunity.

Yours sincerely

SIMON HAMILTON MLA

Proposed amendment to the Health (Miscellaneous Provisions) Bill

New Part

After clause 5 insert-

**“PART 2
SMOKING IN A PRIVATE VEHICLE**

Smoking in a private vehicle

- (1) The Smoking (Northern Ireland) Order 2006 is amended as follows.
- (2) In Article 6 (smoke-free vehicles)-
 - (a) After paragraph (1) insert-

“(1A) Regulations under this Article may in particular provide for a private vehicle to be smoke-free where a person under the age of 18 is present in the vehicle.”;
 - (b) In paragraph (2), for “The regulations” substitute “Regulations under this Article”.
- (3) In Article 10 (fixed penalties)-
 - (a) For the heading substitute “Fixed penalties”;
 - (b) In paragraph (1), for “,or in a place or vehicle,” substitute “or in a place”;
 - (c) After paragraph (1) insert

“(1A) An authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 7(5) or 8(2) in a vehicle in relation to which the authorised officer has functions may give that person a penalty notice in respect of the offence.

(1B) The Department may by regulations provide that, in the circumstances specified in the regulations, an authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 9(3) in relation to a vehicle in relation to which the authorised officer has functions may give the person a penalty notice in respect of the offence.”.
- (4) In Article 11 (enforcement)-
 - (a) For the heading substitute “Enforcement”;
 - (b) In paragraph (1), for “premises, places and vehicles” substitute “premises and places”;
 - (c) After paragraph (1) insert-

“(1A) The Department may make regulations designating the persons or bodies or descriptions of person or body which are to be enforcement authorities for the purposes of enforcing, as respects vehicles, the provisions of this Order and regulations made under it.

(1B) The regulations-

 - (a) must specify the descriptions of vehicle in relation to which an enforcement authority has functions,
 - (b) may provide for a case being dealt with by one enforcement authority to be transferred (or further transferred back) to, and taken over by, another enforcement authority.

- (1C) It is the duty of an enforcement authority to enforce, as respects the vehicles in relation to which it has enforcement functions, the provisions of this Order and of regulations made under it.”;
- (d) In paragraph (2)-
- (i) after “district council” insert “or other enforcement authority”;
 - (ii) after “the council” insert “or other authority”;
 - (iii) for “authorised by it” substitute “authorised by that council or other authority”.
- (5) In Article 12(1) (obstruction of officers), after “district council” insert “or other enforcement authority”.
- (6) In Article 15(3) (regulations subject to affirmative procedure)-
- (a) In sub-paragraph (a), for “or 14” substitute “,10(1B) or 14”;
 - (b) In sub-paragraph (b), for “or 8” substitute “,8 or 18”.
- (7) In Schedule 1 (fixed penalties), after paragraph 17 add-
- “Power to amend or modify Schedule*
18. The Department may by regulations-
- (a) amend this Schedule so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority of a particular kind,
 - (b) provide for this Schedule to apply with modifications in relation to such notices.”.

Page 1, Long title

After “tobacco,” insert “to regulate smoking in a private vehicle”