CHAPTER 35

Idling Restrictions for Commercial Diesel Vehicles

**SECTION 56‑35‑10.** Definitions.

 As used in this chapter:

 (1) “Auxiliary power unit” means a mechanical or electrical device affixed to a vehicle that is designed to be used to generate an alternative source of power for any of the vehicle’s systems other than the primary propulsion engine.

 (2) “Commercial diesel vehicle” means a self‑propelled diesel motor vehicle licensed for use on a public roadway to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of ten thousand and one pounds or more, whichever is greater.

 (3) “Passenger bus” means a vehicle designed to carry sixteen or more passengers.

 (4) “Vehicle” means a commercial diesel vehicle.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).

**SECTION 56‑35‑20.** Idling restrictions; exceptions.

 (A)(1) An operator of a commercial diesel vehicle may not allow the vehicle to idle for more than ten minutes in any sixty‑minute period.

 (2) A passenger bus may idle up to fifteen minutes in a sixty‑minute period to provide heating or air conditioning when nondriver passengers are on board the vehicle.

 (B) A vehicle operator does not violate the idling restrictions contained in subsection (A) if he is idling:

 (1) a vehicle while forced to remain motionless because of traffic conditions beyond his control, an official traffic‑control device or signal, or at the direction of a law enforcement official;

 (2) a vehicle while operating defrosters, heaters, air conditioners, cargo refrigeration equipment, or to install equipment to prevent a safety or health emergency, or as otherwise required by federal or state motor carrier safety regulations or local requirements. This exception does not apply when idling during a rest period;

 (3) a police, fire, ambulance, public safety, military, or other emergency or law enforcement vehicle, or any vehicle being used in an emergency capacity while in an emergency or training mode. This exception does not apply when idling for the convenience of the vehicle operator;

 (4) the primary propulsion engine of a vehicle for maintenance, servicing, repairing, or diagnostic purposes if idling is required;

 (5) a vehicle 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) a primary propulsion engine necessary to power work‑related mechanical or electrical operations. This exception shall not apply when idling is done for cabin comfort or to operate nonessential onboard equipment;

 (7) an armored vehicle when a person remains inside the vehicle to guard contents or while the vehicle is being loaded or unloaded;

 (8) an occupied vehicle with a sleeper berth compartment for purpose of air conditioning or heating:

 (a) during a rest or sleep period;

 (b) when the outside temperature at the location of the vehicle is less than forty degrees Fahrenheit or greater than eighty degrees Fahrenheit; or

 (c) while the vehicle is at a rest area, fleet trucking terminal, commercial truck stop, state designated location designed for the intended purpose of a driver’s rest area, or any location that the vehicle is legally permitted to park that is at least five hundred feet from residential housing, schools, daycare facilities, hospitals, or other similar locations; or

 (9) an occupied vehicle while waiting in line or queuing to load or unload.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).

Library References

Environmental Law 273.

Westlaw Topic No. 149E.

**SECTION 56‑35‑30.** Auxiliary power units.

 (A) For the purposes of this chapter, operating an auxiliary power unit, generator set, or another mobile idling reduction technology as a means to heat, air condition, or provide electrical power, as an alternative to idling the main engine, does not constitute idling an engine.

 (B) For a vehicle equipped with an auxiliary power unit designed for idling reduction, the gross vehicle weight or axle weight used to determine the fine for a violation of commercial vehicle weight restrictions is the actual gross vehicle weight or axle weight reduced by five hundred fifty pounds.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008); 2016 Act No. 188 (H.4932), Section 6, eff May 25, 2016.

Library References

Environmental Law 273.

Westlaw Topic No. 149E.

**SECTION 56‑35‑40.** Penalty.

 A violation of the provisions contained in this chapter is a nonmoving traffic offense that is punishable by:

 (1) a warning ticket for an offense that occurs between July 1, 2008, to July 1, 2009; or

 (2) a fine of seventy‑five dollars for each offense that occurs after July 1, 2009.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).

Library References

Automobiles 359.1.

Environmental Law 762.

Westlaw Topic Nos. 48A, 149E.

