

ENROLLED

Senate Bill No. 544

(BY SENATORS D. FACEMIRE, KLEMPA AND BEACH)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT to amend and reenact §17C-13A-3 of the Code of West Virginia, 1931, as amended, relating to Diesel-Powered Motor Vehicle Idling Act; and removing the expiration date for occupied vehicles with sleeper berth compartments.

Be it enacted by the Legislature of West Virginia:

That §17C-13A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§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 implements
3 of husbandry, implements of husbandry or farm tractors.

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

12 tions related to construction operations other than propul-
13 sion.

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

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

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

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

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

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

43 (6) When idling of a primary propulsion engine is
44 necessary to power work-related mechanical, safety or
45 electrical operations other than propulsion. This exemption

46 does not apply when idling is done for cabin comfort or to
47 operate nonessential onboard equipment.

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

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

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

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

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

79 (12) When idling is necessary for sampling, weighing,
80 active loading or active unloading or for an attended motor
81 vehicle waiting for sampling, weighing, loading or unload-

82 ing. For the purposes of this exemption, the vehicle may idle
83 for up to a total of fifteen minutes in any continuous sixty-
84 minute period.

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

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

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

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

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

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 of the House of Delegates

The within this the
Day of, 2012.

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Governor