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REGULAR SESSION, 2010

WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 183

(SENATOR D. FACEMIRE, *original sponsor*)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 183

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17C-13A-1, §17C-13A-2, §17C-13A-3, §17C-13A-4, §17C-13A-5, §17C-13A-6, §17C-13A-7, §17C-13A-8 and §17C-13A-9, all relating to prohibiting diesel-powered motor vehicles from excessive idling; defining terms; placing restrictions on idling; providing exceptions to idling restrictions; allowing for weight adjustments for idle reduction technology; establishing a misdemeanor offense of excessive idling on the owners and operators of the vehicles in violation of the idling restrictions; establishing a misdemeanor offense for the allowance of excessive idling in violation of the idling restrictions by owners and operators of a location where such vehicles load, unload or park; providing criminal penalties; requiring the owner or operation of certain locations to post notice of the idling restrictions; providing for notice of offense to the vehicle owner of driver convictions for offenses; providing for enforcement by any member of the division of public safety, any sheriff or deputy sheriff, any member of a municipal police depart-

ment and any designated officers of the Public Service Commission; preempting local ordinances; and allowing for additional regulation of motor vehicle emissions by the Division of Environmental Protection.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17C-13A-1, §17C-13A-2, §17C-13A-3, §17C-13A-4, §17C-13A-5, §17C-13A-6, §17C-13A-7, §17C-13A-8 and §17C-13A-9, all to read as follows:

ARTICLE 13A. DIESEL-POWERED MOTOR VEHICLE IDLING ACT.

§17C-13A-1. Definitions.

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

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

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

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

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

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

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

20 (g) “Idle reduction technology” means any device or
21 system of devices that is installed on a motor vehicle
22 subject to this article and is designed to provide it those
23 services, such as heat, air conditioning and electricity, that
24 would otherwise require the operation of the main drive
25 engine while the motor vehicle is temporarily parked or
26 remains stationary.

27 (h) “Idling” means operation of the main propulsion
28 engine of a motor vehicle while the vehicle is stationary.

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

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

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

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

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

41 (n) “Stationary idle reduction technology” means
42 equipment that transforms power from the electric grid for
43 the purpose of delivering usable electric power, heat or air
44 conditioning to a motor vehicle for the purpose of reducing
45 main engine idling.

§17C-13A-2. Restrictions on idling.

1 No driver or owner of a diesel-powered motor vehicle
2 with a gross vehicle weight of ten thousand one pounds or
3 more engaged in commerce may cause, and no owner or
4 operator of the location where the vehicle loads, unloads
5 or parks, may allow the engine of the vehicle to idle for

6 more than fifteen minutes in any continuous sixty-minute
7 period, except as provided under section three of this
8 article.

§17C-13A-3. Exceptions.

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

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

15 (c) A diesel-powered motor vehicle with a gross weight
16 of ten thousand one pounds or more may idle beyond the
17 time allowed in subsection (a) for one or more of the
18 following reasons:

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

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

31 (3) When a police, fire, ambulance, public safety, mili-
32 tary, utility service vehicle or other emergency or law-
33 enforcement vehicle or any vehicle being used in an
34 emergency or public safety capacity shall idle while in an
35 emergency or training mode and not for the convenience
36 of the driver.

37 (4) When the primary propulsion engine idles for mainte-
38 nance, particulate matter trap regeneration, servicing or
39 repair of the vehicle, or for vehicle diagnostic purposes, if
40 idling is required for that activity.

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

44 (6) When idling of a primary propulsion engine is
45 necessary to power work-related mechanical, safety or
46 electrical operations other than propulsion. This exemp-
47 tion does not apply when idling is done for cabin comfort
48 or to operate nonessential onboard equipment.

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

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

55 (9) When a vehicle must idle due to mechanical difficul-
56 ties over which the driver has no control, if the vehicle
57 owner submits the repair paperwork or product repair
58 verifying that the mechanical problem has been fixed, by
59 mail to the commission within thirty days of the repair.

60 (10) When a bus or school bus must idle to provide
61 heating or air conditioning when nondriver passengers are
62 onboard. For the purposes of this exemption, the bus or
63 school bus may idle for no more than a total of fifteen

64 minutes in a continuous sixty-minute period, except when
65 idling is necessary to maintain a safe temperature for bus
66 passengers.

