WEST VIRGINIA CODE CHAPTER 17C ARTICLE 13A

WV Legislature

§17C-13A-1. Definitions.

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

(a) "Bus" means the same as that term is defined in section thirteen, article one, chapter seventeen of this code.

(b) "Bus depot" means a location where buses are routinely kept overnight, including any garage structure or outdoor bus parking area or both.

(c) "Commission" or "public service commission" means the public service commission of West Virginia.

(d) "Diesel powered" means a type of engine that has operating characteristics significantly similar to the theoretical diesel combustion cycle.

(e) "Farm tractor" means the same as that term is defined in section ten, article one of this chapter.

(f) "Highway" means the same as that term is defined under section three, article one, chapter seventeen of this code.

(g) "Idle reduction technology" means any device or system of devices that is installed on a motor vehicle subject to this article 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.

(h) "Idling" means operation of the main propulsion engine of a motor vehicle while the vehicle is stationary.

(i) "Implement of husbandry" means the same as that term is defined in section one, article one, chapter seventeen-a of this code.

(j) "Motor home" means the same as that term is defined in section one, article one, chapter seventeen-a of this code.

(k) "Motor vehicle" means the same as that term is defined in section three, article one of this chapter.

(l) "School bus" means the same as that term is defined in section seven, article one of this chapter.

(m) "School grounds" means the same as that term is defined in section fifty-five, article one of this chapter.

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(n) "Stationary idle reduction technology" means 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.

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§17C-13A-2. Restrictions on idling.

No driver or owner of a diesel-powered motor vehicle with a gross vehicle weight of ten thousand one pounds or more engaged in commerce may cause, and no owner or operator of the location where the vehicle loads, unloads or parks, may allow the engine of the vehicle to idle for more than fifteen minutes in any continuous sixty-minute period, except as provided under section three of this article.

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§17C-13A-3. Exceptions.

(a) The idling restrictions set forth in section two of this article do not apply to motor homes, commercial implements of husbandry, implements of husbandry or farm tractors.

(b) The idling restrictions set forth in section two of this article do not apply to construction equipment that cannot be licensed for on-road driving or construction equipment that is not designed primarily for on-road driving, notwithstanding that such equipment may be operated or driven on road from time to time and in the course of performing its primary functions: Provided, That idling is necessary to power work-related mechanical, safety or electrical operations related to construction operations other than propulsion.

(c) A diesel-powered motor vehicle with a gross weight of ten thousand one 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 does 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.

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(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 commission within thirty days of the repair.

(10) When a bus or school bus must idle to provide heating or air conditioning when nondriver passengers are onboard. For the purposes of this exemption, the bus or school bus may idle for no more than a total of fifteen minutes in a continuous sixty-minute period, except when idling is necessary to maintain a safe temperature for bus passengers.

(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 forty degrees or greater than seventy-five degrees Fahrenheit at any time during the rest or sleep period. This applies to a motor vehicle subject to this article 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 designed rest area. 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 fifteen minutes in any continuous sixty-minute period.

(13) When idling by a school bus off school grounds 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 section eleven, article seventeen of this chapter.

(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.

(16) When a diesel-powered motor vehicle 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.

(17) When a diesel-powered motor vehicle is powered by clean diesel technology or bio-diesel fuels.

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§17C-13A-4. Increase of weight limit.

The maximum gross weight limit and axle weight limit 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), as that section exists on the effective date of this article. The additional amount of weight allowed by this section may not be construed to be in addition to the tolerance authorized under section eleven-a, article seventeen of this chapter.

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§17C-13A-5. Penalties.

The driver or owner of a diesel-powered motor vehicle with a gross weight of ten thousand one 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 article is guilty of a misdemeanor and, upon conviction thereof, pay a fine of not less than $150 and not more than $300 and court costs.

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§17C-13A-6. Notification.

If the driver of a diesel-powered motor vehicle subject to this article is convicted of a misdemeanor offense pursuant to this article is not the owner of the vehicle, the commission shall, under procedures established by the commission, notify the vehicle owner that the driver has been convicted.

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§17C-13A-7. Enforcement.

Enforcement of the article is limited to: (1) Any member of the division of public safety of this state; (2) any sheriff and any deputy sheriff of any county; (3) any member of a police department in any municipality as defined in section two, article one, chapter eight of this code; and (4) any officers the commission may designate to enforce the provisions of this article. The prosecuting attorneys of the several counties shall render to the commission without additional compensation such legal services as the commission may require to enforce the provisions of this article.

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§17C-13A-8. Permanent idling restriction signs.

An owner or operator of a location where vehicles subject to this article load or unload, or a location that provides fifteen or more parking spaces for vehicles subject to this article shall erect and maintain a permanent sign to inform drivers that idling is restricted in this state pursuant to the provisions of section three, article thirteen-a, chapter seventeen-c of this code.

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§17C-13A-9. Preemption.

(a) The provisions of this article preempt and supersede a local ordinance or rule concerning the subject matter of this article.

(b) This article does not prevent the Department of Environmental Protection as set forth in chapter twenty-two of this code from regulating motor vehicle emissions pursuant to the provisions of section fifteen, article five, chapter twenty-two of this code and any legislative rules promulgated pursuant to that section.

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