

No. 2008-124

AN ACT

SB 295

Providing for idling restrictions on diesel-powered motor vehicles; and imposing a penalty.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Diesel-Powered Motor Vehicle Idling Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Bus.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“Bus depot.” A location where buses are routinely kept overnight, including any garage structure or outdoor bus parking area or both.

“Department.” The Department of Environmental Protection of the Commonwealth.

“Diesel-powered.” A type of engine that has operating characteristics significantly similar to the theoretical diesel combustion cycle.

“Farm equipment.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“Farm vehicle.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“Highway.” The term as it is defined under 49 CFR 390.5 (relating to definitions).

“Idle reduction technology.” Any device or system of devices that is installed on a motor vehicle subject to this act and is designed to provide it those services, such as heat, air conditioning and electricity, that would otherwise require the operation of the main drive engine while the motor vehicle is temporarily parked or remains stationary.

“Idling.” Operation of the main propulsion engine of a motor vehicle while the vehicle is stationary.

“Implement of husbandry.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“Motor home.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“Motor vehicle.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“School bus.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“School vehicle.” As defined under 75 Pa.C.S. § 102 (relating to definitions).

“Stationary idle reduction technology.” Equipment that transforms power from the electric grid for the purpose of delivering usable electric power, heat or air conditioning to a motor vehicle for the purpose of reducing main engine idling.

Section 3. Restrictions on idling.

(a) Restrictions.—No driver or owner of a diesel-powered motor vehicle with a gross weight of 10,001 pounds or more, engaged in commerce, shall cause and no owner or operator of the location where the vehicle loads, unloads or parks shall allow the engine of the vehicle to idle for more than five minutes in any continuous 60-minute period, except as provided under subsections (b) and (c).

(b) Exclusions.—The idling restrictions set forth in subsection (a) do not apply to motor homes, commercial implements of husbandry, implements of husbandry, farm equipment or farm vehicles.

(c) Exemptions.—A diesel-powered motor vehicle with a gross weight of 10,001 pounds or more may idle beyond the time allowed in subsection (a) for one or more of the following reasons:

(1) When a vehicle idles while forced to remain motionless because of on-highway traffic, an official traffic control device or signal or at the direction of a law enforcement official.

(2) When a vehicle must idle to operate defrosters, heaters, air conditioners or cargo refrigeration equipment, or to install equipment, in order to prevent a safety or health emergency and not for the purpose of a rest period, or as otherwise necessary to comply with manufacturers' operating requirements, specifications and warranties in accordance with Federal or State motor carrier safety regulations or local requirements.

(3) When a police, fire, ambulance, public safety, military, utility service vehicle or other emergency or law enforcement vehicle or any vehicle being used in an emergency or public safety capacity shall idle while in an emergency or training mode and not for the convenience of the driver.

(4) When the primary propulsion engine idles for maintenance, particulate matter trap regeneration, servicing or repair of the vehicle or for vehicle diagnostic purposes, if idling is required for that activity.

(5) When a vehicle idles as part of a Federal or State inspection to verify that all equipment is in good working order, if idling is required as part of the inspection.

(6) When idling of a primary propulsion engine is necessary to power work-related mechanical, safety or electrical operations other than propulsion. This exemption shall not apply when idling is done for cabin comfort or to operate nonessential onboard equipment.

(7) When idling of a primary propulsion engine is necessary as part of a security inspection either entering or exiting a facility.

(8) When an armored vehicle must idle when a person remains inside the vehicle to guard contents or while the vehicle is being loaded or unloaded.

(9) When a vehicle must idle due to mechanical difficulties over which the driver has no control, if the vehicle owner submits the repair paperwork or product repair verifying that the mechanical problem has been fixed, by mail, to the department within 30 days of the repair.

(10) When a bus, school bus or school vehicle must idle to provide heating or air conditioning when nondriver passengers are onboard. For the purposes of this exemption, the bus, school bus or school vehicle may idle for no more than a total of 15 minutes in a continuous 60-minute period, except when idling is necessary to maintain a safe temperature for students with special needs who are transported by a school bus or school vehicle.

(11) An occupied vehicle with a sleeper-berth compartment that idles for purposes of air conditioning or heating during a rest or sleep period and the outside temperature at the location of the vehicle is less than 40 degrees or greater than 75 degrees Fahrenheit at any time during the rest or sleep period. This applies to a motor vehicle subject to this act parked in any place that the vehicle is legally permitted to park, including, but not limited to, a fleet trucking terminal, commercial truck stop or designated rest area. This exemption expires May 1, 2010. This exemption does not apply if the vehicle is parked at a location equipped with stationary idle reduction technology that is available for use at the start of the rest period.

(12) When idling is necessary for sampling, weighing, active loading or active unloading or for an attended motor vehicle waiting for sampling, weighing, loading or unloading. For the purposes of this exemption, the vehicle may idle for up to a total of 15 minutes in any continuous 60-minute period.

(13) When idling by a school bus or school vehicle off school property during queuing for the sequential discharge or pickup of students is necessary because the physical configuration of a school or the school's surrounding streets does not allow for stopping.