67 (11) An occupied vehicle with a sleeper-berth compart-
68 ment that idles for purposes of air conditioning or heating
69 during a rest or sleep period and the outside temperature
70 at the location of the vehicle is less than forty degrees or
71 greater than seventy-five degrees Fahrenheit at any time
72 during the rest or sleep period. This applies to a motor
73 vehicle subject to this article parked in any place that the
74 vehicle is legally permitted to park, including, but not
75 limited to, a fleet trucking terminal, commercial truck
76 stop or designed rest area. This exemption expires May 1,
77 2012. This exemption does not apply if the vehicle is
78 parked at a location equipped with stationary idle reduc-
79 tion technology that is available for use at the start of the
80 rest period.

81 (12) When idling is necessary for sampling, weighing,
82 active loading or active unloading or for an attended
83 motor vehicle waiting for sampling, weighing, loading or
84 unloading. For the purposes of this exemption, the vehicle
85 may idle for up to a total of fifteen minutes in any contin-
86 uous sixty-minute period.

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

92 (14) When idling is necessary for maintaining safe
93 operating conditions while waiting for a police escort
94 when transporting a load that requires the issuance of a
95 permit in accordance with section eleven, article seventeen
96 of this chapter.

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

102 (16) When a diesel-powered motor vehicle exhibits a
103 label issued by the California Air Resources Board under
104 13 CCR §1956.8(a)(6)(C) (relating to exhaust emissions
105 standards and test procedures - 1985 and subsequent
106 model heavy-duty engines and vehicles) showing that the
107 vehicle's engine meets the optional Nox idling emission
108 standard.

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

§17C-13A-4. Increase of weight limit.

1 The maximum gross weight limit and axle weight limit
2 for any motor vehicle equipped with idle reduction
3 technology may be increased by an amount necessary to
4 compensate for the additional weight of the idle reduction
5 technology as provided under 23 U.S.C. §127(a)(12), as
6 that section exists on the effective date of this article. The
7 additional amount of weight allowed by this section may
8 not be construed to be in addition to the tolerance autho-
9 rized under section eleven-a, article seventeen of this
10 chapter.

§17C-13A-5. Penalties.

1 The driver or owner of a diesel-powered motor vehicle
2 with a gross weight of ten thousand one pounds or more
3 engaged in commerce or the owner or operator of a
4 location where such vehicles load, unload or park that
5 violates the provisions of this article is guilty of a misde-
6 meanor and, upon conviction thereof, pay a fine of not less
7 than \$150 and not more than \$300 and court costs.

§17C-13A-6. Notification.

1 If the driver of a diesel-powered motor vehicle subject to
2 this article is convicted of a misdemeanor offense pursuant
3 to this article is not the owner of the vehicle, the commis-
4 sion shall, under procedures established by the commis-
5 sion, notify the vehicle owner that the driver has been
6 convicted.

§17C-13A-7. Enforcement.

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

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

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

§17C-13A-9. Preemption.

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

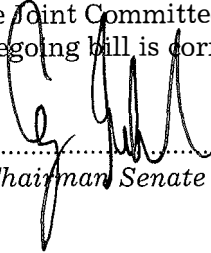
4 (b) This article does not prevent the Department of
5 Environmental Protection as set forth in chapter twenty-

6 two of this code from regulating motor vehicle emissions
7 pursuant to the provisions of section fifteen, article five,
8 chapter twenty-two of this code and any legislative rules
9 promulgated pursuant to that section.

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Enr. Com. Sub. for S. B. No. 183] 10

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



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Chairman Senate Committee



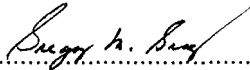
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Chairman House Committee

Originated in the Senate.

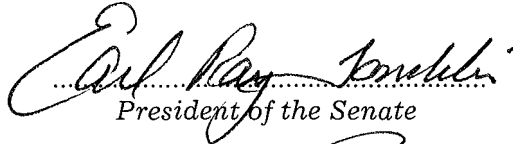
In effect ninety days from passage.



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Clerk of the Senate



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Clerk of the House of Delegates



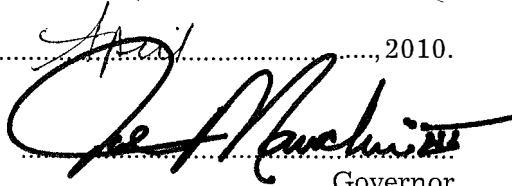
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President of the Senate



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Speaker House of Delegates

The within is approved this the

Day of , 2010.



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Governor

PRESENTED TO THE
GOVERNOR

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