C.J.S. Motor Vehicles Sections 1529, 1545, 1572, 1656, 1707, 1714, 1743.

**SECTION 56‑35‑50.** Enforcement.

 (A) The State Transport Police Division of the Department of Public Safety is primarily responsible for enforcing the provisions of this chapter. An officer or agent of the State Transport Police that observes a vehicle operator violating the provisions of this chapter is authorized to issue a citation to the offender. The provisions of this chapter do not apply to a commercial diesel vehicle idling on the premises of a restricted access facility or in areas on the private property of a business that are generally designed and intended for commercial vehicle access, loading or unloading when the facility or business is located at least five hundred feet away from any church, school, playground, daycare facility, or hospital.

 (B) The officer must inform the individual receiving the citation that he has the option, at that time, to elect to pay his fine directly to the Department of Public Safety or to receive a hearing in magistrates court. If the individual at the time the citation is issued elects to pay his fine directly to the Department of Public Safety within twenty‑eight days, as specified on the citation, no assessments may be added to the original fine pursuant to this section. The fine may be deposited with the arresting officer or a person the Department of Public Safety may designate. Within forty‑five days of collection, fifty dollars of the monies collected by the Department of Public Safety must be forwarded to the Department of Health and Environmental Control for deposit in the Diesel Idling Reduction Fund, twenty‑five dollars of the monies collected must be deposited into an account to be used by the Department of Public Safety’s State Transport Police Division in support of the Idling Restrictions for Commercial Diesel Vehicles program which at the end of a fiscal year does not lapse to the general fund, but is instead carried forward to the succeeding fiscal year.

 (C)(1) Magistrates have jurisdiction of all contested violations of this chapter. Where a contested hearing is requested, any fine imposed is subject to all assessments and surcharges applicable by law. The fine, surcharges, and assessments shall be distributed as set forth in the applicable law.

 (2) If the fine is not paid in full to the Department of Public Safety within forty‑five days after conviction, the driver’s license of the vehicle operator found in violation of this chapter must be suspended. The suspension continues until the fine is paid in full.

 (D) The State Transport Police shall use the citation form referenced in Section 56‑1‑4160(G) for idling violations. The Department of Public Safety must electronically transmit to the Department of Motor Vehicles all tickets issued pursuant to this section. The Department of Public Safety and the Department of Motor Vehicles must work together to develop an electronic exchange of information over the next two years.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).

Library References

Automobiles 349(5).

Environmental Law 295.

Westlaw Topic Nos. 48A, 149E.

C.J.S. Health and Environment Section 141.

C.J.S. Motor Vehicles Sections 1515, 1517, 1519 to 1520, 1523 to 1524.

**SECTION 56‑35‑60.** Diesel idling reduction fund; idling awareness program.

 (A) There is established by the State Treasurer a fund separate and distinct from the general fund and all other funds entitled the Diesel Idling Reduction Fund. Fifty dollars of the fines pursuant to this section must be credited to it and a balance in the fund at the end of a fiscal year does not lapse to the general fund but is instead carried forward to the succeeding fiscal year. The monies in the fund must be used only to cover costs associated with the idling awareness program operated by the Department of Health and Environmental Control.

 (B) The Department of Health and Environmental Control, as funds become available, may develop and operate an idling awareness program that promotes the benefits of idling reductions. The program must encourage businesses and vehicle operators to develop practices to reduce idling.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).

Library References

States 127.

Westlaw Topic No. 360.

C.J.S. States Sections 400 to 401.

**SECTION 56‑35‑70.** Preemption.

 The provisions of this chapter are the sole source of idling restrictions on commercial diesel vehicles in this State and this chapter is the sole source of penalties for violations of the idling restrictions. The provisions in this chapter supercede and preempt any ordinance enacted by a local political subdivision purporting to regulate idling on commercial diesel vehicles.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).

Library References

Environmental Law 252.

Westlaw Topic No. 149E.

**SECTION 56‑35‑80.** Promulgation of regulations.

 The Department of Health and Environmental Control may promulgate regulations to administer and enforce the provisions of this chapter.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor’s signature on May 22, 2008).