(14) When idling is necessary for maintaining safe operating conditions while waiting for a police escort when transporting a load that requires the issuance of a permit in accordance with 75 Pa.C.S. Ch. 49 Subch. D (relating to special permits for excessive size and weight).

(15) When actively engaged in solid waste collection or the collection of source-separated recyclable materials. This exemption does not apply when a vehicle is not actively engaged in solid waste collection or the collection of source-separated recyclable materials.

(d) Exception.—The restriction on idling set forth in subsection (a) does not apply to a diesel-powered motor vehicle that exhibits a label issued by the California Air Resources Board under 13 CCR 1956.8(a)(6)(C) (relating to exhaust emissions standards and test procedures - 1985 and subsequent

model heavy-duty engines and vehicles) showing that the vehicle's engine meets the optional NOx idling emission standard.

Section 4. Increase of weight limit.

The maximum gross weight and axle weight for any motor vehicle equipped with idle reduction technology may be increased by an amount necessary to compensate for the additional weight of the idle reduction technology as provided under 23 U.S.C. § 127(a)(12) (relating to vehicle weight limitations - Interstate System), as that section exists on the effective date of this act. The additional amount of weight allowed by this subsection shall not exceed 400 pounds and shall be construed to be in addition to the tolerance authorized under 75 Pa.C.S. Ch. 49 Subch. E (relating to measuring and adjusting vehicle size and weight).

Section 5. Penalties.

(a) Fines.—The driver or owner of a diesel-powered motor vehicle with a gross weight of 10,001 pounds or more engaged in commerce or the owner or operator of a location where such vehicles load, unload or park that violates the provisions of this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$150 and not more than \$300 and court costs.

(b) Enforcement orders and civil penalties.—In addition to proceeding under any other remedy available at law or in equity for a violation of this act, the department may issue such orders as are necessary to aid in the enforcement of the provisions of this act, as specified in section 10.1 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, and may assess a civil penalty for the violation in accordance with the procedures and factors specified in section 9.1 of the Air Pollution Control Act. Notwithstanding the penalty amounts specified in section 9.1 of the Air Pollution Control Act, a civil penalty assessed under this act shall not exceed \$1,000 per day for each violation of this act.

(c) Notification.—If the driver of a diesel-powered motor vehicle, subject to this act, convicted of a summary offense under this act is not the owner of the vehicle, the department shall, under procedures established in cooperation with the Department of Transportation, notify the vehicle owner that the driver has been convicted or assessed a civil penalty. The department may consult with the Department of Transportation in the development of notification procedures, as appropriate. The procedures shall include provisions to allow for reimbursement of the Department of Transportation's expenses incurred in the implementation of this section.

Section 6. Disposition of fines.

(a) General rule.—Except as provided in subsection (b), all fines for prosecutions of an offense under this act, and all civil penalties for violations of this act, shall be payable to the Commonwealth for credit to the Clean Air Fund.

(b) Exception for local police action.—When prosecution of an offense under this act is the result of local police action, the fines shall be payable as follows:

(1) One-half to the municipal corporation under which the local police are organized.

(2) One-half to the Commonwealth for credit to the Clean Air Fund.

Section 7. Enforcement.

The Secretary of Environmental Protection may designate employees of the department to enforce the provisions of this act under the summary offense provisions of section 5(a). Employees of the department so designated are hereby authorized to issue or file citations for summary violations under this act, and the Office of General Counsel is hereby authorized to prosecute these offenses. The employees shall exhibit proof of and be within the scope of the designation when instituting summary proceedings as provided by the Pennsylvania Rules of Criminal Procedure.

Section 8. Permanent idling restriction signs.

An owner or operator of a location where vehicles subject to this act load or unload or a location that provides 15 or more parking spaces for vehicles subject to this act shall erect and maintain a permanent sign to inform drivers that idling is restricted in this Commonwealth, as specified in 67 Pa. Code § 212.101(a) and (b) (relating to official signs).

Section 9. Preemption.

(a) General rule.—Except as provided in subsections (b) and (c), this act shall preempt and supersede a local ordinance or rule concerning the subject matter of this act.

(b) Exception.—A local ordinance or rule concerning the subject matter of this act that has been adopted by a county of the first or second class shall remain in full force and effect to the extent that the local ordinance or rule is more restrictive than the requirements of this act if the local ordinance or rule was in effect prior to January 1, 2007, and it has not been amended, suspended or rendered invalid, in whole or in part, by a court decision.

(c) Procedure.—A county, city, town, township, borough or local air pollution control authority with idling regulations in existence before the effective date of this act may approve idling time limits for buses in excess of the time limits in this act if the approval applies only to the warm-up of buses outdoors at a bus depot when the temperature is below 40 degrees and the approval is designed to minimize idling.

(d) Department.—This act shall not prevent the department from regulating emissions from idling of motor vehicles, as appropriate, under the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

Section 10. Applicability.

The diesel idling requirements of this act are not applicable to the operating permit required under 25 Pa. Code Ch. 127 (relating to construction, modification, reactivation and operation of sources). No

requirements under this act may be incorporated into any operating permits issued by the department under 25 Pa. Code Ch. 127.

Section 20. Effective date.

This act shall take effect in 120 days.

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL